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TO: The Honorable Henry J. C. Aquino, Chair
House Committee on Public Safety

The Honorable Kaniela Ing, Vice Chair
House Committee on Public Safety

Members of the House Committee on Public Safety

FROM: Tenari Ma'afala, President 
State of Hawaii Organization of Police Officers

DATE: March 19, 2013

SUBJECT: Testimony on S.B. No. 839, Relating to Police Department
Reports to the Legislature

HEARING DATE: Thursday, March 21, 2013
10:00 a.m. Conference Room 309

Thank you for the opportunity to testify on this bill. The State of Hawaii Organization of Police Officers opposes this bill in part.

Section 2 of the bill repeals the word "summary" and replaces it with the word "description" as follows:

The report shall include a ~~summary~~ description of the facts and the nature of the misconduct for each incident which resulted in the suspension or discharge of a police officer, the disciplinary action imposed for each incident, and the number of police officers suspended and discharged....

This amendment is in direct contradiction to the sentence which follows thereafter, which provides that "[t]he summary of facts shall not be of such a nature so as to disclose the identity of the individuals involved." Any additional requirement to add detailed facts to a summary of misconduct that resulted in a suspension or discharge of the officer, may prematurely and unfairly identify the officer. Further, the county police departments would be in violation of this law should the descriptions they provide indirectly identify an officer who has been suspended, or was discharged without first having had the opportunity to exercise and exhaust fully all of the administrative remedies, which are specified in the collective bargaining agreement and in state law, as is clearly set forth in Hawaii Revised Statutes section 92F-14(b)(4).

The Honorable Henry J. C. Aquino, Chair
The Honorable Kaniela Ing, Vice Chair
Members of the House Committee on Public Safety
Testimony on S.B. No. 839, Police Department Reports to the Legislature
March 19, 2013
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Moreover, police officers, as other employees that are disciplined, are entitled to fundamental due process. The legislature must be careful not to eclipse their fundamental due process rights. All grievances are carefully vetted by the State of Hawaii Organization of Police Officers prior to arbitration, which is a quasi-judicial process conducted before a neutral third party to ensure that the Employer had just cause for issuing suspensions or dismissals. Some departmental discipline is upheld or reduced by these neutral third party arbitrators, and some are completely overturned because there was no just cause.

This amendment will, in effect, eviscerate current laws in place that provide information to the public and yet balance that with a police officer's fundamental right to due process, and rights protected under HRS section 92F-14.



P.O. Box 3141
Honolulu, HI 96802
10 a.m. March 21, 2013

House Committee on Public Safety
Conference Room 309
State Capitol
415 S. Beretania St.

Senate Bill 839, Relating to Police Department Reports to the Legislature

Chair Henry Aquino and Committee Members,

The Hawaii chapter of the Society of Professional Journalists supports the intent of SB 839 to get adequate descriptions of police disciplinary reports in an annual report to the Legislature.

In 1995, the Legislature passed a bill that made secret the names of disciplined police officers. At the same time, the Legislature required that summaries of the offenses be reported to lawmakers every year. A Senate committee report in 1995 indicates the summaries would help lawmakers gauge whether the law was working.

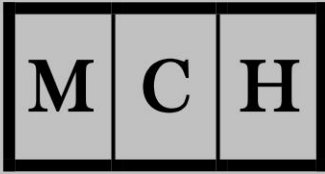
The current reports appear inadequate. We ask you to require more detailed descriptions.

Proper disclosure of such information would increase accountability for those who have police powers. We feel this is a housekeeping measure that merits your support.

Thank you for your time,

A handwritten signature in black ink, appearing to read 'Stirling Morita', written in a cursive style.

Stirling Morita
President, Hawaii Chapter SPJ
529-4755



Media Council Hawai'i

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Honorary Member:

U Win Tin

Gerald Kato: 808.223.3844

Kato_gerald@yahoo.com

To: House Committee on Public Safety

Hearing: Thursday, March 21, 2013

10:00 AM Conference Room 309

TESTIMONY IN SUPPORT OF SB 839 RELATING TO POLICE DEPARTMENT REPORTS TO THE LEGISLATURE

Chair Aquino and Members of the Public Safety Committee:

I submit this testimony on behalf of myself, Gerald Kato, associate professor of journalism, and Media Council Hawai'i, on which I serve as a board member.

