DAVID Y. IGE GOVERNOR OF HAWAII





STATE OF HAWAII DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621 HONOLULU, HAWAII 96809

Testimony of SUZANNE D. CASE Chairperson

Before the House Committee on FINANCE

Thursday, February 22, 2018 1:30 PM

State Capitol, Conference Room 308

In consideration of HOUSE BILL 2071, HOUSE DRAFT 2 RELATING TO LAW ENFORCEMENT

House Bill 207, House Draft 2 proposes to establish a law enforcement standards board for the certification of county police officers, state public safety officers and employees of the Department of Transportation and Department of Land and Natural Resources (Department) with police powers. The Department supports this bill, provided that its passage does not replace or adversely impact priorities indicated in the Executive Supplemental Budget request.

The Department believes that collaboration amongst law enforcement agencies and the other proposed members of this board to create standards pertaining to training and certification of law enforcement officers is a positive step. The Department supports consistency of training and other standards to be employed as a law enforcement officer in Hawaii.

Thank you for the opportunity to testify on this measure.

SUZANNE D. CASE

CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

ROBERT K. MASUDA FIRST DEPUTY

JEFFREY T. PEARSON, P.E.

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESREVE COMMISSION
LAND
STATE PARKS



STATE OF HAWAII DEPARTMENT OF PUBLIC SAFETY

919 Ala Moana Boulevard, 4th Floor Honolulu, Hawaii 96814 NOLAN P. ESPINDA DIRECTOR

Cathy Ross Deputy Director Administration

Jodie F. Maesaka-Hirata Deputy Director Corrections

Renee R. Sonobe Hong Deputy Director Law Enforcement

TESTIMONY ON HOUSE BILL 2071 HOUSE DRAFT 2 RELATING TO LAW ENFORCEMENT

by
Nolan P. Espinda, Director
Department of Public Safety

House Committee on Finance Representative Sylvia Luke, Chair Representative Ty J. Cullen, Vice Chair

Thursday, February 22, 2017; 1:30 p.m. State Capitol, Conference Room 308

Chair Luke, Vice Chair Cullen, and Members of the Committee:

The Department of Public Safety (PSD) **supports the intent** of House Bill (HB) 2071, House Draft (HD) 2, which would establish a law enforcement standards board for the certification of law enforcement officers and training, and further, create a law enforcement standards board special fund. PSD, however, offers comments of concern.

Sections 7 and 8, on pages 9 – 11, address revocation or suspension of certifications and investigations. The Department notes that any provisions of this proposed bill should not violate or be inconsistent with the law enforcement officers' collective bargaining agreement, which is BU 14 for deputy sheriffs and BU 13 for Narcotics Enforcement Investigators and Internal Affairs Investigators, under PSD.

Thank you for the opportunity to present this testimony.



ON THE FOLLOWING MEASURE:

H.B. NO. 2071, H.D. 2, RELATING TO LAW ENFORCEMENT.

BEFORE THE:

HOUSE COMMITTEE ON FINANCE

DATE: Thursday, February 22, 2018 **TIME:** 1:30 p.m.

LOCATION: State Capitol, Room 308

TESTIFIER(S): Russell A. Suzuki, Acting Attorney General, or

Lance Goto, Deputy Attorney General.

Chair Luke and Members of the Committee:

The Department of the Attorney General ("the Department") appreciates the intent of this bill and submits comments.

The purpose of this bill is to establish an unpaid fourteen-member law enforcement standards board, in the Department, that will be responsible for the following:

- (1) Develop minimum standards for state and county law enforcement officers in this State;
- (2) Establish and maintain curriculum and training programs for the officers;
- (3) Establish and require participation in continuing education programs for the officers; and
- (4) Manage a certification program for the officers that includes certification of officers, enforcement of certification requirements, investigations of officers, conducting revocation proceedings, and revoking certifications.

