



The Judiciary, State of Hawai‘i

Testimony to the Senate Committee on Judiciary and Labor

The Honorable Gilbert S.C. Keith-Agaran, Chair
The Honorable Maile S.L. Shimabukuro, Vice Chair

and

Senate Committee on Ways and Means

The Honorable Jill N Tokuda, Chair
The Honorable Ronald D. Kouchi, Vice Chair

Wednesday, April 1, 2015, 9:05 a.m.,
Conference Room 211

by

W. Tom Mick
Policy and Planning Department Director

Bill No. and Title: House Bill No. 290, H.D. 2, Relating to the Judiciary.

Purpose: To provide biennium operating and capital improvement appropriations for FYs 2016 and 2017.

Judiciary's Position:

The Judiciary strongly urges your support of House Bill No. 290, H.D. 2, which reflects the Judiciary's resource requirements for FYs 2016 and 2017.

During the joint informational budget briefing to the members of the Senate Committee on Ways and Means and the House Committee on Finance on January 6, 2015, we provided detailed information on our biennium budget request, our current appropriation and expenditures, and our caseload and revenue contributions to the State. During that briefing, it was strongly suggested by the Chairs that, in light of the current economic situation and the collective bargaining increases which together left very little room for any discretionary funding, we relook at our budget request and possibly consider a more conservative approach, something which the Executive Branch was in the process of doing. Accordingly, we did review and revise our biennium budget request from more than 75 new permanent positions and \$5 million in



House Bill No. 290, H.D. 2, Relating to the Judiciary
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additional funding for FYs 2016 and 2017, to 22/24 new permanent positions and \$2.1/\$2.6 million in additional funding for FYs 2016/2017, respectively. We are very appreciative to the House Committee on Judiciary for incorporating these revisions into House Bill No. 290, H.D. 1.

The Judiciary is extremely grateful to the House Finance Committee for providing three permanent positions and general fund monies totaling about \$937K in FY 2016 and \$1.3 million in FY 2017 for our biennium budget requests related to salary adjustments for the justices, judges, and Administrative Director and Deputy Administrative Director of the Courts; electricity and risk management cost increases; two no-cost position conversions for Mental Health Court (MHC) in First Circuit; additional mental health services for First Circuit's Girls Court; and a staff attorney position for the Intermediate Court of Appeals (ICA). We are also very appreciative of the \$55 million in Capital Improvement Program (CIP) bond funds so that we can continue forward with building the new Kona Judiciary Complex and go out for bid for construction in FY 2016.

The Judiciary also appreciates the intent in House Bill 290, H.D. 2, to provide funding for vacation payouts, other current expenses, and civil legal services, but we do not wish this to come at the expense of any of our biennium budget requests or our current funding used for temporary positions. If this funding were taken away, it could result in having to eliminate filled temporary positions and let employees go, or the loss of vacant positions that are in recruitment and are needed by the programs to operate.

However, at the same time, the Judiciary is very concerned regarding the impact on Judiciary operations, clients, and the public by the lack of funding in House Bill 290, H.D. 2, for 19/21 of the 22/24 positions requested for FYs 2016/2017, and the less than \$1.3 million provided of the more than \$2.1 million requested for FY 2016 and \$2.5 million requested for FY 2017.

Specifically, in First Circuit, three of the five specialty court/program related requests were not supported, and the two others were only partially supported. For Veterans Treatment Court, without any replacement funding for grant funds expiring in early FY 2016 and additional staffing, the First Circuit will be unable to attain its goal of expanding services to 30 clients from its 21 currently active clientele. First Circuit would also have to reallocate funding from its basic operations if it desired to continue this court. Grant funding for the Driving While Intoxicated (DWI) Court is also expiring in early FY 2016, and without a grant extension or Legislative funding, this nationally recognized and recent recipient of a US Department of Transportation National Highway Traffic Safety Administration Award for Public Service may be forced to discontinue operations and services to its current 23 participants. For the Hawai'i Zero to Three Program, grant funding will expire in early FY 2017, and lack of replacement funding for a program coordinator and clerk may make it difficult to continue this program at its current levels,



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much less expand it beyond its current 16 active cases. While House Finance supported the two temporary to permanent position conversions for MHC, as previously mentioned, it did not provide the additional social worker nor funding requested which means that MHC cannot increase its services nor expand the number of clientele it serves. For Girls Court, \$1 was provided for mental health services, and while we realize that this is a placeholder, it is well short of the \$60K requested to expand such services and treatment for the girls and families currently in this important specialty court/program.

Other First Circuit requests not supported or funded are related to the Juvenile Detention Facility (JDF) in Kapolei and the Land Court. The additional eight permanent juvenile detention positions – two supervisors and six workers – for the JDF were requested and are needed to adequately staff the facility and come closer to meeting the staffing standards recommended by the American Corrections Association; to oversee and supervise JDF staff; to reduce detention related overtime costs which exceeded \$800K in FY 2014; and to ensure a safe, secure, and therapeutic environment. Without the requested Nurse Practitioner position for the JDF, there is no qualified person to officially manage the medical unit at the JDF; oversee and supervise the three assigned nurses; ensure adherence to policies, procedures, and nursing protocols; and collaborate with staff, parents, probation officers, and other professionals regarding medical needs and concerns. It also should be noted that a Nurse Practitioner can diagnose and treat certain medical conditions, which is especially important since the physicians for the JDF are contract and only available for one and one-half hours, four times a week. Lastly, without the requested temporary clerk position for Land and Tax Appeal Court, the backlog of cases needed to be inputted into HAJIS (Hawai'i Judicial Information System) will not be addressed and will continue to increase.

Contract security guards, Ho'okele service centers, and an additional judge and staff were not supported or funded for Second, Third, and Fifth Circuits, respectively. Not funding the three contract security personnel requested for Second Circuit will mean that the Judiciary will not be able to meet the minimum security staffing recommended by the National Center for State Courts in its comprehensive security assessment, thereby creating safety and security issues for judges, Judiciary staff, clients, and the public alike. The Third Circuit will not be able to establish Ho'okele service centers in Hilo and Kona, which are important relative to access to justice and in providing assistance to self-represented litigants and other persons needing court services. The lack of an additional Family Court judge and staff in the Fifth Circuit will continue to overtax the one current Family Court judge on Kaua'i, who already is responsible for a Family Court caseload which is about three times greater than the caseload of each Family Court judge in the Second and Third Circuits.

In Administration, none of the training related requests were supported. Without the additional training funds and an additional Education Specialist, the Judiciary will not be able to



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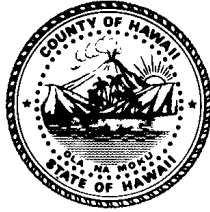
adequately keep up with the job training needs of the Judges and staff. The Judges and staff must be informed and regularly trained for things such as implementation of new laws, cultural and bias awareness, language access, use of technology in our courthouses, probation officer training for dealing with adult and juvenile offenders, etc. As a part of the Judiciary's 20/20 Strategic Vision Planning, 80% of the Judiciary's statewide employees responded and ranked training as their number one priority area of concern. In order to provide quality court and court-related services, we must provide training regularly for Judiciary employees and judges, and an additional Education Specialist is an important cog in that process. A similar concern exists regarding the lack of support for the Appellate Court Clerk position for the ICA, as such a position is an important cog in helping to handle the increased workload and complexity of the appeals and related motions.

CIP requirements continue to be a major item of concern as the Judiciary's infrastructure continues to age and deteriorate, and as the population served and corresponding demand for services provided by the Judiciary keep increasing. However, as with the general fund biennium budget request, it was suggested that we pare down our original submission from eight separate requests and \$62.5 million in FY 2016 and three requests and \$9.4 million in FY 2017. We did so and while we retained \$3 million each year for lump sum funding, we eliminated all the other requests except for the \$55 million in construction funding that we are requesting in FY 2016 for the Kona Judiciary Complex, our number one priority item this and the last few years. As mentioned previously with regard to CIP funding, the Judiciary is very grateful for the \$55 million provided in House Bill 290, H.D. 2, for the Kona Judiciary Complex as it brings our construction funding total to \$90 million and allows us to go out for bid for construction services. This \$55 million is very important for FY 2016 since the \$35 million previously provided by the Legislature for this project will lapse at the end of FY 2016. With regard to the \$3 million in lump sum CIP funding that was not supported in House Bill 290, H.D. 2, the Judiciary will lose some flexibility in addressing unforeseen requirements, deferred maintenance, and its backlog of CIP projects without this funding.

The revised biennium budget request proposed by the Judiciary is our best estimate of the resources necessary to maintain the integrity of the courts and to fulfill our statutory, constitutional, and public service mandates. The Judiciary respectfully requests your support of House Bill 290, H.D. 2, which is the Judiciary's biennium budget request, and that you strongly consider restoring the 19 positions and \$1.2 million for FY 2016, and the 21 positions and almost \$1.3 million for FY 2017, for our biennium budget requests that were not funded, as well as the \$3 million in lump sum CIP funding for each fiscal year.

Thank you for the opportunity to testify on this measure.

