

OFFICE OF INFORMATION PRACTICES

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To: Senate Committee on Public Safety, Intergovernmental,
and Military Affairs

From: Cheryl Kakazu Park, Director

Date: March 14, 2017, 1:15 p.m.
State Capitol, Conference Room 229

Re: Testimony on H.B. No. 456, H.D. 1
Relating to Public Safety

Thank you for the opportunity to submit testimony on this bill. The Office of Information Practices (“OIP”) **supports this bill**, which would amend the Uniform Information Practices Act (“UIPA”), chapter 92F, HRS, to limit a clause giving special treatment to information about police officers’ misconduct. **The proposal would only protect from public disclosure an officer’s first suspension within five years, and would require police departments to include information about second or subsequent suspensions in their annual reports to the Legislature.**

In section 92F-14(b)(4), HRS, the UIPA recognizes a government employee’s significant privacy interest in information about possible misconduct, up to a point. While all other government employees’ misconduct information becomes public if the misconduct resulted in suspension or termination, the current law gives police officers a special statutory privacy interest even in information about misconduct that resulted in suspension. This bill would limit the special statutory privacy interest to apply only to an officer’s first suspension within a five-year

period. If a police officer is suspended for a second time within a five-year period, the officer must be identified in the police department's annual report to the Legislature.

The UIPA amendment proposed by this bill still would not place police officers on the same footing as all other government employees for public disclosure of misconduct information, but it would at least close part of the gap and provide a greater level of government accountability. Therefore, OIP supports this bill.

POLICE DEPARTMENT
CITY AND COUNTY OF HONOLULU

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KIRK CALDWELL
MAYOR

~~LOUIS M. KEATOH~~
CHIEF

CARY OKIMOTO
JERRY INOUE
DEPUTY CHIEFS

OUR REFERENCE CO-MM

March 14, 2017

The Honorable Clarence K. Nishihara, Chair
and Members
Committee on Public Safety, Intergovernmental,
and Military Affairs
State Senate
Hawaii State Capitol
415 South Beretania Street, Room 229
Honolulu, Hawaii 96813

Dear Chair Nishihara and Members:

SUBJECT: House Bill No. 456, HD1, Relating to Public Safety

I am Cary Okimoto, Acting Chief of Police of the Honolulu Police Department (HPD), City and County of Honolulu.

The HPD supports the passage of House Bill No. 456, HD1, Relating to Public Safety.

The HPD already discloses the names of officers who have been discharged from the department, and this bill would add in the names of the officers who have been suspended twice within a five-year period. We believe that this bill is reasonable. We feel that it will encourage public trust by providing additional information on officer misconduct. At the same time, it withholds the names of officers who have committed minor infractions, such as turning in a late mileage slip or missing the deadline for special duty.

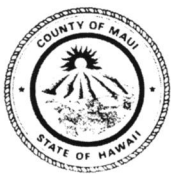
As the acting chief, I am very aware of the public's push for transparency and accountability. We agree that more information should be provided, and we see this bill as a step in the right direction.

Thank you for the opportunity to testify.

Sincerely,

A handwritten signature in black ink, appearing to read "Cary Okimoto", is written over a large, stylized, circular scribble.

Cary Okimoto
Acting Chief of Police



ALAN M. ARAKAWA
MAYOR

OUR REFERENCE

YOUR REFERENCE

POLICE DEPARTMENT

COUNTY OF MAUI

55 MAHALANI STREET
WAILUKU, HAWAII 96793
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March 14, 2017



TIVOLI S. FAAUMU
CHIEF OF POLICE

DEAN M. RICKARD
DEPUTY CHIEF OF POLICE

The Honorable Clarence K. Nishihara Chair
The Honorable Glenn Wakai, Vice Chair
And Members of the Committee on Interstate Commerce

The Senate
State Capitol
Honolulu, Hawaii 96813

RE: House Bill No. 456, House Draft 1, RELATING TO PUBLIC SAFETY

Dear Chair Nishihara and Members of the Committee:

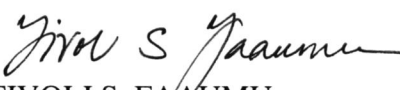
The Maui Police Department OPPOSES H.B. 456, H.D. 1 which would require police departments to disclose to the legislature the identity of a police officer upon the officer's second suspension in a five-year period or discharge.

The Uniform Information Practices Act (UIPA), Hawaii Revised Statutes section 92F-14(b)(4)(B) provides that a police officer does not have a significant privacy interest regarding employment misconduct that results in a discharge, ninety days after the highest non-judicial grievance adjustment procedure has concluded and a decision has been issued sustaining the discharge. Thus, UIPA already provides access to a police officer's name who has been discharged when this period ends.

Under existing law as recently interpreted by the Hawai'i Supreme Court in "Peer News LLC vs City and County of Honolulu, No. SCAP-14-889 (June 9, 2016), police departments must weigh public interest in the disclosure of police disciplinary suspension matters against the privacy interest of individual police officers. In essence, disciplinary suspensions are not necessarily exempt from disclosure under UIPA.

The Maui Police Department asks that you OPPOSE H.B. No. 456, H.D. 1.

Sincerely,


TIVOLI S. FAAUMU
Chief of Police



March 14, 2017

Sen. Clarence Nishihara
Committee on Public Safety Intergovernmental and Military Affairs
State Capitol
Honolulu, HI 96813

Re: HB 456, HD 1

Sen. Nishihara and Committee Members:

We support this bill, which would allow explicit disclosure of the name of a police officer suspended for the second time within five years.

We would prefer that the names of disciplined police officers be made public as are the identities of other disciplined government servants but recognize this as a first step.

Such openness is warranted for officers who must be accountable to the public because of their powers.

Sincerely,

Stirling Morita
President, Hawaii Chapter SPJ

SHOPO



PRESIDENT

Tenari R. Ma'afala

VICE PRESIDENT

Malcolm Lutu

TREASURER

James "Kimo" Smith

SECRETARY

Michael Cusumano

DIRECTORS AT LARGE

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Barry Aoki

TO: The Honorable Clarence K. Nishihara, Chair
Senate Committee on Public Safety, Intergovernmental, and
Military Affairs

The Honorable Glenn Wakai, Vice-Chair
Senate Committee on Public Safety, Intergovernmental, and
Military Affairs

Members of the Senate Committee on Public Safety,
Intergovernmental, and Military Affairs

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

DATE: March 13, 2017

SUBJECT: Testimony on H.B. No. 456 HD1, Relating to Public Safety

HEARING: Tuesday, March 14, 2017
1:15 p.m. Conference Room 229

Thank you for the opportunity to provide testimony on this bill regarding provision of a police officer's name who has been discharged, or suspended for the second time in a five-year period. The State of Hawaii Organization of Police Officers ("SHOPO") opposes H.B. 456 HD1.

Currently, the Uniform Information Practices Act ("UIPA"), Hawaii Revised Statutes section 92F-14(b)(4)(B), provides that a police officer does not have a significant privacy interest regarding employment misconduct that results in a discharge, ninety days after the highest nonjudicial grievance adjustment procedure has concluded and a decision has been issued sustaining the discharge. Thus, UIPA already provides access to a police officer's name who has been discharged when this period ends.

Additionally, suspensions can result for a variety of reasons, including being late to work, turning in a mileage slip late, missing court, etc. Police officers should not be publicly named and shamed for suspensions.

Further, the Hawaii Supreme Court, in Peer News LLC dba Civil Beat v. City and County of Honolulu and Honolulu Police Department, and State of Hawaii Organization of Police Officers (Hawai'i, 2016), recognized that Hawaii Revised Statutes section 92F-2 provides in relevant part:

The policy of conducting government business as openly as possible must be tempered by a recognition of the right to people to privacy, as embodied in section 6 and section 7 of the constitution of the state of Hawai'i.

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The Court concluded that:

HRS § 92F-14 recognizes a significant privacy interest in police officers' disciplinary suspension records, and this interest must be balanced against the public interest in disclosure of the requested records.

This Civil Beat case was sent back to the Circuit Court to come up with the factors for the balancing test, and to balance each officer's privacy in their suspension record versus the public's interest in knowing about that particular suspension.

Finally, please keep in mind that a police officer's job is like no other government employee. Police Officers respond to robberies with suspects armed with shotguns, affrays with people fighting with baseball bats, and domestic violence cases, to name a few. No one is happy when they are pulled over for speeding. Yet how often does speed cause fatalities? Police Officers frequently interact with people when people are at their worst.

Thus, SHOPO opposes this bill and recommends that this Committee defer this bill so that the court can determine the factors to weigh in making a determination as to whether to release police officer suspension records or not. Thank you for consideration of our testimony.



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SENATE COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL, AND MILITARY AFFAIRS
Tuesday, March 14, 2017, 1:15 PM, Conference Room 229
HB 456, HD 1 RELATING TO PUBLIC SAFETY

TESTIMONY

Douglas Meller, Legislative Committee, League of Women Voters of Hawaii

Chair Nishihara and Committee Members:

The League of Women Voters of Hawaii supports the intent of HB 456, HD 1 because the bill explicitly requires disclosure of the identify of any police officer upon the officer's second suspension in a five-year period,

The League of Women Voters of Hawaii requests that this Committee amend HB 456, HD 1 so that UIPA unquestionably applies to ALL suspensions of police officers in exactly the same way that UIPA applies to all suspensions of other public employees. It should not be necessary to file a lawsuit and obtain a court order to compel a county police department to disclose the identity of, and summary information about misconduct by, police officers who have been suspended but not discharged for serious misconduct.

Thank you for the opportunity to submit testimony.

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, March 12, 2017 1:29 PM
To: PSMTestimony
Cc: maukalani78@hotmail.com
Subject: *Submitted testimony for HB456 on Mar 14, 2017 13:15PM*

HB456

Submitted on: 3/12/2017

Testimony for PSM on Mar 14, 2017 13:15PM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
E. Ileina Funakoshi	Individual	Support	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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From: mailinglist@capitol.hawaii.gov
Sent: Saturday, March 11, 2017 4:43 PM
To: PSMTestimony
Cc: victor.ramos@mpd.net
Subject: *Submitted testimony for HB456 on Mar 14, 2017 13:15PM*

HB456

Submitted on: 3/11/2017

Testimony for PSM on Mar 14, 2017 13:15PM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Victor K. Ramos	Individual	Oppose	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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