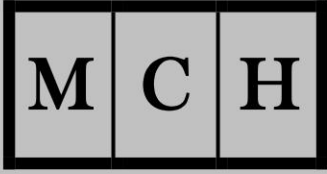
We support the intent of SB 839 Relating to Police Department Reports to the Legislature and recommend that more specific information be provided in police misconduct reports. We believe that the Legislature and public are entitled to meaningful information on police misconduct and disciplinary actions. This includes names of officers and relevant details about the misconduct and disciplinary actions taken by police departments across the state. The current process of reporting is so general that the information, as revealed in a recent series of articles in Civil Beat, is of little to no value as a means of maintaining public accountability.

In 1993, I was privileged to be the adviser of the Society for Professional Journalists University of Hawai'i Chapter. At the time, student members tried to obtain disciplinary records of Honolulu police officers as the students had a right to under the state Uniform Information Practices Act. That led to a court case, *State of Hawaii Organization of Police Officers v. Society of Professional Journalists University of Hawaii Chapter*. In ruling on the case, then-Circuit Judge John Lim, in upholding the public's right to know, said:

"And the Honolulu Police Department, I know ... is the best police force in the nation. Professional, effective, efficient, helpful, mindful of individual rights and protection, gracious, courteous and often cheerful. How do we as a people, who are so mistrustful of government and its attendant police power, enjoy such excellent men and women in uniform? It is precisely because of the public's right to know."

The Hawaii Supreme Court upheld Judge Lim's ruling, concluding that police misconduct is not protected by Hawaii's constitutional right of privacy nor could collective bargaining agreements override state laws requiring disclosure.

-MORE-



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SB839

But students learned a lesson in political realities when their efforts on behalf of the public's right to know were overturned in 1995, when the Legislature gave police officers an exemption from disclosure of disciplinary information. The summaries that were requested in place of full disclosure have proved to be a useless replacement to full public disclosure that is currently required of all other public workers.

Much more specific information is needed if there is to be the kind of accountability that all of us, members of the public and members of the legislature, have a right to expect. Media Council Hawaii and I urge you to add full and detailed disclosure of police misconduct and disciplinary action to this bill. It will give meaning to the public's right to know and breathe life into the words Judge Lim so eloquently spoke 20 years ago.

Thank you for the opportunity to express our views.

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ing2-Brandon

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, March 20, 2013 9:50 AM
To: pbstestimony
Cc: conybeare@msn.com
Subject: Submitted testimony for SB839 on Mar 21, 2013 10:00AM

SB839

Submitted on: 3/20/2013

Testimony for PBS on Mar 21, 2013 10:00AM in Conference Room 309

Submitted By	Organization	Testifier Position	Present at Hearing
Christopher Conybeare	Individual	Support	No

Comments: Chair Aquino, Vice-Chair Ing, Members of the Committee on Public Safety I am testifying in support of SB 839. it provides a small step in the right direction of assuring accountability and transparency on the part of our police departments. The say that "democracy dies behind closed doors"! Nowhere is this more true than where the ploice power is involved! I know this from personal experience as a civil and human rights lawyer, a journalist, and former Sr. Civil Service Examiner in charge of the Safety Department of the City of Cleveland, Ohio. I urge your support for this measure. Thank you. Aloha, Christopher Conybeare

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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SB 839—LAUGHABLY COSMETIC BILL before House Public Safety Committee, March 21, 2013, 10 a.m., Room 309

Dear Committee Members,

Mahalo for investigating this long overdue review of public disclosure details about misconduct of police officers throughout the state.

As a professor emerita who taught journalism and communications at the University of Hawaii at Manoa for 29 years, **I oppose this bill as written because it is simply-if not laughably--cosmetic.**

This bill needs to be substantially strengthened and broadened by covering misconduct of police officers statewide with the same public disclosure requirements of other public employees enumerated in Chapter 92F—the state's open-records law.

As a faculty member and adviser to our student journalism organization, I and students advocated in many sessions of the Legislature against the exemptions that the Honolulu Police Department demanded. The Legislature didn't listen then, but now your in-depth attention is urgently needed.

The responsibilities of police officers have become even more significant since 2001 because of the Homeland Security requirements needed to protect the public against the threat of terrorism and to protect key facilities like water supply depots and power plants.

The public confidence in their local police officers would be greatly strengthened if this bill is recast to broaden it so that police officers, except for undercover officers, are given the same public scrutiny as all other public employees under the state's open-records law.