William P. Kenoi
Mayor



Walter K.M. Lau
Managing Director

Randall M. Kurohara
Deputy Managing Director

County of Hawai'i Office of the Mayor

25 Aupuni Street, Suite 2603 • Hilo, Hawai'i 96720 • (808) 961-8211 • Fax (808) 961-6553
KONA: 74-5044 Ane Keohokalole Hwy., Bldg. C • Kailua-Kona, Hawai'i 96740
(808) 323-4444 • Fax (808) 323-4440

Chairman Gilbert S.C. Keith-Agaran
Vice Chair Maile S. L. Shimabukuro
Hawaii State Legislature
Judiciary and Labor Committee
Hawaii State Capitol Room 225
415 S. Beretania St.
Honolulu, HI 96813

RE: HB290 HD1 - RELATING TO THE JUDICIARY
SPECIFICALLY THE KONA JUDICIARY COMPLEX FUNDING

Aloha Chairman Keith-Agaran, Vice Chair Shimabukuro and members of the Judiciary and Labor Committee,

The County of Hawaii humbly requests that the State Legislature continue to fund the construction of the Kona Judiciary Complex in Kailua-Kona, Hawaii. The Judiciary is seeking \$90 million for the completion of this much needed facility. As you may know, the current facilities are woefully inadequate and more than 10 miles from the population center of West Hawaii.

Our administration continues to cooperate with planners, designers and the Department of Accounting and General Services to facilitate the permitting process and the completion of roadways leading to the proposed courthouse. Our partnership with land owners Queen Liliuokalani Trust and the state Judiciary will ensure that this will be a first-class facility.

Don't hesitate to call me at my office if you have any concerns or questions.

Mahalo

Billy Kenoi
MAYOR

MITCHELL D. ROTH
PROSECUTING ATTORNEY

DALE A. ROSS
FIRST DEPUTY
PROSECUTING ATTORNEY



655 KĪLAUEA AVENUE
HILO, HAWAII 96720
PH: (808) 961-0466
FAX: (808) 961-8908
(808) 934-3403
(808) 934-3503

WEST HAWAII UNIT
81-980 HALEKĪ ST, SUITE 150
KEALAKEKUA, HAWAII 96750
PH: (808) 322-2552
FAX: (808) 322-6584

OFFICE OF THE PROSECUTING ATTORNEY

TESTIMONY IN SUPPORT OF HOUSE BILL 290, HD1

A BILL FOR AN ACT RELATING TO THE JUDICIARY

COMMITTEE ON JUDICIARY AND LABOR

Sen. Gilbert S.C. Keith-Agaran, Chair
Sen. Maile S.L. Shimabukuro, Vice Chair

COMMITTEE ON WAYS AND MEANS

Sen. Jill N. Tokuda, Chair
Sen. Ronald D. Kouchi, Vice Chair

Wednesday, April 1, 2015, 9:05 a.m.
State Capitol, Conference Room 211

Honorable Chairs Keith-Agaran and Tokuda, Vice-Chairs Shimabukuro and Kouchi, and Members of the Committee on Judiciary and Labor and the Committee on Ways and Means, the Office of the Prosecuting Attorney, County of Hawai'i submits the following testimony in support of House Bill No. 290, HD2.

This measure appropriates funds for the judiciary for the fiscal biennium beginning July 1, 2015 and ending June 30, 2017.

We are supporting the continued funding for the Kona Judiciary Complex. The Legislature committed approximately 35 million dollars in appropriations, and this Bill will appropriate the balance of the funds to begin construction in the amount of 55 million dollars.

A few of the issues regarding this facility are:

- The current facilities lack proper security protection for judges, attorney's litigants, jurors and the general public;
- There is inadequate accessibility to individuals with disabilities with 2 stalls available on the DOH side of the building, and 2 stalls next to a dialysis center. These stalls are usually occupied, which requires persons with disabilities to walk up about 35 steps to the building entrance;
- There are 2 holding cells, each with a suggested capacity of 4 people; however, the sheriff's department has had to put upwards of 20 individuals in these cells at a time. Recently, a riot broke out in one of these over-crowded cells which

caused immense security and safety concerns – it took an hour for sheriffs to get needed backup to get control over the prisoners;

- The only jury assembly area is the outside courtyard, which is shared by the public, defendants, prosecutors, victims and witnesses. There have been numerous occasions where a person would testify and then have to walk past the defendant's family in order to leave the area. This is a serious incident just waiting to happen.

This problems facing this facility are at a critical level and require immediate attention, as we see no reduction in the caseload to be heard at the Kona Judiciary Complex. The complex is needed for the safety of those who are required to use the Courthouse or Judiciary Services.

The Office of the Prosecuting Attorney, County of Hawai'i supports the passage of House Bill No. 290, HD2. Thank you for the opportunity to testify on this matter.

STATE OF HAWAII
OFFICE OF THE PUBLIC DEFENDER

KONA OFFICE
Central Kona Center, Building 9
81-948 Waena 'Oihana Loop, Suite 110
Kealahou, HI 96750
(808) 322-1945
Facsimile: (808) 322-1949

Wendy DeWeese
Deputy Public Defender

March 30, 2015

To: JDL/WAM

Hearing Date: April 1, 2015 at 9:05 a.m.

Re: HB 290 HD

My name is Wendy DeWeese. I am the supervising attorney at the Office of the Public Defender in Kealahou. As a Deputy Public Defender I am in the courthouse every day. I have worked in these facilities for 10 years. There are many reasons why a new courthouse has become a necessity to the proper administration of justice on this Island, as well as in the State.

First, the location of the present courthouse and satellite courtrooms is not central to the population concentrations anymore. The bulk of persons using the courthouse reside in the town of Kailua-Kona. With the exception of the Family Court/probation office, all other courtrooms are located 10 miles south of town. For litigants relying on public transportation, the present courthouse is inconvenient and difficult to access via public transportation. Also, for counsel and litigants coming from other islands using Keahole Airport, the current facilities are located about a 20 mile drive that can take up to an hour each way depending on traffic and time of day.

Second, areas around and outside of the courthouse buildings are not capable of handling the flow of people who use the courthouse in a safe, efficient and just manner. For example, the lay-out at Judge Ibarra's courtroom is such that jurors congregate outside. There is almost no place to sit. They have to stand in the parking lot. If it is raining, there is only very limited covered space. Also, if a defendant is in custody, the jail van has to pull up right in front of the jurors and unload a defendant in chains. To avoid this, the Judge would have to move his vehicle, to allow the jail van to pull into his parking spot and unload a defendant who is in custody out of sight of jurors. Or, all potential jurors would have to be "herded" into the courtroom before a defendant arrives. And, the parking at both Judge Ibarra's courtroom and the main courthouse is totally inadequate requiring people to park illegally on the street, in fire

lanes, in front of fire hydrants and in uneven grassy areas not designated for parking.

Third, the actual structures themselves are not designed for the type and level of current use. For example, at Judge Ibarra's courtroom (which used to be an old feed store), the jury room is adjacent to cell block. And while I believe attempts were made to sound proof the wall, the lay out leaves much to be desired. Up at the "main" court house there is no place for anyone to sit and/or get out of the rain if they are waiting in the court yard. I personally observed almost 100 people one Monday waiting in the courtyard for District Court. Some of them were sitting down on the concrete ground of the courtyard because there is no place for them. It is completely undignified for a courthouse.


Fourth, security is a huge concern. We have recently experienced an attempted escape, many unruly custodies who can be heard acting out when one is inside a courtroom, and a riot like incident in cell block because eight to ten men were locked up in one small cell, the other cell being occupied by a female. We only have two holding cells. The courthouse is not secure. It is not designed for custodies, litigants, attorneys and others who are entitled to use this public building safely for access to justice.

Fifth, the ADA access is woefully inadequate because there are only two handicap spaces. One is used every day by a full-time employee, which leaves one space to be used by hundreds who frequent the court house every week. And there is no elevator for those in wheel chairs, nor are the courtrooms, hall ways and other areas of the court designed to accommodate people in wheelchairs.

Finally, cleanliness and health are issues. The place is old. It is dirty, moldy, and smelly. One prosecutor had to be taken off rotation in Judge Strance's court because of her allergies to mold. One attorney in my office fell and skinned her knee on the carpet in court and developed a staff infection. One of Judge Strance's clerks recently tripped over cords in the courtroom used to hook up video and recording equipment and has been out with a back and leg injury for months! The air conditioning frequently doesn't work. In District Court they have given up altogether and have installed their own units. The bathrooms don't flush properly and the custodies have to share the bathrooms with the general public. At Family Court, one day the toilets upstairs in probation overflowed and leaked into the courtroom below. We had to cancel court. The Judiciary here does the best it can. But the reality is, it is embarrassing!

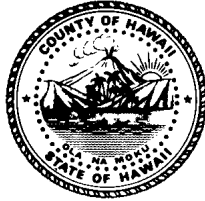
I could go on and on. But, there should be no question remaining that the current situation is deplorable and detracts from the respect the community should have for the courts, the Judiciary, and the justice that it should represent. I sincerely hope you will see fit to allocate funding to this emergency situation.

