

**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-EIGHTH LEGISLATURE, 2016**

ON THE FOLLOWING MEASURE:

S.B. NO. 2196, S.D. 2, RELATING TO THE LAW ENFORCEMENT OFFICER
INDEPENDENT REVIEW BOARD.

BEFORE THE:

HOUSE COMMITTEE ON JUDICIARY

LATE

DATE: Tuesday, March 15, 2016

TIME: 2:00 p.m.

LOCATION: State Capitol, Room 325

TESTIFIER(S): Douglas S. Chin, Attorney General, or
Landon M.M. Murata, Deputy Attorney General

Chair Rhoads and Members of the Committee:

The Department of the Attorney General (“Department”) continues to support the intent of this bill and appreciates the consideration that has been given to the Department’s previous testimony and suggested amendments. The Department submits the following testimony to highlight remaining and additional concerns for the Committee’s consideration. These concerns fall into two general categories and are as follows:

Potential adverse effects on criminal prosecution

First, regarding the matters submitted to the board for review, it is unclear whether the drafters intend to require law enforcement agencies to allow the board to access or review the physical evidence in a case as well as any reports, documents, and information. Allowing the board to access or review the physical evidence in a case may adversely affect the prosecution’s ability to admit or effectively present the evidence in the course of any criminal prosecution that may arise from the case. Board access or review of the physical evidence could create chain of custody issues or would otherwise confuse the jury unless explained.

Second, if there is a criminal prosecution, any one of the three possible recommendations (prosecute, decline prosecution, or conduct further investigation) could be used by the defense against the prosecution. A recommendation to prosecute could be characterized as undue political pressure or influence that caused the prosecution to “go after” an “innocent” law enforcement officer. A recommendation to decline prosecution or to conduct further investigation could be used to attack the investigation or prosecution as being unfair, incomplete,

or otherwise flawed or improper. Unless the board's recommendations and any accompanying reports, documents, and information could somehow be exempt from discovery or from admissibility at trial, it is likely that attempts will be made to obtain the board's recommendations and any accompanying reports, documents, and information, and use them against the prosecution at trial.

Third, there is a related concern as to the timing of the board's recommendations. If the board recommendation comes after the decision to prosecute or decline prosecution has already been made by the county prosecutor, that could be problematic because it may be difficult for the prosecutor to change that decision once it has already been made. Alternatively, requiring county prosecutors to wait for the board to issue its recommendations could impede or delay the effective prosecution of the related case. This delay could also result in dismissal of criminal prosecutions for pre-indictment delay.

Expense and funding uncertainty

While some of the amendments made to the bill in S.D. 1 (e.g., eliminating the board investigator position) serve to reduce the potential operating expenses of the board, both the projected operating expenses and the future availability of funds to cover those expenses are currently unknown. At this time, the Department does not have sufficient information regarding the number and frequency of the types of cases the board will be handling. As a result, the resources needed for the board to perform its duties and related expenses cannot be determined. The future availability of funds to pay the board's expenses is also uncertain as section 2 of the bill provides that the source of the board's funding shall be the criminal forfeiture fund established in chapter 712A, Hawaii Revised Statutes. There is legislation pending this session that would make it more difficult to conduct asset forfeiture in Hawaii.

In addition to these concerns, the Department recommends the following additional amendment be made to clarify the scope of one of the paragraphs in the bill:

(g) Subject to the provisions of subsection (h), all matters submitted to the board pursuant to subsection (c) and all proceedings and recommendations of the board shall be confidential and shall not be subject to the provisions of chapters 92 and 92F. The scope of this subsection shall be limited solely to the proceedings and recommendations of the board and any records, documents, and information in the board's possession.

Thank you for the opportunity to testify.

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 House Committee on
JUDICIARY**

**Tuesday, March 15, 2016
2:00 PM
State Capitol, Conference Room 325**

**In consideration of
SENATE BILL 2196, SENATE DRAFT 2
RELATING TO THE LAW ENFORCEMENT OFFICER
INDEPENDENT REVIEW BOARD**

Senate Bill 2196, Senate Draft 2 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.

