

SB 2591

RELATING TO LAW ENFORCEMENT.

Requires the chief of each county police department to submit an annual report to the legislature of misconduct incidents that resulted in suspension or discharge of a police officer from the calendar year immediately prior to the year of the report submission. Requires the county police departments to provide updated information in each successive annual report until the highest non-judicial grievance adjustment procedure has concluded. Requires the county police departments to retain the disciplinary records in accordance with its record retention policy or for at least six months, whichever period is longer.

THE CIVIL BEAT
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Senate Committee on Public Safety,
Intergovernmental and Military Affairs
Honorable Will Espero, Chair
Honorable Rosalyn H. Baker, Vice Chair

RE: Testimony in Support of S.B. 2591, Relating to Law Enforcement
Hearing: February 4, 2014 at 3:45 p.m.

Dear Chair and Members of the Committee:

My name is Brian Black. I am the Executive Director of the Civil Beat Law Center for the Public Interest, a nonprofit organization whose primary mission concerns solutions that promote government transparency. Thank you for the opportunity to submit testimony on S.B. 2591. The Law Center strongly supports this bill.

S.B. 2591 will validate the trust that the people of Hawai'i place in county police departments to respect and enforce the law. The bill requires disclosure of criminal conduct by police officers. No agency should hide from public scrutiny and oversight when an employee commits a crime, especially a law enforcement agency.

For over a decade the only public information available concerning final suspensions of police officers has been the annual reports to the Legislature submitted in accordance with Hawai'i Revised Statutes § 52D-3.5. Those reports provide little detail, but reveal numerous instances of police officers who have been suspended for criminal conduct. The annual reports reveal incidents in which police officers have, among other things, lied to other law enforcement, hindered investigations, assaulted others, committed hit-and-runs, or pled guilty to criminal conduct. Suspensions for such conduct range from 1 day to 626 days. All the public learns is: "Hindered a federal investigation . . . 626 days" or "Pled guilty to criminal charges . . . One day."¹ E.g., Honolulu Police Department, 2010 Annual Report ¶¶ 1, 7.

S.B. 2591 opens the door for a more informed public dialogue about criminal activity by police officers. This bill requires county police departments to provide the Legislature additional details about disciplinary actions when a police officer has engaged in criminal conduct. Open and public discussion of how county police departments handle criminal conduct by police officers is critical to public confidence in law enforcement and the administration of our criminal justice system.

¹ On November 7, 2013, the Law Center filed a Complaint on behalf of the online publication Civil Beat to obtain additional information regarding several egregious examples of police misconduct.

Moreover, the bill does not violate any privacy rights of the individual police officers. The Hawai'i Supreme Court has held that police officers have no constitutional right of privacy in information concerning disciplinary suspensions "that have been sustained after investigation." *State of Hawaii Organization of Police Officers v. Soc'y of Profl Journalists, Univ. of Hawai'i Chapter*, 83 Hawai'i 378, 399, 927 P.2d 386, 407 (1996). S.B. 2591 permits county police departments to provide the same simple summaries currently reported until a police officer has exhausted the administrative grievance process for disciplinary challenges. The heightened reporting requirements for criminal misconduct only apply when the police officer's suspension becomes final.

The procedural corrections to HRS § 52D-3.5 in S.B. 2591 are no less important.

- **Record retention:** A recent event illustrates the deficiency in the current law concerning retention of police disciplinary records. On January 9, 2014, the online publication Civil Beat requested information regarding two discharged police officers described in the Honolulu Police Department's December 20, 2013 annual disciplinary disclosure to the Legislature. HPD, however, already had purged its files for one of the disciplinary cases. HPD thus deprived not only the public, but the Legislature of any opportunity to learn more about an incident that was first disclosed less than a month prior.

S.B. 2591 properly requires a county police department to retain its disciplinary records for at least six months after final disclosure to the Legislature.

- **Multiple offenses:** Current reporting allows county police departments to conceal when multiple offenses concern the same police officer. Without information about when a reported incident concerns a repeat offender, the Legislature and the public cannot evaluate the severity of the discipline imposed or understand inconsistencies between identically described misconduct.

S.B. 2591 properly requires a county police department to identify when a reported incident concerns a police officer with multiple offenses and specify the related incidents.

- **Deadline for disclosure:** Current law requires disclosure before the Legislature convenes. As a result, it is not always clear that a county police department has disclosed all disciplinary actions because the report must be filed before the end of the year.

S.B. 2591 properly requires reporting after the year-end to ensure complete disclosure on an annual basis.

Thank you again for the opportunity to testify.

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 03, 2014 9:56 AM
To: PSMTestimony
Cc: barbara@shopohawaii.org
Subject: Submitted testimony for SB2591 on Feb 4, 2014 15:45PM

SB2591

Submitted on: 2/3/2014

Testimony for PSM on Feb 4, 2014 15:45PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Barbara Wong	SHOPO	Oppose	Yes

Comments: Oppose in part.

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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From: mailinglist@capitol.hawaii.gov
Sent: Friday, January 31, 2014 11:43 PM
To: PSMTestimony
Cc: sherrianwitt@aol.com
Subject: *Submitted testimony for SB2591 on Feb 4, 2014 15:45PM*

SB2591

Submitted on: 1/31/2014

Testimony for PSM on Feb 4, 2014 15:45PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
sherrian witt	Individual	Support	No

Comments:

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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