Aloha hui,



Wendy DeWeese
Deputy Public Defender

William P. Kenoi
Mayor



R. Kawehi Inaba
Director

Donn S. Mende
Deputy Director

County of Hawai'i

DEPARTMENT OF RESEARCH AND DEVELOPMENT

25 Aupuni Street, Room 1301 • Hilo, Hawai'i 96720-4252
(808) 961-8366 • Fax (808) 935-1205
E-mail: chresdev@hawaiicounty.gov

March 30, 2015

The Honorable Senator Gilbert Keith-Agaran, Chairperson
Senator Vice Chair Maile Shimabukuro
and Members of the Committee on Judiciary and Labor

The Honorable Senator Jill Tokuda, Chairperson
Senator Vice Chair Ronald Kouchi
and Members of the Committee on Ways and Means

State Capitol, Conference Room 211
Honolulu, Hawai'i 96800
via electronic transmission

RE: HB 290, HD 2 – Relating to the Judiciary, specifically
THE KONA JUDICIARY COMPLEX FUNDING

Dear Chairpersons Keith-Agaran, Shimabukuro, Tokuda and Kouchi,

The County of Hawai'i is supportive of HB 290, HD 2 in relation to needed funds toward the Kona Judiciary Complex; an updated and secure facility that the Kona community has long awaited. It is critical however, to make certain that such a facility is built with the future in mind, including being energy efficient.

With our ever-changing and high electric rates here on Hawai'i Island, it is essential for the State to consider implementing a LEED certified facility; one that will provide long-term energy efficiencies and provide a Return on Investment (ROI) to the State of Hawai'i. Currently, Hawai'i County has a LEED Silver-certified facility at the West Hawai'i Civic Center (WHCC), which has been setting the pace for energy efficient and sustainable facilities across the State and beyond. We on Hawai'i Island have seen the positive impact such a facility has provided for the community.

The WHCC has implemented a FIT (feed-in-tariff) system, an Electric Vehicle (EV) charging station, Photovoltaic arrays covering the parking structure, etc., all in the name of energy efficiencies to save our County critical funds for the long run. Hawai'i County currently receives ROI from the utility on a monthly basis; something I know our State would highly benefit from. Such an energy efficient facility would set the pace for State CIP going forward, literally working toward the State's Renewable Energy goals by 2030.

Honorable Senator Gilbert Keith-Agaran, Chairperson
Senator Vice Chair Maile Shimabukuro
and Members of the Committee on Judiciary and Labor
The Honorable Senator Jill Tokuda, Chairperson
Senator Vice Chair Ronald Kouchi
and Members of the Committee on Ways and Means
March 30, 2015
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The County of Hawai'i, Department of Research and Development requests the House Finance Committee support HB 290, HD2. We are certain that if the Finance Committee would consider providing the necessary funds for such a facility, the State of Hawai'i would be living by example in sending a strong message about taking steps toward a positive economic future and at the same time, informing its people how important it is to lessen Hawai'i's current carbon footprint.

Thank you for your consideration.

Sincerely,

 for

R. KAWEHI INABA
Director



Queen
Lili'uokalani
Trust

'E 'ONIPA'A KAKOU
Let us all be steadfast.

TESTIMONY

Senate Committees on Judiciary & Labor and Ways & Means
House Bill290 HD2, Relating to the Judiciary
Hearing: April 1, 2015 @ 9:05 a.m.

Chairs Keith-Agaran and Tokuda, Vice Chairs Shimabukuro and Kouchi, and members of the Judiciary & Labor and Ways & Means committees:

On behalf of Queen Liliuokalani Trust, I write in strong support of HB290 HD2 and the Kona Judiciary Complex funding request in the amount of \$55 million.

Queen Lili'uokalani Trust, established by Hawai'i's last ruling monarch in 1909 for the benefit of orphan and destitute children, directly serves approximately 10,000 children and their families in Hawai'i. Many of these families have issues that are brought before the family courts and throughout the judicial system.

There is a critical need to consolidate these courts and support services in West Hawaii, which would make a stressful situation that much less so, for all involved. Existing facilities are difficult to access, overcrowded, dilapidated, and spread out over numerous locations lacking proper security for all.

The West Hawaii community needs the long awaited Kona Judiciary Complex. We request your favorable consideration for the full funding requested by Chief Justice Mark Recktenwald for the next phase of this project.

Mahalo for your consideration.

Cynthia Jordan
Communications Manager



Andrew M. Kennedy
President, West Hawaii Bar Association

March 30, 2015

Senate Committee on Judiciary and Labor
The Senate
The Twenty-Eighth Legislature
Regular Session of 2015

Re: Testimony in Support of HB 290

Dear Senate Committee on Judiciary and Labor:

I write as President of the West Hawaii Bar Association in support of the Kona Judiciary Complex.

Currently the courthouses in Kona are divided among three separate facilities that are inadequate for the needs of a community the size of Kona. These three separate facilities house a total of four courtrooms: two divisions of the Circuit Court, a District Court, and a Family Court.

The need for a judiciary complex in Kona is not a situation where an old courthouse needs replacing due to a desire for something new and more modern. The need for the judiciary complex arises due to the inadequacy of the current facilities. None of the current building being used as a courthouse are designed to be courthouses. They lack the basic necessities required for the every day function of the judiciary.

Members of the community who wish to utilize the local courts are greeted with an overcrowded waiting area. The housing of defendants who are in the custody of public safety is dangerous. These persons are often placed in a very small holding pen right outside the District Court where members of the community enter and exit the courtroom. Sometimes these persons in custody suffer from mental defect or present biological hazards, yet they are placed within feet of the entrance that members of the general public must utilize to enter or exit the courthouse. Recently there was a small riot in the holding cell of the primary courthouse, and the following week a female prisoner was able to escape custody. There is no secure perimeter for this primary courthouse, as it is surrounded by only a simple chain link fence. At night any member of the public could easily climb the fence and place contraband within the interior of the courthouse.

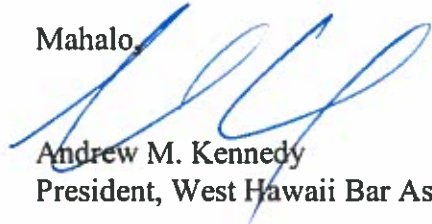
*Senate Committee on Judiciary and Labor
March 30, 2015
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The District Court opens upwards of 6,000 criminal cases per year, and there are over 400 criminal complaints filed in the Circuit Courts per year. Each of these courts also handle busy civil calendars. The Family Court also maintains an extremely busy caseload. The present facilities do not meet the needs of a very active judiciary in Kona.

The initiative for a new judiciary complex is not inspired by a desire for moer modern amenities, increased conveniences, or a sense of entitlement that Kona has waited long enough and that the time has come. The initiative for a new judiciary complex is based on the reality that the current situation is not appropriate or adequate.

On behalf of the West Hawaii Bar Association I thank you very much for your consideration with respect tot his very important issue.

Mahalo,



Andrew M. Kennedy
President, West Hawaii Bar Association

TESTIMONY IN SUPPORT OF
HB290 HD2 - RELATING TO THE JUDICIARY

Committee on Judiciary and Labor
Committee on Ways and Means

April 1, 2015 at 9:05 a.m.

The Legal Aid Society of Hawaii submits strong testimony in support of HB290 HD2 – Relating to the Judiciary, specifically we support the House Committee on Finance’s inclusion of a potential purchase of service contract for civil legal services as this addition of funds that will assist those unable to afford counsel for civil cases to gain increased access to justice in each of the Circuits. We are asking that this funding include at least \$800,000 per year for direct civil legal services provide by attorneys and paralegals in each of circuits (\$600,000 for the First Circuit; \$80,000 for the Second Circuit; \$75,000 for the Third Circuit; and \$45,000 for the Fifth Circuit).

By including this funding, you will help to restore some of the purchase of service contract was provided for civil legal services as part of the state’s base budget from 1975 to 2004. Purchase of service contracts were provided for both general civil legal services and immigration and immigrant-related civil legal services. During this entire period, the Legal Aid Society of Hawaii was the recipient of the purchase of service contract for civil legal services. Na Loio No Na Kanaka which became the Hawai’i Immigrant Justice Center received the funding for immigration and immigrant-related civil legal services beginning in or around 1985. In 2004, this funding was converted into grant-in-aids directly to the Legal Aid Society of Hawai’i and to the Hawai’i Immigrant Justice Center. In 2010, because of the recession and the lack of funding, the Hawai’i Immigrant Justice Center merged with the Legal Aid Society of Hawai’i.

Except for the two years in which grant-in-aid funding was not provided during the recession, direct civil legal services has been funded. The reestablishment of this purchase of service contract will restore the state’s commitment to funding civil legal services and would be in line with the Judiciary’s interest in access to justice. Please note that the funding that we are currently seeking will only partially restore the funding allocated to these two civil legal services. At its highest in 1992, general civil legal services was funded at \$1.47 million with immigration and immigrant-related civil legal services at \$422,496 at its highest in 2008.

