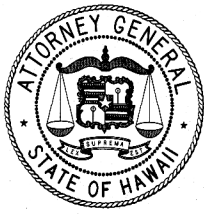




SB2364

Measure Title:	RELATING TO POLICE DEPARTMENTS.
Report Title:	County Police Departments; Police Officers; Citizen Complaints; Officer-involved Domestic Violence
Description:	Specifies that citizen complaints against a police officer that involve allegations of domestic abuse against a family or household member on the part of the police officer shall not be required to be in writing or sworn to by the complainant.
Companion:	
Package:	None
Current Referral:	PSM, JDL
Introducer(s):	L. THIELEN, BAKER, ESPERO, IHARA, RUDERMAN



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

ON THE FOLLOWING MEASURE:

S.B. NO. 2364, RELATING TO POLICE DEPARTMENTS.

BEFORE THE:

SENATE COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL AND
MILITARY AFFAIRS

DATE: Thursday, February 4, 2016 **TIME:** 1:15 p.m.

LOCATION: State Capitol, Room 229

TESTIFIER(S): Douglas S. Chin, Attorney General, or
Erin L.S. Yamashiro, Deputy Attorney General

Chair Nishihara and Members of the Committee:

The Department of the Attorney General provides the following comments regarding this bill.

The purpose of this bill is to change the procedure for submitting citizen complaints to the police commission. This bill would prohibit any requirement of a written or sworn statement by a complainant when the complaint involves allegations of domestic abuse by a police officer against a family or household member.

This bill might be subject to a constitutional challenge. Article VIII, section 2, of the Hawaii Constitution allows each political subdivision to adopt a charter for its own self-government and, with respect to each political subdivision, a charter is superior to any statutory provision regarding its structure and organization. The county charters currently allow each county police commission to adopt its own rules necessary to conduct its own business, including receiving, reviewing, and investigating citizen complaints against a police officer pursuant to sections 6-1606 of the Honolulu Charter, section 7-2.2(c) of the Hawaii County Charter, section 8-12.2 of the Maui County Charter, and section 11.03 of the Kauai County Charter.

Although the Legislature retains the authority to enact general laws allocating and reallocating powers and functions and the bill explains why this is an issue of statewide concern, if there is a constitutional challenge, the courts will make the final decision on whether or not this specific statutory prohibition constitutes a general law allocating and reallocating powers

and functions within the meaning of article VIII, section 2, of the Hawaii Constitution. Furthermore, although article VIII, section 6, of the Hawaii Constitution provides that article VIII does not limit the power of the Legislature to enact laws of statewide concern, a court may have to rule on whether prohibiting any requirement of a written or sworn statement is a matter of statewide concern within the meaning of section 6.

From: mailinglist@capitol.hawaii.gov
To: [PSMTestimony](#)
Cc: mrocca@hscadv.org
Subject: *Submitted testimony for SB2364 on Feb 4, 2016 13:15PM*
Date: Monday, February 01, 2016 1:27:05 PM

SB2364

Submitted on: 2/1/2016

Testimony for PSM on Feb 4, 2016 13:15PM in Conference Room 229

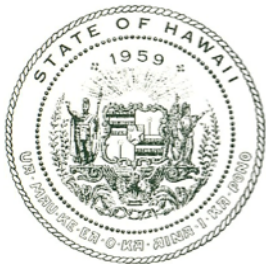
Submitted By	Organization	Testifier Position	Present at Hearing
Michelle Rocca	Hawaii State Coalition Against Domestic Violence	Support	No

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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ON THE
STATUS
OF
WOMEN



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February 2, 2016

To: Senator Clarence Nishihara, Chair
Senator Will Espero, Vice Chair
Members of the Senate Committee on Public Safety, Intergovernmental
and Military Affairs

From: Cathy Betts, Executive Director
Hawaii State Commission on the Status of Women

Re: Testimony in Support, SB 2364, Relating to Police Departments

The Commission supports SB 2364, which would allow a safe and confidential mechanism for citizen complaints against a police officer regarding domestic violence. As testified to at the HPD informational briefing in September of 2014, the Commission received over thirty complaints from women in the community, alleging inappropriate response to an array of domestic violence incidents. These responses included: responding police officers not taking a report of domestic violence, refusing to arrest an abuser because of his relationship to the police department, ordering a victim to provide her confidential address to the abuser, and making light of officer involved domestic violence allegations. Many of the victims who came forward did so anonymously or through a domestic violence service provider. Most were afraid that their complaints would not be taken seriously, but felt compelled to share their stories.

Currently, citizen complaints must be written and notarized, containing a sworn statement by the complainant. Not only is this process frightening to victims, it acts as a deterrent to future complaints. Victims of domestic violence or any other citizen wishing to make a complaint regarding abuse of a family or household member involving an officer should not have to go through such a stringent process with little anonymity or mechanism to prevent retaliation. SB 2364 would allow victims a mechanism for their voices to be heard, without fear that their name be publicized throughout the department and without fear of retaliation for making the complaint.