DEPARTMENT OF THE PROSECUTING ATTORNEY
CITY AND COUNTY OF HONOLULU

LATE

ALII PLACE
1060 RICHARDS STREET • HONOLULU, HAWAII 96813
PHONE: (808) 547-7400 • FAX: (808) 547-7515

KEITH M. KANESHIRO
PROSECUTING ATTORNEY



ARMINA A. CHING
FIRST DEPUTY PROSECUTING ATTORNEY

**THE HONORABLE KARL RHOADS, CHAIR
HOUSE COMMITTEE ON JUDICIARY
Twenty-Eighth State Legislature
Regular Session of 2016
State of Hawai`i**

March 15, 2016

**RE: S.B. 2196, S.D. 2; RELATING TO THE LAW ENFORCEMENT OFFICER
INDEPENDENT REVIEW BOARD.**

Chair Rhoads, Vice Chair San Buenaventura and members of the House Committee on Judiciary, the Department of the Prosecuting Attorney of the City and County of Honolulu (“Department”) submits the following testimony in opposition to S.B. 2196, S.D. 2.

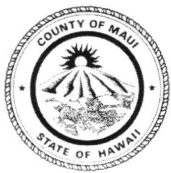
While this bill appears to be well-intentioned, Chapter 92 of the Hawaii Revised Statutes prohibits our government agencies from releasing the name of any individual who is investigated but ultimately not charged with a crime. Thus, it would be a violation for the proposed Independent Review Board (“Board”)—housed within the Department of the Attorney General—to release the type of information contemplated by this bill, if no charges are ultimately filed. In addition, should a case proceed to trial, any written policies produced by the relevant law enforcement agencies would be discoverable; this could potentially be presented in court proceedings and used against the prosecution in these types of cases.

It is crucial to note that confidentiality is of utmost importance in the process of investigating and/or reviewing any criminal case for potential prosecution, yet S.B. 2196, S.D. 2, contains no standards, provisions, or enforcement mechanisms to ensure that members of the Independent Review Board, and any staff who assist them, uphold the strictest confidentiality regarding any information that is provided to them. Because this is such a serious consideration, should any confidential information be disseminated by the media, the Department strongly believes that such media entity must be required to appear at Grand Jury or other proceedings as necessary to disclose the source of that information. Moreover, disclosure of any information provided to the Board should be established as a class C felony.

With regards to the makeup of the Board, this bill presents a serious risk of becoming a tool for political or media interests, at the expense of individual’s right to privacy. To minimize

the likelihood of this, anyone who has previously run for elected office should be precluded from serving on the Board.

For all of the foregoing reasons, the Department of the Prosecuting Attorney of the City and County of Honolulu opposes S.B. 2196, S.D. 2. Thank you for the opportunity to testify on this matter.



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

March 14, 2016



TIVOLI S. FAAUMU
CHIEF OF POLICE

DEAN M. RICKARD
DEPUTY CHIEF OF POLICE

The Honorable Karl Rhoads, Chair
Joy A. San Buenaventura, Vice Chair
And Members of the Committee on Judiciary
The House of Representatives
State Capitol
Honolulu, Hawaii 96813

RE: Senate Bill No. 2196 SD2, RELATING TO LAW ENFORCEMENT
OFFICER INDEPENDENT REVIEW BOARD

Dear Chair Rhoads, Vice Chair San Buenaventura,
And Members of the Committee on Judiciary:

The Maui Police Department strongly opposes S.B. 2196 SD2 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. This bill would create an unneeded board of individuals to oversee a process that is already established within each County and overseen by their respective Prosecuting Attorneys office, Police Criminal Investigation Detectives and Internal Affairs Detectives. In the current process, both the Prosecuting Attorneys Office and Police work hand in hand during the investigation into cases of death or serious bodily injury.

The creation of this board would utilize and deplete asset forfeiture funds that are already limited in use and amounts 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 for a redundant board to deplete funding; a redundant board that only has the authority to "Recommend" a course of action. This multiple expenditure is not needed nor is it warranted.

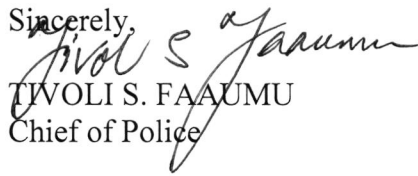
The creation of this board would also create a situation of destabilization if the board's decisions differ from our County Prosecuting Attorney's office; thus creating the question of who is right and challenging the authority and confidence of our Prosecuting Attorneys office to make judgments. The trickle 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 Karl Rhoads, Chair
March 14, 2016
Page 2

The Maui Police Department asks the Committee on Judiciary 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 Police

From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 14, 2016 8:35 AM
To: JUDtestimony
Cc: rlovellkealakai@gmail.com
Subject: Submitted testimony for SB2196 on Mar 15, 2016 14:00PM

SB2196

Submitted on: 3/14/2016

Testimony for JUD on Mar 15, 2016 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Roy Lovell	Criminal Justice Remington College	Comments Only	No

Comments: Greetings Committee Chair Rhoads and House Judiciary Committee, my name is Roy Lovell and I am writing testimony to SUPPORT bill SB2196-SD1 (Independent Law Enforcement Review Board). This bill is a critical step to reforming the state's criminal justice system. This bill will allow oversight of all police when they are involved in the most serious of punitive state sanctions (Public execution). This oversight and accountability legislation is also a critical component in community trust building. I have followed this bill in the Senate, and look forward to supporting your efforts in passing this necessary public safety reform legislation. Again, it is my pleasure to SUPPORT this legislative effort.

