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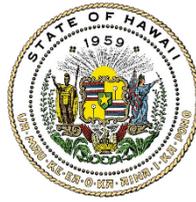
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**February 19, 2026**

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## **SB2919: RELATING TO THE OFFICE OF THE PUBLIC DEFENDER**

### **Chair Dela Cruz, Vice-Chair Moriwaki, and Members of the Committee on Ways and Means:**

The Office of the Public Defender (OPD) **strongly supports SB2919**. This measure seeks to add a Deputy Public Defender III position to the Office of the Public Defender, provided that the position be assigned as needed to provide counsel on constitutional and related legal matters.

The OPD is a statewide agency with branches on O'ahu, Maui (servicing Maui, Lana'i and Moloka'i), Kaua'i, and Hawai'i (Kona and Hilo). The mission of the OPD is to fulfill the State's obligation to provide legal counsel for indigent persons who are charged with a criminal offense or to other persons who have been statutorily afforded counsel. The representation provided by the OPD is required by the constitution, statute and rule to be zealous and effective. Last year the OPD's 102 attorneys handled 34,363 cases – this included parole matters, involuntary civil commitment cases, appeals, traffic cases, petty misdemeanor cases, misdemeanor cases, felony cases and murder cases, an average of 337 cases per attorney.<sup>1</sup> In order to provide constitutionally effective representation, attorneys must be apprised of all direct and collateral legal consequences of cases. For example, many charges may have convictions which have constitutional, civil or statutory ramifications in addition to the direct legal penalties. More importantly, other cases may have immigration consequences which must be taken into consideration when resolving

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<sup>1</sup> The majority of cases handled by the OPD are traffic, petty misdemeanor and misdemeanor cases in the district courts. The 102 attorneys includes 9 supervisors and the Assistant Public Defender. Generally supervisors carry a lower case load due their administrative duties. The additional caveat to the per-attorney count is that this average assumes that all 102 positions are filled when, in fact, the OPD generally has vacancies which would increase the per-attorney case count.

the case. Despite the fact that the OPD is a statewide office, the OPD has no attorneys who are assigned to provide assistance to attorneys statewide in immigration matters. All currently available attorney positions at the office are necessary to provide representation in trial and appellate matters. Padilla and the Hawai‘i cases that followed (Najera and Araiza) were decided in a time when there was more certainty regarding the immigration consequences of convictions. Under the current federal administration, laws, regulations regarding immigration consequences and the interpretations and implementation thereof are moving targets. As it stands now, the OPD relies upon advice from outside agencies, such as the Hawai‘i Immigrant Justice Center, or from the experience or research into immigration issues by other attorneys in the office, to wade through the complex area of immigration law. HB2600 would allow the OPD to dedicate a single position to focus on immigration law as it relates to the criminal cases handled by the OPD attorneys. Under Padilla, Najera and Araija, the OPD has a “clear duty” to provide adequate and accurate device to its clients regarding immigration consequences. HB2600 would provide an attorney position so that the OPD can fulfil the mandates of Padilla, Najera and Araija in the course of fulfilling its constitutionally and statutorily mandated mission of providing indigent persons with representation in criminal matters

The position allocated by SB2919 will be used to provide statewide advice and assistance on all legal and collateral issues that affect the clients of the OPD, most significantly on immigration issues. The attorney filling this position will be required to keep themselves apprised of the rapidly changing legal landscape in issues that affect the clients of the OPD to ensure that attorneys statewide provide effective and competent representation.

The OPD strongly supports SB2919. Thank you for the opportunity to comment on this measure.



Committee: Senate Committee on Ways and Means  
Hearing Date/Time: Thursday, February 19, 2026, at 10:30 AM  
Place: Conference Room 211 & via Videoconference  
Re: **Testimony of the ACLU of Hawai'i in SUPPORT of SB2919 Relating to the Office of the Public Defender**

Dear Chair Dela Cruz, Vice Chair Moriwaki and Members of the Committee:

The ACLU of Hawai'i (ACLU-HI) is in **support of SB2919**, which appropriates funds for an additional full-time employee at the Office of the Public Defenders: specifically, the bill would fund a full-time attorney assigned to “provide counsel on constitutional and related legal matters.”

The ACLU of HI strongly supports SB2919 because it strengthens Hawai'i's public defense capacity by supporting counsel on constitutional and related legal matters, an essential safeguard for fairness and due process. In 2010, the United State Supreme Court held in *Padilla v. Kentucky* that criminal defense attorneys have a Sixth Amendment duty to advise noncitizen defendants about the immigration consequences of their criminal convictions. 559 U.S. 356 (2010). In doing so, the Supreme Court recognized that many criminal convictions—including misdemeanors and lesser offenses—are grounds for deportation and other severe consequences under federal immigration law.

Noncitizens who live in Hawai'i and are accused of crimes therefore have the constitutional right to receive adequate counsel when navigating decisions throughout the pendency of their cases. Adding capacity to the Public Defenders' Office helps to ensure that this constitutional right is fulfilled, and that noncitizens are informed of their legal rights and options, including the potential immigration consequences of criminal proceedings.

The ACLU-HI strongly supports the passage of SB2919 because it strengthens the Office of the Public Defender's staffing capacity to provide timely and effective representation. This measure is an important investment in fairness, due process, and public confidence in Hawai'i's legal system, and we urge the Committee's support.

Mahalo for the opportunity to testify.

Sincerely,

Leilani Stacy  
Immigrants' Rights Staff Attorney

*With more than 4,000 Hawaii-based members, the mission of the American Civil Liberties Union of Hawai'i is to protect the fundamental freedoms enshrined in the United States and Hawai'i State Constitutions through legislative, litigation, and public education work. 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 our communities in Hawai'i for over 60 years.*

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