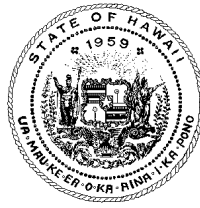


DAVID Y. IGE
GOVERNOR



STATE OF HAWAII
DEPARTMENT OF PUBLIC SAFETY

919 Ala Moana Boulevard, 4th Floor
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MAX N. OTANI
DIRECTOR

Maria C. Cook
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Tommy Johnson
Deputy Director
Corrections

Jordan Lowe
Deputy Director
Law Enforcement

No. _____

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

by
Max N. Otani, Director
Department of Public Safety

House Committee Judiciary and Hawaiian Affairs
Representative Mark M. Nakashima, Chair
Representative Scot Z. Matayoshi, Vice Chair

March 30, 2022; 2:00 p.m.
Via Videoconference

Chair Nakashima, Vice Chair Matayoshi, and Members of the Committee:

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

The Department offers the following comments in opposition. Most importantly, PSD strongly adheres to Departmental Policy (COR.08.31 – Searches of Inmates) and the federal Prison Rape Elimination Act (PREA), which reflect the highest national standards addressing gender-related issues with respect to pat downs and searches of female inmates. In addition, facilities' post assignments address male correctional officers' restricted access to areas in

which female inmates may be in a state of undress, including, but not limited to, restrooms, shower areas, medical treatment areas, etc. These policies and procedures should effectively address the issues brought forward in this measure.

It is also very well-known that the Department continues to experience severe shortages of both female and male adult corrections officers (ACOS), and PSD is making every effort to increase the number of hires. The high vacancy rate has been attributed to the very high retirement rate, as identified by DHRD, as well as the challenges of recruiting suitable candidates and the lengthy training cycle. The Department has been diligently recruiting to fill all correctional officer positions, both male and female. We cannot and do not discriminate based on gender when recruiting and filling Correctional Officer positions. In addition, PSD's Training Academy now runs two ACO training courses simultaneously, doubling the number of officers in training.

The Department's aggressive efforts to hire more ACOs and fill vacant positions, coupled with strong policies and procedures and the heightened vigilance of facilities' administrators show that PSD is doing what must be done to care for and protect female inmates.

For these reasons, the Department opposes this measure and respectfully requests that it be deferred.

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

COMMUNITY ALLIANCE ON PRISONS

P.O. Box 37158, Honolulu, HI 96837-0158

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COMMITTEE ON JUDICIARY AND HAWAIIAN AFFAIRS

Representative Mark Nakashima, Chair

Representative Scot Matayoshi, Vice Chair

Wednesday, March 30, 2022

2:00 PM

STRONG SUPPORT for SB 2777 SD1, HD1 - SEARCHES OF INCARCERATED FEMALES

Aloha Chair Nakashima, Vice Chair Matayoshi 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 HD1 of the more than 3,993 Hawai'i individuals living behind bars¹ under the "care and custody" of the Department of Public Safety on any given day. We are always mindful that 1,110 of Hawai'i's imprisoned people are serving their sentences abroad -- thousands of miles away from their loved ones, their homes and, for the disproportionate number of incarcerated Kanaka Maoli, far, far from their ancestral lands.

Community Alliance on Prisons appreciates the time to testify in strong support of SB 2777 about searches/pat downs of incarcerated women. The HD1 left out the report to the legislature on the progress of recruitment of women as Adult Correctional Officers, which we respectfully ask be restored so that the legislature can track the progress of gender diversity among public safety staff.

Research from the Women In Prison Advocacy Network² discusses strip-searches.

"Despite the harmful and degrading impacts of strip-searching, its use has often been justified on the basis of prison security – in particular, the need to stamp out prison drug culture. There is little doubt that substance abuse poses a serious problem in prisons. A significant number of women in prison have histories of drug abuse, with 61 per cent of women in prison having reported using illicit drugs within the year prior to their imprisonment. The overrepresentation

¹ Department of Public Safety, Weekly Population Report, March 21, 2022.

