



OFFICE OF INFORMATION PRACTICES

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To: House Committee on Judiciary
From: Cheryl Kakazu Park, Director
Date: March 18, 2016, 2:00 p.m.
State Capitol, Conference Room 325
Re: Testimony on S.B. No. 2411, S.D. 2
Relating to Law Enforcement Cameras

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 state 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. With or without this bill, **OIP anticipates 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 to acquire and use body-worn cameras. Thus, OIP expects to be dealing in the near future with increasing numbers of appeals from the public for the resulting footage as well as requests from police departments for guidance as to their UIPA responsibilities. **This bill is helpful, in that it does set reasonable statewide standards** for when body-worn camera recordings are definitively not public under the UIPA, and thus

reduces the need for OIP to analyze and opine on those non-public records. Therefore, **OIP supports the establishment of statewide standards**, as provided by the bill.

This bill, however, does not establish statewide standards for all body camera footage, such as those involving the use of force or a potential felony. Consequently, these remaining records not covered by this bill, which are the most controversial, would require careful analysis as to whether they 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**, especially if OIP

must review both the redacted and unredacted versions of multiple videos. Additionally, the sheer volume of body camera recordings would mean that even a small proportionate number of video requests resulting in appeals to OIP could **create substantial new work for our already burdened office.**

To give you an idea of the volume of recordings experienced elsewhere, the Seattle Police Department has estimated that it would take someone nearly 330 years working eight hours each business day to view its existing 700,000 hours of dash cam video, and that it expects to generate an additional 220,000 hours of body cam footage each year. Seattle had 1,289 police officers in 2015, and 640 of them will start wearing body cameras this fall. Since its body cam pilot project in 2014, Seattle has grappled with various issues concerning the public release of police videos, and almost shelved its body camera program when a requester sought release of all videos.

Based on the experience of Seattle and other police forces around the nation, 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. 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 trade-off 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 next year.

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 costs of redaction and 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.

In conclusion, **OIP supports the establishment of statewide standards** for the use of body cameras by police departments, **and requests additional resources** so that it can assist the public and the police in responding to their anticipated increases in appeals and requests for guidance concerning the disclosure of police videos.

Thank you for considering OIP's testimony.

TESTIMONY OF THE HAWAI'I POLICE DEPARTMENT

SENATE BILL 2411, SD2

RELATING TO LAW ENFORCEMENT CAMERAS

BEFORE THE COMMITTEE ON JUDICIARY

DATE : Friday, March 18, 2016

TIME : 2:00 P.M.

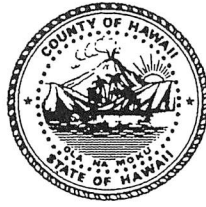
PLACE : Conference Room 325
State Capitol
415 South Beretania Street

PERSON TESTIFYING:

Police Chief Harry S. Kubojiri
Hawai'i Police Department
County of Hawai'i

(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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March 16, 2016

Representative Karl Rhoads
Chairman and Committee Members
Committee on Judiciary
415 South Beretania Street, Room 325
Honolulu, Hawai`i 96813

Re: SENATE BILL 2411, SD2, RELATING TO LAW ENFORCEMENT CAMERAS

Dear Representative Rhoads:

The Hawai`i Police Department supports a law enforcement camera program but **opposes** Senate Bill 2411, SD2, with its primary purposes being to establish requirements for body-worn cameras and vehicle cameras for county police departments; being to establish policy guidelines for the use and discontinuance of use of body-worn cameras by police officers; to establish certain restrictions on the use of body-worn cameras by on-duty police officers.

The Hawai`i Police Department supports a camera program but given some of this legislation's onerous provisions would probably have to **delay implementation** as meeting the requirements would be beyond our current financial capabilities.

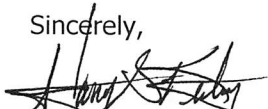
The issue of retention of the video for a three-year period of time carries with it an immense financial burden on the County Police Departments in terms of video storage capacity. Further, it would subject the County Police Departments to a plethora of public requests for release of the videos which 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 needing to hire at least double the projected manpower for complying with public requests for video footage.

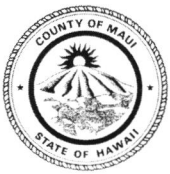
We believe this legislation as written lacks a law enforcement perspective with respect to some of the stated policies and procedures. For instance, those people who will ask not to be recorded are in all probability the very ones for which a body camera is best suited for.

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



ALAN M. ARAKAWA
MAYOR

OUR REFERENCE
YOUR REFERENCE

POLICE DEPARTMENT

COUNTY OF MAUI

55 MAHALANI STREET
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TIVOLI S. FAAUMU
CHIEF OF POLICE

DEAN M. RICKARD
DEPUTY CHIEF OF POLICE

March 17, 2016

LATE

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

RE: SB 2411, SD 2: RELATING TO LAW ENFORCEMENT CAMERAS

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

The Maui Police Department **STRONGLY OPPOSES** SB 2411, SD 2 relating to Law Enforcement Cameras.

This bill lacks not only acquired study information gained from numerous trainings and conferences attended by all local Law Enforcement Departments, it lacks the funding to create positions to handle the processing of digital videos, storage, redacting, and equipment to handle the situations created by this bill.

It has taken our Department several years to look into the use of the body worn camera because of the intense parameters that we have set to choosing a particular vendor to provide a service to our community, also taking into account laws regarding privacy, operating procedures, equipment servicing, storage and personnel to run the program.

The Maui Police Department feels that this effort, however positive, is rushing a process that needs to be taken at a steady pace to ensure that this program is done in a way to protect both the rights of the officer as well as all parties filmed during lawful police contacts. It is relatively new ground that our State is walking on and if a law is in place early on and we have not yet worked through most of the working issues, we will not only set back a great program, we may set bad case law that would not only affect our State but other States that may already have or are in the process of starting a body worn camera program.

The Honorable Karl Rhoads, Chair
March 17, 2016
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The Maui Police Department supports the body worn camera program but **STRONGLY OPPOSES** this bill as it lacks the law enforcement input and knowledge gained through years of research and careful planning.

Thank you for the opportunity to testify.

Sincerely,

A handwritten signature in black ink, appearing to read "Tivoli S. Faaumu". The signature is written in a cursive style with a large, sweeping flourish at the end.

TIVOLI S. FAAUMU
Chief of Police



POLICE DEPARTMENT COUNTY OF KAUAI



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LATE

TO: The Honorable Karl Rhoads, Chair
House Committee on Judiciary

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

Members of the House Committee on Judiciary

FROM: Roy A. Asher, Assistant Chief

DATE: March 17, 2016

SUBJECT: Testimony on S.B. No. 2411 SD2, Relating to Law
Enforcement Cameras

HEARING: Friday, March 18, 2016
2:00 p.m., Conference Room 325

Thank you for this opportunity to testify in opposition of
S.B. No. 2411 SD2, Relating to Law Enforcement Cameras.