The unpaid law enforcement standards board has great responsibilities. And section 6 of the bill, on page 12, requires all law enforcement officers in the State to be certified by July 1, 2019. That appears to be an ambitious goal. In fact, the proposed scope of the functions and responsibilities of the board appear to require the establishment of not just the board, but an entire training and regulatory agency. This proposal is significant and appears to warrant further study and evaluation.

The Department has some concerns about section -3 of the new chapter in the bill, which begins at the bottom of page 5. This section establishes the powers and duties of the board. But some of the powers and duties are not clearly established. It does not clearly establish the responsibilities to certify all law enforcement officers and to revoke the certification of officers. On page 6, lines 3-5, the bill provides that the board shall establish minimum standards for employment and certification of law enforcement officers. On page 7, lines 16-18, the bill gives the board the authority to collect fees for certifications. And on page 7, lines 19-20, the bill provides that the board shall establish procedures and criteria for revocation of certifications issued by the board. Section -3 does not clearly set out the board duty and authority to certify officers and revoke certifications.

The board's duty and authority regarding training curriculum and training schools and programs are also unclear. On page 6, lines 10-14, the bill provides that the board shall establish minimum criminal justice curriculum requirements for schools training law enforcement officers. This seems to suggest that the board will provide minimum curriculum requirements to the schools. It is not clear that these requirements are mandatory and will be enforced by the board.

On page 6, lines 15-19, the bill provides that the board will "consult and cooperate" with agencies and educational institutions "concerning the development of law enforcement training schools and programs of criminal justice instruction". It is not clear what this means, especially when considering section -5 of the new chapter, on page 8, lines 8-11:

The board shall establish and maintain law enforcement training programs through agencies and institutions deemed appropriate by the board for applications for certification.

It appears that the board is responsible for establishing and maintaining training programs through other agencies and institutions. But it is not clear how that would be accomplished.

On page 7, lines 14-15, the bill provides that the board will establish and require

Testimony of the Department of the Attorney General Twenty-Ninth Legislature, 2018 Page 3 of 3

participation in continuing education programs for law enforcement. It appears to require the board to establish and operate these programs, and enforce participation in these programs by law enforcement officers statewide.

The Department appreciates the opportunity to provide comments.

EMPLOYEES' RETIREMENT SYSTEM

OFFICE OF THE PUBLIC DEFENDER

HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND



LAUREL A. JOHNSTON DIRECTOR

KEN N. KITAMURA DEPUTY DIRECTOR

STATE OF HAWAII DEPARTMENT OF BUDGET AND FINANCE

P.O. BOX 150 HONOLULU, HAWAII 96810-0150 ADMINISTRATIVE AND RESEARCH OFFICE BUDGET, PROGRAM PLANNING AND MANAGEMENT DIVISION FINANCIAL ADMINISTRATION DIVISION OFFICE OF FEDERAL AWARDS MANAGEMENT (OFAM)

WRITTEN ONLY

TESTIMONY BY LAUREL A. JOHNSTON
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
TO THE HOUSE COMMITTEE ON FINANCE
ON
HOUSE BILL NO. 2071, H.D. 2

February 22, 2018 1:30 p.m. Room 308

RELATING TO LAW ENFORCEMENT

House Bill No. 2071, H.D. 2, establishes a Law Enforcement Standards Board (LESB) for certification of law enforcement officers, the LESB Special Fund to defray the expenses of the LESB, appropriates an unspecified amount of general funds for FY 19 to be deposited into the LESB Special Fund, and an unspecified special fund appropriation.

While the Department of Budget and Finance takes no position on the State certification of law enforcement officers, as a matter of general policy, the department does not support the creation of any special fund which does not meet the requirements of Section 37-52.3, HRS. Special funds should: 1) serve a need as demonstrated by the purpose, scope of work and an explanation why the program cannot be implemented successfully under the general fund appropriation process; 2) reflect a clear nexus between the benefits sought and charges made upon the users or beneficiaries or a clear link between the program and the sources of revenue; 3) provide an appropriate means of financing for the program or activity; and 4) demonstrate the capacity to be financially self-sustaining. In regards to House Bill No. 2071, H.D. 2, the special fund does not meet the criteria of Section 37-52.3, HRS.

