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TESTIMONY  
ON  
SB 275 S.D. 1 - RELATING TO SEXUAL ASSAULT

March 2, 2015

The Honorable Jill N. Tokuda  
Chair  
The Honorable Ronald D. Kouchi  
Vice Chair  
and Members of the Senate Committee on Ways and Means

Chair Tokuda, Vice Chair Kouchi and Members of the Committee:

The Department of the Prosecuting Attorney, County of Maui, OPPOSES SB 275 S.D. 1 - Relating to Sexual Assault because it requires the testing of ALL sexual assault evidence collection kits or "rape kits". This legislation goes too far in mandating testing for all rape kits. Instead, however, we strongly support H.B. 344 - Relating to Sexual Assault Treatment.

Currently, in the County of Maui, the Department of the Prosecuting Attorney is an active member of a Sexual Assault Response Team (SART). The operation of SART in Maui County is based on a collaboration of multiple disciplines involved in the investigation and prosecution of sexual assault cases. We do not believe it is necessary to mandate a team or have the County Prosecutors be responsible to run them.

Accordingly, the Department of the Prosecuting Attorney, County of Maui, OPPOSES the passage of this bill.

Thank you very much for the opportunity to provide testimony on this bill.

POLICE DEPARTMENT  
**CITY AND COUNTY OF HONOLULU**

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March 2, 2015

The Honorable Jill N. Tokuda, Chair  
and Members  
Committee on Ways and Means  
State Senate  
Hawaii State Capitol  
415 South Beretania Street  
Honolulu, Hawaii 96813

Dear Chair Tokuda and Members:

**SUBJECT: Senate Bill No. 275, S.D. 1, Relating to Sexual Assault**

I am Forensic Laboratory Director Wayne Kimoto of the Scientific Investigation Section of the Honolulu Police Department (HPD), City and County of Honolulu.

The Honolulu Police Department supports the intent of Senate Bill No. 275, S.D. 1, Relating to Sexual Assault.

However, the HPD has grave concerns regarding the costs involved to address the proposed amendments to Chapter 844D, Hawaii Revised Statutes (HRS), to establish time frames for the collection, submittal, and analysis of forensic medical evidence.

The HPD crime laboratory faces high demand for forensic analyses in investigations involving sexual assault, homicide, attempted murder, robbery, aggravated assault, vehicular homicide, and property crime, and has other duties such as processing deoxyribonucleic acid (DNA) samples for the state's offender database.

The HPD has the following concerns regarding the amendments to Chapter 844D, HRS, as proposed by Senate Bill No. 275, S.D. 1:

1. There are no provisions in this bill to fund the costs to hire, equip, and train new personnel, and there are no provisions to process, analyze, and outsource the forensic evidence. The bill does not provide adequate preparation time for agencies to seek funding, hire, and train personnel necessary to carry out the proposed amendments to Chapter 844D. The total costs are approximately \$710,000 in 2015, \$660,000 in 2016, and \$545,000 per year thereafter.

The total costs are apportioned as follows:

- Under the current bargaining agreement, the proposed laboratory costs for five analysts (one SR24C + four SR20C + 67.16% Fringe) are \$382,148 per year in 2015, \$395,547 per year in 2016, and \$435,044 per year thereafter.
  - Administrative costs for software licensing and hardware for five analysts are \$49,500 in 2015 and \$2,000 per year thereafter.
  - Training costs for five analysts are approximately \$40,000 in 2015 and \$27,000 per year thereafter.
  - During the first two years of training, the analysis of incoming sexual assault kits would need to be outsourced at a cost of approximately \$234,200 per year. Other laboratory personnel would have to be reassigned to administer, process, review, and upload all submissions and work products done by the outsourced laboratory
  - Beginning in 2017, analysis costs for supplies to process approximately 150 sexual assault kits per year (about 5 items per kit) would be approximately \$80,000 per year.
2. Appropriations for S.B. 275, S.D. 1, should be in place prior to the effective date of the Act, and appropriations should not lapse at the end of the fiscal year for which the appropriations are made.
  3. The laboratory is not exclusively dedicated to forensic analysis of sexual assault cases. A significant amount of current laboratory personnel and resources will have to be diverted to process the sexual assault evidence if the amendments to Chapter 844D are passed. With the current laboratory resources, the test-all policy proposed by the amendment to Chapter 844D would create further delays in the crime laboratory due to the increased workload and ultimately add to the backlog of cases awaiting analysis.
  4. The crime laboratory's resources, including time, funding, and staffing, are extremely limited and are distributed to address all requests for forensic services. Without additional personnel and resources, the laboratory's ability to process any other forensic evidence for investigations, trial, and offender databasing will be severely affected.
  5. Hiring and training new crime laboratory personnel is a time-consuming process requiring ten months to a year to complete. An additional year is required for the newly trained analyst to further his or her skills in performing complex casework analyses. Retaining qualified and experienced DNA analysts is also difficult because the private sector and other laboratories offer pay that is more competitive.

