

**TESTIMONY OF THE HAWAII POLICE DEPARTMENT**

**SENATE BILL 2411 S.D. 1**

**LATE TESTIMONY**

**RELATING TO LAW ENFORCEMENT CAMERAS**

**BEFORE THE COMMITTEE ON JUDICIARY AND LABOR**

**And**

**BEFORE THE COMMITTEE ON WAYS AND MEANS**

**DATE :** Wednesday, February 24, 2016

**TIME :** 10:00 A.M.

**PLACE :** Conference Room 211  
State Capitol  
415 South Beretania Street

**PERSON TESTIFYING:**

Police Chief Harry S. Kubojiri  
Hawaii Police Department  
County of Hawaii

(Written Testimony Only)

William P. Kenoi  
Mayor



Harry S. Kubojiri  
Police Chief

Paul K. Ferreira  
Deputy Police Chief

## County of Hawai'i

### POLICE DEPARTMENT

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February 24, 2016

Senator Gilbert Keith-Agaran  
Chairman and Committee Members  
Committee on Judiciary and Labor

Senator Jill N. Tokuda  
Chairman and Committee Members  
Committee on Ways and Means  
415 South Beretania Street, Room 211  
Honolulu, Hawai'i 96813

**Re: SENATE BILL 2411 S.D. 1 RELATING TO LAW ENFORCEMENT CAMERAS**

Dear Senators Keith-Agaran and Tokuda:

The Hawai'i Police Department supports a law enforcement body camera program but **opposes** Senate Bill 2411 S.D. 1, with its primary purposes being to establish requirements for body-worn cameras and vehicle cameras for county police departments; to establish policy guidelines for the use and discontinuance of use of body-worn cameras by police officers; and to establish certain restrictions on the use of body-worn cameras by on-duty police officers.

We believe this legislation as written lacks a law enforcement perspective with respect to some of the stated policies and procedures. For instance, those people who will ask not to be recorded are in all probability the very ones for which a body camera is best suited for.

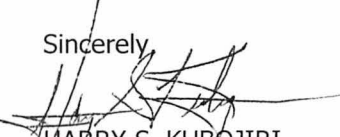
The issue of retention of the video for a three-year period of time carries with it an immense financial burden on the County Police Departments in terms of video storage capacity. Further, it would subject the County Police Departments to a plethora of public requests for release of the videos, which carries an additional burden in terms of review, redacting to protect legitimate privacy interests, as well as copying and releasing the video.

The Hawai'i County Police Department projects video retention for a one-year period of time will require an additional three employees to meet public requests for same. The manpower required for mandatory three-year retention will in all probability lead to a more than tripling of the estimated employee needs.

We would seek to have a law enforcement perspective taken into consideration in any and all proposed legislation dealing with body and car cameras. We would further hope, given the depth of infused policies and procedures attendant to these proposals, that any and all mandates be injected with necessary funding so as not to frustrate the efforts of law enforcement in meeting statutory requirements with respect to responding to public records requests. This proposed legislation appears to be an unfunded mandate given the storage and reporting requirements that will be necessitated as a result if passed.

It is for these reasons, we urge this committee to oppose this legislation.

Sincerely,

  
HARRY S. KUBOJIRI  
POLICE CHIEF

## OFFICE OF INFORMATION PRACTICES

STATE OF HAWAII  
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To: Senate Committees on Judiciary and Labor, and Ways and Means

From: Cheryl Kakazu Park, Director

Date: February 24, 2016, 10:00 a.m.  
State Capitol, Conference Room 211

Re: Testimony on S.B. No. 2411, S.D. 1  
Relating to Law Enforcement Cameras

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Thank you for the opportunity to submit testimony on this bill. The Office of Information Practices (“OIP”) **supports the intent** of this bill to ensure that police departments have uniform standards to follow in their responses to requests under the Uniform Information Practices Act (“UIPA”), chapter 92F, for recordings made by body-worn cameras, as well as standards for when to use body-worn cameras. **OIP anticipates, however, that the increased use of body-worn cameras will lead to a high volume of UIPA requests for body-worn camera footage, thus requiring additional staffing and operational funding for OIP to address these new cases.**