Having served as a Police Officer in excess of 28 years, I
have experienced many changes, much of it through the
application of new technology. I am proud to have served for
such a long duration and would like to add that when I began my
career in law enforcement, there wasn't the daily use of
computers or even access to cellular communication, both of
which is now very prevalent.

I find myself involved in the forefront of adapting to new
technology for application in law enforcement. Having been a
part of the initial officers to implement our Department's
program, I observed firsthand the changes we've had to make from
the time of our initial conception of the program. Our program
could easily be described in this stage of implementation as a
"work in progress". It should be mentioned that the changes

we've identified and made so far could not have been anticipated without the actual launching of the program.

Having reviewed Senate Bill No. 2411 SD2, has raised some concerns for me. I do recognize that monitoring the program is vital to its success and that guidelines and protocols will need to be in place. However, to be truly successful, we have to have flexibility in our program directives and allow for officer's discretion for activation of the camera. S.B. 2411 SD2 is not entirely conducive or supportive of that.

I have taken the liberty of attaching our department's policy in regards to the Body Worn Camera for your perusal. You will see that we are stringent in our guidelines yet, have tempered it with a measure of officer's discretion. I strongly oppose giving the option of activation to the public we serve, for those who oppose its use, may very well be the ones that we implemented the program for. For certain members of the public, there are occasions and/or circumstances when the Body Worn Camera should be activated, regardless if the subject or suspect of the investigation objects. This also holds true for certain individuals that may be witnesses or complainants/victims who have a history of embellishing or retracting their initial statements.

Thank you for allowing me this opportunity to provide testimony. Should you need any clarification or wish further information please don't hesitate to contact me at (808) 241-1677.



KAUA'I POLICE DEPARTMENT



GENERAL ORDER

NUMBER 41.17	INDEX Body-Worn Camera System (BWCS)	NEW
ISSUE DATE 12/11/2015	CALEA STANDARDS	REVISED DATE 2/19/2016

I. PURPOSE:

- A. This policy is intended to provide officers with instructions on the use of the Body-Worn Camera System (BWCS) so that officers may record their activities and contacts with the public in accordance with the law.
- B. The use of the BWCS provides documentary evidence for criminal investigations, internal or administrative investigations, and civil litigation. Officers shall utilize this device in accordance with the provisions in this general order to maximize the effectiveness of the audio/visual files to achieve operational objectives and to ensure evidence integrity.
- C. The BWCS also provides additional information regarding investigative or enforcement contact with members of the public. BWCS recordings however, provide a limited perspective of the encounter and must be considered with all other available evidence, such as witness statements, officer interviews, forensic analysis, and documentary evidence.

II. DEFINITIONS:

- A. Body Worn Camera System (BWCS) - A portable audio/video recording system worn and used by Officers to document police related incidents and activities.
- B. File - For the purpose of this document, the term "file" refers to all sounds, images, and associated metadata.

III. POLICY:

- A. It is the policy of the Kaua'i Police Department (KPD) that officers activate the BWCS at times when in the performance of his/ her official duties, where the recordings are consistent with this policy and the law.
- B. It is KPD policy that all department issued BWCS shall be of a make, model, and capability approved by the Chief of Police or designee prior to issuance, purchase, and use.
- C. This policy does not govern the use of surreptitious recording devices used in undercover operations.

IV. PROCEDURES:

A. Administration

The Kauai Police department has adopted the use of the BWCS to accomplish several objectives. The primary objectives are as follows:

1. Assist officers with the accuracy of completing reports and testimony in legal proceedings.
2. Allow for accurate documentation of police to public contacts during arrests and critical incidents.
3. Assist in resolving complaints against officers including false allegations by members of the public.
4. Enhance the Department's ability to review arrests based on probable cause, officer and suspect interrogations, evidence for investigations and prosecutorial purposes.
5. Provide additional information for officer evaluation and training for continuous improvement.
6. Allow for documenting a crime or accident scenes or other event that includes the confiscation and documentation of evidence or contraband.
7. Promote accountability.

B. BWCS Equipment:

1. The BWCS equipment will consist of a body-mounted camera with a built-in microphone and a controller. The BWCS video and audio recordings are stored digitally on the BWCS camera and can be viewed on an approved handheld viewing device or an authorized computer.
2. The BWCS is equipped with a pre-event buffering feature that records video without audio. When an officer turns the device on it will record 30 seconds prior to activation.

C. Training:

1. Officer's who are assigned a BWCS must complete a Department approved and/or provided training program to ensure proper use and operation of the BWCS. Additionally, the training program shall cover updated information on what a reasonable expectation of privacy is in regards to BWCS, and current case law examples, if any. Training may also be required at periodic intervals to ensure the continued effective use of operation and performance, and to incorporate changes, updates, or other revisions in policy and equipment.

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Body-worn Camera System (BWCS)

D. When and how to use the BWCS:

1. There are many situations where the use of the BWCS is appropriate. This policy is not intended to describe every possible circumstance. In addition to the required conditions, officers may activate the system any time they feel its use would be appropriate and/or valuable to document an incident, subject to the limitations in section E and G.
2. Unless it is unsafe or impractical to do so, or mechanical issues that impede the use of the device are present, officers shall make every attempt to activate their BWCS prior to making contact.
3. When activation is required: Officers shall activate the BWCS to record all encounters with the public prior to contact except as provided in section IV.G. Exceptions to Recordings. This includes but is not limited to:
 - a. Dispatched calls for service.
 - b. Vehicle Stops.
 - c. Field Interviews.
 - d. Code 3 responses, including vehicle pursuits regardless of whether the vehicle is equipped with in-car video equipment.
 - e. Foot pursuits.
 - f. Searches.
 - g. Arrests.
 - h. Use of Force.
 - i. In-Custody Transports.
 - j. Witness and victim interviews except as specified below (Privacy Concerns).
 - k. Crowd control.
 - l. Any other contact that becomes adversarial after the initial contact in a situation that would not otherwise require recordings.

E. Privacy Concerns:

1. Officers are not required to obtain consent from members of the public when the officer is

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lawfully in the area where the recording takes place. However, whenever possible officers are encouraged to inform individuals that they are being recorded.