<https://dps.hawaii.gov/wp-content/uploads/2022/03/Pop-Reports-Weekly-2022-03-21.pdf>

² Ceremonies of Degradation: StripSearching in Women's Prisons, Women in Prison Advocacy Network, University of New South Wales; Issue 9 2015. <http://138.25.65.110/au/journals/UNSWLawSocCConsc/2015/2.pdf>

of illegal drug use among female prison entrants highlights the need for prisons to deal with the health and safety risks that it presents.

Although strip-searching is aimed at containing these risks, there is little evidence to show that it is effective in reducing the distribution and accessibility of illicit drugs in prison. **According to a study conducted by Sisters Inside Inc, of 41 728 strip-searches performed on women in prison in Queensland from 1999 to 2002, only two uncovered drugs. Similar studies have produced comparable results. When these results are contrasted with the significant damage that strip-searches do to the women subjected to them, their use in women's correctional facilities becomes difficult to justify.**

III. WHERE ARE WE NOW?

The potential for strip-searches to be processes that routinise the degradation of women in prison begs the question – what are we doing to ensure that the rights and freedoms of these women are being protected?

A. *The International Rights Framework* In 2010, the United Nations General Assembly adopted the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders ('the Bangkok Rules').³ The rules marked the first successful attempt by the United Nations at addressing the gender specific issues faced by women in contact with the criminal justice system. One of the issues dealt with by the Bangkok Rules is that of body searches, and in particular, the threat they pose to the personal privacies of women in prison. **Under rule 19, personal searches (including strip-searches) are to be performed only by trained women staff in accordance with established procedures.**⁴ The rule also emphasises the importance of protecting the dignity and self-respect of the women subject to such searches. Consistent with this, rule 20 encourages the development of alternative screening mechanisms (e.g. body scans) to replace strip-searches. In doing so, **the Bangkok Rules implicitly recognises the psychological and emotional harm that strip-searches can have on women in prison, and attempts to discover viable alternatives to strip-searching.** Although the Bangkok Rules is the first international instrument wholly dedicated to tackling the specific challenges faced by women in contact with the criminal justice system, its principles are built on existing rights frameworks. In seeking to deal with the unique lived experiences of women interfacing with the criminal justice system, the Bangkok Rules is consistent with the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).⁵ It also fills a gap left behind by the Standard Minimum Rules for the Treatment of Prisoners⁶, by explicitly

³ United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules), GA Res 65/229, UN GAOR, 3rd Comm, 65th sess, 71st plen mtg, Agenda Item 105, UN Doc A/RES/65/229 (21 December 2010). <https://www.penalreform.org/issues/women/bangkok-rules/>

⁴ Ibid annex 12.

⁵ Convention on the Elimination of All Forms of Discrimination Against Women, opened for signature 1 March 1980, 1249 UNTS 13 (entered into force 3 September 1981). <https://www.unwomen.org/en/digital-library/publications/2016/12/cedaw-for-youth>

⁶ Standard Minimum Rules for the Treatment of Prisoners, ESC Res 663 C, UN ESCOR, Plen, 24th sess, 994th mtg, Supp No 1, UN Doc E/3048 (31 July 1957); Standard Minimum Rules for the Treatment of Prisoners, ESC Res 2076, UN ESCOR, Plen, 62nd

*extending the scope of human rights protections available to individuals in prison to women. In many ways, strip-searching policies contravene principles regarding gender discrimination. **By applying a one-size-fits-all policy of strip-searching on all individuals in prison without taking into account the significantly detrimental impacts it has on the psychological states of women in prison, authorities have failed to adequately safeguard the needs of these women.** Another international instrument that has been significant in the area is the International Covenant on Civil and Political Rights (ICCPR).⁷ Article 7 of the ICCPR protects individuals against 'cruel, inhuman or degrading treatment or punishment'. In a similar vein, article 17 states that individuals should not be subjected to arbitrary or unlawful interference with their privacy and enshrines the right to legal protection against such interferences. As some authors have noted, the ways of strip-searching abrogates the privacy rights of women in prison by subjecting them to considerable trauma, contravenes these principles.*

IV. CONCLUSION

*Ultimately, the impacts of strip-searching must be examined against the backdrop of the unique lived experiences of women in prison. Although they are subject to certain restrictions as punishment for their offences, women in prison remain individuals with inherent rights. For these women, the loss of liberty represents the totality of their punishment – anything that goes beyond that is unwarranted. In the case of strip-searching, the harmful emotional and psychological impacts that it has on women in prison constitutes a form of extra-curial punishment that cannot be justified, particularly when the inefficacious nature of strip-searches is recognised. **It is time that we ended the abuse and discrimination against women in prison, and brought our criminal justice policies in line with recognised standards of fairness and humanity.***

When it comes to training, we suggest that the training of recruits who will be responsible for gender-responsive posts, include best practices for addressing and understanding the needs of women in custody.