Regardless of whether this bill becomes law, the county police departments have been and are likely to continue moving to acquire and use body-worn cameras. Thus, OIP expects to be dealing with increasing numbers of appeals from UIPA requests for the resulting footage. **This bill is helpful, in that it does set reasonable standards** for when body-worn camera recordings are definitively not public under the UIPA, and thus effectively eliminates the need for OIP to analyze and opine on the balance of public interest and privacy interest in the

statutorily defined non-public footage. **However, the remaining records that are not covered by the bill – primarily video footage involving the use of force or a potential felony – will not be automatically public upon request, but instead would be potentially subject to the UIPA’s exceptions, particularly the privacy exception.** Public requests for body-worn camera footage will almost certainly occur in such controversial cases and are likely to **require case-by-case analysis** of the balance of the privacy interests of those depicted in videos versus the public disclosure interest. This is similar to the issues involved when OIP considers disputes regarding disclosure of 911 recordings, which in the past have required analyses of whether non-verbal sounds were so emotionally anguished as to create a significant privacy interest, whether spoken words gained a privacy interest because of the fearful or anguished tone of the person’s voice, the extent to which such privacy interests were affected by a person’s death (often caused by the events recorded), and where the balance lies between the identified privacy interests and the public interest in disclosure. OIP has found 911 recording decisions to require far more attorney time per page of transcript or per minute of recording than decisions involving records created under less emotionally fraught circumstances.

With body-worn cameras, a five-minute incident could potentially be recorded from several officers’ cameras at once, which, if different cameras pick up additional information, would further increase review time, and will mean that even after a decision has been made about what footage should be redacted, the redaction process will take several times as long. Thus, OIP anticipates that **UIPA requests for these recordings will be time-consuming both for police departments to respond to and for OIP** to advise the police departments and the public and to issue decisions on appeals, **especially in the first few years**

**before precedents have emerged** on the treatment of the sort of information typically found in body-worn camera footage. OIP further anticipates a **high volume of requests and appeals** involving body-worn camera recordings. In Washington state, for instance, cities have been overwhelmed with requests for footage, and one individual requested **all available** footage from two police departments, a request the departments have said will take years to complete.

Consequently, as the counties begin using body-worn cameras, **OIP will need additional staffing and operational funding** to address anticipated requests for guidance and appeals involving body-worn camera footage, which will only add to the steady increases in new cases that OIP has already been receiving each year. For the near future, **OIP anticipates that a simple conversion of an existing 1.0 FTE staff attorney position (# 102633) into two .50 FTE staff attorney positions and supplemental funding of \$50,000** would enable it to more efficiently utilize its personnel and handle the expected increase in new cases.

While OIP's primary concern is the question of public access to body-worn camera footage and the anticipated costs associated with it, OIP notes that there are **other costs and issues** associated with the use of body-worn cameras, such as the cost of maintaining the footage for the required time period, which reports from other states indicate may dwarf the cost of actually acquiring the cameras; the issue of when cameras should be turned on and off, which is partially addressed by this bill; and where the videos will be retained and who will be responsible for ensuring their chain of custody.

Thank you for considering OIP's testimony.



Committees: Committee on Judiciary and Labor and  
Committee on Ways and Means  
Hearing Date/Time: Wednesday, February 24, 2016, 10:00 a.m.  
Place: Conference Room 211  
Re: Testimony of the ACLU of Hawaii in support of S.B. 2411, S.D.1, Relating to Law Enforcement Cameras

Dear Chair Keith-Agaran, Chair Tokuda, and Committee Members:

The American Civil Liberties Union of Hawaii (“ACLU of Hawaii”) writes in support of S.B. 2411, S.D.1, which establishes requirements for body-worn cameras and vehicle cameras by county police departments, and appropriates funds as a grant-in-aid to each county for the purchase of cameras.

Law enforcement body cameras are an effective tool to promote police accountability. Videotaping interactions between law enforcement officers and members of the public can deter bad behavior, exonerate officers who have been falsely accused of misconduct, and help increase the public’s trust in law enforcement. While the goal of transparency is critically important, however, any policy regulating police body cameras must balance that need for transparency with the need to protect individual privacy. The policies established in S.B 2411, S.D.1 strike the correct balance between transparency and privacy, and ensure that policies are clear and consistent across different counties.

Thank you for this opportunity to testify.

Mandy Finlay  
Advocacy Coordinator  
ACLU of Hawaii

*The mission of the ACLU of Hawaii is to protect the fundamental freedoms enshrined in the U.S. and State Constitutions. The ACLU of Hawaii fulfills this through legislative, litigation, and public education programs statewide. The ACLU of Hawaii is a non-partisan and private non-profit organization that provides its services at no cost to the public and does not accept government funds. The ACLU of Hawaii has been serving Hawaii for 50 years.*

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**TESTIMONY FOR SENATE BILL 2411, SENATE DRAFT 1, RELATING TO LAW  
ENFORCEMENT CAMERAS**

**Senate Committee on Judiciary and Labor**  
**Hon. Gilbert S.C. Keith-Agaran, Chair**  
**Hon. Maile S.L. Shimabukuro, Vice Chair**

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

**Wednesday, February 24, 2016, 10:00 AM**  
**State Capitol, Conference Room 211**

Honorable Chair Keith-Agaran, Chair Tokuda, and committee members:

I am Kris Coffield, representing the IMUAlliance, a nonpartisan political advocacy organization that currently boasts over 350 local members. On behalf of our members, we offer this testimony in strong support of SB 2411, SD1, relating to law enforcement cameras.