F. Recording of the Entire Contact:

1. The BWCS shall remain activated until the event or investigation has ended in order to ensure the integrity of the recording unless an exception from section IV. G applies.
2. If an officer terminates the recording pursuant to section IV. G, the officer shall verbally state on camera the reason for the termination. If the event or the investigation activity resumes, the officer shall activate the BWCS and continue recording.
3. If an officer fails to activate the BWCS, fails to record the entire contact, interrupts the recording, or terminates the recording, the officer shall document the reasons for non-activation; interruption; termination; or interruption on KPD form BWCS 01.
4. KPD BWCS 01 form is not required when the recording is stopped due to the end of a -public contact.
5. Officers shall not intentionally block or impede the audio or visual recording during an event or investigation.
6. The public shall not be allowed to review the recordings at the scene.

G. Exceptions to Recordings:

1. Officers are not required to activate and record investigative or enforcement encounters with the public when:
 - a. A witness or victim refuses to provide a statement if recorded and the encounter is non-confrontational.
 - b. In the officer's judgment, a recording would interfere with his or her ability to conduct an investigation, or may be inappropriate because of the victim's or the witnesses' emotional state, age, or other sensitive circumstance (victim of rape, incest, or other form of sexual assault).
 - c. Situations where the recording would risk the safety of confidential information, citizen informant(s), or undercover officer(s).
 - d. In-patient care areas of a hospital, rape treatment center, or other healthcare facility unless an enforcement action is taking place in these areas.

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- e. Situations where tactical planning, peer-to-peer discussions, and/or non-law enforcement discussions are occurring.

H. Operational/Functionality Procedures for BWCS Use:

1. BWCS equipment is issued primarily to uniformed personnel as authorized by KPD. Officers who are assigned BWCS equipment must use the equipment unless otherwise authorized by supervisory personnel.
2. Officers shall use only BWCS issued by the KPD. The BWCS equipment and all data, images, video and metadata captured, recorded, or otherwise produced by the equipment is the sole property of KPD.
3. BWCS equipment is the responsibility of individual officers and will be used with reasonable-care to ensure proper functioning. Equipment malfunctions shall be brought to the attention of the officer's supervisor as soon as possible so that a replacement unit may be procured. Refer to Section VII, Subsection B.
4. Officers shall inspect and test the BWCS prior to each shift in order to verify the equipment is properly charged and functioning. Officers shall notify their supervisor of any problem using form BWCS 01.
5. BWCS that are lost or stolen shall be reported to their immediate supervisor immediately using BWCS 01.
6. Officer's shall not attempt to make any repairs to the BWCS.
7. Officers shall position the camera outside of their uniform, facing forward and parallel on the collar, head mount, or glasses, to facilitate optimum recording field of view. The controller shall be mounted on either the chest loop of the officer's uniform or within one of the two shirt pockets. Other mounting options must be approved by the Chief of Police or his designee.
8. Officers are encouraged to inform their supervisors of any recordings that could be of value for training purposes using form BWCS 01.
9. Officers shall note within their written report when recordings were made during the incident in question. However, BWCS recordings are not a replacement for written reports.

Officers should continue to prepare reports in the same manner as prior to the implementation of this BWCS. Officers should not substitute "refer to video" for a detailed and thorough report. Officers are not required to use exact quotes, but may represent statements in their report as a summary of what is contained in the statement/video, such as, "In summary the victim related"

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Once video of evidentiary value is captured officers shall identify the audio/video file by:

- a. When assigned, noting the KPD Report Number or CAD number in the Case ID Field.
- b. Enter a title. The title should include sufficient information to identify the file, such as Offense, Suspect Name, and Location etc.
- c. Select the appropriate category(s).
- d. The information may be entered via approved handheld device, MDT, or KPD computer work station via Evidence.com website.

V. RESTRICTIONS ON USE OF THE BWCS OR ITS DATA:

BWCS shall be used only in conjunction with official law enforcement duties.

A. BWCS shall not be used to record:

- 1. Communications with other police personnel without the permission of the Chief of Police, except under exigent circumstances to include in-progress or hot pursuit circumstances.
- 2. Encounters with undercover officers or confidential informants.
- 3. When on break or otherwise engaged in personal activities.
- 4. In any location where individuals have reasonable expectation of privacy, such as a restroom or locker room, unless the recording is being made pursuant to an on-going investigation, arrest, or search.

B. Violations/Unauthorized Use:

- 1. It shall be deemed a violation of this policy for a supervisor to review recordings for the sole purpose of searching for violations of department policy or law not related to a specific complaint or incident.
- 2. Unauthorized use, duplication, and/or distribution of BWCS files are prohibited. Officers shall not make copies of any BWCS files for their personnel use and are prohibited from using a recording device such as a phone camera or secondary video camera to record BWCS files.
- 3. All recorded media images and audio from the BWCS are property of KPD and shall not be copied, released or disseminated in any form or manner outside the parameters of this policy without the express written consent of the Chief of Police, via KPD form BWCS 01.

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4. Officers shall use only the BWCS issued and approved by KPD for official police duties. The wearing of any other personal video recorder for the any purpose is not authorized without permission of the Chief of Police.

VI. STORAGE / ACCESSING OF FILES:

Access to the data from the BWCS is permitted on a right to know, need to know basis. Officers authorized under this policy may review audio/visual files according to the provision of this policy.

A. Storing of Files:

1. Files shall be securely downloaded periodically and no later than the end of each shift to Evidence.com through the docking station to ensure storage capacity is not exceeded and or to view uploaded audio/video. Each file shall contain information related to the date, BWCS identifier, and assigned Officer.
2. Audits of BWCS files shall be initiated by the system administrator to ensure only authorized users are accessing the data for legitimate and authorized purposes.
3. Files shall be secured in accordance with state records retention laws, and no longer than the useful purposes of training, investigations, and prosecution; including the appeal process.
4. If any officer is suspected of committing a violation of the Kaua'i Police Department's Standards of Conduct, committing a criminal act or is involved in an incident which falls under KPD'S Critical Incident protocol including Use of Force incidents where death or serious bodily injury occurred, officers shall not review the file without authorization from the Chief of Police or his designee. Refer to Section VI, Subsection B, 1c.

B. Accessing of Files

1. Once uploaded to Evidence.com, Officers may review the audio/video data as it relates to:
 - a. Their involvement in an incident for the purpose of completing a criminal investigation and preparing official reports.
 - b. Preparing for courtroom testimony or for courtroom presentation.
 - c. Providing a statement pursuant to an administrative inquiry, **except** for Critical Incidents or Use of Force Incidents where death or serious bodily injury occurred. Officers shall not review the file without authorization from the Chief of Police or his designee. Refer to Section IV, Subsection H, 10.
2. Officers shall not edit, alter, erase, duplicate, copy, share or otherwise distribute in any manner BWCS recordings without prior written authorization and approval of the Chief of Police or

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designee.

3. Prior to uploading a video to Evidence.com, Officers may review the audio/video data as it relates to:
 - a. Exigent circumstances, such as an officer being injured and to obtain identifying suspect information or other pertinent information.
 - b. Reviewing for report writing in the field (except as stated in B.1.c. above)
4. Evidence.com automatically date/time stamps and records each access by officer name.

