

DAVID Y. IGE
GOVERNOR OF HAWAII



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

KEKOA W. KALUHIWA
FIRST DEPUTY

JEFFREY. T. PEARSON, P.E.
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

**Testimony of
SUZANNE D. CASE
Chairperson**

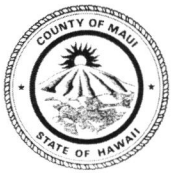
**Before the Senate Committee on
WAYS AND MEANS**

**Thursday, February 25, 2016
1:00 PM
State Capitol, Conference Room 211**

**In consideration of
SENATE BILL 2196, SENATE DRAFT 1
RELATING TO THE LAW ENFORCEMENT OFFICER
INDEPENDENT REVIEW BOARD**

Senate Bill 2196, Senate Draft 1, proposes to establish the Law Enforcement Officer Independent Review Board within the Department of the Attorney General to investigate deaths while in law enforcement custody and shootings involving a law enforcement officer where an individual is injured and appropriates funds. **The Department of Land and Natural Resources (Department) has no objection to the reporting requirements or review process described in this measure.**

The Department believes that this bill would allow for greater transparency of its law enforcement operations and accountability for law enforcement actions taken by its law enforcement officers. The establishment of a Law Enforcement Officer Independent Review Board would benefit agencies such as our Division of Conservation and Resources Enforcement with an additional layer of independent review of actions taken.



ALAN M. ARAKAWA
MAYOR

OUR REFERENCE
YOUR REFERENCE

POLICE DEPARTMENT

COUNTY OF MAUI

55 MAHALANI STREET
WAILUKU, HAWAII 96793
(808) 244-6400
FAX (808) 244-6411

February 25, 2015



TIVOLI S. FAAUMU
CHIEF OF POLICE

DEAN M. RICKARD
DEPUTY CHIEF OF POLICE

The Honorable Jill N. Tokuda, Chair
and Members of the Committee on Ways and Means
The Senate
State Capitol
Honolulu, Hawaii 96813

**RE: Senate Bill No. 2196, SD1, RELATING TO LAW ENFORCEMENT
OFFICER INDEPENDENT REVIEW BOARD**

Dear Chair Tokuda and Members of the Committee on Ways and Means:

The Maui Police Department strongly opposes S.B. 2196 SD1 as it will create an unneeded expenditure for a board of individuals that have no standing or binding authority for their decisions.

This bill does not service our State in any way, creating a board of individuals that oversee a process that is already established within each County, overseen by their respective Prosecuting Attorneys, Police Criminal Investigation Detectives and Internal Affairs Detectives. In the current process, both the Prosecuting Attorneys and Police work hand in hand during the investigation into cases of death or serious bodily injury.

It plans to utilize asset forfeiture funds that are already limited in use and amount that are for Police Departments around the State to use to supplement funding for training and equipment. In a time that we scrutinize overspending, this would not be a prudent decision; a redundant board that has the authority to only "Recommend" a course of action will only deplete funding. This multiple expenditure is not needed nor is it warranted.


It also creates a situation of destabilization if the board's decision differs from our County Prosecuting Attorneys office. This would create the question of who is right, challenging the authority and confidence of our Prosecuting Attorney offices to make judgments. The trickle-down effect would cause undue stress to Police Officers involved in these types of cases, to have to deal with another entity to scrutinize their actions only to come up with an opinion that holds no authority.

The Honorable Jill N. Tokuda
February 25, 2016
Page 2

The Maui Police Department asks the committee to strongly oppose this measure as it is a waste of funding and does not hold any true function.

Thank you for the opportunity to testify.

Sincerely,


TIVOLI S. FAAUMU
Chief of Polfce

THE CIVIL BEAT
LAW CENTER FOR THE PUBLIC INTEREST

700 Bishop Street, Suite 1701
Honolulu, HI 96813

Office: (808) 531-4000
Fax: (808) 380-3580
info@civilbeatlawcenter.org

Senate Committee on Ways and Means
Honorable Jill N. Tokuda, Chair
Honorable Donovan M. Dela Cruz, Vice Chair

**RE: Testimony Commenting on S.B. 2196 S.D. 1,
Relating to the Law Enforcement Officer Independent Review Board**
Hearing: February 25, 2016 at 1:00 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. 2196 S.D. 1. The Law Center **opposes the expansive breadth of confidentiality provision in this bill.**

The confidentiality provisions in this bill would make confidential records that currently are accessible to the public.