By allocating \$800,000 of funding to civil legal services, Legal Aid will be able to continue to serve people in Hawai’i with direct legal services, including full representation, through our ten offices located on each of the major Hawaiian islands, including four offices on Oahu (Honolulu, Chinatown, Waianae, and Kaneohe), two offices on the Big Island (Hilo and Kona), and an office on Kauai, Lana’i, Molokai, and Maui.

As members of the Committee on Judiciary and Labor and the Committee on Ways and Means, you have the difficult task of making critical decisions as to how to fund third branch of government. You are balancing some many different interests, but I’d like to leave you with how legal services can make a critical difference for some of the social and community issues that have come before you:

- You invest in a child’s education by supporting teachers, but how productive is that child going to be in school if his mother is being beaten on a daily basis and not protected through a restraining order and sole legal custody gained through the representation by a legal services attorney;

- You are concerned about your constituents who must face a homeless person sleeping in front of their business because they have no place to go, but what if our assistance can lead to them getting federal supplemental social security which can be used to get into a shelter and to then get health insurance which will help them get their medication which had lead them to the streets;
- You are worried about the amount of money that is going to public assistance for that mother who recently got divorced, but what if our representation could have helped her get her fair share of their property, her husband's retirement and child support, so that she would have never had to go on assistance in the first place;
- You are trying to figure out how you can increase general revenue to the state, but what if we could help an immigrant who was a victim of crime get his green card or citizenship so that he can work or build a business that will increase our state revenue; and
- You are thinking about the amount of money that we must contribute to support the child welfare system, but what if our representation can help a grandparent get a guardianship or adopt a child so that the child never has to go into the system.

Civil legal services are a key part of solving community problems and they are part of the bedrock of our justice system and ensuring democracy. Your support to restore the funding of civil legal services as a purchase of service contract into the budget will help to continue to maintain access to justice for our residents. We ask that you support this request.

Thank you for this opportunity to provide testimony.

Sincerely,



M. Nalani Fujimori Kaina
Executive Director

The Legal Aid Society of Hawaii (Legal Aid) is the only legal service provider with offices on every island in the state, and in 2014 provided legal assistance to over 7,500 Hawai'i residents in the areas of consumer fraud, public assistance, family law, the prevention of homelessness, employment, protection from domestic violence, and immigration. Our mission is to achieve fairness and justice through legal advocacy, outreach and education for those in need.

Testimony of Brooke Wilson
Pacific Resource Partnership

Senate Committee on Judiciary and Labor
Senator Gilbert S.C. Keith-Agaran, Chair
Senator Maile S.L. Shimabukuro, Vice Chair

Senate Committee on Ways and Means
Senator Jill N. Tokuda, Chair
Senator Ronald D. Kouchi, Vice Chair

HB 290, HD1 – Relating to the Judiciary
Wednesday, April 1, 2015
9:05 AM
Conference Room 211

Dear Chairs Keith-Agaran and Tokuda, Vice Chairs Shimabukuro and Kouchi, and members of the committees,

PRP is a not-for-profit organization that represents the Hawaii Regional Council of Carpenters, the largest construction union in the state, and more than 240 of Hawaii's top contractors. Through this unique partnership, PRP has become an influential voice for responsible construction and an advocate for creating a stronger, more sustainable Hawaii in a way that promotes a vibrant economy, creates jobs and enhances the quality of life for all residents.

We strongly support HB290, HD1 for the appropriation of additional CIP funds to construct a much needed new Judiciary Complex in Kona. The remaining \$55 million in CIP funds will allow for construction contracts to go out to bid and prevent unnecessary delays which ultimately increase the cost of construction.

The current facilities are spread out between Kona and Kealahou and housed in buildings originally built for other purposes. These makeshift court facilities are barely able to serve their purpose and contain safety as well as parking issues.

Not only will this project provide much needed construction jobs, it will also meet a major need in the Kona community for a Judiciary Complex that is centralized, modern, safe, and long overdue.

Thank you for your consideration.



TESTIMONY

Senate Committees on Judiciary & Labor and Ways & Means
House Bill 290 HD2, Relating to the Judiciary
Hearing: April 1, 2015 @ 9:05 a.m.

TO: Chair Gilbert Keith-Agaran and Chair Jill Tokuda and Members of the Senate
Committees on Judiciary & Labor and Ways & Means

FROM: Carol Kitaoka
Kona Attorney

RE: HB 290 HD2 - Relating to the Judiciary (Budget)
*KONA JUDICIARY COMPLEX

Chair Keith-Agaran, Chair Tokuda, and Members of the Senate Committees on Judiciary & Labor and Ways & Means, I am an attorney residing in Kona who is employed by the Hawaii County Prosecutor's Office. I am also the Hawaii State Bar Association Board Member representing West Hawaii. I am offering these comments in my personal capacity **IN STRONG SUPPORT** of the request for construction funds for a new Kona court complex which is listed on page 7 of this Bill.

The Kona community is in DIRE need of a court complex. Currently one Circuit Court courtroom and the Kona District Court are located in the old Kona Hospital Building along with the Department of Health in Kealahou. A second Circuit Court courtroom is approximately one mile away. The Kona Family Court is several miles away in Kailua-Kona.

As Deputy Prosecutors we practice in all courtrooms. The Circuit Court Deputies must drive between the Circuit Courts and parking is limited, in fact, scarce is a more accurate description. We park in dirt lots or on the grass. The public is faced with the same problems of finding the right Court and finding parking. In addition, access to the Courts at the old Kona Hospital is very difficult for the disabled. The courtrooms and the parking area are on different levels and there are NO elevators.

The most pressing concern from my perspective is the safety of the public, the Judges and Judiciary employees, and the attorneys who must appear in the courtrooms. The in-custody defendants must go through the open hallways to get to the courtrooms, victims and defendants and their families and supporters are waiting in the SAME area. During jury trials, the victims and the defendants' families and supporters must wait in the same area. This may be an intimidating experience for victims who are already under stress. In addition, jurors must wait in the SAME area as defendants' families and supporters if they leave the confines of the courtroom. Jurors have reported instances of intimidation.

In closing, the State of Hawaii and the Kona community need the long awaited and promised Kona Judiciary Complex. I am humbly requesting your favorable consideration for the full funding requested by Chief Justice Mark Recktenwald for the next phase of this CIP project. Thank you for your consideration.

TESTIMONY IN SUPPORT OF HB 290, H.D. 2

RELATING TO THE JUDICIARY CIP-FOR KONA COURTHOUSE
COMPLEX

SENATE WAYS AND MEANS AND JUDICIARY JOINT COMMITTEES
HEARING, APRIL 1, 2015, 9:05 AM, Conference Room 211

To: Senators Jill Okuda and Gil Keith-Agaran, CHAIRS, AND
COMMITTEE MEMBERS

From: Charlene Iboshi, Hawaii State Bar Association, Senior Counsel
Division Director for Hawaii County; Member of the West Hawaii Bar
Association and Hawaii County Bar Association

I have practiced law in the State for over thirty-three years. The Legislature must commit this year to fully funding the Kona Courthouse Complex, otherwise the Judiciary CIP project is likely to fail. The incremental funding strategy needs the last installment this biennium with a financial commitment to fully fund the construction, See the Judiciary testimony. The bond funding in the HB 290, HD 2 and full funding as requested by the judiciary is appropriate.

Over the years, I have seen each circuit build new courthouse complexes. Now, the Kona Judiciary Complex is the last one to be built. The Judiciary selected the Kona Judiciary Complex Capital Funding as their #1 priority. The Hawaii State Bar Association, the two voluntary bar associations (West Hawaii County Bar Association and the Hawaii County Bar Association) in the Third Circuit strongly support the Judiciary's request. The proposed Kona Judiciary Courthouse Complex serves, not only the Third Circuit, but serves all the citizens of the state. Unlike services in county government, the judiciary serves interests statewide.

Hawaii County's current Third Circuit Kona Courthouses have many safety issues because the facilities were not designed for the demands and safety concerns of our court system. The West Hawaii Bar Association Support testimony last year detailed the problems of the antiquated hospital converted to a courthouse. The "forecasts" are coming true.

Days after Chief Justice Recktenwald explained that the current courthouse was never designed for court security, there was a "riot" at the Kona Circuit Courthouse in the "cell-block," as reported in the West Hawaii paper in February, 2015. It took an hour for sheriffs to get needed back-up to get control over the prisoners. Moreover, I continue to hear about employees and lawyers sustaining injuring when falling down the steps of

the old facility. The Legislature must act now; a “risk” management analysis requires action.

The Kona Courthouse system was cobbled together as the population and commercial demands of the island exploded. I practiced in Kona when there was only one courthouse, and all jury trials were in Hilo. Now, West Hawaii’s filings and litigation are nearly 40% of the filings in the Third Circuit. Hawaii County is unique in that it is the largest county in the entire state, encompassing the same land mass as all the other counties combined. Logistics and infrastructure development are always more expensive because of its sheer size. Moreover, Hawaii County has many areas that are the fastest growing in the State.

I am writing support testimony, because the need for the new Kona Courthouse Complex is unquestionable and justified fully, as outlined in other testimonies. The courthouse complex is needed for the safety of those who are required to use the Courthouse or Judiciary Services. It provides a more cost-effective use of state resources for our long-term support of our Third Branch of Government.

