

SB-572-SD-1

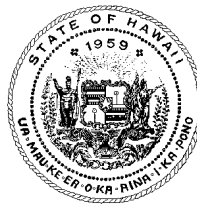
Submitted on: 2/19/2019 9:31:30 AM

Testimony for WAM on 2/20/2019 10:05:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Melodie Aduja	Testifying for O`ahu County Committee on Legislative Priorities of the Democratic Party of Hawai`i	Support	No

Comments:

DAVID Y. IGE
GOVERNOR



NOLAN P. ESPINDA
DIRECTOR

Maria C Cook
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STATE OF HAWAII
DEPARTMENT OF PUBLIC SAFETY

919 Ala Moana Boulevard, 4th Floor
Honolulu, Hawaii 96814

No. _____

TESTIMONY ON SENATE BILL 572, SENATE DRAFT 1
RELATING TO PUBLIC SAFETY.

by

Nolan P. Espinda, Director
Department of Public Safety

Senate Committee on Ways and Means
Senator Donovan M. Dela Cruz, Chair
Senator Gilbert S.C. Keith-Agaran, Vice Chair

Wednesday, February 20, 2019; 10:05 a.m.
State Capitol, Conference Room 211

Chair Dela Cruz, Vice Chair Keith-Agaran, and Members of the Committee:

The Department of Public Safety (PSD) supports Senate Bill (SB) 572, Senate Draft (SD) 1 and welcomes the opportunity for an audit of the specific areas mentioned in this measure.

Thank you for the opportunity to present this testimony.



SENATE COMMITTEE ON WAYS AND MEANS
The Honorable Donovan M. Dela Cruz, Chair
The Honorable Gilbert S.C. Keith-Agaran, Vice Chair

S.B. NO. 572, S.D. 1, RELATING TO PUBLIC SAFETY

Hearing: Wednesday, February 20, 2019, 10:05 a.m.

The Office of the Auditor has **no position** regarding S.B. No. 572, S.D. 1, which requires that the Office of the Auditor conduct a performance audit of various offices and programs within the Department of Public Safety. **However, we have concerns about our ability to conduct work required by the bill.**

The bill requires us to conduct a performance audit of a number of offices and programs within the Department of Public Safety. Specifically, the bill directs that the audit shall include, among other things, assessing:

1. The hiring, staffing, and supervisory policies and practices, including “[a]ctual and perceived conflicts of interest and favoritism among and between employees and supervisors” and employee morale;
2. The handling and dispositions of internal complaints and lawsuits filed by current or former employees;
3. Contracting and procurement policies and practices; and
4. The department’s ability to provide necessary mental health services to inmates and pre-trial detainees.

We acknowledge and appreciate the amendment to the bill extending the deadline for our report. However, the scope of the audit remains very broad. Given the breadth and complexity of the subject matter and the other work that we are required to perform, we are concerned about our ability to complete the audit, as described in the bill, in the time requested. We request that the committee narrow the scope of the requested audit – i.e., the committee should consider reducing the offices and programs to be assessed.

The Committee on Public Safety, Intergovernmental, and Military Affairs in Standing Committee Report No. 429 notes that “the estimated cost of the audit proposed by this measure is \$200,000.” However, S.D.1 still reflects an appropriation of \$100,000. Some portions of the work required by the bill likely are beyond our expertise and will almost certainly require us to procure a consultant. We do not know the cost to procure a mental health expert to help us assess the department’s current mental health services to inmates and pre-trial detainees and the department’s capacity to provide services that are necessary. For that reason, we request that the appropriation be increased to at least \$200,000.

Thank you for considering our testimony related to S.B. No. 572, S.D. 1.

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COMMITTEE ON WAYS AND MEANS

Sen. Donovan Dela Cruz, Chair

Sen. Gilbert Keith-Agaran, Vice Chair

Wednesday, February 20, 2019

10:05 am

Room 211

STRONG SUPPORT - SB 572 SD1- PERFORMANCE AUDIT OF CERTAIN OFFICES IN PSD

Aloha Chair Dela Cruz, Vice Chair Keith-Agaran and Members of the Committee!

My name is Kat Brady and I am the Coordinator of Community Alliance on Prisons, a community initiative promoting smart justice policies in Hawai'i for more than two decades. This testimony is respectfully offered on behalf of the families of **ASHLEY GREY, DAISY KASITATI, JOEY O'MALLEY, JESSICA FORTSON AND ALL THE PEOPLE WHO HAVE DIED UNDER THE "CARE AND CUSTODY" OF THE STATE** as well as the approximately 5,500 Hawai'i individuals living behind bars or under the "care and custody" of the Department of Public Safety on any given day. We are always mindful that more than 1,600 of Hawai'i's imprisoned people are serving their sentences abroad thousands of miles away from their loved ones, their homes and, for the disproportionate number of incarcerated Kanaka Maoli, far, far from their ancestral lands.