VII. SUPERVISOR / ADMINISTRATOR RESPONSIBILITIES:

A. **Supervisor Responsibilities:**

1. Supervisory personnel shall ensure that officers equipped with BWCS devices utilize them in accordance with policy and procedures defined in this General Order.
2. The Office of Professional Standards will randomly review BWCS recordings periodically to ensure the equipment is working properly, that officers are using the devices appropriately and in accordance with policy, and to identify any areas in which additional training or guidance is required.
3. When critical incident(s) occurs, the on-scene supervisor, when safe and practical, shall retrieve the BWCS from the involved officer(s) at the scene. The supervisor will be responsible for assuring the camera is docked and videos are uploaded to Evidence.com.

B. **System Administrator Responsibilities: the System Administrators are designated by the Chief of Police and have oversight responsibilities to include but not limited to, the following:**

1. Operations and user administration of the system.
2. System evaluation.
3. Training.
4. Policy and procedure review and evaluation.
5. Coordinating with IT regarding system related issues.
6. Ensuring BWCS files of evidentiary value are secure and retained per this policy.
7. Ensuring BWCS files are reviewed and released in accordance with federal, state, local statutes,

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and KPD's retention policy.

C. BWCS File Requests

1. Any Departmental request shall be completed by the system administrator with the approval of the Chief of Police via KPD form BWCS 01.
2. All other requests, including media inquiries, for a copy of a BWCS file shall be accepted and processed in accordance with federal, state, local statutes and Departmental policy (public records act. etc.) as set forth in the General Order covering public records requests for body worn camera videos.
3. Copying Procedures:
 - a. Other than as provided in this General Order, no member of this Department shall download or copy any video from the Evidence.com onto any computer, device, drive, CD, DVD or any other format without the express consent of the Chief of the Police.
4. Investigators Conducting Criminal or Internal Investigations Shall:
 - a. Advise the System Administrator to restrict access/public disclosure of the BWCS video file in criminal or internal investigations, when necessary, via KPD form BWCS 01.
 - b. Document the reasons for access by entering the related KPD or IA Case Number on the BWCS "Notes" filed prior to viewing.
 - c. Review the file to determine whether the BWCS video file is of evidentiary value and process in accordance with established procedures.
 - d. Investigators shall notify the System Administrator to remove the access restriction when the investigation is closed.
5. BWCS Video Files Accessed for Training:
 - a. A BWCS video file may be utilized as a training tool for officers, specific units, and the Department as a whole. A recommendation to utilize a BWCS video file for such purposes may come from any source via KPD Form BWCS 01.
 - b. A person recommending utilization of a BWCS video file for training purposes shall submit the recommendation through the Chain of Command to the Chief of Police or his designee via KPD form BWCS 01.
 - c. If an involved officer or employee objects to the showing of a recording, his/her objection will be submitted to the Chief of Police or his designee to determine if the Officers'

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objection outweighs the training value.

- d. After a meeting with the affected Officer and his/her or chosen representative, the Chief of Police or designee shall review the recommendations and determine how best to utilize the BWCS video file considering the identity of the person(s) involved, sensitivity of the incident, and the benefit of utilizing the file versus other means. In a situation where the officer or employee objects because of concerns over embarrassment, the Chief of Police or designee will give strong consideration in not using the video for training purposes.

VIII. CATEGORY AND RETENTION:

A. Retention:

1. Officers utilizing the BWCS shall identify each file by category. In the event a file is taken that does not fall into a listed category and has no apparent evidentiary or administrative value, the officer may leave the file as uncategorized.
2. Categories and Retention Periods
 - a. Uncategorized (1 year)
 - b. Felony Cases (statute of limitations)
 - c. Misdemeanor Cases (statute of limitations)
 - d. Petty Misdemeanor Cases (statute of limitations)
 - e. Miscellaneous Cases (1 year)
 - f. Critical Incidents (statute of limitations)
 - g. Pursuits (3 years)
 - h. Traffic Stops (1 year)
 - i. Training (1 year)
 - j. Use of Force (3 years)
 - k. Citizen Complaints (1 years)
 - l. Litigation holds (until case is completed and appeal periods have expired)
3. Requests for Deletion of Accidental Recording: In the event of an accidental activation of the

GENERAL ORDER 41.17

Body-worn Camera System (BWCS)

BWCS where the resulting recording is of no investigative or evidentiary value, the recording Officer may request that the file be deleted by submitting an email request with sufficient information to locate the file to the Patrol Services Bureau District Commander or designee who shall review the file, approve or deny the request, and forward to the System Administrator for action, via KPD form BWCS 01.

B. Repair Procedures:

1. Officers shall immediately report any recognized problems with the BWCS to their immediate supervisor via KPD form BWCS 01.
2. Upon notification, the supervisor shall forward the identified issue or malfunction to the System Administrator or designee.
3. The System Administrator or designee will report unresolved deficiencies to TASER International via web based support at <http://www.taser.com/support/contact-us> by completing the required information on-line and describing the issue or defect in detail within the "Message" window provided.
4. The System Administrator shall provide the serial number of the unit needing service or repair and identify the unit as a TASER Axon Flex body worn camera or battery pack as appropriate. A TASER representative will contact the KPD BWCS System Administrator for resolution.

OFFICERS OF THE KAUA'I POLICE DEPARTMENT SHALL ADHERE TO THE PROVISIONS OF THIS DIRECTIVE.

APPROVED AS TO FORM AND LEGALITY

SIGNED	12/11/2015
Nicholas R. COURSON	Date
Deputy County Attorney	

APPROVED:

SIGNED	2/19/2016
Darryl D. PERRY	Date
Chief of Police	

GENERAL ORDER 41.17

Body-worn Camera System (BWCS)



KAUA'I POLICE DEPARTMENT



BODY WORN CAMERA SYSTEM (BWCS) REQUEST

KPD FORM NUMBER BWCS 01	INDEX Body-Worn Cameras System Request Form	NEW
ISSUE DATE 9/17/2014	Section(s) Completed:	REVISED DATE
INSTRUCTIONS	<ol style="list-style-type: none"> 1. Complete Section "A" for Access or Restriction to Evidence.com 2. Complete Section "B" for failing to record an event, disruption of recording 3. Complete Section "C" to request a digital reproduction service request 4. Complete Section "D" to request a Deletion of Accidental Recordings 5. Complete Section "E" to report damage(s), request for repair(s), replacement request to the BWCS 6. Send completed form to the Evidence.com system administrator 	
SECTION A: EVIDENCE.COM ACCESS		
Select One of the following options:	Security Access To:	Security Access From:
Employee Number:	Employee Name:	Title:
Employee Badge #:	Effective Date:	Requesting Supervisor Approval:
		Date/Time: /
COMMENTS (Explain Reason for Access Request):		
Department Head Signature:	Date/Time:	
System Administrator Use Only		
Date/Time Completed:	Completed by:	
SECTION B: FAILING TO RECORD AN EVENT OR DISRUPTION OF RECORDING		
Employee Number:	Employee Name:	Title:
Supervisor Approval:	Date/Time: /	
Report Number:	Offense:	
COMMENTS (Explain Reason for Failing to Record an Event or Disruption of Recording):		
Department Head Signature:	Date:	
SECTION C: DIGITAL REPRODUCTION REQUEST		
To:	From:	Date/Time: 2/22/2016 / 8:15 PM
Approving Supervisor Approval:	Date/Time: /	
Request digitized copies for the purpose of:		
Identifying Number:	Offense:	