One might believe that since PREA – the Prison Rape Elimination Act - became law in 2003, that everything is fine. Well, it took until 2012 for the Department of Justice to issue prison and jail standards⁸ and another month to publish it in the federal register.

sess, 2059th mtg, Supp No 1, UN Doc E/5988 (13 May 1977).

https://www.unodc.org/pdf/criminal_justice/UN_Standard_Minimum_Rules_for_the_Treatment_of_Prisoners.pdf

⁷ International Covenant on Civil and Political Rights, opened for signature 19th December 1966, 999 UNTS 171 (entered into force 23 March 1976). <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>

⁸ PRISON PRISONS AND JAIL STANDARDS, United States Department of Justice Final Rule, National Standards to Prevent, Detect, and Respond to Prison Rape Under the Prison Rape Elimination Act (PREA), 28 C.F.R. Part 115, Docket No. OAG-131 RIN 1105-AB34, May 17, 2012 RAPE ELIMINATION ACT. <https://www.justice.gov/opa/pr/justice-department-releases-final-rule-prevent-detect-and-respond-prison-rape>

In just about every PREA audit, Hawai'i has met the basic standards with policies and procedures. One of the main problems with this is that an agency can tout their policies and procedures when challenged, however, **IT IS WHAT THEY DO THAT MATTERS.**

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

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

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

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

Several women have reported sexual harassment and assault during pat downs and being ogled during shower time and are afraid of retaliation, therefore, we suspect that most incidents go unreported.

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

Community Alliance on Prisons mahalos the committee for hearing this important bill and reviewing our testimony. We urge the committee to pass this measure with the reporting provision so the Legislature can track the progress the department is making in this area.

'Women in prison already live in a hyper-regulated reality, where their every move is under strict control by correctional officers. For these women, strip-searches represent a further form of oppression, wherein feelings of powerlessness and loss of esteem are invoked.'

Please support those whose voices have been silenced by incarceration.

COMMITTEE ON JUDICIARY AND HAWAIIAN AFFAIRS

Representative Mark. M. Nakashima, Chair

Representative Scot Z. Matayoshi, Vice Chair

DATE: Wednesday, March 30, 2022

Time: 2:00 PM

Place: Via Videoconference

STRONG SUPPORT OF SB2777, SD1, HD1

My Name is Linda Rich and I am testifying on behalf of Women's Prison Project.

WPP understands that this bill covers areas that the federal Prevention of Rape Elimination (PREA) law also covers. We acknowledge that the Department of Public Safety (PSD) administration takes PREA seriously and it diligently mandates PREA training for correctional volunteers. That said, there is still the difficult reality that the searching of women inmates by male corrections officers is traumatizing and has been found to violate women's Eighth Amendment rights. That is what this bill is about. DPS may be complying with PREA, but vulnerable women are still being traumatized when male ACOs perform hands-on searches of their bodies, touching breasts, thighs, and crotch.

In 2020, the United States Commission on Civil Rights issued a report titled "Women in Prison, Seeking Justice Behind Bars". The Commission found that many prison policies and facilities are not designed for women or tailored to their specific needs. The report specifically states that,

"Incarcerated women report extremely high rates, and much higher rates than men, of histories of physical, sexual, and mental trauma. Notwithstanding federal statutory legal protections such as the Civil Rights of Institutionalized Persons Act (CRIPA) and the Prison Rape Elimination Act (PREA), aimed at protecting incarcerated people, many incarcerated women continue to experience physical and psychological safety harms while incarcerated and insufficient satisfaction of their constitutional rights."

The Commission offered this specific recommendation:

“Recommendation 25.

