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THE HONORABLE GREGG TAKAYAMA, CHAIR
HOUSE COMMITTEE ON PUBLIC SAFETY
Twenty-Eighth State Legislature
Regular Session of 2016
State of Hawai`i

March 17, 2016

RE: S.B. 2193, S.D. 2; RELATING TO LAW ENFORCEMENT.

Chair Takayama, Vice-Chair Yamashita, and members of the House Committee on Public Safety, the Department of the Prosecuting Attorney, City and County of Honolulu, submits the following testimony in **support** of Senate Bill 2193, S.D. 2.

The purpose of S.B. 2193, S.D. 2 is to define “person in custody” as that term is applies to Sexual assault in the second (§707-731 H.R.S.) and third degree (§707-731 H.R.S.). As the Committee is likely aware, our Department has previously argued that the interpretation of this term—even without the bill’s additional language—could include traffic stops, however, at least one court has declined to adopt that interpretation. Thus, we greatly appreciate the Legislature’s agreement with our interpretation, and efforts to clarify it accordingly.

With regards to the exact language used to define the term “person in custody”, we would urge the Committee to carefully consider each word, to minimize the likelihood of having any negative, unintended consequences. Specifically, we have some concerns regarding the phrase “under the control of” which as currently written may be overbroad and beyond the intent of S.B. 2193, S.D. 2. Our Department believes that the proposed definition of “person in custody” could be improved upon, to help clarify the intent and avoid unforeseen consequences. While we do not have specific alternative language to offer at this point, we would note that §707-731 and §707-732, H.R.S., cite to section of §710-1000 for the definition of “law enforcement officer”. Likewise, §710-1000 H.R.S., defines the term “custody” as “restraint by a public servant pursuant to arrest, detention, or order of a court.” This definition may provide a working framework for application to S.B. 2193, S.D. 2, but we would still caution the Committee to carefully consider the wording that is ultimately used for this particular application.

For all of the foregoing reasons, the Department of the Prosecuting Attorney, City and County of Honolulu supports S.B. 2193, S.D. 2, and asks that the discussions and evolution of this bill be allowed to continue. Thank for you the opportunity to testify on this matter.

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, March 15, 2016 11:50 PM
To: pbstestimony
Cc: ndavlantes@aol.com
Subject: Submitted testimony for SB2193 on Mar 17, 2016 10:00AM

SB2193

Submitted on: 3/15/2016

Testimony for PBS on Mar 17, 2016 10:00AM in Conference Room 309

Submitted By	Organization	Testifier Position	Present at Hearing
Nancy Davlantes	Individual	Support	No

Comments: I may be missing something here, but the fact that this bill even has to be introduced to prevent police misconduct is disturbing.

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Sent: Tuesday, March 15, 2016 8:27 PM
To: pbstestimony
Cc: dylanarm@hawaii.edu
Subject: *Submitted testimony for SB2193 on Mar 17, 2016 10:00AM*

SB2193

Submitted on: 3/15/2016

Testimony for PBS on Mar 17, 2016 10:00AM in Conference Room 309

Submitted By	Organization	Testifier Position	Present at Hearing
Dylan Armstrong	Individual	Support	No

Comments:

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To: pbstestimony
Cc: breaking-the-silence@hotmail.com
Subject: *Submitted testimony for SB2193 on Mar 17, 2016 10:00AM*

SB2193

Submitted on: 3/16/2016

Testimony for PBS on Mar 17, 2016 10:00AM in Conference Room 309

Submitted By	Organization	Testifier Position	Present at Hearing
Dara Carlin, M.A.	Individual	Support	No

Comments:

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Sent: Wednesday, March 16, 2016 2:10 PM
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Cc: lady.flach@gmail.com
Subject: *Submitted testimony for SB2193 on Mar 17, 2016 10:00AM*

SB2193

Submitted on: 3/16/2016

Testimony for PBS on Mar 17, 2016 10:00AM in Conference Room 309

Submitted By	Organization	Testifier Position	Present at Hearing
Teri Heede	Individual	Support	No

Comments:

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From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, March 16, 2016 7:31 PM
To: pbstestimony
Cc: susan.wurtzburg@gmail.com
Subject: *Submitted testimony for SB2193 on Mar 17, 2016 10:00AM*

SB2193

Submitted on: 3/16/2016

Testimony for PBS on Mar 17, 2016 10:00AM in Conference Room 309

Submitted By	Organization	Testifier Position	Present at Hearing
Susan J. Wurtzburg	American Association of University Women, Hawaii	Support	No

Comments:

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