

Honolulu, Hawaii

FEB 10 2017

RE: S.B. No. 421
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Twenty-Ninth State Legislature
Regular Session of 2017
State of Hawaii

Sir:

Your Committee on Public Safety, Intergovernmental, and
Military Affairs, to which was referred S.B. No. 421 entitled:

"A BILL FOR AN ACT RELATING TO LAW ENFORCEMENT CAMERAS,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Establish requirements, guidelines for the use and discontinuance of use, restrictions, and prohibitions for body-worn cameras and vehicle cameras for law enforcement officers;
- (2) Establish retention and deletion requirements for body-worn camera footage;
- (3) Establish violations of recording and retention requirements;
- (4) Appropriate funds as a grant-in-aid to each county for the purchase of body-worn video cameras and law enforcement vehicle cameras; provided that no funds shall be expended unless matched dollar-for-dollar by the county; and
- (5) Require the county police departments to report costs of implementing and maintaining the body-worn camera and vehicle camera program to the Legislature.



Your Committee received testimony in support of this measure from the Office of Information Practices, American Civil Liberties Union of Hawai'i, Hawaii Chapter Society of Professional Journalists, Libertarian Party of Hawaii, and one individual. Your Committee received testimony in opposition to this measure from the Department of Public Safety, Hawai'i Police Department, Maui Police Department, and Civil Beat Law Center for the Public Interest. Your Committee received comments on this measure from the State of Hawaii Organization of Police Officers.

Your Committee finds that body-worn video cameras and vehicle cameras have become important tools in documenting and affecting interactions between law enforcement officers and members of the public. Body-worn video cameras and vehicle cameras can lead to greater transparency and accountability for law enforcement officers, which can help alleviate some of the growing concern among the public about the appropriateness of certain actions, particularly those that are physical or lethal in nature. In addition, body-worn video cameras and vehicle cameras are beneficial to law enforcement officers because the use of cameras can provide supporting evidence when officers are required to employ forceful tactics.

Your Committee has heard the testimony of the State of Hawaii Organization of Police Officers and notes the following concerns raised by that testimony. Section 52D-B(d)(2), Hawaii Revised Statutes, proposed by this measure, allows the "apparent crime victim" to require law enforcement to turn off the body-worn camera. However, this may be problematic given that the "apparent crime victim" may actually be the suspect. In addition, section 52D-G(a)(2) and (3), Hawaii Revised Statutes, of this measure creates a rebuttal presumption for criminal defendants and those seeking damages from the State or county that exculpatory evidence was destroyed or not captured in compliance with section 52D-E, Hawaii Revised Statutes, of this measure or as the result of the officer's intentional interference. The concern is that an officer may never be able to prove that missing footage was the result of an equipment error or battery outage. Your Committee finds that these concerns merit further consideration.

Your Committee has amended this measure by:

- (1) Inserting a blank appropriation to the Department of Public Safety for costs incurred by the Department or other state agencies relating to the purchase of body-



worn video cameras and law enforcement vehicle cameras for use by state law enforcement officers; and

- (2) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Public Safety, Intergovernmental, and Military Affairs that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 421, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 421, S.D. 1, and be referred to your Committees on Judiciary and Labor and Ways and Means.

Respectfully submitted on
behalf of the members of the
Committee on Public Safety,
Intergovernmental, and Military
Affairs,

Clarence K. Nishihara

CLARENCE K. NISHIHARA, Chair



The Senate
 Twenty-Ninth Legislature
 State of Hawai'i

Record of Votes
Committee on Public Safety, Intergovernmental, and Military Affairs
PSM

Bill / Resolution No.:* SB 421	Committee Referral: PSM, JDL/WAM	Date: 2/2/17
--	--	------------------------

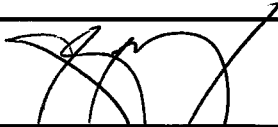
The Committee is reconsidering its previous decision on this measure.
 If so, then the previous decision was to: _____

The Recommendation is:

Pass, unamended 2312
 Pass, with amendments 2311
 Hold 2310
 Recommit 2313

Members	Aye	Aye (WR)	Nay	Excused
NISHIHARA, Clarence K. (C)	✓			
WAKAI, Glenn (VC)	✓			
BAKER, Rosalyn H.	✓			
IHARA, Jr., Les	✓			
THIELEN, Laura H.	✓			
TOTAL	5	0	0	0

Recommendation: Adopted Not Adopted

Chair's or Designee's Signature: 

Distribution: Original Yellow Pink Goldenrod
 File with Committee Report Clerk's Office Drafting Agency Committee File Copy

*Only one measure per Record of Votes