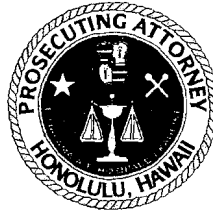


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THE HONORABLE DAVID IGE, CHAIR
SENATE COMMITTEE ON INTERGOVERNMENTAL AFFAIRS

THE HONORABLE COLLEEN HANABUSA, CHAIR
SENATE COMMITTEE ON JUDICIARY AND HAWAIIAN AFFAIRS

Twenty-Third State Legislature
Regular Session of 2005
State of Hawaii

Hearing: Thursday, February 9, 2006, 2:45 P.M.
State Capitol, Conference Room 225

RE: SENATE BILL 2433, MAKING AN APPROPRIATION FOR CAREER CRIMINAL PROSECUTION UNITS AND VICTIM WITNESS ASSISTANCE PROGRAMS

Good afternoon, Chairs Ige and Hanabusa and members of Intergovernmental Affairs and the Judiciary and Hawaiian Affairs Committees. The Department of the Prosecuting Attorney of the City and County of Honolulu submits the following testimony in **support of S.B. 2433**, which proposes to provide grants-in-aid to the four respective counties to fund the Career criminal Prosecution and Victim Witness Assistance Programs.

The Career Criminal Prosecution and Victim Witness Assistance Programs operate in a similar fashion to the way that anti-virus software functions in your computer. They quietly work in the background promoting public safety, only emerging into the public eye when a notorious case or criminal attracts media attention. The most important value of these programs is not the spectacular headlines garnered when a well-known criminal is prosecuted, nor the profile of a sympathetic crime victim who is featured on the six o'clock news. Their critical importance is their reliable role in prosecuting the typical chronic offender or helping the average person who falls prey to the daily crimes on our streets and in our homes. It is the consistent and effective efforts of these two programs in combating crime and promoting public safety that makes them the worthwhile investment that they represent.

Unfortunately, the funding invested by the state in these critical programs has dramatically declined (by over 30% for VWAP and over 50% for CCP) since 1995. S.B. 3433 is an attempt to restore the funding and the promising potential that they represent. The City and County of Honolulu is requesting restoration of appropriations for its Career Criminal Prosecution Program (\$1,226,346) and Victim Witness Assistance Program (\$502,965) to the 1995 levels. Current appropriations for these programs are \$583,319 (CCP) and \$352,870 (VW) respectively. We believe that the 1995 figures represent the level of funding required to make these programs fully functional. We consider this to be a modest request considering both the

increasing costs and demands for each of these programs since 1995. In considering this request please examine the more detailed program descriptions provided below.

VICTIM WITNESS ASSISTANCE

Since 1983, the Legislature has provided support for the Victim Witness Assistance Program. In 1986, the Legislature enacted Statute Section 28-111 (a copy of which we have attached) thus establishing the Victim Witness Assistance Program on a statewide basis. This statute establishes the Program in the Department of Attorney General, with the purpose of providing information, assistance, and support services to the victims and witnesses of crimes committed in Hawaii. The Attorney General is mandated to allocate and award funds to the Counties whose Victim Witness Assistance programs are in substantial compliance with policies and criteria established by the Attorney General in cooperation with the County Prosecutors.

The Honolulu Victim Witness Kokua Services, with the support of the Legislature, and even greater funding from the City and County of Honolulu, has developed into one of the finest services of its kind in the country. In FY 2004 alone, this Division helped 11,599 crime victims and 307 other witnesses.

Victims are usually the key witnesses in a case. Without their testimony, criminals cannot be held responsible for their actions and remain free to hurt others in the community. Victims need assistance to face testifying in court and they require help in recovering from the trauma criminal victimization. The Victim/Witness Kokua Services provides this support.

The mission of the Prosecuting Attorney is to seek justice. Justice must be equally available to both victims and defendants. Legislators had this in mind when they created Chapter 801D of the Hawaii Revised Statutes [H.R.S.], Rights of Victims and Witnesses in Criminal Proceedings. Those very rights established by law are significantly diminished when our funding based erodes as it has in recent years. Crime victims' right to information, which is the very cornerstone of H.R.S. Chapter 801D, is severely jeopardized by the staffing vacancies (4) that have been the consequence of the continual budget cuts.

We note that the City & County of Honolulu now pays far more proportionately (over \$1,000,000) for its victim/assistance program than state law requires. H.R.S. 28-111, which created the State Victim/Witness Assistance Program, requires counties to match 25 percent of the program funding. Honolulu now provides the program almost thirteen times the matching requirement. By paying for the largest percentage of the program costs, Honolulu has already clearly proved its commitment to helping victims. While the County has been able to fill the gaps created by State funding reductions in the past, it is no longer able to do so. For example, two County-funded Domestic Violence positions created after previous State budget cuts have remained frozen and unfilled for over four years.

We have also been able to relieve the state from underwriting other victim assistance costs. For example, we were successful in getting the City and County to fully cover the cost of medical-legal examinations provided by the Sex Abuse Treatment Center. Funding was increased from \$50,000 to more than \$400,000. Our Office provides another \$336,000 annually in federal Victims of Crime Act funds to contract for additional services for victims who are immigrants or have limited English proficiency, victims of sexual assault, and survivors of victims of homicide and negligent homicide. Assuming administrative responsibility for these federal funds is both costly and time consuming. The federal VOCA program does not permit use of these funds for anything than direct services to crime victims. The City and County of Honolulu has had to assume virtually the entire administrative costs for administering these services in recent years, as State funding has precipitously fallen.