PREA standards require prison officials to hire sufficient staff to ensure the safety of incarcerated people, including sufficient women staffing to perform searches and supervision in sensitive areas. In order to implement these requirements and comply with Title VII of the Civil Rights Act of 1964, officials should consider a rigorous analysis of their hiring practices, including whether a bona-fide occupational qualification is appropriate for any posting in the circumstances, consistent with legal precedent when such action is necessary and permissible by law.

“Permitting male prison guards to touch the breasts and crotches of female prisoners in the context of routine pat-frisks offends moral and ethical standards of human dignity. In addition, the psychological consequences can be profound. Given the extreme power imbalance in prison, these procedures have a clear psychological parallel to childhood sexual abuse or adult rape or sexual assault, and can bring to mind devastating experiences of past violation.”

We do recognize the hiring challenges faced by the Department of Public Safety. We suggest, as does the U.S. Commission on Civil Rights, an analysis of DPS recruitment and hiring and development of a strategic plan for increasing the number of women ACOs in corrections facilities housing women.

There have been legal challenges to cross gender searches of women inmates. Washington State is an example. On July 5, 1989, male guards at the WCCW began performing clothed body searches of female inmates that included the touching of the breast and genital areas. During that day, guards searched several inmates, one of whom suffered tremendous anguish. After reluctantly submitting to the search, this inmate “had to have her fingers pried loose from the bars she had grabbed during the search, and she vomited after returning to her cell block.”

That same day, the WCCW inmates filed a pro se complaint in the Western District of Washington requesting a preliminary injunction prohibiting male guards from performing random, clothed body searches on female prisoners. The inmates were granted a temporary restraining order. They were later granted a preliminary injunction and certified as a class.

After a bench trial, the district court held that the cross-gender searches at WCCW violated the female inmates' First, Fourth, and Eighth Amendment rights. The district court concluded that: under the laws of the State of Washington and other states . . . some areas of the human body have more privacy attached to them than do other parts. The standards of decency in society also recognize a right to privacy in the intimate parts of a human body.

Judge O'Scannlain, in the 9th Circuit, writing for four judges, determined that their 8th Amendment rights to be free from cruel and unusual punishment were, in fact, being abused. Having established the 8th Amendment violation, the court declined to comment on the First and Fourth Amendments.

The right to privacy and protection of intimate parts of the body is widely recognized in our society. If a woman goes to a male doctor, there will be a poster on the wall informing her that she can request to have a woman present during the exam. When a woman is pulled aside at the airport during TSA screening, a woman TSA officer is called to pat her down.

Women's Prison Project urges the Legislature to pass SB2777, SD1, HD1 to mandate the Department of Public Safety to continue to move toward more gender respectful, less traumatizing search practices.

Thank you for your consideration of our concerns.
Linda Rich for Women's Prison Project



Hawai'i

Committee: House Committee on Judiciary and Hawaiian Affairs
Hearing Date/Time: Wednesday, March 30, 2022, 2:00 P.M.
Place: Via videoconference
Re: Testimony of the ACLU of Hawai'i in Support of S.B. 2777 S.D. 1 H.D. 1 Relating to Searches of Female Inmates

Dear Chair Nakashima, Vice Chair Matayoshi and members of the Committee:

The American Civil Liberties Union of Hawai'i ("ACLU of Hawai'i") writes in **support of S.B. 2777 H.D. 1 S.D. 1** which requires that pat downs and searches of female inmates are conducted by female correctional facility employees except under limited circumstances.

S.B. 2777 H.D. 1 S.D. 1 is a harm reduction measure. Prohibiting pat searches by male staff and limiting placements of male staff when women are undressing is a step towards reducing the harm against women. Yet, the tremendous harm and trauma persists by the very nature of placing women in jails and prisons.

Harassment, and sexual violence against men and women in our jails and prisons are not isolated incidents. Male and female correctional staff have harassed and sexually assaulted incarcerated people locally, and in out-of-state prisoners where we banish our people too.¹ Despite the Prison Rape Elimination Act (PREA), these incidents are underreported due to the tremendous fear of retaliation.