Thank you for your consideration of our comments.

TESTIMONY OF THE HAWAI'I POLICE DEPARTMENT

HOUSE BILL 2071

RELATING TO LAW ENFORCEMENT

BEFORE THE COMMITTEE ON FINANCE

DATE: Thursday, February 22, 2018

TIME : 1:30 P.M.

PLACE: Conference Room 308

State Capitol

415 South Beretania Street

PERSON TESTIFYING:

Police Chief Paul K. Ferreira Hawai`i Police Department County of Hawai`i

(Written Testimony Only)



Paul K. Ferreira

Police Chief

Kenneth Bugado Jr. Deputy Police Chief

POLICE DEPARTMENT

349 Kapi olani Street • Hilo, Hawai i 96720-3998 (808) 935-3311 • Fax (808) 961-2389

February 20, 2018

Representative Sylvia Luke Chairperson and Committee Members Committee on Finance 415 South Beretania Street, Room 308 Honolulu, Hawai`i 96813

RE: HOUSE BILL 2071 RELATING TO LAW ENFORCEMENT

Dear Representative Luke:

The Hawai'i Police Department opposes House Bill 2071, with its purpose being to establish a law enforcement standards board for the certification of county police officers, state public safety officers, and employees of the departments of transportation and land and natural resources with police powers.

Our concern is geared toward the view that this extra layer of Bureaucratic oversight is contrary to the notion of Home Rule. Additionally, the premise of comparing past enacted legislation involving the need for training and standards for security guards to the need for same regarding County Law Enforcement Agencies is quite a stretch. The mandatory training of security guards as set forth by §463-10.5 of the Hawaii Revised Statutes, as amended, requires an initial 8-hour course and 4 hours annually thereafter.

The cited examples of bad behaviour on the part of individuals are just that, individual actions very similar to the individual wrongdoing in most Police Departments in the nation. All Police Departments have policies, procedures, rules and regulations and here in Hawai'i even more so based on accreditation standards. The Hawai'i Police Department and the other three County Police Departments are nationally recognized fully accredited Law Enforcement Agencies (LEA) through the Commission on Accreditation for Law Enforcement Agencies (CALEA®). In order for any agency to gain this accreditation, they must conform to prescribed standards with appropriate policies and procedural adherence and provide for proof of adherence during on-site assessments conducted by CALEA.

These standards cover all aspects of training, which include entry level recruit training, reserve officer training and specialized training in the areas of weapons and tactics used by Special Response Teams and Crisis Negotiators; and use of Force training which include annual reviews of the use of force by the agency to identify needs and recommendations for training

Representative Sylvia Luke, Chairman Committee on Finance

RE: HOUSE BILL 2071 RELATING TO LAW ENFORCEMENT

Page 2

equipment and to identify future needs for remedial and specialized training. It also includes annual audits and reviews of evidence and property storage; inspections of funding and control funds; annual reviews of agency needs based on quarterly, annual and triennial reports on issues concerning liability, workload assessments and managing of all resources.

We also have mandates concerning all aspects of criminal report writing, evidence collection and preservation, latent fingerprinting and forensic identity of crime scene evidence collection, preservation and identification. There is also required annual training on use of force, hazard plans, critical incidents, ethics, bias based profiling, and law updates; annual reviews of policies and procedures that reinforce and improve crime prevention and community involvement; and strengthen agency mission and vision statements in an effort to decrease risk and liability.

To ensure conformance, our accredited department undergoes an independent onsite assessment by the CALEA every four years and a web-based assessment during the other three years in which proof of compliance to applicable standards must be shown. Each year the Police Chief submits a yearly assessment report that is used in evaluating the agency commitment to accreditation and to identify future assessment review issues. Having an independent assessment places a high value on the accreditation for the agency as it opens the doors for independent scrutiny. No other commission places such a microscopic evaluation on a law enforcement agency. Being an accredited agency is the difference between professionalism and claiming to be professional.