From: mailinglist@capitol.hawaii.gov
To: [PSMTestimony](#)
Cc: annsfreed@gmail.com
Subject: *Submitted testimony for SB2364 on Feb 4, 2016 13:15PM*
Date: Wednesday, February 03, 2016 8:31:14 PM

SB2364

Submitted on: 2/3/2016

Testimony for PSM on Feb 4, 2016 13:15PM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Ann S Freed	Hawaii Women's Coalition	Support	No

Comments:

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February 4, 2016

To: Senator Clarence Nishihara, Chair
Senator Will Espero, Vice Chair and
Members of the Committee on Public Safety, Intergovernmental & Military Affairs

From: Jeanne Y. Ohta, Co-Chair

RE: SB 2364 Relating to Police Departments
Hearing: Thursday, February 4, 2016, 1:15 p.m., Room 229

POSITION: SUPPORT

The Hawai'i State Democratic Women's Caucus writes in support of SB 2364 Relating to Police Departments which would specify that citizen complaints against a police officer that involve allegations of domestic abuse against a family or household member on the part of the police officer shall not be required to be in writing or sworn to by the complainant.

Recent events and questions related to those events made apparent the need for a change in policy with regard to officer-involved domestic violence cases. The requirement that the complaint be in writing or sworn to by the complainant is used to deter victims from filing complaints or the victim is told that she must return when a notary is available to notarize the statement. These requirements re-victimize the victim and make it appear that her complaint will have a higher bar to overcome than those of domestic violence victims whose partners are not police officers. Victims are already reluctant to file complaints against their spouses who are officers.

This measure is a good start to improve how officer-involved domestic violence cases are handled. We respectfully request that the committee pass this measure and we thank the committee for the opportunity to provide testimony.

**Hawaii State Legislature
Senate Committee on
Public Safety, Intergovernmental and Military Affairs
Testimony**

Aloha Chair Nishihara, Vice Chair Espero, and other distinguished committee members

Thank you for allowing me to testify on behalf of this proposed amendment. My name is Aaron Hunger and I am a doctoral researcher at the University of Hawaii at Manoa, a former police officer in Florida and California, and a criminal justice instructor for a private college in Honolulu. I have been honored to be engaged in doctoral research involving the Honolulu Police Department, and its oversight mechanisms since 2010. Together with my teaching, I have over 24 years of police experience. Currently, I am engaged in research with the University of Hawaii at Manoa that (among other issues) seeks to understand the unique structure of the criminal justice institutions on Oahu. Based on the unique composition of local policing organizations, one of many questions being answered is what effect (if any) does the absence of critical systemic oversight mechanisms (or their dysfunctionality) produce and how often. Based on the work and research that I have been privileged to be a part of, I would support Senate Bill 2364 (Domestic Violence Victims Privacy Protection).

As one of the primary researchers that worked on the University of Hawaii's Human Studies Project #23221 (Analysis of oversight systems of Honolulu Police) during the past four (4) years, I have found some disturbing patterns of data that continue to arise when focusing on misconduct of officers employed with the Honolulu Police Department. The study has uncovered an unusually high number of domestic violence cases that received little or no punitive action. Several variables have been pointed to that may contribute to the number of policy and criminal statute violations involving officers who commit acts of family violence. Regardless of the contributing variables, the result has been that Honolulu Police officers have ignored training, standards, policy, directives, and criminal statutes surrounding domestic violence.

More disturbing was the uncovering of systemic lying, false reporting, and a "cultural of concealment" surrounding domestic violence by other officers. This culture of "testi-lying" became apparent during the 2014 legislative investigation into the Honolulu Police Department's handling of the Sgt. Darren Cachola incident. All of these factors have an influence on victim's decisions when deciding whether to come forward about domestic violence. If the violent family member is a police officer, the power dynamic between the victim and the government becomes highlighted. Victims that feel unsafe, or fear retribution are statistically less likely to report violent crime. If the violent offender has the power and authority of the government entrusted to them, this complicates the matter unless responding officers (employed with the same police agency) have been trained to ignore fraternal ties.

This cultural shift is critical given the high number, and severity of the domestic violence cases involving Honolulu Police officers. One way to empower victims to come forward, is to reassure them that the police are not a fraternity, but a government service that is provided by street level bureaucrats. By

easing the reporting process for domestic violence, responding officers can spend more time developing strategies to protect the victim, rather than to attempt to resolve the incident with repetitive, subtly suggestive recommendations of non-prosecution.

While determining privacy rights is the responsibility of the courts, protecting victim's information from offenders is fundamental to the idea of justice administration. Police officers who are suspected of violating criminal statutes and departmental policies on domestic violence should be given no exception to this idea. I highly recommend this bill, which seeks to ease the reporting process, protect victims' rights, and begin to redevelop officer thinking surrounding domestic violence.