Women in our jails and prisons – typically live in poverty, are mothers, are of Native Hawaiian ancestry – and have experienced trauma in their lives from sexual abuse and intimate partner violence. According to the Criminal Justice Research Institute:

- In 2018, women made up 12% of Hawaii's combined jail and prison population.
- Hawaii's imprisonment rate for women is 42 out of 100,000 female residents, which is higher than 16 other states.
- Native Hawaiian women are 19% of the female generation in Hawai'i, yet 44% of the female incarcerated population in Hawai'i

¹ MCCC Inmate Sexually Assaulted by Guard Settles. The Maui News. April 2019.
<https://www.mauinews.com/news/local-news/2019/04/mccc-inmate-sexually-assaulted-by-guard-settles/>

- Most of women in Hawai'i's jails and prisons are locked up for drug and property crimes.

Diversion and decarceration is an effective strategy to reduce harassment and sexual violence against women and all people incarcerated in our jails and prisons.

We must invest in proven strategies to reduce the incarcerated population (i.e. diversion, bail reform, probation and parole reform, rehabilitation, education, health care and treatment inside jails and prisons and comprehensive support programs and services).

Incarceration is costly (\$219 a day = nearly \$80,000 a year) and ineffective (over 50% recidivism rates). Diverting money into community based programs and services is more effective at providing women with the support they need to transform their lives than incarcerating – which exacerbates harm, violence and trauma.

Amy Fettig, Deputy Director of the National Prison Project said it best: *“Women’s experience of prison as a place of abuse, violence, psychological deprivation and physical harm is both a human rights tragedy and an indictment of our criminal legal and corrections system. Although many aspects of prison life produce tangible harm to women prisoners, their families and ultimately the community, the crisis proportions of sexual violence behind bars demands our immediate attention. The lives of women prisoners can no longer be ignored and discounted while their civil and human rights are violated. We can and must end sexual violence behind bars.”*²

In closing, pat down searches and strip searches of women who are incarcerated are humiliating, degrading, and dehumanizing. We urge the Committee to support **S.B. 2777 H.D. 1 S.B. 1**. Thank you for the opportunity to testify.

Sincerely,

Carrie Ann Shirota

Carrie Ann Shirota
Policy Director
ACLU of Hawai'i
cshirota@acluhawaii.org

American Civil Liberties Union of Hawai'i
P.O. Box 3410
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The mission of the ACLU of Hawai'i is to protect the fundamental freedoms enshrined in the U.S. and State Constitutions. The ACLU of Hawai'i fulfills this through legislative, litigation, and public education programs statewide. The ACLU of Hawai'i is a non-partisan and private non-profit organization that provides its services at no cost to the public and does not accept government funds. The ACLU of Hawai'i has been serving Hawai'i for over 50 years.

² We Can End Prison Rape. A. Fettig. 2011. <https://www.aclu.org/blog/speakeasy/we-can-end-prison-rape>

SB-2777-HD-1

Submitted on: 3/26/2022 6:12:31 PM

Testimony for JHA on 3/30/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Benton Kealii Pang, Ph.D.	Individual	Support	Written Testimony Only

Comments:

Chair Nakashima, Vice Chair Matayoshi and members of the committee on Judiciary and Hawaiian Affairs,

I am in support of SB277 SD1 HD1.

Sincerely,

Benton Kealii Pang

SB-2777-HD-1

Submitted on: 3/27/2022 9:56:14 AM

Testimony for JHA on 3/30/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
donn viviani	Individual	Support	Written Testimony Only

Comments:

I'm writing in support of SB2777 I'm Donn Viviani. My wife and I live in Kailua and have family in the Manoa and Aina Haina areas. The purposes of a prison sentence are many, including punishment, rehabilitation and keeping the outside community safe. Prisons are NOT meant to humiliate, degrade or subject women to potential sexual assault. This bill provides for a humane way to achieve the often necessary search. Please support this bill. Thank you

SB-2777-HD-1

Submitted on: 3/27/2022 10:42:04 AM

Testimony for JHA on 3/30/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Wendy Gibson-Viviani	Individual	Support	Written Testimony Only

Comments:

TO: COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS

FROM: Wendy Gibson-Viviani RN/BSN

RE: SB2777 (IN SUPPORT)

Hearing: Wednesday, March 30, 2022, at 2:00 PM

Dear Chair Rep. Mark M. Nakashima, Vice Chair Rep. Scot Z. Matayoshi, and Members of the Committee,

I am Wendy Gibson-Viviani, a healthcare professional (RN) who has lived and worked in Hawaii for 29 years. I support SB2777 because, according to some experts (sources cited below):

- Almost **90% of incarcerated women** have suffered from sexual violence (Lynch, et al, 2012, p. 32)
- At least **40% suffer from** post posttraumatic stress disorder . (Komarovskaya, et al, 2011, p. 1).
- Male staff touching their bodies and viewing them undressed can further damage them.