From my perspective as the Senior Counsel Division Director, I realize that the community’s respect to uphold the “Rule of Law” and the role of the judiciary as the institution that dispenses justice require a “sense of place.” The institutional setting must command respect for the law. The Judiciary has a clear plan to build this “Hale.”

The Kona Judiciary Complex benefits all the citizens in the state, including all the practitioners throughout the state, the litigants, witnesses, services providers and statewide community. They rely on safe and efficient court facilities to pursue justice.

Please fully fund the Judiciary’s request for the Kona Judiciary Complex.

Thank you for the opportunity to provide support testimony.

Charlene Y. Iboshi ,

Hawaii State Bar Association, Senior Counsel Division, Director for Hawaii County

Hawaii County Bar Association and West Hawaii Bar Association, Member

From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc:
Subject: *Submitted testimony for HB290 on Apr 1, 2015 09:05AM*
Date: Monday, March 30, 2015 5:02:21 PM

HB290

Submitted on: 3/30/2015

Testimony for JDL/WAM on Apr 1, 2015 09:05AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Debbie Baker	Individual	Support	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc:
Subject: Submitted testimony for HB290 on Apr 1, 2015 09:05AM
Date: Monday, March 30, 2015 4:57:31 PM

HB290

Submitted on: 3/30/2015

Testimony for JDL/WAM on Apr 1, 2015 09:05AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Donna Payesko	Individual	Support	No

Comments: My name is Donna Payesko, and I am an attorney actively practicing and residing in West Hawaii. I strongly support HB290 HD2 and its request for appropriation of \$55 million in CIP funds for the Kona Judiciary Complex to get this project out to bid for construction. The \$35 million approved last year is greatly appreciated, and now is the time to bring the remaining \$55 million to the table to continue moving this project towards completion. Delays in funding would likely result in delays in going out to bid, and consequently, higher costs for construction. Neither the State nor the West Hawai'i community deserve that. A new Judiciary Complex in Kona is vitally needed and long overdue. The current facilities are spread out between Kona and Kealahou and housed in buildings originally built for other purposes. These makeshift court facilities are barely able to serve their purpose and contain safety as well as parking issues. A centralized, modern, efficient and safe facility is needed to provide our citizens with access to the justice system for all our West Hawai'i citizens. We must continue to move this project forward. With the site selection and land issues currently put to rest, and progress with design and planning moving forward, these CIP funds are needed to keep the project on track. I urge passage to approve the \$55 million as noted.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc:
Subject: Submitted testimony for HB290 on Apr 1, 2015 09:05AM
Date: Monday, March 30, 2015 3:45:19 PM
Attachments: [HOUSE JUDICIARY 2015 2.11.2015.pdf](#)

HB290

Submitted on: 3/30/2015

Testimony for JDL/WAM on Apr 1, 2015 09:05AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
J Porter DeVries	DeVries & Associates, P.C.	Support	No

Comments: Consolidation of leased property; SAFETY; the judicial system deserves respect and a respectable facility supports this; the population center is shifting towards North Kona and the proposed location will be more accessible to more people; Attorneys need better meeting rooms and conference spaces; New facilities will enable technological improvements; this is an important foundation upon which Kona can grow and prosper.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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According to the United States Census Bureau Hawai'i County grew from 185,079 residents in 2010 to an estimate of 190,821 in 2013. In three years Hawai'i County grew by 5,742 residents. That is the second highest growth in the State (falling second to Honolulu). Most remarkably Hawai'i County is 4,028.42 square miles large, the largest of all islands by more than double. Maui County having 1,161.52 square miles, Kauai 619.96 and Honolulu 600.74. The counties of Maui, Kauai, and Honolulu could physically fit into half of Hawai'i County.

In 2010, of the 185,079 residents accounted for in the Census, 77,871 occupy the cities which falls under West Hawai'i (Pahala, Naalehu, Hawaiian Ocean View, Milolii, Captain Cook, Kealahakua, Kona, Waikoloa, Waimea, Kawaihae, Kapaau, Hawi).

Currently West Hawai'i has three different court facilities in Kona and one court facility in Waimea. The three facilities in Kona are responsible for criminal cases from Ka'u (misdemeanors and felonies), South and North Kona (both felonies and misdemeanors), and South and North Kohala (felonies only).

The currently Kona judiciary facilities are far from adequate work conditions. You will and probably received testimony describing at the very minimum the unsafe physical condition of the courthouse, the impracticable jury facility, and the lack of space in terms of accommodating both staff and court participants. Just to name a few unsafe conditions: The back stairway leading from the holding cells which Department of Public Safety uses to bring inmates are dangerously steep; the front stairway leading into the courthouse is also dangerously steep; the parking lot often times requires parking in a grass and tree root area (a coworker fell and broke a rib in this area). Costly repairs and construction happen because this facility was never designed as a courthouse and the structure itself is dated.

Through my years as an attorney in West Hawai'i I had over 10 jury trials since 2006. In that time frame the facilities could not adequately accommodate the jurors. The Big Island Drug Court facility is too small. Jurors on every recess and break run into witnesses or defendants. I unfortunately experienced how that access gave a defendant an opportunity to taint the jury when he sought contact with jurors on break. In order to ensure that the jury does not see that a defendant is an inmate (a protection afforded by the laws of this State), the court staff must choreograph an entrance and exit every time a break happens and the beginning and ending of every day. For inmates the entry/exit into the courthouse crosses the jury deliberation room. In addition, the entry/exit into the holding area for inmates also crosses the area where jurors often are told to wait at when not in the deliberation room. There is no attorney room where attorneys can speak with witnesses or clients in privacy. This contact is open for all to see and hear. As an attorney you hope your hushed tones will not give way to attorney client privilege. It is certain that many others will speak to the deficiencies of the court facilities. The Courthouse does not keep inmates away from the general public in a safe manner. I witnessed inmates threaten witnesses while waiting in the common areas, this includes victims of the crime.

As the community grows so does the need for staff and participants who are summoned by law to appear before the court. As everyone can see Hawai'i is growing but Hawai'i County is growing rapidly. We have an increase of 5,742 new residents from 2010 to 2013. That means 1,914 new residents per year, 159 new residents per month, which breaks down to 5 new residents per day. We

account for the largest land mass in the State. It is 124 miles in driving distance from Pahala to Hawi each city representing the farthest city this one court facility will cover if built. As noted above this facility will be available to the 77,871 residents (2010 United State Census Bureau). Statistically, West Hawai'i is due for a new, central location for the judiciary. The staff sits in a maze of cubicles with insufficient desk space to do their job. Participants of the judiciary who are summoned by law to appear often times cannot sit in the courtroom waiting for their case to be called because there is no room. The parking could not accommodate one regular district court traffic and criminal day let along a jury trial. West Hawai'i is in need of a new central judiciary. West Hawai'i is growing and there is no belief this growth will stop any time soon.

Mahalo,

A handwritten signature in black ink, appearing to be 'Kauanoe A. Jackson', written over the word 'Mahalo,'.

Kauanoe A. Jackson



March 30, 2015

TESTIMONY TO SENATE COMMITTEE ON JUDICIARY
AND LABOR AND
COMMITTEE ON WAYS AND MEANS
HEARING: WEDNESDAY, APRIL 1, 2015 AT 9:05 A.M.

TO: Honorable Chairman Gilbert S.C. Keith-Agaran, Vice Chairwoman Maile S.L. Shimabukuro and Members of the Senate Committee on Judiciary and Labor

Honorable Chairwoman Jill N. Tokuda, Vice Chairman Ronald D. Kouchi and Members of the Senate Committee on Ways and Means

FROM: Robert D. S. Kim
Legislative Committee 2015
West Hawaii Bar Association ("WHBA")

RE: H.B. 290, HD 2 – RELATING TO THE JUDICIARY
SPECIFICALLY THE KONA JUDICIARY COMPLEX FUNDING

The WHBA is supporting the continued funding for the Kona Judiciary Complex included in H. B. 290, HD 1. The Judiciary is seeking \$90 million dollars for the construction of the facility. The Hawaii State Legislature is committed to this project having committed approximately \$35 million dollars in appropriations. H. B. 290, HD 2 includes of the balance of CIP funds appropriated by the House Finance Committee as requested by the Judiciary in the amount of \$55 million dollars.

The WHBA is respectfully requesting that your joint committees also approve \$55 million dollars so that construction can commence for this important project.

The WHBA has met with key members of the respective committees, and has articulated the dire need to start construction to alleviate the security concerns and high cost of leasing. The WHBA has been lobbying for a new courthouse since the early 1992. We thank the respective Chairs and Vice-Chairs for meeting with us, and providing previous funding for this important project.

The Kona Judiciary Complex will serve the needs of the entire Big Island. I have attached a copy of a petition that includes signatures from citizens from both East and West Hawaii. This petition contains approximately 269 signatures.

I have provided herein below, a recap of the history of this project and the increasing need for this courthouse.