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Greetings Committee Chair Rhoads and House Judiciary Committee, my name is Paulo O.J Paulo and I am writing testimony to **SUPPORT** bill SB2196-SD1 (Independent Law Enforcement Review Board). This bill is a critical step to reforming the state's criminal justice system. This bill will allow oversight of all police when they are involved in the most serious of punitive state sanctions (Public execution). This oversight and accountability legislation is also a critical component in community trust building. I have followed this bill in the Senate, and look forward to supporting your efforts in passing this necessary public safety reform legislation. Again, it is my pleasure to **SUPPORT** this legislative effort.

LATE

Greetings Committee Chair Rhoads and House Judiciary Committee, my name is Jessica Agonias and I am writing testimony to **SUPPORT** bill SB2196-SD1 (Independent Law Enforcement Review Board). This bill is a critical step to reforming the state's criminal justice system. This bill will allow oversight of all police when they are involved in the most serious of punitive state sanctions (Public execution). This oversight and accountability legislation is also a critical component in community trust building. I have followed this bill in the Senate, and look forward to supporting your efforts in passing this necessary public safety reform legislation. Again, it is my pleasure to **SUPPORT** this legislative effort.



SB 2196

Greetings Committee Chair Rhoads and House Judiciary Committee, my name is John Figueroa and I am writing testimony to **SUPPORT** bill SB2196-SD1 (Independent Law Enforcement Review Board). This bill is a critical step to reforming the state's criminal justice system. This bill will allow oversight of all police when they are involved in the most serious of punitive state sanctions (Public execution). This oversight and accountability legislation is also a critical component in community trust building. I have followed this bill in the Senate, and look forward to supporting your efforts in passing this necessary public safety reform legislation. Again, it is my pleasure to **SUPPORT** this legislative effort.

From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 14, 2016 8:49 AM
To: JUDtestimony
Cc: lorentinatei@gmail.com
Subject: Submitted testimony for SB2196 on Mar 15, 2016 14:00PM

SB2196

Submitted on: 3/14/2016

Testimony for JUD on Mar 15, 2016 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Lorentina Te'i	Remington College Criminal Justice	Support	No

Comments: Greetings Committee Chair Rhoads and House Judiciary Committee, my name is Lorentina Te'i and I am writing testimony to SUPPORT bill SB2196-SD1 (Independent Law Enforcement Review Board). This bill is a critical step to reforming the state's criminal justice system. This bill will allow oversight of all police when they are involved in the most serious of punitive state sanctions (Public execution). This oversight and accountability legislation is also a critical component in community trust building. I have followed this bill in the Senate, and look forward to supporting your efforts in passing this necessary public safety reform legislation. Again, it is my pleasure to SUPPORT this legislative effort.

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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

House Committee on Judiciary
Honorable Karl Rhoads, Chair
Honorable Joy A. San Buenaventura, Vice Chair

**RE: Testimony Commenting on S.B. 2196 S.D. 2,
Relating to the Law Enforcement Officer Independent Review Board**
Hearing: March 15, 2016 at 2:00 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. 2. The Law Center **opposes the expansive breadth of the confidentiality provision in this bill.**

The confidentiality provision 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 S.D. 2, 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 "promote greater transparency of law enforcement operations and more accountability for law enforcement actions taken by law enforcement officers" should not have such broad confidentiality provisions that rollback current levels of public access. S. Stand. Comm. Rep. No. 2696 (WAM 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.¹
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.

¹ As an alternative, the statute or committee report could reference the confidentiality subsection of the inter-agency sharing provision in the public records law. HRS § 92F-19(b) (records properly shared between government agencies are confidential at the receiving agency if confidential at the originating agency).

From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 14, 2016 11:20 AM
To: JUDtestimony
Cc: tracyar@hawaiiantel.net
Subject: Submitted testimony for SB2196 on Mar 15, 2016 14:00PM

SB2196

Submitted on: 3/14/2016

Testimony for JUD on Mar 15, 2016 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Tracy Ryan	Libertarian Party	Support	No

Comments: We need to create better oversight of law enforcement. Abusive actions of police have become a national scandal.