In 2015, the Hawai`i Police Department's classroom training for newly hired sworn personnel consisted of 999 hours. For comparative purposes, the Los Angeles Police Department's (LAPD) Police Officer Standards Training (POST) consists of 920 hours; the Los Angeles County Sheriff's Department (LASD) POST classroom training consists of 856 hours; and the state of Washington's POST training is set forth by the Washington State Criminal Justice Training Commission (Washington State CJTC) and consists of 720 classroom hours.

The Hawai`i Police Department's training also calls for approximately 672 hours of "On The Job" training (OJT) in which newly hired sworn officers are paired up with experienced officers and are evaluated during this period and must pass the OJT portion of the training prior to being allowed to work in the field alone as fully commissioned Police Officers.

The act of revoking an officer's certification in Hawai`i is actually stronger than in some other states as once an officer is fired from a County LEA, that officer no longer has police authority in the entire state. Furthermore, the Hawai`i Police Department does not accept direct transfers from other States' Law Enforcement Agencies. Officers who are currently serving in another State and who desire employment with our department are required to undergo our entire Recruit Training process. It should be noted, we do lose officers to other States and many of these officers do not have to re-start the training process from scratch as our Training and attendant records are widely accepted by other jurisdictions.

This bill seemingly fails to take into account that all Law Enforcement Agencies in the state are under constant monitoring for conforming to modern methods of policing whether it be through review in criminal courts and/or through civil court filings. Further, the fact that all four County Police Departments have already sought and gained voluntary national accreditation seemingly ensures we are following applicable standards based on sound policies.

Representative Sylvia Luke, Chairman Committee on Finance

RE: HOUSE BILL 2071 RELATING TO LAW ENFORCEMENT

Page 3

It is for these reasons, we urge this committee **not to approve this legislation**.

Thank you for allowing the Hawai`i Police Department to provide comments relating to House Bill 2071.

Sincerely,

PAUL K. FERREIRA

POLICE CHIEF

<u>HB-2071-HD-2</u> Submitted on: 2/21/2018 12:51:14 PM

Testimony for FIN on 2/22/2018 1:30:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing	
Rachel L. Kailianu	Individual	Oppose	Yes	

Comments:

A'OLE!!!

<u>HB-2071-HD-2</u> Submitted on: 2/20/2018 12:12:51 PM

Testimony for FIN on 2/22/2018 1:30:00 PM

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

Comments:

<u>HB-2071-HD-2</u> Submitted on: 2/21/2018 8:47:33 AM

Testimony for FIN on 2/22/2018 1:30:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
lynne matusow	Individual	Support	No

Comments:

We need this law, desperately.

Please support.

Lynne Matusow



<u>HB-2071-HD-2</u> Submitted on: 2/21/2018 4:12:11 PM

Testimony for FIN on 2/22/2018 1:30:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing	
Nancy Davlantes	Individual	Support	No	

Comments:





Testimony by:

JADE T. BUTAY
INTERIM DIRECTOR

Deputy Directors ROY CATALANI ROSS M. HIGASHI EDWIN H. SNIFFEN DARRELL T. YOUNG

IN REPLY REFER TO:

STATE OF HAWAII DEPARTMENT OF TRANSPORTATION

869 PUNCHBOWL STREET HONOLULU, HAWAII 96813-5097

February 22, 2018 1:35 p.m. State Capitol, Room 308

H.B. 2071, H.D. 2 RELATING TO LAW ENFORCEMENT

House Committee on Finance

The Department of Transportation (DOT) **supports** H. B. 2071, H.D. 2 Relating to Law Enforcement.

The purpose of H.B. 2071, H.D. 2 is to establish a law enforcement standards board for the certification of county police officers, safety public officers, and employees of the department of transportation and land and natural resources with police powers.