The Kona Judiciary Complex has been the number one (1) CIP priority for the Judiciary for the past several years. The Kona Judiciary Center will serve all of the attorneys and citizens on the Island of Hawaii.

Security is a critical problem with the current facilities. I have included a letter to the editor was published by a juror in a sexual assault trial in Kona. I have included her comments for your review as they are relevant to this debate. I have also attached news articles in the past month that have highlighted a riot that took place in the cellblock at the court house, and a recent escape attempt.

We are humbly and respectfully requesting your continued support of the project. We thank the leadership on this committee, and the members for inspecting the current judiciary facilities in West Hawaii on previous occasions. I know your members are familiar with our plight. I have included in my testimony current information which supports the construction of the Kona Judiciary Center.

6A

OPINION

MONDAY, MARCH 24, 2014 | WEST HAWAII TODAY

LETTERS | YOUR VOICE

whit@aloha.net

More parking needed at courthouse

A short while ago, you printed an article about the lack of funds for a courthouse in West Hawaii.

I had the pleasure of being on a jury recently and I was actually present when one of the jurors had a run-in with one of the lawyers.

The space in front of the courthouse is very limited. In fact, most of the visitors have to park up above and walk down a steep road to get to court.

I tried arriving early just to get a space and was successful once. After that, I ended up parking up top where a security guard directs parking to maximize parking space for everyone. We need a parking area that has a slot for the judge, the four lawyers and room for the 12 jurors as well as the alternate. Only the visitors and spectators should have to park in a free public parking area.

I have witnessed the lawyers walking down to court in rubber slippers and changing into

proper footwear once on level ground, I have also witnessed an irate juror who was told that a stall was reserved for someone. He was so upset that he entered the deliberation and workroom cursing and talking loudly about the incident. This should not have taken place as the said juror would have been the select juror to read out our verdict. As a result, that juror was dismissed and we were each questioned about whether this incident would cause us to sway our vote. Of course I'm sure we all

said the same thing, that the incident had nothing whatsoever to do with the case at hand. We were able to come to a unanimous verdict and everyone went on their way.

I have found that jury duty is quite interesting and fun. I met so many nice people that were generous with their treats and information on health.

This incident verified the fact that we in West Hawaii really need a courthouse with ample parking.

Colleen Miyose-Wallis
Kailua-Kona

Currently, the District and Circuit Court of the Third Circuit Court, Kona Division, located in Kealahou, Hawaii is located along side the State Department of Health facilities in a multi-purpose building known as the Keakealani Building that was built in 1939, and is dilapidated, and overcrowded.

There is also a Circuit Court for the Big Island Drug Court (BIDC), Veterans Court and Criminal and Civil calendars, located blocks away that is leased. The Family Court is miles away and is also leased. The Keakealani Building was originally the old Kona Hospital and was built by the Public Works Administration almost 70 years ago under President Franklin Roosevelt.

There are four (4) courts located in West Hawaii, at three (3) different locations. None of these "court facilities" were originally designed for court use.

The original site chosen for the Complex had been moved due to the discovery of an endangered species. The new site allows for expansion and parking and is located in Kailua-Kona. To keep the costs of project down, the Judiciary has been deeded the project site at virtually no cost to the State from the land owners Queen Liliuokalani Trust

The State is currently paying high costs for maintaining the current court facilities. The current lease agreements are as follows:

- Lenders Document Building
- 81-940 Haleki'i St (Kona Div 3, Drug Court Client)
- Driver Education (Kealahou Business Plaza)
- Kona Circuit Court storage (renewed annually)

Lender's Document Building (77-6399 Nalani St., Kailua-Kona, HI)

The Judiciary leases the 2nd and 3rd floor. The 2nd floor is for Family Court and staff that support Family Court (i.e. legal docs) and Juvenile Client Services. The 3rd floor is for Adult Probation Services.

The total **monthly lease amount is \$18,728** (\$224,736.36 per year), janitorial services included.

Circuit Court Division 3/Drug Court (81-940 Haleki'i St., Kealahou, HI)

This space is for Circuit Court Division 3 (Judge Ibarra's court) and Drug Court Probation.

The total **monthly lease amount is \$9,658** (\$115,899 per year).

In addition to the lease amount, Judiciary pays for contract janitorial services at this location in the amount of \$1,041.00 per month (\$12,500.00 per year)

Driver Education (Kealakekua Business Plaza)

This space is for Driver Education staff and classes (DUI classes, Driver Improvement classes, etc) .

The total **monthly lease amount is \$5,297** (\$63,568 per year).

Circuit Court Storage

Payment for off-site storage of files is necessary because we do not have enough space at the Keakealani Bldg.

The **total monthly cost is \$2,403** (\$28,837 per year).

Kona Courier Services

Once the courts are consolidated to a new building, these costs will end. We will still have to pay for intra-island courier between Hilo and Kona, but that is not included in this amount shown. - **\$1,087 per month** (\$13,051 per year).

Total monthly lease and facility-related costs: \$38,216

Total annual lease and facility-related costs: \$458,593

LAPSING OF CIP FUNDS

The WHBA is concerned that if CIP funds are not appropriated to commence construction, that previously appropriated funds will begin to lapse. In Fiscal Biennium (FB) 2013-2015, via Act 133 / 2013–Regular Session, as amended by Act 127 / 2014–Regular Session, the Legislature appropriated \$35.0 million of the \$90 million requested for the project. These funds will lapse **June 30, 2016**. The Judiciary’s current request to the Legislature in the 2015 Session for the remaining \$55.0 million, if appropriated, would become effective July 1, 2015, and would lapse on **June 30, 2018**.

This Honorable Committee should be aware that both sets of funds, totaling the \$90.0 million needed to be able to put the project out to bid, would be available together for only the one-year period from July 1, 2015 to June 30, 2016. This makes it absolutely

crucial that the total \$55.0 million be funded for FY 2016 during the 2015 legislative session because if the TOTAL \$55.0 million is not so appropriated, then we will be in the unthinkable position, after the aforementioned \$35.0 million from FB 2013-2015 lapses on June 30, 2016, of not having the full \$90 million in hand to be able to put the project out to bid for construction.

This would result in an unavoidable delay to the project, since we would have to wait for the Legislature to authorize new funding in either the 2016 and/or 2017 Session(s), by which time more than the current \$35.0 million difference will be required. Under those circumstances, the presently projected occupancy time frame of the spring of 2019 would be pushed back to calendar year 2020 at the earliest.

It is with great concern that funds for any project-related efforts that may be expended in anticipation of the bid-out occurring within the identified one-year period of July 1, 2015 to June 30, 2016, or for such permits and other mandated approvals and reviews, could well be nullified, and would have to be repeated or reinitiated.

Similar obsolescence could occur relative to the project's design and bidding documents, should applicable regulations and/or product availability in the construction industry marketplace change in the intervening period. In addition, anticipated costs to construct the building would likely increase beyond the \$90 million currently needed.

CRITICAL SECURITY CONCERNS

The current facilities lack proper security protection for the judges, attorney's, litigants, jurors and the general public. The amount of serious security breaches are escalating and the public safety is in jeopardy.

Here is a photograph of the Kona District Court "holding cell". There are no toilets and insufficient room to hold all pre-court custodies. These detainees are crowded into this area right next to the general public. Recently a distraught detainee began to pound his head against the wall, which punched a hole in the wooden structure, in plain view of the public. The detainee was screaming at the top of his lungs while the sheriffs sought to detain him and protect him from hurting himself.

This incident was viewed by the public, including mothers and young children waiting in the court yard. This area is depicted below.



Here is a photograph of “security fence” that protects the Kona District and Circuit Court. An inmate recently squeezed through the fence, and attempted an escape. Inmates, pretrial detainees and arrested person pass through this area. As noted above, if detained citizens have to use the bathroom while being held, the Sheriffs will escort the inmate to the public bathrooms located outside of the security entrance. Members of the public are asked to stay out of the bathroom until the inmate is finished. Then the inmate is escorted back to the holding area. The inmates must pass the general public, jurors and children when being transported to the bathrooms. This happens numerous times throughout the day.

The “security fence” provides no security. Anyone can jump over the fence, as it is limited in height. Guns and other weapons maybe thrown over the fence. Contraband can be thrown over the fence. It is very easy to bypass the security screening at the entrance to the Court.

Our citizens are not safe at the Kona court facilities.

Here is a photograph of “security fence” that protects the Kona District and Circuit Court. An inmate recently squeezed through the fence, and attempted an escape. Inmates, pretrial detainees and arrested person pass through this area. As noted above, if detained citizens have to use the bathroom while being held, the Sheriffs will escort the

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Our citizens are not safe at the Kona court facilities.



Kona woman caught trying to escape from courthouse | KHON2



Kona woman caught trying to escape from courthouse

By Web Staff

Published: January 29, 2015, 4:25 pm | Updated: January 29, 2015, 4:26 pm



Cheyanne Collins

A woman faces an escape charge after an unsuccessful attempt to run from a Kona courthouse.

It happened at around 11 a.m.

According to the Department of Public Safety, Cheyanne Collins was in a holding cage outside District Court and managed to squeeze out through a small space in the locked double gate.