There is ample evidence to show that Honolulu already pays its fair share for victims' services. We ask that you restore the funding needed to demonstrate the Legislature's commitment to adequately providing the state's equitable share for this essential program.

CAREER CRIMINAL PROSECUTION UNIT

Pursuant to legislation passed in 1979, and codified as Hawaii Revised Statutes Sections 845-1 and 845-2 (see attachment to our testimony), a Career Criminal Prosecution Program was established to prosecute certain repeat felony offenders. Since the program's creation in 1979, the Legislature has recognized the importance of the work mandated under the Career Criminal Prosecution Program and has funded the program every year. Continued funding of our Career Criminal Prosecution Unit is especially important because it targets hardcore defendants, repeat offenders with felony convictions who continue a life of crime. These repeat offenders cause a disproportionate share of crime. Money spent on the Career Criminal Unit is an efficient use of resources, especially when citizens are demanding swift and effective justice from a system plagued by heavy caseloads and long court delays.

Our Career Criminal Unit prosecutes these types of defendants aggressively. The attorneys in this Unit specialize in using the sentencing laws to maximize sentences and handle the cases from the early stages of prosecution through trial and sentencing. While not all of the defendants prosecuted by this branch are household names, they are responsible for a significant amount of the crime committed in Honolulu. Most of them are prosecuted on multiple counts and typically have victimized many people during their criminal careers. The robberies, burglaries, assaults, and drug and firearms offenses that they commit keep our communities in fear behind locked doors. Their criminal activities represent a relentless attack on the quality of life in Hawaii. Career criminals' repeated crimes cause millions of dollars of losses each year in physical injuries, medical costs, and property loss. The crimes they commit raise our insurance rates, keep us from enjoying the beauty and resources of our state, and keep us in fear for our families' safety.

This specialized attention ensures that repeat offender cases are handled consistently, which hopefully results in appropriate sentences and a safer community. The effectiveness of the unit has given the prosecution significant leverage in cases, often encouraging the accused to plead guilty to the crime before the case gets to trial.

For the reasons cited above we urge your full support for S.B 2433. Thank you for your time and consideration.

[§28-111] Victim-witness assistance program. (a) There is established a victim-witness assistance program in the department of the attorney general, whose purpose shall be to provide information, assistance, and support services to the victims of and witnesses to crimes committed in the State.

(b) The attorney general shall allocate and award appropriated funds to counties whose victim-witness assistance units are in substantial compliance with the policies and criteria established. The attorney general and the county prosecutors shall work together to establish victim-witness assistance program policies and criteria which shall not be subject to chapter 91. The county prosecutors shall implement the program in their respective counties.

(c) Any sums appropriated by the State for the victim-witness units in each of the respective counties shall be contingent upon the respective counties providing a minimum of twenty-five per cent of the sum appropriated to each county. [L 1986, c 204, §2]

[CHAPTER 845]

CAREER CRIMINALS

Section

845-1 Findings and purpose

845-2 Career criminal prosecution program

845-3 Persons subject to career criminal prosecution efforts

[§845-1] Findings and purpose. The legislature finds that a substantial and disproportionate amount of serious crime is committed against the people by a relatively small number of multiple and repeat felony offenders, commonly known as career criminals. In enacting this chapter, the legislature intends to support increased efforts by prosecuting attorneys' offices to prosecute career criminals through organizational and operational techniques that have been proven effective in selected counties in other states. [L 1979, c 104, pt of §1]

[§845-2] Career criminal prosecution program. (a) There shall be established a career criminal prosecution program, whose purpose shall be the investigation and prosecution of those persons identified as habitual or career criminals.

(b) The office of the attorney general shall administer the program, and develop a plan of financial and technical assistance for prosecuting attorneys' offices. The attorney general shall direct the program and may allocate and award funds to counties in which career criminal prosecution units are established in substantial compliance with the policies and criteria established by the attorney general. The establishment of these policies and criteria shall not be subject to chapter 91, but the criteria shall be based on the general definition in section 845-3. [L 1979, c 104, pt of §1]

§845-3 Persons subject to career criminal prosecution efforts. (a) An individual shall be the subject of career criminal prosecution efforts if the individual falls into

categories 1, 2, or 3 in subsection (b) and may be the subject of career criminal prosecution efforts if the individual falls into any other category of subsection (b).

(b) Subject to the restrictions in subsection (a), career criminal prosecution applies to an individual who:

(1) Has had two or more felony convictions within the last five years.

(2) Has had one or more felony and two or more misdemeanor convictions and/or arrests within the last three years. Misdemeanors will be limited to prostitution, theft II and place to keep firearm.

(3) Is convicted and/or arrested for the offense of "felon in possession of a firearm" within the last five years.

(4) Is on parole.

(5) Is on probation.

(6) Is on bond awaiting an appeal.

(7) Is on bond awaiting trial.

(8) Is known or suspected to be an associate of organized crime.

(9) Is known or suspected of recurring or ongoing criminal activity.

(10) Has no adult record but who has an extensive juvenile record.

(11) Is a juvenile with an extensive record who has been waived to the circuit court for trial. [L 1979, c 104, pt of §1; am L 1980, c 166, §1; gen ch 1985]