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From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 14, 2016 2:33 PM
To: JUDtestimony
Cc: mrocca@hscadv.org
Subject: *Submitted testimony for SB2196 on Mar 15, 2016 14:00PM*

SB2196

Submitted on: 3/14/2016

Testimony for JUD on Mar 15, 2016 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Michelle Rocca	Hawaii State Coalition Against Domestic Violence	Support	No

Comments:

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From: mailinglist@capitol.hawaii.gov
Sent: Friday, March 11, 2016 5:21 PM
To: JUDtestimony
Cc: ndavlantes@aol.com
Subject: Submitted testimony for SB2196 on Mar 15, 2016 14:00PM

SB2196

Submitted on: 3/11/2016

Testimony for JUD on Mar 15, 2016 14:00PM in Conference Room 325

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

Comments: I renew the support I submitted when it was in the Senate.

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S.B 2196

Greetings my name is Lucky Lotu and I'm an enrolling student here at Remington College. We have been going through this bill as a class and so far we concluded to add a few adjustments.

I am in full support of proposing this bill (2196) not only for the better of our community but as well as a greater future for our upcoming younger generation.

First and foremost we need to adjust this bill by having police shootings have transparent investigation in that way they can gain public trust. In the same statistics, it should include HPD death rates between 2010-2015. In fact, Sheldon Haleck proves that in custody deaths. More importantly, this bill can help uphold a strong foundation for IRB because there has been a lot of outside shooting happening on island. In conclusion, I am in full support of this bill.

From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 14, 2016 9:00 AM
To: JUDtestimony
Cc: leuluniuotineru@yahoo.com
Subject: Submitted testimony for SB2196 on Mar 15, 2016 14:00PM

SB2196

Submitted on: 3/14/2016

Testimony for JUD on Mar 15, 2016 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
leuluniu otineru	Individual	Comments Only	No

Comments: Greetings Committee Chair Rhoads and House Judiciary Committee, my name is Leuluniu Otineru and I am writing testimony to SUPPORT bill SB2196-SD1 (Independent Law Enforcement Review Board). This bill is a critical step to reforming the state's criminal justice system. This bill will allow oversight of all police when they are involved in the most serious of punitive state sanctions (Public execution). This oversight and accountability legislation is also a critical component in community trust building. I have followed this bill in the Senate, and look forward to supporting your efforts in passing this necessary public safety reform legislation. Again, it is my pleasure to SUPPORT this legislative effort.

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SB2196 (Law Enforcement Officer Independent Review Board; Establishment; Law Enforcement Officer; Law Enforcement Agency; Department of the Attorney General; Appropriation)

Establishes the law enforcement officer independent review board within the department of the attorney general to investigate incidents of officer-involved death or serious bodily injury. Appropriates funds.

We are in STRONG SUPPORT of this bill, as it will provide for a greater accountability of police officers.

From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 14, 2016 12:42 PM
To: JUDtestimony
Cc: dylanarm@hawaii.edu
Subject: *Submitted testimony for SB2196 on Mar 15, 2016 14:00PM*

SB2196

Submitted on: 3/14/2016

Testimony for JUD on Mar 15, 2016 14:00PM in Conference Room 325

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

Comments:

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From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 14, 2016 3:14 PM
To: JUDtestimony
Cc: lady.flach@gmail.com
Subject: *Submitted testimony for SB2196 on Mar 15, 2016 14:00PM*

SB2196

Submitted on: 3/14/2016

Testimony for JUD on Mar 15, 2016 14:00PM in Conference Room 325

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

Comments:

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From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 14, 2016 4:06 PM
To: JUDtestimony
Cc: annsfreed@gmail.com
Subject: Submitted testimony for SB2196 on Mar 15, 2016 14:00PM

SB2196

Submitted on: 3/14/2016

Testimony for JUD on Mar 15, 2016 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Ann S Freed	Individual	Support	No

Comments: Rep. Karl Rhoads, Chair Rep. Joy A. San Buenaventura, Vice Chair Members Aloha, I am in strong support of this measure for an independent review board within the AG's office. Given the frequent incidence of police misconduct reported in the press, followed by the blue wall of silence, an INDEPENDENT look would be most helpful. The lack of transparency within our police departments is giving good police officers a black eye. Please help restore public faith in law enforcement. Pass this bill, Ann S. Freed, Mililani, Hawaii

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LATE

Greetings Committee Chair Rhoads and House Judiciary Committee, my name is _____ and I am writing testimony to **SUPPORT** bill SB2196-SD1 (Independent Law Enforcement Review Board). This bill is a critical step to reforming the state's criminal justice system. This bill will allow oversight of all police when they are involved in the most serious of punitive state sanctions (Public execution). This oversight and accountability legislation is also a critical component in community trust building. I have followed this bill in the Senate, and look forward to supporting your efforts in passing this necessary public safety reform legislation. Again, it is my pleasure to **SUPPORT** this legislative effort.