The DOT recognizes that currently the law enforcement profession is faced with many complex situations, integrity challenges, and a multitude of new criminal elements (i.e., insider threat, active shooters, terrorism, etc.,) and techniques (diversion of law enforcement response teams to determine response time and methods). To address these new developments many law enforcement agencies rely on outdated standards and certification processes, policies and procedures, rules and regulations and recruitment and training standards. Many law enforcement agencies do not have consistent standards and certifiable processes, which are essential to minimize vicarious liability to the State of Hawaii.

To this end, the DOT acknowledges that "best practices" for law enforcement occupation requires the development and establishment of comprehensive entry level minimal qualification standards along with congruent certifiable screening of applicant's knowledge, skills and abilities, testing (physical fitness), evaluation (mental stability), background checks for previous work performance history, reference checks to determine if administrative misconducts were substantiated and criminal convictions (Lautenberg Amendment Federal Gun Ban on Misdemeanor Domestic Violence Convictions) of all qualified applicants for state law enforcement positions. Internal controls must also be developed to ensure fair and equitable application of these standards by the various agencies.

The DOT looks forward to being part of the proposed law enforcement working group and recommends that as one of our immediate responsibilities is to conduct research into the Commission on Accreditation for Law Enforcement Agencies (CALEA) program, as they have developed and established processes, bench marks, and standards specifically for national law enforcement agencies, which demonstrates that the law enforcement services provided to the public is enhanced and improved to meet societal expectations.

The DOT recommends that H.B. 2071, H.D. 2 (page 2, line 18) be amended as follows:

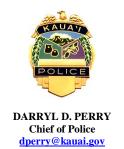
The purpose of this Act is to establish a law enforcement standards board for the certification of [county police officers,] state public safety officers and employees of transportation, [and] land and natural resources, department of taxation and department of the attorney general with police powers.

Thank you for the opportunity to provide testimony.



POLICE DEPARTMENT COUNTY OF KAUAI

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MICHAEL M. CONTRADES
Deputy Chief of Police
mcontrades@kauai.gov

WALLACE G. REZENTES JR. Managing Director

Testimony before the House Committee on Finance HOUSE BILL 2071, HD2 Relating to Law Enforcement



February 22 2018 at 1:30 PM Conference Room 308

By Darryl D. Perry Chief of Police, County of Kaua'i

Chair Sylvia Luke, Vice Chair Ty J.K. Cullen, Honorable Members of the Committee:

The Kaua'i Police Department <u>opposes</u> House Bill 2071, HD2 with its purpose being to establish a law enforcement standards board for the certification of county police officers, state public safety officers, and employees of the departments of transportation, land and natural resources, attorney general, and taxation with police powers.

Our concern is the additional layer of bureaucratic oversight and what amounts to the abolition of home rule as it pertains to each of the Counties. By establishing a "certification process" the Bill in essence strips the hiring authority from the Chief of Police, and places it in the hands of the proposed board.

The Kaua'i Police Department has very stringent hiring practices. After a rigorous process, we accept approximately 2.4% of those who apply to be police officers. Our process includes: application review for qualification, a written exam, a physical readiness standards test, submittal and review of applicants personal history packet, pre-job offer psychological exam, a thorough background check, conditional job offer written psychological exam, polygraph test, conditional job offer psychological exam with our psychologist, drug testing and a medical examination. If the applicant meets all suitability requirements the last step is the job offer.

With regards to our training requirements, as illustrated in the 2015 International Association of Directors of Law Enforcement Standards and Training report, Hawai'i has one of the highest number of training hours reported in the Nation. The Kaua'i Police Department's academy training hours is higher than any State listed, with the exception of Minnesota. Unlike other

States, we do not readily accept training certifications and hours from other police departments and law enforcement agencies and require all new hires, with or without law enforcement experience, to attend our full training academy. This is necessary because of the vast differences in laws and acceptable practices. We want to ensure that every officer has more than adequate and acceptable training and we will not rely on another agencies' training.

