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

From: Cheryl Kakazu Park, Director

Date: February 2, 2017, 1:15 p.m.
State Capitol, Conference Room 229

Re: Testimony on S.B. No. 153
Relating to Police Reports

Thank you for the opportunity to submit testimony on this bill. The Office of Information Practices (“OIP”) takes no position on the substance of this bill, which would allow surviving family members of murder or manslaughter victims to access a copy of the closing report prepared by the investigating police department. OIP is testifying to **recommend a technical change** to a provision referring to chapter 92F, HRS, the Uniform Information Practices Act (“UIPA”).

The bill provision requiring disclosure of the report to the surviving family members, at bill page 1, line 5, begins “Notwithstanding section 92F-22, a surviving immediate family member . . .” There is no need to include the “[n]otwithstanding section 92F-22” language, as nothing in section 92F-22 (which allows an agency to withhold a personal record from the person the record is about in specified circumstances) or the UIPA in general would prohibit a police department from disclosing such a report. Further, the UIPA already provides for records that are specifically authorized by statute to be disclosed in section 92F-12(b)(2), HRS, which mandates disclosure of “[g]overnment records which, pursuant to federal law or a

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statute of this State, are expressly authorized to be disclosed to the person requesting access.” **Thus, the “[n]otwithstanding section 92F-22” language is unnecessary and its inclusion may be confusing. OIP recommends that the language be deleted, so the section instead begins with “A surviving immediate family member. . .”**

Thank you for the opportunity to testify.

THE CIVIL BEAT
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Senate Committee on Public Safety, Intergovernmental, and Military Affairs
Honorable Clarence K. Nishihara, Chair
Honorable Glenn Wakai, Vice Chair

RE: Testimony Opposing S.B. 153, Relating to Police Reports
Hearing: February 2, 2017 at 1:15 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. 153. The Law Center **opposes this bill because it will not increase access to police reports.**

As the Honolulu Police Department explains on its webpage about police reports: "Most reports are releasable to individuals when certain conditions are met in accordance with the Uniform Information Practices Act (UIPA) of the Hawaii Revised Statutes (HRS) Chapter 92F."¹ OIP has held that police reports (with privacy redactions) are accessible to everyone when criminal proceedings have concluded. *E.g.*, OIP Op. No. 99-02. Thus, there is no reason for this bill to give a limited subset of people access to police reports that are already available to any member of the public.

The Law Center is not aware of any issues with members of the public accessing police reports. If there is an issue, however, it should be addressed for everyone, not just the families of victims. ***Police reports are fundamental records for public accountability.*** There should be no question that police reports (redacted as necessary to protect privacy interests) are public records when criminal proceedings have concluded.²

Thank you again for the opportunity to testify.

¹ <http://www.honolulu.gov/information/index.php?page=reports>.

² The UIPA does not permit an agency to withhold records because of pending *civil* litigation against the agency. See OIP Op. No. 92-05 at 7-9. Thus, at a minimum, the Legislature should not condition disclosure of police reports on the conclusion of "civil proceedings."