Within minutes, deputy sheriffs captured her in the parking lot without incident.

Collins was wearing handcuffs and leg shackles.

She was transported to the Hawaii Community Correctional Center where she is being held on \$2,000 bond for an unrelated case.



**LIONS
CLAW PAST
WILDCATS**
SPORTS, 1B



**ENERGY EXECS
GRILLED BY
LAWMAKERS**
PAGE 6A

West Hawaii Today

THURSDAY, JANUARY 29, 2015

WESTHAWAII.TODAY.COM

75¢

Holding cell ruckus disrupts Kona court

BY BRET YAGER
WEST HAWAII TODAY
byager@westhawaii.com

Longstanding security and logistical shortcomings at the Kona Courthouse came to glaring light Monday when detainees in a holding block went ballistic, putting operations in at least one courtroom on hold for an hour.

The disruption was so loud that proceedings in a nearby courtroom had to be canceled, judiciary officials said.

An adult corrections officer, whose name is being withheld, said that nine male detainees plugged a toilet, flooded the cellblock and hurled water bombs made out of plastic sandwich bags.

"It's tight quarters. Nine guys in there, and tensions are going to flare up," the officer said.

The detainees apparently became upset when they were not offered lunch, the officer said. That was because they had already eaten their lunches in the vans during transport to the courthouse, he said, estimating that about five corrections officers were on

SEE COURTHOUSE PAGE 5A

COURTHOUSE: Judiciary pushing for new facility

CONTINUED FROM PAGE 1A

hand when the problem occurred in the lower level of the Keakealani Building.

No one appeared to be injured in the incident, but the detainees carried on for a good hour until five corrections officers arrived as backup from a training in Waimea. One man told officers it would take mace to subdue him, but the group as a whole cooperated once reinforcements arrived.

The officer said he and other ACOs were concerned about safety issues from flooding and electrical outlets during the disruption.

Tammy Mori, spokeswoman for the Hawaii State Judiciary, said the cellblock sustained minor damage. The state Department of Accounting and General Services, which oversees the property, is doing a damage tally, she said. The cellblock area was cleaned and sanitized after the incident, she said.

Lawyers who use the courthouse are nervous following the disruption, Kealakekua attorney Robert Kim said.

"That place is just waiting for something bad to happen," Kim said. "I would construe what happened as a jail riot."

Toni Schwartz, spokeswoman for the Department of Public Safety, said it is typical to have that many detainees in a cellblock, as they are brought over all at once from Hawaii Community Correctional Center in Hilo.

"All of our cellblocks



The cellblock at the Kona Courthouse is seen where detainees threw bags of toilet water on Monday.
CONTRIBUTED PHOTO

are pretty full," she said. "We do our best with what we have."

The detainees were transported back to HCCC and fed, and disciplinary action is pending, Schwartz said.

The incident occurred just two days before Wednesday's State of the Judiciary address, in which Hawaii Supreme Court Chief Justice Mark Recktenwald described the West Hawaii courts carrying on business "in buildings that were not designed as courthouses, which in turn has led to severe security, logistical and operational problems."

The Judiciary is expected to be in a full-court press this legislative session for the final \$55 million in state funding needed to build a new courthouse complex in Kailua-Kona.

KEAKELANI BUILDING (Old Kona Hospital) Located in Kealahou, about ten (1) miles from the main hub of Kailua-Kona



Current Building Utilization

- Serving the western portion of the Island of Hawai'i in the Third Circuit, the Kona Circuit Court Division 4 and District Court occupy the Old Kona Hospital. Generally, there are between 4,800 and 5,600 court users accessing the Keakealani Building every month.
- Originally built in 1939, this facility was renovated in 1984 for Judiciary operations, which at the time was intended to be temporary.
- This facility is 13,46 sq ft. of court and administrative offices, and shares space with the Department of Health.
- The facility is owned by the State and maintained by DAGS.
- The facility houses one Circuit Court, one District Court, their respective support offices and Judiciary Administrative offices.

Functional Space Adequacy

- This facility is cramped and overcrowded, and was not originally designed for court use.



- The only "jury assembly area" is the outside courtyard, which is shared by the public, defendants, attorneys and parties to cases.
- Department of Public Safety (DPS) Sheriff's Division has ten (10) positions that were originally assigned to Kona, with one (1) secretary. In 2013, two (2) of those ten (10) positions were reassigned by the Sheriff's Division to South Kohala. The legislature approved and funded DPS to hire eight (8) new deputies to cover the Kona section, and they are expected to start in December, 2014, after completion of recruit class. This information, however, should be verified with DPS/Sheriff's Division.

- Access by detainees from the holding cells to the courtroom requires transportation of detainees up and down a flight of stairs.



- The facility was designed as a hospital so circulation throughout the building is awkward and inadequate for custody movement.
- This facility is not ADA compliant.
- There are no expansion opportunities on this site.

Public Accommodations and Accessibility

- The public accommodations in and around the building are extremely inadequate.
- There is insufficient parking, including not enough handicap stalls. Often the public must park in areas not designated for Judiciary parking such as at the hospital, or in non-designated parking areas on the side of the road.



- Additionally, there is no designated waiting area for the public. There is a courtyard in between the Circuit Court and District Courts, where the public gathers prior to going into the courtrooms.
- A new jury room was constructed in 2011, which included a paved and covered lanai area. This has helped to provide some public accommodations.
- Sheriffs must walk prisoners through the public courtyard area to get to and from the courtrooms, which compromises security.
- There is no building directory, and no public information booth.
- There is accessibility to individuals with disabilities; however, it is inadequate. The Keakealani Building is old and has about 35 steps from the bottom parking lot to the main building entrance. The only wheelchair access is from the two (2) stalls on the Department of Health side of the building and the two (2) stalls in the back next to a dialysis center, which are all usually full.
- The air conditioning is old (from the 1980s) and in disrepair, resulting in frequent (almost weekly) outages and service calls. Due to the age of the AC unit, DAGS has had difficulty with repairs. Due to the costs for a new system, DAGS has been unable to replace the system. This AC issue has resulted extremely warm conditions in often extremely crowded courtrooms.



Building Security

- Security features in place include a centralized public entrance with security screening, restriction of public access to offices, limited building alarms/emergency annunciation, and surveillance cameras.
- Non-segregated circulation for prisoners is a security concern because the custodies are moved throughout the building in the same halls as the public and employees.



- The courtyard area is open and only a chain-link fence surrounds it for security purposes. It can be easily scaled during the night by perpetrators who can hide weapons until the next court day.
- There are (2) two holding cells, each with a suggested capacity of four (4) people. However, the sheriffs have said this is inadequate, and that they have had to put more than four (4) people in a cell at a time, at times upwards of 20 individuals, which poses a number of safety and security concerns.

Circuit Court Division 3/Drug Court – Haleki'i Street - located about 2 miles from the Keakealani Bldg in Kealahou



Current Building Utilization

- This is a privately owned facility that we lease for \$9,658 per month (\$115,899 per year).
- This facility houses the Circuit Court Division 3 courtroom, judicial and clerical staff as well as Drug Court Probation staff.
- Generally, there are between 2,500 and 3,400 court users accessing this building every month.
- Circuit Court Division 3 handles felony cases, civil cases involving amounts between \$10,000 and \$25,000 and jury trials. HOPE probation and Drug Court cases are also handled in this court.
- Drug Court Probation supervises and oversees Drug Court probationers.
- There are ten (10) parking stalls for the public and staff. There are eleven (11) employees at this building with no room for expansion.

Public Accommodations and Accessibility/Security

- There is only security screening for the court side of the building. The probation office has a separate entrance with no security screening.

- The space is inadequate for Circuit Court functions. There is no jury assembly area, so jury sign in is done outside. The jury room is shared as a lunchroom for the court staff



Driver Education – Kealakekua Business Plaza



Current Building Utilization

- This is a privately owned facility leased by the Judiciary for ***\$5,297 per month*** for 2180 sq ft.
- The classroom housed in this facility is used for DUI/OVUII courses, a Zero Tolerance and Prohibitions Involving Minors Course, a Defensive Driving Course, a Child Passenger Restraint Course and a Driver Improvement class (for excessive speeders, reckless drivers, etc). There are 2 staff at this location.

Lender's Building — located on the corner of Nalani Street and Mamalahoa Hwy in Kailua-Kona (approx. 7 miles up a 2 lane highway from the Keakealani Bldg)



Current Building Utilization

- This is a privately owned facility where we lease the 2nd and 3rd floors for \$18,728 per month (\$224,736 per year). There are other government agencies as well as private businesses on the 1st floor.
- Houses Family Court and Juvenile Client Services Branch on the 2nd floor and Adult Probation Intake and Supervision Units on the 3rd floor. There are approximately 25 Judiciary employees at this building.
- Judiciary has occupied the space for about 24 years and within the past few years had to expand into additional office for the Probation Division on the 3rd floor due to overcrowding and safety issues.
- The building was originally constructed as residential in 1982.
- The Family Court hears legal matters involving children. These include delinquency, dependency, adoption, detention, divorce, etc. Family Court also hears civil commitment, guardianships of adults, and adult abuse cases. The Family Court in each circuit handles both juvenile and adult matters which come under its jurisdiction.
- The Juvenile Client Services Branch (Juvenile Intake Crisis Unit and Juvenile Supervision Unit) monitors and supervises juveniles who have been adjudicated by the court for law violations and status offenses.