GENERAL ORDER 41.17

Body-worn Camera System (BWCS)

COMMENTS (Explain Reason for Reproduction Request):

System Administrator Use Only

Date/Time Completed: _____ Completed by: _____

Records Use Only:

Date/Time Completed: _____ Completed by: _____

SECTION D: DELETION OF ACCIDENTAL RECORDING

To: **Officer Of Professional Services,
System Administrator**

Employee Number: _____ Employee Name: _____ Title: _____ Division: _____

Requesting Supervisor Approval: _____ Date/Time: _____

Identifying Number: _____ Offense: _____

COMMENTS (Explain Reason for Deletion Request):

Department Head Signature: _____ Date: _____

System Administrator Use Only

Date/Time Completed: _____ Completed by: _____

SECTION E: REPORT OF DAMAGE/REPAIR and or REPLACEMENT REQUEST

Select the appropriate action(s) check all that apply:

Report Damage(s) Request Repair (s) Request a Replacement

BWCS:

Make: _____ Model: _____ Serial No: _____

Employee Number: _____ Employee Name: _____ Title: _____ Division: _____

Employee Badge #: _____ Effective Date: _____ Requesting Supervisor Approval: _____ Date/Time: _____

COMMENTS (Describe Damages):

COMMENTS (Explain Request for Repair/Replacement):

Department Head Signature: _____ Date/Time: _____

System Administrator Use Only

Date/Time TASER International Contacted: _____ TASER Contact: _____

Date/Time BWCS Sent for Repair: _____

GENERAL ORDER 41.17

Body-worn Camera System (BWCS)

Comments:		
Date/Time Completed:	Completed by:	
BWCS: Issued New / Re-Issued		
Make:	Model:	Serial No:
BWCS Date/Time Completed:	Completed by:	

SHOPO



PRESIDENT
Tenari R. Ma'afala

VICE PRESIDENT
Malcolm Lutu

TREASURER
James "Kimo" Smith

SECRETARY
Michael Cusumano

DIRECTORS AT LARGE
Don Faumuina
John Haina
Erik Iinuma

HONOLULU CHAPTER CHAIR
Stanley Aquino

HAWAII CHAPTER CHAIR
Darren Horio

KAUAI CHAPTER CHAIR
Jesse Guirao

MAUI CHAPTER CHAIR
Barry Aoki

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Fax: (808) 934-8210

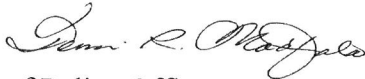
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Kauai Chapter Office
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Mailing Address:
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Lihue, Hawaii 96766
Ph: (808) 246-8911

TO: The Honorable Karl Rhoads, Chair
House Committee on Judiciary

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

Members of the House Committee on Judiciary

FROM: Tenari Ma'afala, President 
State of Hawaii Organization of Police Officers

DATE: March 15, 2016

SUBJECT: Testimony on S.B. No. 2411 SD2 , Relating to Law
Enforcement Cameras

HEARING: Friday, March 18, 2016
2:00 p.m. Conference Room 325

Thank you for the opportunity to provide testimony on this bill regarding body-worn cameras for police. The State of Hawaii Organization of Police Officers ("SHOPO") opposes this bill, in part, as to establishing requirements for use. SHOPO supports annual reporting of the costs of the body camera program and the appropriation for funding the programs in each county.

Kauai Police Department ("KPD") and SHOPO, together, developed an operational policy for body-worn cameras. Extensive research and police experience were used by both parties to build this policy. Most importantly, both KPD and SHOPO recognize and agree that this policy is a work-in-progress and will need to be adjusted as the officers and the community experience the use of these cameras. These cameras are revolutionizing policing as we know it nationally, and this policy will need to adapt quickly to the needs of the police and public. If the legislature mandates the county police departments' operational policies, crucial and needed adjustments cannot be made. Instead it may take up to a year or more to make any change at all.

Instead we respectfully suggest that Section 1 be amended to delete "(1) Establishing requirements for the use of body-worn cameras and vehicle cameras;" and that Section 2 be amended to delete its current content and either list: (1) additional annual reporting criteria, such as number of complaints involving video, and whether there was an increase or decrease in complaints; or (2) desired outcomes from the implementation of body-worn cameras.

In the testimony provided by SHOPO last session to this Committee on body-worn cameras, it was stated that an extensive study was conducted by the Department of Justice and the Police Executive Research Forum on body cameras, including convening a conference in 2013 with over 200 law enforcement officials, scholars, representatives from federal agencies, and other experts, for the purpose of gathering information on their experiences with body cameras. A publication resulted, entitled: “Implementing a Body-Worn Camera Program Recommendations and Lessons Learned”, which KPD and SHOPO utilized in shaping the body-worn camera systems policy.

The most successful police body-worn camera program will be the one that is the most responsive to changing needs and learned lessons along the way. Hawaii can be that leader in the implementation of body cameras for policing.

Thank you for your consideration of our testimony. SHOPO opposes in part and supports in part Senate Bill 2411 SD2.

Greetings Committee Chair Rhoads, my name is Lorentina Te'i and I am writing testimony to **SUPPORT** bill SB2411-SD2 (Relating to Law Enforcement body cameras.) This bill is a critical step to reforming the state's criminal justice system. Nationwide it has been both civilian and police footage that has exposed police misconduct on a national level. Police Chiefs (nationwide) have begun to understand the benefits of officers recording their interactions with the public. The videotaping of police encounters in Maui has demonstrated that this tool is not only beneficial for exposing corrupt police actors, but also is an important tool in protecting good officers from allegations that are untrue.

Although the county police union has objected to this legislation, all police agencies seem to understand and support the legislation (provided ample funding is included).

Ensuring that the public and police understand that all eyes constantly watch them is a necessary tool in stemming the current police practices that have led to this legislation. I cannot stress the importance of this legislation as it pertains to dealing with the greater problem of understanding what is needed to remedy the current police problems in this state. This legislation is a critical oversight tool that should be passed. I therefore **support** the passage of this legislation.