The Honorable Jill N. Tokuda, Chair  
and Members  
Committee on Ways and Means  
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In addition, in the event appropriations are not available, the following revision to S.B. 275, S.D. 1, Section 4 (new material is underlined), are required:

- (b) Within fourteen days of receipt of evidence collected as a result of the forensic medical examination, the department shall submit the evidence for evaluation of the presence of a body fluid, cellular material, or DNA to the designated entity, as provided in section 844D-23 if sufficient resources are available.
- (c) Within ninety days of receipt of evidence collected as a result of the forensic medical examination, the department or the department's designated entity, as provided in section 844D-23, shall evaluate the evidence for the presence of a body fluid, cellular material, or DNA if sufficient resources are available.

In addition, revisions to Chapter 844D as specified in S.B. 275, S.D. 1, Section 4 (new material is underlined), are required:

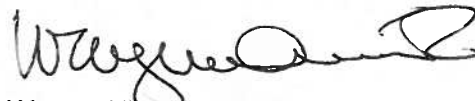
- (g) Contingent upon the availability of sufficient resources for purposes of this Act, the department or the department's designated entity shall act in compliance with the requirements of this section.

If approved, the Honolulu Police Department requests the appropriations be made from the general revenues of the State of Hawaii as a grant-in-aid to the Honolulu Police Department for the crime laboratory.

The Honolulu Police Department recognizes that DNA information is a valuable tool in assisting with the investigative efforts for law enforcement. However, the passage S.B. 275, S.D. 1, will require time and appropriations to create positions, hire and train personnel, cover analysis costs, and mitigate potential impacts to the entire criminal justice process.

Thank you for the opportunity to testify.

Sincerely,



Wayne Kimoto, Director  
Scientific Investigation Section

APPROVED:



Louis M. Kealoha  
Chief of Police



# THE SEX ABUSE TREATMENT CENTER

*A Program of Kapi'olani Medical Center for Women & Children*

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Adriana Ramelli

*Advisory Board*

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Robert H. Pantell, MD

Gidget Ruscetta

Joshua A. Wisch

DATE: March 2, 2015

TO: The Honorable Jill Tokuda, Chair  
The Honorable Ronald Kouchi, Vice Chair  
Senate Committee on Ways and Means

FROM: Adriana Ramelli, Executive Director  
The Sex Abuse Treatment Center

RE: Testimony Supporting the Intent of S.B. 275, S.D. 1  
Relating to Sexual Assault

I would like to thank the Committee for this opportunity to provide testimony on behalf of The Sex Abuse Treatment Center (SATC), a program of Kapi'olani Medical Center for Women & Children (KMCWC), supporting the intent of Senate Bill 275, Senate Draft 1 (S.B. 275, S.D.1). We further respectfully request your consideration of our additional comments concerning this measure.

S.B. 275, S.D.1, as currently drafted, would mandate the creation of a statewide sexual assault response system and of sexual assault response teams in each county. In addition, it would establish statewide protocols for examining victims of sexual assault, including time frames for to the collection, submittal, and analysis of forensic medical exam (FME) evidence.

