

NEIL ABERCROMBIE
GOVERNOR



STATE OF HAWAII
**CRIME VICTIM COMPENSATION
COMMISSION**

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TESTIMONY ON SENATE BILL 879
RELATING TO WITNESSES

Pamela Ferguson-Brey, Executive Director
Crime Victim Compensation Commission

Senate Committee on Judiciary and Labor
Senator Clayton Hee, Chair
Senator Maile S.L. Shimabukuro, Vice Chair

Wednesday, January 30, 2013; 9:30 AM
State Capitol, Conference Room 016

Senator Hee, Senator Shimabukuro, and Members of the Committee on Judiciary and Labor. Thank you for providing the Crime Victim Compensation Commission ("Commission") with the opportunity to testify before you today. The Commission supports the passage of Senate Bill 879 which increases the per diem amount for out-of-state witnesses and witnesses from another island who have been subpoenaed to testify at a state criminal trial.

The Commission was established in 1967 to mitigate the suffering and financial impact experienced by victims of violent crime by providing compensation to pay un-reimbursed crime-related expenses. Many victims of violent crime could not afford to pay their medical bills, receive needed mental health or rehabilitative services, or bury a loved one if compensation were not available.

Witnesses in criminal cases are vital and can be the deciding factor between an offender being brought to justice and an offender being released. In order to do their civic duty, witnesses must bear the financial burden of lost wages or having to use vacation leave. In

addition to lost wages or leave, witnesses from out of state or off island must pay for additional expenses such as lodging and food. This creates an economic barrier that discourages or prevents witnesses from returning to testify.

The per diem for out of state or off island witnesses was intended to offset the lodging and food expenses. However, the current per diem amounts of \$110 per day for out of state witnesses and \$55 for off island witnesses, were last set in 1989 and have not kept pace with the cost of living in Hawai'i. A search of internet sites such as hotels.com shows that discounted hotel rooms start at approximately \$100 per night excluding taxes and fees. However, these prices are not always available to witnesses because witnesses rarely get more than a week's notice of when they need to be in Hawai'i to testify. Thus, an increase to \$145 per day would assist witnesses in finding accommodations that would not require them to pay out of their own pocket. The increase would help secure the cooperation of witnesses who are concerned that in addition to having to use their vacation leave or lose wages to testify, they would also have to use their own money to find suitable accommodations and to pay for meals.

Increasing the per diem from \$110 to \$145 is a modest increase considering that \$110 in 1989 has the same purchasing power as \$204 today. Bureau of Labor Statics of the US Department of Labor.

Thank your providing the Commission with the opportunity to testify in support of Senate Bill 879. The Commission urges you to support increasing the per diem rate for off-island witnesses in criminal cases.

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THE HONORABLE CLAYTON HEE, CHAIR
SENATE COMMITTEE ON JUDICIARY AND LABOR
Twenty-Seventh State Legislature
Regular Session of 2013
State of Hawai'i

January 30, 2013

RE: S.B. 879; RELATING TO WITNESSES.

Chair Hee, Vice-Chair Shimabukuro and members of the Senate Committee on Judiciary and Labor, the Department of the Prosecuting Attorney of the City and County of Honolulu submits the following testimony in support of S.B. 879.

The purpose of this bill is to support and encourage witnesses to pursue charges against offenders of our criminal laws. In 1989, the legislature added per diem stipends for out-of-state witnesses; however, the amount has remained the same since, for almost twenty-four years. This amount is no longer sufficient to pay the personal expenses of out-of-state witnesses, such as lodging and food. Often these individuals are forced to take money out of their own pockets to cover necessary personal expenses when subpoenaed to return to the state as a witness in state court proceedings. Because the per diem stipend amount has not been adjusted to keep pace with the cost of living in Hawaii, it has emerged as an economic "barrier" that either discourages or prevents an out-of-state witness from pursuing charges against offenders due to economic considerations. Further, the Department of the Prosecuting Attorney finds that the per diem stipend amount for witnesses that are required to travel to a different island within the State is also not sufficient to cover the witness' personal expenses when that witness is required to stay overnight.

This measure increases the amount of per diem stipends for out-of-state witnesses from \$110 to \$145 per 24-hour day and makes available for a witness who must travel to another island within the State, an additional amount of \$90 per 24-hour day to the current \$55 per 24-hour day if that witness is required to stay overnight. The Department of the Prosecuting Attorney strongly supports the passage of S.B. 879. Thank you for this opportunity to testify.

ALAN M. ARAKAWA
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THE TWENTY-SEVENTH LEGISLATURE
REGULAR SESSION OF 2013
Wednesday, January 30, 2013, 9:30 a.m.

RE: SB 879, Relating to Witnesses

We are providing testimony in strong support of SB 879, Relating to Witnesses. The bill increases the per diem payments of out of state witnesses in criminal cases from \$110 to \$145 and additional \$90 per 24 hour-day to the current \$55 per day for witnesses from any island other than the island on which the court is located, when the witness is required to stay overnight.

The Maui Victim/Witness Assistance Division of the Department of the Prosecuting Attorney provides assistance and support to victims and witnesses through the Hawaii criminal justice system. One of our responsibilities is to assist witnesses who have to come back to Maui to testify in criminal proceedings.

For many years, we have witnessed the financial hardship being imposed on witnesses who are traveling from the mainland USA and other jurisdictions. One example is a Murder case our office prosecuted and convicted in 1991. The defendant was sentenced to life in prison with a possibility of parole. The case was appealed and the conviction was overturned. In the meantime, majority of the state's witnesses have relocated to the mainland. When it was time for retrial, several witnesses reluctantly came back to testify because of the financial hardship. The mere \$110 per diem was not even enough to cover the hotel cost, not to mention the food and ground transportation. In addition to the expenses of traveling to Hawaii, witnesses had to miss several days of work. Another witness had to make arrangements for the care of her pets, at her own expense. Inter island witnesses are also faced with the same dilemma when they are needed to stay overnight.

We respectfully urge you to support SB 879 increasing the amount of per diem so that witnesses will not suffer financial hardship. This is one way of acknowledging the importance of witnesses' participation in the pursuit of justice.

Thank you for your time and consideration.