I feel that we should ensure that pat-downs and searches on female inmates are conducted by female correctional officers (unless the inmate presents an immediate danger).

I also think should seek alternatives to strip searches for drugs, and bring our criminal justice policies in line with recognized standards of fairness and humanity.

Thank you for this opportunity to submit testimony.

Please support the passage of SB2777, in support of female inmate safety, dignity and healing.

Wendy Gibson-Viviani RN/BSN

Kailua

SOURCES: Lynch et al 2012. Predictors of Maladaptive Coping in Incarcerated Women Who are Survivors of Childhood Sexual Abuse

<https://link.springer.com/article/10.1007/s10896-012-9488-3>

Komarovskaya, et al, 2011. Exploring gender differences in trauma exposure and the emergence of symptoms of PTSD among incarcerated men and women

<https://www.tandfonline.com/doi/abs/10.1080/14789949.2011.572989>

SB-2777-HD-1

Submitted on: 3/27/2022 10:51:07 AM

Testimony for JHA on 3/30/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Kaycie	Individual	Support	Written Testimony Only

Comments:

To:

Representative Mark M. Nakashima, Chair

Representative Scot Z. Matayoshi, Vice Chair

Committee on Judiciary & Hawaiian Affairs

From: Kaycie Tomei

Subject: SB2777, SD1, HD1 RELATED TO SEARCHES OF FEMALE INMATES

March 30, 2022; 2:00 PM; Via Cideoconference

Aloha Chair Nakashima, Vice Chair Matayoshi, and members of the committee,

I, Kaycie Tomei, a Master of Social Work Candidate, am committed to protecting the individual dignity and bodily integrity of female inmates in the State of Hawai'i.

I strongly support SB2777, SD1, HD1, which requires pat downs and searches of female inmates to be conducted by a female correctional facility employee, prohibits male correctional facility employees from entering areas where female inmates may be in a state of undress for the purpose of conducting a search, and requires any prohibited search, pat down, or entry by a male correctional facility employee to be documented within three days of the incident, reviewed by the warden, and retained by the institution for reporting purposes.

In addition to the limits to cross-gender viewing and searches that are outlined in the State of Hawai'i's Prison Rape Elimination Act (Policy No. ADM.08.08 dated 12//29/20), SB2777, SD1, HD1 further maintains female inmates' privacy rights by decreasing their potential to be re-traumatized of unresolved sexual or physical abuse that many have prior to entering correctional facilities.

I urge the committee to support SB 2777, SD1, HD1.

Thank you for the opportunity to testify.

Mahalo,

Kaycie Tomei

SB-2777-HD-1

Submitted on: 3/27/2022 6:51:37 PM

Testimony for JHA on 3/30/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Dana Keawe	Individual	Support	Written Testimony Only

Comments:

Support

SB-2777-HD-1

Submitted on: 3/28/2022 8:32:30 AM

Testimony for JHA on 3/30/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Rosa Waters	Individual	Support	Written Testimony Only

Comments:

Rosa Waters

Regarding SB 2777: RELATING TO SEARCHES OF FEMALE INMATES

March 28, 2022

Dear Chair Mark Nakashima, Vice-Chair Scot Matayoshi, and honorable members of the House Judiciary and Hawaiian Affairs Committee,

My name is Rosa Waters. I am a resident of Honolulu and Master of Social Work student at the Thompson School of Social Work and Public Health, University of Hawai'i at Mānoa. **I SUPPORT SB2777** because I believe only female officers should be allowed to perform pat-downs of female inmates and searches of female inmates when they are in a state of undress.

As a woman, I know how uncomfortable it can be to have your body touched or observed by an unknown person. TSA requires that any pat-downs be done by a TSA officer of the same gender. As a woman, being pat-down by an unknown female at the airport makes me feel uncomfortable; however, I would feel completely violated were a pat-down to be done by a male TSA officer.