Greetings Committee Chair Rhoads, my name is **Jessica Agonias** and I am writing testimony to **SUPPORT** bill SB2411-SD2 (Relating to Law Enforcement body cameras.) This bill is a critical step to reforming the state's criminal justice system. Nationwide it has been both civilian and police footage that has exposed police misconduct on a national level. Police Chiefs (nationwide) have begun to understand the benefits of officers recording their interactions with the public. The videotaping of police encounters in Maui has demonstrated that this tool is not only beneficial for exposing corrupt police actors, but also is an important tool in protecting good officers from allegations that are untrue.

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SB 2411

Greetings Committee Chair Rhoads, my name is John Figueroa and I am writing testimony to **SUPPORT** bill SB2411-SD2 (Relating to Law Enforcement body cameras.) This bill is a critical step to reforming the state's criminal justice system. Nationwide it has been both civilian and police footage that has exposed police misconduct on a national level. Police Chiefs (nationwide) have begun to understand the benefits of officers recording their interactions with the public. The videotaping of police encounters in Maui has demonstrated that this tool is not only beneficial for exposing corrupt police actors, but also is an important tool in protecting good officers from allegations that are untrue.

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Greetings Committee Chair Rhoads, my name is Paulo O.J Paulo and I am writing testimony to **SUPPORT** bill SB2411-SD2 (Relating to Law Enforcement body cameras.) This bill is a critical step to reforming the state's criminal justice system. Nationwide it has been both civilian and police footage that has exposed police misconduct on a national level. Police Chiefs (nationwide) have begun to understand the benefits of officers recording their interactions with the public. The videotaping of police encounters in Maui has demonstrated that this tool is not only beneficial for exposing corrupt police actors, but also is an important tool in protecting good officers from allegations that are untrue.

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THE CIVIL BEAT
LAW CENTER FOR THE PUBLIC INTEREST

700 Bishop Street, Suite 1701
Honolulu, HI 96813

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info@civilbeatlawcenter.org

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

RE: Testimony Opposing S.B. 2411 S.D. 2, Relating to Law Enforcement Cameras
Hearing: March 18, 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. 2411 S.D. 2. The Law Center **opposes the expansive breadth of the confidentiality provision in this bill**. Attached is a proposal to rebalance the bill consistent with our State's existing standards of transparency and privacy.

S.B. 2411 S.D. 2 only provides police accountability if footage is publicly accessible. *Body camera video would be far less accessible under S.B. 2411 than under existing law.* As currently drafted, the only video that could possibly be disclosed by a law enforcement agency is video that involves use of force or felony conduct. All other video – regardless of the circumstances – would be confidential. *The absolute confidentiality provision in S.B. 2411 S.D. 2 – proposed section 52D-E(c) – should be severely curtailed.*¹

Under existing law, law enforcement agencies are authorized to withhold videos based on privacy concerns or frustration of a legitimate government function. HRS § 92F-13(1) & (3). These existing public records exemptions examine each video on a case-by-case basis to determine whether disclosure is appropriate. Departments may obscure faces or redact audio – depending on the circumstances – to protect personal information or an ongoing investigation.² But that fact-sensitive analysis will not occur under S.B. 2411. Under S.B. 2411, if a video does not involve use of force or felony conduct, there is no further analysis; the record is simply not publicly accessible.

¹ The Law Center does not object to absolute confidentiality (as currently provided in S.B. 2411) for *non-evidentiary* video – *i.e.*, video categorized in subsection (a) and (b)(2)(D)-(G) of proposed § 52D-E.

² As leading privacy advocates have noted: “If recordings are redacted, they should be discloseable [sic].” *E.g.*, ACLU, *Police Body-Mounted Cameras: With Right Policies in Place, a Win for All* at 7 (March 2015), at https://www.aclu.org/sites/default/files/assets/police_body-mounted_cameras-v2.pdf.

The Law Center is not advocating for mandatory disclosure of any category of video. Even use of force and felony conduct footage should be subject to case-by-case analysis because each police encounter is unique. There will be instances, however, when misdemeanor conduct, arrests, or other evidentiary video by officers will have significant public interest. The public should be able to request videos (and law enforcement agencies the leeway to disclose videos) subject to the well-established public records standards.

Lastly, please note that concerns expressed about the costs for law enforcement agencies to redact body camera video frequently are overstated. Digital-tracking technology provides agencies the ability to mark an individual for obscurity throughout a video with minimal effort. *E.g.*, Axon, *The Future of FOIA: Find, Redact, Deliver*, at <http://www.axon.io/webinar/follow-up-redaction> (presentation by TASER International's technology unit regarding the ease of using its automated video redaction tool for Evidence.com, a digital evidence management platform); Yale Law School Media Freedom & Information Access Clinic, *Police Body Cam Footage: Just Another Public Record* at 23 (December 2015) (describing other automated blurring tools available at little or no cost).³ Thus, the technology exists to redact body camera videos when necessary to protect personal privacy.

Thank you again for the opportunity to testify.

³ Available at http://isp.yale.edu/sites/default/files/publications/police_body_camera_footage-just_another_public_record.pdf.

Proposed Amendment to Section 52D-E

* * *

- (c) The following video footage shall be exempt from the public inspection requirements of chapter 92F:
- (1) Video footage not subject to a minimum three-year retention period pursuant to subsection (b);
 - ~~(2) Video footage that is subject to a minimum three-year retention period solely and exclusively pursuant to subsection (b) (1) (C), if the subject of the video footage making the complaint requests the video footage not be made available to the public;~~
 - ~~(3)~~(2) Video footage that is subject to a minimum three-year retention period solely and exclusively pursuant to subsection (b) (2) (A), (B), (C), or (D); and
 - ~~(4)~~(3) Video footage that is subject to a minimum three-year retention period solely and exclusively pursuant to subsection (b) (2) (E), (F), or (G), if the person making the request requests the video footage not be made available to the public.
- (d) Individuals depicted in or identified by any of the following categories of video footage shall be presumed to have significant privacy interests in the information contained in the video footage. Consistent with sections 92F-13 and 92F-14, disclosure of this video footage shall constitute a clearly unwarranted invasion of personal privacy unless the public interest in disclosure outweighs the privacy interests of the individual.
- (1) Video footage that is subject to a minimum three-year retention period solely and exclusively pursuant to subsection (b) (1) (C), if the subject of the video footage making the complaint requests the video footage not be made available to the public; and
 - (2) Video footage that is subject to a minimum three-year retention period solely and exclusively pursuant to subsection (b) (2) (A), (B), or (C).