In 2014, it was revealed that local law enforcement officers were engaging in sexual penetration during prostitution investigations, a practice that Honolulu Police Department officials publicly defended. IMUAlliance and anti-sex-trafficking advocates drafted and, with the help of lawmakers, passed a bill repealing the statutory exemption allowing that behavior to go unpunished. As police continue to investigate prostitution crimes, the use of body cameras will continue to diminish incidents of police abuse during undercover stings and, in turn, amplify the success of sex trafficking prosecutions by providing prosecutors with video evidence of solicitation and exploitation. Moreover, for all crimes, body-worn cameras for law enforcement officers provide first-person perspective imaging and, thus, a more complete chain of evidence.

At a time of heightened tensions between community members and police, policymakers must safeguard the public trust in the criminal justice process. Mahalo for the opportunity to testify in strong support of this bill.

Sincerely,  
Kris Coffield  
*Executive Director*  
IMUAlliance

# LATE LATE TESTIMONY

**From:** [mailinglist@capitol.hawaii.gov](mailto:mailinglist@capitol.hawaii.gov)  
**To:** [JDLTestimony](#)  
**Cc:**  
**Subject:** Submitted testimony for SB2411 on Feb 24, 2016 10:00AM  
**Date:** Wednesday, February 24, 2016 6:13:09 PM  
**Attachments:** [SB2411 SD1.docx](#)

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## **SB2411**

Submitted on: 2/24/2016

Testimony for JDL/WAM on Feb 24, 2016 10:00AM in Conference Room 211

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Karin Nomura	Individual	Support	No

Comments: I hope that each and every police officer is required to wear the cameras, and that it will eventually capture the verbal items as well. After the past 8 years, I don't think that change will occur till this happens, no matter how many times I speak out...

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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I fully support the movement for body cameras on police officers and on their vehicles – with what I hope will include sound as well – for both the protection of police officers and civilians alike. As after 8 years of dealing with police officers, who have told me “don’t call unless there’s blood”; “be brave, just go over there” – as in deal with it yourself, don’t call us; “if you want to file a police report, call 911 again, and someone will be sent out to take your statement, as I can only help you with what was originally called in” (3 uniformed police officers standing in front of me); “warning you – stop going to the Mayor, FBI...” with the whole “it’s just a trickle down effect”; “fill out your own reports”; etc. As this has plagued me since I moved here. With after hour shouts, from those claiming to be police officers and my neighbor’s home being a cross between the “this is the Honolulu Police Department” to various other agency’s – which I’ve contacted the police department to notify them, but was told that it’s not “illegal” to claim to be a “police officer” or that’s their “personal” even though they’re out here shouting “person of interest”/“get a warrant”/“we’re police family”/“get a court order”/with a very large interest in the defecation/urination of “her” – seemingly me. With after a formal – tried taking care of this without going to the PSO for years, prior to contacting a number of agencies as well – claim being dropped, and shouts of “prove it” or “proof is in the pudding”. Which would have been elevated simply with the body cams, hopefully GPS tracking of police vehicles, and hopefully eventually a means for capturing sound as well – so when officers come by and say “I can’t understand you” (even to me) or bypass us to speak to the person we called the police for, and come back to us, to say “nothing we can do about this”, that it’s recorded and what they “can’t do nothing about” is really about.

With hopefully protecting the police when they have to take down a non-cooperative party, with negative results – as I don’t believe that an officer should be held accountable/liable during a shoot out; hostile party, who refuses repeated attempts from a uniformed police officer, and suffers negative results from a tazer gun/pepper spray; or incidents of this nature. But when I have to hear “join the police force, than you can get away with stuff like this”...or go through what I’ve been going through for the past 8 years, I believe the police force needs to be monitored, and that it’s the lack of monitoring that has deteriorated my faith in the legal system as a whole now.

Not to mention, I hope that in future, what responses I receive from the main department transfers to actions by the officers arriving here, as I believe having body cams, with hopefully voice recording, will ensure compliance of. Also hope that they have voice recordings of the phone calls placed to 911 as in the “is it a small firework or a big firework” or “are they illegal fireworks” (even had one dispatcher tell me to leave messages on the website – which I started doing after calls to stop fireworks that were going on every 2-5 minutes never ended; saw one patrol car go by as fireworks went up even, and still not more than a minute, and fireworks were going on, and I was asking for assistance with the issue from before Thanksgiving, for a call of non-stop fireworks in my area or the refusal to even dispatch a police officer to my location.