As a graduate-level Social Work Student as well as an intern at the John A. Burns School of Medicine-run Houseless Outreach and Medical Education (HOME) clinics, I have been taught that trauma-informed care requires that we assume all clients or patients we work with have experienced trauma. It is especially important to apply a trauma-informed approach when touching another person's body because being touched by a stranger can be highly triggering. The ACLU estimates that at some point in their lives, 90 percent of women in prison were victims of sexual or physical violence. As such, it is imperative that the carceral system take

steps to safeguard this vulnerable population and prevent re-traumatizing female inmates, who we can safely assume have previously experienced trauma, sometimes involving their bodies.

The provisions of this bill are common sense. If this bill is not passed, there will be no guarantee that male correctional officers may watch females undressing in shower areas or pat-down female inmates in a way that feels violating and triggering to the female inmate.

I respectfully urge you to **PASS SB2777** as a common-sense protection for female inmates. Thank you for reading my testimony. Your consideration of these matters and solutions are very much appreciated.

Mahalo nui for the opportunity to testify,

Rosa Waters

Master of Social Work Student, University of Hawai'i at Mānoa

Chair Mark N. Nakashima
House Committee on
Judiciary & Hawaiian Affairs

Drake Miyake
UH Manoa Social Work Graduate Student
(808)308-9994

Monday 03/28/2022

Support for **SB2777 SD1 HD1**

Hello, my name is Drake Miyake and I'm a graduate student at UH Manoa and I'm representing myself. I am testifying in favor of **SB2777 SD1 HD1** to uphold the safety of female inmates.

This bill was established after the multiple sexual assaults in women's prison by correctional officers. The offenses have been majoritively male perpetrators in positions of power against women without recourse. Inmates lack a political vote to voice their concerns even after leaving prison. They are forced to deal with the dehumanization they experience and stigma silences. In a literature review by the National Institute of Corrections females reported feeling "**humiliated, sexualized and powerless.**"

As a case manager, I've worked with women that have experienced incarceration. The traumatic effects of sexual assault fester into substance use, self-harm and reckless behavior. When the system hurts people, it becomes significantly harder to mend that relationship through rehabilitation. Women should be protected under the fourth amendment because these searches have shown to be intrusive and cruel. This bill would minimize the incidences of male staff with female inmates to reduce any chance of unnecessary pat downs.

PREA was passed in 2003 to fight against these scenarios. This bill enforces it better. I am in support of **SB2777 SD1 HD1**

Thank you for this opportunity to testify

Sincerely,
Drake Miyake

SB-2777-HD-1

Submitted on: 3/29/2022 9:40:41 AM

Testimony for JHA on 3/30/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Carolyn Eaton	Individual	Support	Written Testimony Only

Comments:

Aloha, Chair Nakashima, Vice Chair Matayoshi and members of the Committee,

My name is Carolyn Eaton and I strongly support this bill. There are inadequate numbers of women staff to monitor the women held in Hawaii's jails and prisons. When it comes to searches/pat downs, psychological harm results for women who must endure this process conducted by a man. The Department of Public Safety has shown insufficient concern, insufficient urgency, toward correcting this awful situation.

This bill's original requirement related to reporting DPS progress in hiring new women staff was deleted during its advance this session. Please restore this requirement. The Legislature must hold DPS to account or share the dereliction, the shame, of the Department's years of costly disregard of the health and safety of the women in our custody. Yes, our custody.

Please demonstrate the will to accomplish this goal. Our State must come into compliance with Federal standards.

I am so hopeful that your action in this hearing will speed the day we can claim our State cares about the women we incarcerate. I'm reminded of how long overdue this corrective measure is by recalling it was 1972 when Hawaii's Patsy Mink helped advance the cause of equal rights for women at the national level. Mahalo for this opportunity to partipate with you in improving the DPS, especially its transparency and accountability to the public.

SB-2777-HD-1

Submitted on: 3/29/2022 10:48:39 AM

Testimony for JHA on 3/30/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Patricia Blair	Individual	Support	Written Testimony Only

Comments:

Absolutely must pass this bill!