Committee: Committee on Judiciary
Hearing Date/Time: Friday, March 18, 2016, 2:00 p.m.
Place: Conference Room 325
Re: *Testimony of the ACLU of Hawaii in Support of S.B. 2411, S.D.2, Relating to Law Enforcement Cameras*

Dear Chair Rhoads and Members of the Committee on Judiciary:

The American Civil Liberties Union of Hawaii (“ACLU of Hawaii”) writes in support of S.B. 2411, S.D.2, 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. The ACLU strongly supports this measure as currently written; however, we would also support a number of amendments (as set forth below) should the Committee wish to adopt them.

Body cameras protect police officers and the general public

Body-worn police officer cameras may reduce use-of-force and citizen complaints, and may deter bad behavior of both law enforcement officers and members of the public. A study conducted from 2012 to 2013 found an overall 60% reduction in use-of-force incidents after the body cameras were deployed (thus improving safety both for the individual officers and for the general public), and an 88% reduction in citizen complaints between the year prior to and following deployment.¹ Another study saw a 75% reduction in injuries to suspects at the hands of officers using body cameras.² Reducing use-of-force incidents and injuries to suspects would likely increase public trust in our officers, making law enforcement stronger. Additionally, footage captured by police office body cameras can offer exonerating evidence for officers falsely accused of misconduct and help to quickly resolve potential complaints.³

Body cameras are already in use

Police departments on both Maui and Kauai have begun the process of implementing body-worn cameras. Maui County has already conducted a pilot project, and Mayor Alan Arakawa

¹ See Lindsay Miller, Jessica Toliver & Police Executive Research Forum, *Implementing a Body-Worn Camera Program: Recommendations and Lessons Learned*, Community Oriented Policing Services, U.S. Dep’t of Justice at 5 (2014), available at <https://www.justice.gov/iso/opa/resources/472014912134715246869.pdf>.

² See David Harris, *Study: OPD body cams help reduce complaints, injuries*, Orlando Sentinel (Oct. 9, 2015), available at <http://www.orlandosentinel.com/news/breaking-news/os-opd-body-cameras-research-20151009-story.html>.

³ See Michael D. White, *Police Officer Body-Worn Cameras: Assessing the Evidence*, Community Oriented Policing Services, U.S. Dep’t of Justice (2014), at 24, available at <https://www.ojpdiagnosticcenter.org/sites/default/files/spotlight/download/Police%20Officer%20Body-Worn%20Cameras.pdf>.

announced that the Maui P.D. “should be rolling out body cameras by the end of the year.”⁴ As such, there is an urgent need for the Legislature to pass clear, uniform, state-wide guidance to ensure that law enforcement officers across the state have consistent policies when using body-worn cameras. S.B. 2411, S.D.2 strikes the right balance between government accountability and individual privacy by setting clear guidance for the retention/deletion of footage, operation of cameras, and disclosure of footage.

Funding is available for the implementation of body-worn cameras

Federal funding is available for the purchase of body-worn police cameras. In 2015, the U.S. Department of Justice (“DOJ”), through its Bureau of Justice Assistance (“BJA”), announced over \$22 million in available grants to assist local and tribal law enforcement agencies in the implementation of body-worn camera programs.⁵ Maui has received at least \$78,000 through this grant.⁶

Suggestions regarding funding and HRS chapter 92F

While the ACLU of Hawaii supports this bill as currently written, we would also support the following amendments:

- (1) Disbursing matching funds through the Department of the Attorney General, rather than directly to the individual counties, and authorize the Department to promulgate administrative rules (if necessary) to effectuate the intent of this measure;
- (2) Changing the effective date of this measure to January 1, 2017, to allow a period of transition; and
- (3) Changing sections 52D and 52E in accordance with suggestions made by the Civil Beat Law Center regarding HRS chapter 92F

⁴ Mayor Arakawa: *State of the County is “One of Perpetual Change,”* Maui Now (Mar. 15, 2016), available at <http://mauinow.com/2016/03/14/mayor-arakawa-state-of-the-county-is-one-of-perpetual-change/>; *Maui mayor addresses body cameras, misspending in State of the County*, KHON2 News (Mar. 14, 2016), available at <http://khon2.com/2016/03/14/maui-mayor-addresses-body-cameras-misspending-in-state-of-the-county/>.

⁵ See *Body-Worn Camera Program Fact Sheet*, Bureau of Justice Statistics, U.S. Dep’t of Justice (2015), available at <https://www.bja.gov/bwc/pdfs/BWCPIP-Award-Fact-Sheet.pdf>.

⁶ *Maui police to test body cameras on Halloween*, Honolulu Star-Advertiser (Oct. 24, 2015), available at <http://www.staradvertiser.com/breaking-news/maui-police-to-test-body-cameras-on-halloween/>.

Chair Rhoads and Members of the Committee
March 18, 2016
Page 3 of 3

Thank you for the opportunity to testify.

Sincerely,

A handwritten signature in black ink that reads "Mandy Finlay". The signature is written in a cursive, flowing style.

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.

American Civil Liberties Union of Hawai'i
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E: office@acluhawaii.org
www.acluhawaii.org

Greetings Committee Chair Rhoads, my name is Roy Lovell and I am writing testimony to **SUPPORT** bill SB2411-SD2 (Relating to Law Enforcement body cameras.) This bill is a critical step to reforming the state's criminal justice system. Nationwide it has been both civilian and police footage that has exposed police misconduct on a national level. Police Chiefs (nationwide) have begun to understand the benefits of officers recording their interactions with the public. The videotaping of police encounters in Maui has demonstrated that this tool is not only beneficial for exposing corrupt police actors, but also is an important tool in protecting good officers from allegations that are untrue.

Although the county police union has objected to this legislation, all police agencies seem to understand and support the legislation (provided ample funding is included).

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Greetings Committee Chair Rhoads, my name is Kenneth Clark and I am writing testimony to **SUPPORT** bill SB2411-SD2 (Relating to Law Enforcement body cameras.) This bill is a critical step to reforming the state's criminal justice system. Nationwide it has been both civilian and police footage that has exposed police misconduct on a national level. Police Chiefs (nationwide) have begun to understand the benefits of officers recording their interactions with the public. The videotaping of police encounters in Maui has demonstrated that this tool is not only beneficial for exposing corrupt police actors, but also is an important tool in protecting good officers from allegations that are untrue.

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Greetings Committee Chair Rhoads, my name is _____ and I am writing testimony to **SUPPORT** bill SB2411-SD2 (Relating to Law Enforcement body cameras.) This bill is a critical step to reforming the state's criminal justice system. Nationwide it has been both civilian and police footage that has exposed police misconduct on a national level. Police Chiefs (nationwide) have begun to understand the benefits of officers recording their interactions with the public. The videotaping of police encounters in Maui has demonstrated that this tool is not only beneficial for exposing corrupt police actors, but also is an important tool in protecting good officers from allegations that are untrue. Although the county police union has objected to this legislation, all police agencies seem to understand and support the legislation (provided ample funding is included).