Furthermore, all four of the County Police Departments—Honolulu, Maui, Hawai'i and Kauai—are nationally recognized as fully accredited Law Enforcement Agencies (LEA) through the Commission on Accreditation for Law Enforcement Agencies (CALEA®).

In order for any agency to gain accreditation they must conform to prescribed standards with appropriate policies and procedural adherence, and provide proof of compliance during on-site assessments conducted by CALEA.

CALEA standards cover all aspects of training, and other obligations which include but are not limited to:

- 1. Recruit training
- 2. Reserve Officer training
- 3. Specialized tactical weapons training for Special Response Teams and Crisis Negotiators
- 4. Use of Force mandates which includes annual reviews; equipment needs, and specialized and remedial training.
- 5. Annual audits and reviews of evidence and property storage
- 6. Inspections of various operational funding controls and sources
- 7. Annual review of agency needs based on quarterly, annual and triennial reports concerning liability, workload assessments, and management of resources
- 8. Mandates concerning all aspects of criminal report writing
- 9. Evidence collection and preservation to include latent fingerprints and DNA identification
- 10. Crime scene preservation of evidence
- 11. Crime Laboratory responsibilities with respect to identifying evidence authentication related to the crime scene; followed by court-accepted expert testimony of certified trained personnel

12. Departmental annual recall refresher training on use of force, natural and man-made hazardous response plans, critical incidents, ethics, bias based profiling, law enforcement updates, court rulings, and the like

To ensure conformance, accredited agencies must undergo and pass an independent on-site assessment by CALEA every four years.

Each Police Chief submits a yearly assessment report that is used in evaluating the agency's commitment to accreditation and to identify future assessment review issues. Having an independent assessment places a high value on the accreditation for the agency as it opens the doors for independent scrutiny.

No other commission or entity places such a microscopic evaluation on a law enforcement agency than CALEA. Being an accredited agency is the difference between validated professionalism and claiming to be professional.

Hawai'i has an established training coalition comprised of representatives from each County Police Department, the Department of the Attorney General and the Federal Bureau of Investigation. Quarterly meetings are held to discuss the latest trends in law enforcement and the best practices to address those trends through training.

The training curriculums of each County Police Department were reviewed by the coalition. It was determined that all County Police Departments met or exceeded the training hours for both Academy level and In-service level training as compared to States with Peace Officer Standards Training (P.O.S.T.) for which this bill appears to be modelled after.

The Kaua'i Police Department provides over 1,005 hours of academy training and a minimum of 24 hours of annual recall training a year. This meets and exceeds P.O.S.T. academies on the Continental U.S.

In terms of revoking a police officer's certification for serious misconduct, the Kaua'i Police Department has a process in place for the review of allegations of misconduct. Detailed internal affairs reports are created after an exhaustive investigation. A review of the facts of each case is completed and in serious cases, members of our Administrative Review Board hold a hearing and make a recommendation to the Chief of Police with regards to disciplinary action. For serious violations of our Standards of Conduct personnel are terminated, which essentially amounts to decertification.

State oversight is a troubling concept given that the State currently struggles to address the issues surrounding the law enforcement officers it employs in the Department of Land and Natural Resources and the Department of Public Safety. Based on our experiences with State law enforcement agencies on Kaua'i, we believe that the State should seek to address standards of professionalism and training within its own law enforcement entities and not County Police Departments. Best practices in hiring and training are needed within the State's

own law enforcement agencies and the State should focus their efforts on becoming CALEA accredited and establish a level of standards and professionalism commensurate with the four County Police Departments.

House Bill 2071, HD2 would create an unnecessary level of bureaucracy, waste critical resources and duplicate processes that already exist.

For these reasons the Kaua'i Police Department is **opposed** to House Bill 2071, HD2. Thank you for the opportunity to testify.

Resource:

I. (2015). *January 2015 Reciprocity Handbook* (Rep.). Retrieved February 9, 2016, from International Association of Directors of Law Enforcement Standards and Training website: http://www.iadlest.org