LATE

Greetings Committee Chair Rhoads and House Judiciary Committee, my name is Andrew Burgess and I am writing testimony to **SUPPORT** bill SB2196-SD1 (Independent Law Enforcement Review Board). This bill is a critical step to reforming the state's criminal justice system. This bill will allow oversight of all police when they are involved in the most serious of punitive state sanctions (Public execution). This oversight and accountability legislation is also a critical component in community trust building. I have followed this bill in the Senate, and look forward to supporting your efforts in passing this necessary public safety reform legislation. Again, it is my pleasure to **SUPPORT** this legislative effort.

LATE

Greetings Committee Chair Rhoads and House Judiciary Committee, my name is William Moore and I am writing testimony to **SUPPORT** bill SB2196-SD1 (Independent Law Enforcement Review Board). This bill is a critical step to reforming the state's criminal justice system. This bill will allow oversight of all police when they are involved in the most serious of punitive state sanctions (Public execution). This oversight and accountability legislation is also a critical component in community trust building. I have followed this bill in the Senate, and look forward to supporting your efforts in passing this necessary public safety reform legislation. Again, it is my pleasure to **SUPPORT** this legislative effort.

LATE

Greetings Committee Chair Rhoads and House Judiciary Committee, my name is **Kenneth Clark** and I am writing testimony to **SUPPORT** bill SB2196-SD1 (Independent Law Enforcement Review Board). This bill is a critical step to reforming the state's criminal justice system. This bill will allow oversight of all police when they are involved in the most serious of punitive state sanctions (Public execution). This oversight and accountability legislation is also a critical component in community trust building. I have followed this bill in the Senate, and look forward to supporting your efforts in passing this necessary public safety reform legislation. Again, it is my pleasure to **SUPPORT** this legislative effort.



LATE

House Judiciary Committee
Chair Karl Rhoads, Vice Chair Joy San Buenaventura

Tuesday 03/15/2016 at 2:00 PM in Room 325
SB 2196 SD2 – Relating to the Law Enforcement Officer Independent Review Board

TESTIMONY – OPPOSE
Carmille Lim, Executive Director, Common Cause Hawaii

Dear Chair Karl Rhoads, Vice Chair San Buenaventura, and members of the Committee:

While Common Cause supports the intent of SB 2196 SD2, which would establish a law enforcement officer independent review board within the Attorney General’s department to investigate incidences of officer-involved death or serious bodily injury, we oppose the bill as currently written, and asks the Committee to amend the proposed § 28-C(g) through § 28-C(h) which would keep “any criminal prosecution or proceedings in the State related to the officer-involved death or serious bodily injury have been adjudicated” confidential until (h) “Once the board has issued the board’s recommendations....and (f) any criminal prosecution or proceedings in the State related to the officer-involved death or serious bodily injury have been adjudicated.”

§ 28-C(g) reads:

Subject to subsection (h), all matters submitted to the board pursuant to subsection (c) and all proceedings and recommendations of the board shall be confidential and shall not be disclosable pursuant to chapters 92 and 92F

These changes were made to the SD1 version of the bill, and counter the intentions of the original bill: to increase public transparency and accountability for law enforcement. Our concern is that through these sections, related records would be kept confidential, even years the law enforcement agency finished its criminal investigation.

As written, records regarding incidences related to officer-related death or serious bodily injury, would become confidential, and may not be released to the public until the board has released its recommendations – which could be years. Currently, when a law enforcement agency completes a criminal investigation, that agency’s criminal report is publicly accessible.

We are at a tipping point, where the public is vocally demanding that law enforcement officers must follow the laws they enforce. Creating an Independent Review Board to “audit” incidences involving death/shootings and law enforcement, is a step toward improved oversight and accountability to Hawaii’s law enforcement officers. Something that has been sorely lacking for far too long.

Please amend this bill to reflect the original intent: to strengthen transparency and accountability for law enforcement agencies.

Thank you for the opportunity to offer testimony on SB 2196.