- The Adult Client Services Branch provides pre-sentence investigation reports to the courts and supervises adult offenders, including HOPE cases.
- Officers in Juvenile Client Services and Adult Probation each have individual offices but there is no room for expansion.
- Generally, there are between 3,000 and 3,900 people accessing the courts and probation offices at the Lender's Building every month.

Space Observations

- The interview room and conference room are used for storage and both are filled to capacity.
- There are no holding cells and, sometimes, detainees are held in the general public waiting area.
- Public accommodations are inadequate. On busy days, the court waiting area becomes overcrowded.
- The third floor is not accessible to the physically disabled.

Functional Space Adequacy

- The interview room and conference room are used for storage areas and both are filled to capacity.
- There are no holding cells at the Kona Family Court and therefore, the interview room is generally used for custodies. If this room is in use, the custodies are held in the general waiting area.

Public Accommodations and Accessibility

- The limited public accommodations are inadequate. On heavy calendar days, the waiting area for Family Court is insufficient due to lack of space. Custodies are moved and held in the same public area, adding to the already crowded environment.
- The public waiting area for both the Juvenile and Adult Client Services Branch are in the hallway.
- The third floor is not accessible to the physically disabled.

- Due to the aging building, there are regular problems with roof leaks, pests, air conditioning problems, plumbing issues causing limits on availability of restrooms, etc.



As a practicing attorney, I know firsthand that there exists a severe parking shortage whereby designated parking stalls are provided for the general public and staff to share. This building has eight-six (86) parking stalls, and at least sixty-one (61) are utilized by staff members and state vehicles, leaving a mere twenty-five (25) stalls for public use. The public has to park illegally every day. Jurors are unable to find parking during jury selection. Prosecutors are unable to find parking to get into court.

The BIDC has less than 10 public parking stalls. When jury trials are held, forty or more jurors are summoned at a given time. This creates a severe parking shortage, that adversely affects prospective jurors, witnesses, attorneys, and persons summoned to court for proceedings, thereby creating tremendous frustration and anxiety.

The Keakealani Building Court facilities include two (2) holding cells for all in-custody criminal defendants, which are small rooms with bars. These holding cells are substandard, covered with graffiti, and filled with offensive odors.

These approximately ten-feet by ten-feet cells have housed, on occasion, over twenty inmates in one (1) cell, which is cruel, inhumane, and a deprivation of the constitutional rights of the inmates. Currently, inmates are shackled on their legs and hands when transported by corrections officers to the courtrooms. In order to reach the courtrooms, the inmates are forced to walk up a steep staircase, of approximately twenty or more steps with shackles. At least one (1) inmate has tripped and fallen from the top of the stairs to the bottom causing severe injuries.

At both the Keakealani Building and BIDC, there are no adequate facilities for attorneys to meet with criminal defendants. Counsel are forced to discuss confidential issues with their clients either in the cells with the other inmates, or in the presence of corrections officers. There is a very small room at the Keakealani Building that has been designated for attorneys and clients, however, it is substandard. It has no air-conditioning, and is subject to the availability of court sheriffs whose presence is required for private conversations.

The Family Court is currently located approximately eight miles away from the Circuit and District Courts, in a small and inadequate space and is understaffed and unable to adequately handle the tremendous caseload of family court matters. Due to the physical limitations of the Family Court building, there is only one (1) Family Court Judge for the West Hawaii area. The nearest family court facility is located in Waimea, Hawaii which is 49.48 miles away.

The extreme caseload and severe scheduling problems are adversely affecting divorce litigants, who must wait on average 65 to 90 days for a hearing on motions. There is also a lack of security for juvenile defendants and families. Security is stretched to its limits because the sheriffs must provide protection for various locations. In all other judiciary facilities the various courts are housed in a single location, and there is generally a single entrance. In such settings the sheriffs can provide security for the facilities with the manpower provided.

With the development of the Kona Judiciary Complex the following objectives can be met.

- **Centralize Judiciary operations in West Hawaii to one location, rather than being spread out in four separate locations as we are now**
- **Provide courtrooms utilizing modern courtroom design to incorporate space adequacy,**
- **including appropriate security measures**
- **Provide technologically advanced court audiovisual systems to allow improved videoconferencing capabilities and court recording systems**

- **Provide security for the Judiciary staff, the public and custodies awaiting court appearances by incorporating appropriate design criteria to provide high, medium and low security areas in the facility**
- **Incorporate state of the art security systems to monitor court operations including movement of and security of custodies**
- **Provide temporary holding areas for custodies who are going to and from court**
- **Have a facility that is actually planned and constructed for court use**
- **Provide for future growth**
- **Populations and caseloads are projected to increase**
- **Caseloads in Kona are expected to increase substantially**

The current problems facing the West Hawaii court system in the Third Circuit are already at critical levels, and require immediate redress. On behalf of the attorneys, judges and the public, your support is in dire need. Please support the Kona Judiciary Complex by enacting H. B. 290, HD 2, and approve the CIP funding request.

We would like to express our sincere appreciation for the support we have received from the respective committees in the Senate in the past several years, having shown their commitment to this important project.

Thank you.

Robert D. S. Kim
Legislative Committee 2015
West Hawaii Bar Association

From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc:
Subject: Submitted testimony for HB290 on Apr 1, 2015 09:05AM
Date: Monday, March 30, 2015 6:52:29 AM

HB290

Submitted on: 3/30/2015

Testimony for JDL/WAM on Apr 1, 2015 09:05AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Ross Wilson Jr.	Individual	Support	No

Comments: Please support full funding for the Kona Judiciary Complex. It is much needed on the west side of the Big Island. Mahalo for your kokua! Ross Wilson Jr., Kailua-Kona

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc:
Subject: Submitted testimony for HB290 on Apr 1, 2015 09:05AM
Date: Monday, March 30, 2015 8:01:07 AM

HB290

Submitted on: 3/30/2015

Testimony for JDL/WAM on Apr 1, 2015 09:05AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
snakoa@rmkona.com	Individual	Comments Only	No

Comments: My name is Shawn M. Nakoa, Esq. and I am the Resident Partner of Rush Moore LLP's Kona Office. I have practiced in Kona for nearly 25 years. I also sat as a per diem Judge in Kona District Court and Family Court. The community needs and deserves the Kona Judiciary Complex. For safety, efficiency of government and economic reasons, I strongly urge and ask for your full support in funding this critical project. Thank you.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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TESTIMONY

Senate Committee on Judiciary and Labor
Senate Committee on Ways And Means
House Bill 290 HD2, Relating to the Judiciary
Hearing: April 1, 2015 @ 9:05 a.m.

TO: Chair Gilbert S.C. Keith-Agaran and Members of the Senate Committee on
Judiciary and Labor

Chair Jill N. Tokuda and Members of the Senate Committee on Ways and Means

FROM: Steven J.T. Chow, Esq.

RE: HB 290/HD2 - Relating to the Judiciary (Budget); *KONA JUDICIARY
COMPLEX

Chair Keith-Agaran, Chair Tokuda and Members of the Senate Committees on Judiciary and Labor and Ways and Means. I am writing to ask your support for the passage of HB 290, HD2 relating to the Judiciary Budget and specifically the Kona Judiciary Complex.

I have been a practicing attorney here in Hawaii for 34 years in a variety of practice areas including family law, landlord/tenant law, collection law and civil litigation with the firms of Fujiyama Duffy & Fujiyama and The Pacific Law Group fka Matsumoto LaFountaine & Chow. Since 1981, my practice has taken me numerous times a year to all island and Kona at least several times a year. I have seen the Judiciary make great strides in Kona to protect citizens' rights and ensuring justice for all in the most abysmal of physical conditions.

I know these are difficult financial times and we must all face belt tightening in one form or another. But the lack of Courtroom facilities in Kona is by far the worst in the State. The foundation of our society and government is based on a strong Judiciary, the lack of a Kona Courthouse to house all of the essential legal services affects the delivery of such services in all areas (criminal, family, civil, etc.).

"Justice delayed is justice denied" is a quote which you have probably heard many times before.¹ That observation is especially true today as the Judiciary in Kona faces more and more demand for services with inferior and inadequate facilities. The citizens of Hawaii and my clients in Kona are becoming frustrated with the delays in the legal system as I often hear comments from clients and citizens of "why bother?" when discussing enforcing basic legal rights through the Court system in Kona. We must guard against a growing sense of apathy and distrust by the community of our legal system and can only do so by maintaining essential legal services, programs and facilities.

¹ Attributed to William Gladstone, British politician (1809-1898) .

In closing, I would again respectfully ask for your support for HB 300, HD2 relating to the Judiciary Budget and, specifically, the Kona Judiciary Complex. I would be happy to provide you with any additional information or comment. You can contact me at (808)523-2999, ext. 208, or by email at schow@paclawgroup.com.

Thank you for your consideration.