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Greetings Committee Chair Rhoads, my name is Christina R Badua and I am writing testimony to **SUPPORT** bill SB2411-SD2 (Relating to Law Enforcement body cameras.) This bill is a critical step to reforming the state's criminal justice system. Nationwide it has been both civilian and police footage that has exposed police misconduct on a national level. Police Chiefs (nationwide) have begun to understand the benefits of officers recording their interactions with the public. The videotaping of police encounters in Maui has demonstrated that this tool is not only beneficial for exposing corrupt police actors, but also is an important tool in protecting good officers from allegations that are untrue. Although the county police union has objected to this legislation, all police agencies seem to understand and support the legislation (provided ample funding is included).

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Greetings Committee Chair Rhoads, my name is William Moore and I am writing testimony to **SUPPORT** bill SB2411-SD2 (Relating to Law Enforcement body cameras.) This bill is a critical step to reforming the state's criminal justice system. Nationwide it has been both civilian and police footage that has exposed police misconduct on a national level. Police Chiefs (nationwide) have begun to understand the benefits of officers recording their interactions with the public. The videotaping of police encounters in Maui has demonstrated that this tool is not only beneficial for exposing corrupt police actors, but also is an important tool in protecting good officers from allegations that are untrue.

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Greetings Committee Chair Rhoads, my name is Tim Baker and I am writing testimony to **SUPPORT** bill SB2411-SD2 (Relating to Law Enforcement body cameras.) This bill is a critical step to reforming the state's criminal justice system. Nationwide it has been both civilian and police footage that has exposed police misconduct on a national level. Police Chiefs (nationwide) have begun to understand the benefits of officers recording their interactions with the public. The videotaping of police encounters in Maui has demonstrated that this tool is not only beneficial for exposing corrupt police actors, but also is an important tool in protecting good officers from allegations that are untrue.

Although the county police union has objected to this legislation, all police agencies seem to understand and support the legislation (provided ample funding is included).

Ensuring that the public and police understand that all eyes constantly watch them is a necessary tool in stemming the current police practices that have led to this legislation. I cannot stress the importance of this legislation as it pertains to dealing with the greater problem of understanding what is needed to remedy the current police problems in this state. This legislation is a critical oversight tool that should be passed. I therefore **support** the passage of this legislation.

Before the House Committee on
JUDICIARY

Friday, March 18, 2016
2:00 PM
State Capitol, Room 325

In consideration of
SENATE BILL 2411-SD2
RELATING TO A LAW ENFORCEMENT BODY CAMERAS

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. I have also been privileged to be included in senatorial legislative working groups that provided input on several of this year's bills that dealt with police oversight reform. Based on the work and research that I have been privileged to be a part of, I **SUPPORT** SB2411-SD2 (Law Enforcement Body Cameras), **but** continue to strongly **recommend the following amendment** be made to the language of the bill.

The primary issue lay with custodial evidence of the tape once it has been recorded. Specifically:

552D-E Body-worn camera video footage; retention and deletion .

(a) Body-worn camera video footage shall be retained by the agency that employs the law enforcement officer whose camera captured the video footage, or an authorized agent thereof, for one year for non-criminal cases from the date it was recorded.

INSTEAD

552D-E Body-worn camera video footage; retention and deletion .

(a) Body-worn camera video footage shall be retained by the ~~agency that employs the law enforcement officer whose camera captured the video footage~~ **county police commission of the agency that employs the law enforcement officer, or the state attorney general should there be no county police commission option available**, for one year for non-criminal cases from the date it was recorded.

Because police videotape have been evidentiary in several police misconduct cases, many policing and governmental bodies have decided that the state level oversight agency (Standards and Training Board) is the best agency to handle and review police videos. Having a neutral custodian of the evidence is both judicially prudent and common sense. Based on Hawaii's unique oversight system that prevents a

(non-legislatively created) Standards and Training Board from being the clearinghouse of all Law Enforcement data (including videotapes), the suggestion is to empower local County Police Commissions or a department within the State Attorney General to maintain and review video collected from their local police agencies.

This amendment to the bill would also move towards rectifying freedom of information requests with police records that was encountered by Hawaiian investigative journalists during the Honolulu Police handling of the Darren Cachola incident.¹ In that case the media was provided with pages of redacted information, or were told that information that would cast light on how managers reacted to the investigation would cost hundreds of thousands of dollars.² The videotapes must not be allowed to be made bureaucratically unavailable by police agents who are invested in what may be revealed on the requested videos.

For these reason, this bill should be amended to address the custodianship of the videos. If amended, this will become an extremely strong tool for legislators in police oversight and accountability reform.

Bibliography

Mangieri, G. (2015, April 27). *Tracking truth, transparency promises at HPD*. Retrieved from khon2.com: <http://khon2.com/2015/04/27/tracking-truth-transparency-promises-at-hpd-2/>

¹ (Mangieri, 2015)

² (Mangieri, 2015)

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, March 16, 2016 8:52 AM
To: JUDtestimony
Cc: leuluniuotineru@yahoo.com
Subject: Submitted testimony for SB2411 on Mar 18, 2016 14:00PM

SB2411

Submitted on: 3/16/2016

Testimony for JUD on Mar 18, 2016 14:00PM in Conference Room 325

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

Comments: Greetings Committee Chair Rhoads, my name is Leuluniu Otineru and I am writing testimony to SUPPORT bill SB2411-SD2 (Relating to Law Enforcement body cameras.) This bill is a critical step to reforming the state's criminal justice system. Nationwide it has been both civilian and police footage that has exposed police misconduct on a national level. Police Chiefs (nationwide) have begun to understand the benefits of officers recording their interactions with the public. The videotaping of police encounters in Maui has demonstrated that this tool is not only beneficial for exposing corrupt police actors, but also is an important tool in protecting good officers from allegations that are untrue. Although the county police union has objected to this legislation, all police agencies seem to understand and support the legislation (provided ample funding is included). Ensuring that the public and police understand that all eyes constantly watch them is a necessary tool in stemming the current police practices that have led to this legislation. I cannot stress the importance of this legislation as it pertains to dealing with the greater problem of understanding what is needed to remedy the current police problems in this state. This legislation is a critical oversight tool that should be passed. I therefore support the passage of this legislation.

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SB2411

Submitted on: 3/16/2016

Testimony for JUD on Mar 18, 2016 14:00PM in Conference Room 325

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

Comments: Once Police Departments are up and running. Then see if these kinds of bills are necessary.

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SB2411

Submitted on: 3/16/2016

Testimony for JUD on Mar 18, 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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