The SATC is actively involved with programs to address sexual assault in the State of Hawai'i. In Hawai'i, statewide sexual assault treatment, prevention and education services are delivered by a network of sexual assault centers across the islands through a Master Contract between the Department of the Attorney General (the AG) and KMCWC/SATC. The SATC administers this network by providing technical assistance in the form of fiscal and program oversight, planning and consultation.

Additionally, the SATC has coordinated the Hawai'i Sexual Assault Response and Training (HSART) program for many years. The HSART program was a statewide consultative partnership between the AG, prosecutors' offices, police departments, sexual assault centers, medical/forensic examiners, and the Honolulu Police Department crime lab, which served to coordinate and standardize the handling of sexual assault medical-legal cases statewide.

While the SATC supports the intent of S.B. 275, S.D. 1, insofar as it supports the ongoing existence of a statewide program for a medical-legal response to sexual assault, we do have some concerns regarding this bill's specific mandates with regard to the form it would require that program to take.

Hawai'i had a successful statewide sexual assault response and training program, HSART, for many years. Although HSART was, unfortunately, disbanded in 2014 due to a lack of dedicated funding, it historically fulfilled the goals of the statewide response system proposed by S.B. 275, S.D.1. In particular, HSART promulgated multi-disciplinary best practice standards across the islands, resulting in consistent medical-legal responses statewide, and ensured that ongoing communication and sharing of best practices occurred between stakeholder entities.

Therefore, we would support the following amendments to S.B. 275, S.D.1:

- We believe that S.B. 275, S.D. 1 should be amended to re-establish the HSART program through the procurement of services and administrative oversight by the Department of the Attorney General, as a statewide collaborative partnership for the delivery of a statewide medical-legal response.
- We recommend that S.B. 275, S.D. 1 allocate funds annually in the amount of \$132,000 for the re-established HSART program, based on the program's historic cost. This covers one full-time HSART coordinator and the program's operational expenses, including sexual assault evidence collection kits for the Counties of Kauai, Maui and Hawaii Island.
- We would further support removing language from S.B. 275, S.D. 1, which would mandate the creation of, and funds for, county-level sexual assault response teams.

Furthermore, while SATC also agrees with the intent of S.B. 275, S.D. 1, to the extent that it would support standard protocols for examining victims of sexual assault and handling forensic medical exam evidence, we would like to share our thoughts about the specific standards that this bill specifically mandates.

- We believe that the references in S.B. 275, S.D. 1 to evidence disclosure and written consent, in a new Haw. Rev. Stat. Sec. "321-", should be removed from the measure. These provisions, as written, are not consistent with best practices for the handling of sexual assault forensic evidence and confuse the roles of various persons and entities involved in the medical-legal response. These provisions would also allow for employees of child welfare services, outside of the context of legal custody of child victims, and police officers to provide consent for the release of sexual assault forensic evidence and test results, irrespective of the survivor's choice. This is a significant violation of the survivor's privacy, which is protected by standards for obtaining written consent currently implemented in the State of Hawai'i, and would disempower the survivor.
- If the legislature is interested in the testing of all sexual assault forensic evidence collection kits, we would recommend inclusion of a funding provision for related expenses that would be incurred by the Honolulu Police Department crime lab.

The SATC sincerely appreciates your consideration of these comments about S.B. 275, S.D. 1, and we respectfully request that the committee support the intent of this measure while making appropriate and necessary substantive amendments to it in order to address the concerns cited above.

**SB275**

Submitted on: 2/28/2015

Testimony for WAM on Mar 2, 2015 13:00PM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Teresa Parsons	Individual	Support	No

Comments: Senators, I stand in STRONG SUPPORT of this legislation. As a women's health Nurse Practitioner, I see the women who experience sexual assault. The ability of the legal system to successfully prosecute cases is hampered by the lack of education and training of providers as well as resources for education in law enforcement agencies. The result of the lack of education is the risk for re-victimization and victim-blaming by members of the "support services" providers (medical, nursing law enforcement and legal services). As noted, 27 States have enacted similar legislation. Please do not allow Hawaii to be one of the last States to enact such important legislation. I urge you to support this Bill for the sake of women in the State.

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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