SB 572 SD1 requires the auditor to conduct a performance audit of certain offices and programs within the department of public safety and appropriates funds for this purpose. The SD1 extended the reporting deadline by one year to twenty days prior to the convening of the 2021 Regular Session.

Community Alliance on Prisons is in strong support of this measure. We have been advocating on justice issues for more than twenty years and we know many of the wonderful people who work in the department of public safety. Our work is on behalf of the community, the individuals who are imprisoned by the state, and the families of those imprisoned persons.

Community Alliance on Prisons is in strong support of this measure. The recent alleged suicides and other deaths that we know about at WCCC, Halawa, and MCCC have highlighted the need for a closer look at the operations of the Department of Public Safety. Not just what they show the legislature on paper; what matters is how they implement those policies. A 2013 audit¹:

"found the department has improved the accuracy of its incarceration data, employing a more systematic process that utilizes comparable costs and cost-accounting methodology. Additionally, the current department director told us that compliance with the State procurement rules, policies, and procedures is a top priority for him. However, the department and division still have not documented any formal policies or procedures related to the administration of contracts, the systematic and formal evaluation of its contractors, or the retention of

¹ Report on the Implementation of State Auditor's 2010 Recommendations - Business, Economic Development & Tourism Budget and Finance Aloha Tower Development Corporation, State Procurement Office, pCard Program, Public Safety, Sheriff Division Public Safety, Prison Bed Contracting, Department of Taxation, Contracts - A Report to the Governor and the Legislature of the State of Hawai'i, THE AUDITOR STATE OF HAWAI'I, Report No. 13-03, April 2013, Chapter 7 - Mixed Results for Public Safety Department's Efforts to Improve Oversight and Data Quality, page

contract-monitoring records. *In addition, we found that department staff are participating in procurement activity without having appropriate training – in violation of procurement rules, policies, and procedures – and the director has yet to attend any procurement training. These significant deficiencies call into question the current director’s commitment to proper compliance and introduce the risk that the violations cited in our previous report can and will occur again.”*

The 2010 audit of contract beds² concluded:

“The Legislature must hold the Department of Public Safety accountable for its inadequate cost reporting. Without clarified guidance by policymakers, the department has no incentive to perform better and will continue to evade accountability by providing unreliable and inaccurate reporting of incarceration costs. Moreover, the Legislature will continue to receive this insufficient cost information and be unable to address the larger problem of prison overcrowding. To address these issues, the department must first improve the methodology employed to calculate comparable inmate per day costs for the department’s use in decision making and reporting to the Legislature. In addition, management should be more diligent and improve the compilation of its incarceration costs data by utilizing available tools such as Offendertrak.”

The 2013 follow up audit³ on the implementation on recommendations made in the 2010 included this explanation from the department:

“When asked why the department no longer reports these numbers (the costs of incarceration) to the Legislature, the acting business-management officer replied there used to be a proviso in the budget that required the department to submit incarceration costs as part of its budget request. The proviso last appeared in the department’s 2010 budget documents, the last time it reported this information to the Legislature. In addition, the Legislature has not made any subsequent requests for such information. As a result, policymakers are still not provided sufficient or accurate information on incarceration costs for inmates in out-of-state and in-state facilities.”

One of the things that the community has always asked for is that the same level of accountability be applied to the department that the state demands from people in their “care and custody”. We fail to understand why a department that incurs incredible liability to taxpayers and great harm to individuals and their families is allowed to be unaccountable.

Transparency and accountability are vital to a vibrant democracy. It is insulting to taxpayers when we testify on bills without knowing the position of the department beforehand and then at the hearing the department does not, and generally is not asked, to speak.

This audit will hopefully shed some independent light on this department that is responsible for the lives and safety of the people in their “care and custody” as well as for those who work in their facilities.

Community Alliance on Prisons urges the committee to support this important audit that we hope will provide the information that legislators need in order to develop thoughtful, sound, and just policies that serve the public interest. Mahalo for hearing this bill and for the opportunity to testify.

*“Everything secret degenerates, even the administration of justice;
nothing is safe that does not show how it can bear discussion and publicity.”*

Lord Acton

² Management Audit of the Department of Public Safety’s Contracting for Prison Beds and Services, A Report to the Governor and the Legislature of the State of Hawai’i, The State Auditor, Report No. 10-10 December 2010.

³ See FN 1

LATE

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Submitted on: 2/19/2019 2:53:02 PM

Testimony for WAM on 2/20/2019 10:05:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Carla Allison	Individual	Support	No

Comments:

This audit of the department of public safety is needed. There have been too many preventable deaths and our community has a right to know how our money is being spent. The public needs to know that 74% of those incarcerated are serving sentences for the lowest felonies, misdemeanors, violations, petty misdemeanors, and parole and probation violations. Visibility is needed.

SB-572-SD-1

Submitted on: 2/18/2019 3:28:47 PM

Testimony for WAM on 2/20/2019 10:05:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
E. Ileina Funakoshi	Individual	Support	No

Comments: