



March 17, 2017

To: Representative Dee Morikawa, Chair
Representative Chris Todd, Vice Chair and
Members of the Committee on Human Services

From: Jeanne Y. Ohta, Co-Chair

RE: SB519 SD2 Relating to Domestic Violence
Hearing: Friday, March 17, 2017, 9:30 a.m., Room 329

POSITION: SUPPORT

The Hawai'i State Democratic Women's Caucus writes in support of SB 519 SD2 Relating to Domestic Violence which would specify that citizen complaints against a police officer that involve allegations of domestic abuse against a family or household member on the part of the police officer shall not be required to be in writing or sworn to by the complainant.

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

The Hawai'i State Democratic Women's Caucus is a catalyst for progressive, social, economic, and political change through action on critical issues facing Hawaii's women and girls.

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



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March 16 , 2017

TO: Honorable Chair Morikawa and Members of the Human Services Committee

RE: SB 519 SD1 Relating to Domestic Violence
Support for hearing on March 17

Americans for Democratic Action is an organization founded in the 1950s by leading supporters of the New Deal and led by Patsy Mink in the 1970s. We are devoted to the promotion of progressive public policies.

We support SB 519 SD2 as it would remove the requirement that domestic violence complaints against police officers must be in writing or sworn to by the complainant. Requiring this reduces an obstacle a victim has to overcome to report abuse.

We support the Commission on the Status of Women. The Commission received over thirty complaints from women in the community, alleging inappropriate responses to an array of domestic violence incidents. These responses included: responding police officers not taking a report of domestic violence, refusing to arrest an abuser because of his relationship to the police department, ordering a victim to provide her confidential address to the abuser, and making light of officer involved domestic violence allegations.

Thank you for your consideration.

Sincerely,

John Bickel
President

SHOPO



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TO: The Honorable Dee Morikawa, Chair
House Committee on Human Services

The Honorable Chris Todd, Vice-Chair
House Committee on Human Services

Members of the House Committee on Human Services

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

DATE: March 14, 2017

SUBJECT: Testimony on S.B. No. 519 S.D.2, Relating to Domestic Violence

HEARING: Friday, March 17, 2017
9:30 a.m. Conference Room 329

Thank you for the opportunity to provide testimony on this bill. This bill provides that a complaint against a police officer that involves domestic violence does not have to be in writing, nor sworn to. The State of Hawaii Organization of Police Officers ("SHOPO") opposes this bill.

The current SHOPO collective bargaining agreement requires all external complaints to be in writing and sworn to by the complainants, except as provided by law. There have been no exceptions by law to date and there is good reason for that. The purposes for having complaints in writing and sworn to include:

- (1) The complainant's or witness's best recall is usually immediately after the incident, and for administrative investigations, a written statement often carries more credibility later if the victim or witness tries to recant.
- (2) The written statement can be used to refresh the complainant's or witness's memory in later proceedings, if necessary, where if nothing is written down, the complainant or witness has nothing with which to refresh their memory.
- (3) A written and sworn statement reminds the complainant and witnesses of the gravity of their allegations. There have been false allegations by spouses in the past when they are experiencing marital issues and the spouse knows the allegations will get the police officer spouse into trouble.

- (4) A written and sworn statement may also reduce the potential for retaliation by citizens who have been arrested by a police officer (for example, for Operating a Vehicle Under the Influence of an Intoxicant, assault, or domestic violence). Arrestees could easily retaliate by anonymously phoning in an oral complaint accusing the officer of domestic violence. This would trigger an investigation of the officer and may likely result in the officer having their police authority removed and being assigned to desk duty during the investigation, even if later held to be unfounded.

A written and sworn statement later helps the complainant and any witnesses in furtherance of the complaint.

Finally, we ask that you consider the testimony filed on February 12, 2015 by the Department of the Attorney General (“AG”) on a similar bill in the 2015 Session, (then H.B. 456), opining that the bill violates the Hawaii Constitution, article VIII, section 2. The AG further advised that the Hawaii Constitution authorizes the counties to adopt charters, and the county charters have authorized the police commissions to adopt rules, and the police commission has rules requiring complaints to be in writing and sworn to.

Thus, SHOPO opposes this bill. Thank you for the opportunity to provide testimony.

I hope that everyone will support this bill and pass it. As someone who has submitted a sworn written complaint (notarized) in regards to complaints against the police in the past after 9+ years of 'denial' - while not for domestic violence, and disregarded as someone they couldn't "contact" - when I followed up, through email, even called, and was even recorded during one of the complaints by an investigator...feel that the system that holds the police accountable for their actions are not always doing what's in the best interest for those who they're the middle person for. And when it comes to "domestic abuse" – maybe more so when a police officer is involved, the issue of recanting their story; covering up the abuse with excuses; etc. the easier it is for them to come forward and seek help or assistance the better. Which unfortunately doesn't help when many end up recanting later, due to pressure or denial (sometimes mistaken for self worth that's been battered down over the years; love; comfort; etc. have also been used to describe the "he/she will change" mentality, but I prefer denial)...but for the ones who go through with the process and decide enough is enough and they deserve better, should be able to do so without having to go through the usual belittling or interrogation that filing an allegation entails, especially when that's not even the end of the battle in most cases – with the claims of "TRO" being an answer...

I'd also like to bring up incidents that were aired:

Cachola's in 2014. Ex-girlfriend said they were only "playing" (only came to light because it was caught on security footage – most incidents are not)

Borges in 2014. TRO issued, but then the party recanted and TRO was revoked

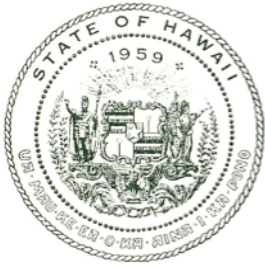
Troutman in 2015. Charges with abuse of a family member, terroristic threatening.

While a bit different, Staszyn in 2015 where the question was asked...

So please pass this bill and also look into making it easier just to file complaints...as a lot of items go into complaining, especially when it's someone with "power" or held to a higher esteem than others; someone who has "authority"; and mostly when it's going up against a large group – because it's never just against one person...it's the solidarity...

LATE

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ON THE
STATUS
OF
WOMEN



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March 16, 2017

To: Representative Dee Morikawa, Chair
Representative Chris Todd, Vice Chair
Members of the House Committee on Human Services

Representative Della Au Belatti, Chair
Representative Bertrand Kobayashi, Vice Chair
Members of the House Committee on Health

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

Re: Testimony in Support, SB 519, SD2, Relating to Domestic Violence

The Commission supports SB 519, SD2, which would allow a safe mechanism for citizen complaints against a police officer regarding domestic violence. The Commission regularly receives complaints from the community regarding inappropriate responses to an array of domestic violence incidents. These responses include: responding police officers not taking a report of domestic violence; refusing to arrest an abuser because of his relationship to the police department; ordering a victim to provide her confidential address to the abuser; and not following standard protocol when an incident of domestic violence involved an officer. The Commission routinely refers the complainants to either a service provider or HPD to file a complaint.

Currently, citizen complaints must be in writing and notarized. Upon review of the online complaint procedure on HPD's website, it appears that complaints are fielded to either the Professional Standards Office or the Police Commission. According to the website, anonymous complaints "will be reviewed and/or investigated in accordance with the collective bargaining agreement and departmental policy."¹ It is not clear what either the collective bargaining agreement or the departmental policy dictates regarding these complaints, but it would be helpful to know in order to better align this measure with the policy. Further, upon actually viewing the complaint form, other stringent requirements include: providing one's drivers license number, employer, business phone and address, personal phone number, date of birth, occupation, and any names and contact information of witnesses. This would be overly burdensome to any individual wishing to file a complaint. It is highly doubtful that a person wishing to file a complaint would feel comfortable leaving highly personal information.

The intent of the procedure outlined in SB 519, SD2 would relate to civil/conduct based citizen complaints. The Commission understands the importance of a written complaint for prosecutorial purposes, but remains puzzled why a civil complaint rises to a higher stringency level (requirement of being in writing and notarized) than a criminal complaint (requirement of a written statement only). Victims of domestic violence or any other citizen wishing to make a complaint about an officer should not have to go through this process with little anonymity or mechanism to prevent retaliation.

Thank you for this opportunity to provide testimony in support.

¹ <http://www.honolulu.gov/information/index.php?page=complaint>, last visited February 23, 2017.

LATE

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**THE HONORABLE DEE MORIKAWA, CHAIR
HOUSE COMMITTEE ON HUMAN SERVICES
Twenty-Ninth State Legislature
Regular Session of 2017
State of Hawai`i**

March 17, 2017

RE: S.B. 519, S.D. 2; RELATING TO DOMESTIC VIOLENCE.

Chair Morikawa, Vice-Chair Todd, and members of the House Committee on Human Services, the Department of the Prosecuting Attorney of the City and County of Honolulu (Department) submits the following testimony for S.B. 519, S.D. 2 expressing concerns.

The purpose of S.B. 519, S.D. 2 is to create a mechanism in which a citizen may file a complaint against a police officer involved in a domestic violence situation that is not memorialized in writing or by a notarized statement. After speaking with various stakeholders, the Department believes that the intent of this bill is to address complaints that arise which are civil in nature. Although S.B. 519, S.D. 2 does not directly address criminal complaints, the proposed bill creates the unintended consequence of handicapping potential criminal prosecution.

The Department recognizes that S.B. 519, S.D. 2 has good intentions, however, in domestic violence cases; recantation is commonplace and presents great difficulty in effective prosecution. The Department can foresee a situation arising where a victim of domestic violence creates an anonymous citizens complaint pursuant to S.B. 519, S.D. 2, which upon investigation rises to the level of a formal criminal charges being pursued. In this situation, the lack of a sworn statement at the onset of the civil citizen's complaint leaves the prosecution little to no evidence of the abuse if the victim subsequently recants.

For the foregoing reasons, the Department of the Prosecuting Attorney of the City and County of Honolulu expresses concern over the passage of S.B. 519, S.D. 2. Thank you for the opportunity to testify on this matter.

todd2 - Chloe

LATE

From: mailinglist@capitol.hawaii.gov
Sent: Friday, March 17, 2017 2:44 AM
To: HUSstestimony
Cc: annsfreed@gmail.com
Subject: Submitted testimony for SB519 on Mar 17, 2017 09:30AM

SB519

Submitted on: 3/17/2017
Testimony for HUS on Mar 17, 2017 09:30AM in Conference Room 329

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

Comments: Aloha Chair Belatti, Chair Morikawa. and members, As stated in previous testimony the Coalition is in strong support of this measure. We have all seen the abuse of power on the part of some police officers who are perpetrators of violence against women. We have also seen the blue wall that goes up on the part of police organizations to obfuscate and deter victims from reporting. The current requirements for reporting are onerous and intended to discourage. This bill would remove at least one institutional obstacle. Please pass this bill, Mahalo, Ann S. Freed, Co-Chair, Hawaii Women's Coalition

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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