Under existing law, when a law enforcement agency completes a criminal investigation, the agency's criminal report is publicly accessible. *E.g.*, OIP Op. No. 99-02 (reports from closed criminal investigation are disclosable with appropriate privacy redactions).

S.B. 2196, as amended in the S.D. 1, however, provides that "all matters submitted to the board pursuant to subsection (c) . . . shall be confidential and shall not be disclosable pursuant to chapters 92 and 92F." Proposed § 28-C(g). The matters submitted pursuant to subsection (c) include: "the final disposition of the law enforcement agency's criminal investigation and all related reports, documents, and information for the purposes of the board's review." *Id.* § 28-C(c). These records would remain confidential until "any criminal prosecution or proceedings in the State related to the officer-involved death or serious bodily injury have been adjudicated", *id.* § 28-C(h) — *which could be years after the law enforcement agency completed its criminal investigation.*

A bill designed to "allow for greater transparency of law enforcement operations and accountability for law enforcement actions taken by officers" should not have such broad confidentiality provisions that rollback current levels of public access. S. Stand. Comm. Rep. No. 2471 (PSM/JDL committee report).

Please consider:

1. **Expressly providing by statute or by committee report that the scope of the confidentiality provisions in subsection 28-C(g) is limited to records maintained by the newly constituted board.** This clarification would continue to permit public access to criminal investigation records maintained by law enforcement agencies.
2. **Reevaluating whether the newly constituted board's recommendations must remain confidential pending a potentially lengthy criminal prosecution or civil lawsuit about an officer-involved death or injury.** The public should know — *in a timely manner* — the board's recommendations; the purpose of this board is transparency and accountability, which is not well-served by disclosure years after the fact. To the extent there may be concerns about the board's recommendation being used in any way in criminal or civil litigation, there are other ways to address that concern without blanket confidentiality for the recommendation and records. For example, the Legislature could bar admissibility of the records as evidence in litigation while still permitting public access. *Compare, e.g.,* OIP Op. No. 89-10 (settlement agreements generally are public records), *with* Hawai'i Rules of Evidence 408 (settlement agreements may not be admitted as evidence to prove liability or damages in litigation).

Thank you again for the opportunity to testify.

From: mailinglist@capitol.hawaii.gov
To: [WAM Testimony](#)
Cc: dylanarm@hawaii.edu
Subject: *Submitted testimony for SB2196 on Feb 25, 2016 13:00PM*
Date: Thursday, February 25, 2016 9:10:27 PM

SB2196

Submitted on: 2/25/2016

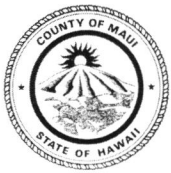
Testimony for WAM on Feb 25, 2016 13:00PM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Dylan Armstrong	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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TIVOLI S. FAAUMU
Chief of Polfce

From: mailinglist@capitol.hawaii.gov
To: [WAM Testimony](#)
Cc: lady.flach@gmail.com
Subject: *Submitted testimony for SB2196 on Feb 25, 2016 13:00PM*
Date: Wednesday, February 24, 2016 3:35:29 PM

SB2196

Submitted on: 2/24/2016

Testimony for WAM on Feb 25, 2016 13:00PM in Conference Room 211

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

Comments:

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From: mailinglist@capitol.hawaii.gov
To: [WAM Testimony](#)
Cc: victor.amos@mpd.net
Subject: Submitted testimony for SB2196 on Feb 25, 2016 13:00PM
Date: Wednesday, February 24, 2016 3:55:51 PM

SB2196

Submitted on: 2/24/2016

Testimony for WAM on Feb 25, 2016 13:00PM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Victor K. Ramos	Individual	Oppose	No

Comments: I strongly oppose SB2196. Checks and balances are already in place. The Prosecutor's Office conducts an independent review of the related incidents. To my knowledge, there have been zero issues with the current process. I simply do not see any justification for the creation of said review board. Mahalo

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