



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-NINTH LEGISLATURE, 2018**

ON THE FOLLOWING MEASURE:

S.B. NO. 2946, RELATING TO THE ATTORNEY GENERAL.

BEFORE THE:

SENATE COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL, AND
MILITARY AFFAIRS

DATE: Thursday, February 1, 2018 **TIME:** 1:35 p.m.

LOCATION: State Capitol, Room 229

TESTIFIER(S): Russell A. Suzuki, First Deputy Attorney General, or
Lance Goto, Deputy Attorney General.

Chair Nishihara and Members of the Committee:

The Department of the Attorney General ("the Department") opposes this bill.

The purpose of this bill is to require the Department, upon referral by county police or prosecutors, to review or initiate a review of a criminal investigation conducted by the county to provide an independent review of the investigation. It authorizes the Department to refer the review of the investigation to a different county police or prosecutor.

This bill is unnecessary as the Department already does accept county investigations for a second or independent review when appropriate.

The Department should not, however, be required to review or initiate review of just any matter referred to it by a county agency. A county agency should not be able to dictate what the Department must investigate. The Department currently has, and should continue to have, the discretion to evaluate a case and determine what warrants an independent review.

There is a concern about referring investigations of one county to another county for further investigation. The law enforcement authority of the second county law enforcement agency does not extend to the first county, where the offense took place.

On page 2, at lines 9-12, the bill requires the agency conducting the independent review to complete it within a certain number of days. The time to complete an

independent review would depend on many factors, including the quality of the investigation, the need for follow up, and the complexity of the case and issues. A statutorily mandated time restriction would not be appropriate for the reviews.

On page 2, at lines 15-18, the bill indicates that upon completion of the independent review, the "review shall be received by the county police or county prosecuting attorney." That provision appears to require the review to be returned to the original referring party. The bill then says that the "review shall be final." It is not clear what these provisions mean.

The Department respectfully requests that this measure be held.

SB-2946

Submitted on: 1/29/2018 12:23:55 PM

Testimony for PSM on 2/1/2018 1:35:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Victor K. Ramos	Maui Police Department	Oppose	No

Comments:

SB-2946

Submitted on: 1/31/2018 10:25:02 AM

Testimony for PSM on 2/1/2018 1:35:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Richard K. Minatoya	Maui Department of the Prosecuting Attorney	Oppose	No

Comments:

The Department of the Prosecuting Attorney, County of Maui OPPOSES SB 2946. This measure may result in undue pressure on county law enforcement to relinquish the duty to investigate and prosecute offenses occurring in the county jurisdiction to the Attorney General. The Department requests that his measure be HELD..

Thank you very much for the opportunity to provide this testimony.

SB-2946

Submitted on: 1/30/2018 10:56:18 PM

Testimony for PSM on 2/1/2018 1:35:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
christine soroka		Support	Yes

Comments:

My name is Christine Soroka, and I am asking for your support for Senate Bill 2946. This bill was introduced by Senator Keith-Agaran on my behalf. For over two years now, I have unfortunately been experiencing first hand why we need this bill.

In January of 2016, I was the victim of a car accident that was caused by an on-duty Honolulu County police officer, who was driving 74 mph in a 35 mph zone, at night, without activating his siren or lights. I am lucky to have survived that accident, but my life has been forever changed because of the choices of this officer.

Before this accident, and for my entire adult life, I was a professional musician. I not only performed in orchestras, chamber ensembles and did solo performances, but I owned a music school and was a very well-respected business owner and teacher. I taught for 26 years, and I had been performing even longer. Owning a music school was my life-long teaching goal, and being able to play again in a symphony orchestra was my life-long performance goal.

Life as an artist involves a deep connection to, and expression of, one's soul. A musician is a musician until they pass away or become disabled and unable to practice their art. The loss of a music career is so much more than a financial loss. It is the loss of a huge part of the musician's soul; a huge part of the person they were born to be. And that is the loss that I have suffered as a result of the negligence and recklessness of Honolulu county police officer Clarence Neves.

Over two years later, this police officer still has his job, still has his home, and still has his life as he always has. But as a result of the injuries that I have suffered from that accident, I lost my business, I lost my career, I lost my home, I lost my my savings, I lost almost all of my possessions, and the life I had so carefully built for myself was shattered.

When this happened, I was confident that this police officer was going to have to pay, not only financially, but legally, through the criminal justice system. How could someone violate that many laws and injure an innocent person so seriously, how could he take away life as I knew it, and not have to pay? But so far, I have seen just the opposite. Not only have I been the victim of crimes committed by this officer, but I am also a victim of the criminal justice system. The Honolulu County prosecutors work with the

Honolulu County police officers on a daily basis, over a number of years and sometimes even decades. It would be naive to think that they don't build personal relationships with those officers, as they work together every day. It seems only logical that those same prosecutors should not be making the decision as to whether or not one of those very cops will be prosecuted for crimes committed. It is an indisputable conflict of interest.

How is it that judges, attorneys and even jurors are required to recuse themselves when there is a conflict of interest, but prosecutors are not? Why are cases against Honolulu County police officers even given to the Honolulu County prosecutors? Why, when there is an obvious conflict of interest between prosecutors and police officers, are these cases turned over to the very prosecutors who work with these officers on a daily basis?

Declining the prosecution of a criminal is just as serious of an offense as prosecuting an innocent person. It's obstruction of justice and it's abuse of power. Prosecutors are there to bring justice to those who have violated laws. That is their duty. But prosecutors, like all humans, are flawed. They don't want to prosecute their own. And with no accountability for their decisions, they can decide not to prosecute their own, even when they are guilty.

The only way to ensure that prosecutors do not have the option to decide whether or not their police officer colleagues get prosecuted or not, is to not *give* them the option of making that decision. This should also be the case for prosecutors who commit crimes.

I believe that there needs to be a specific procedure in place when police officers or prosecutors are accused of crimes. No one, in this country built on a system of checks and balances, should be allowed to escape justice.

This bill states that cases reviewed by a police department or prosecutor, **upon referral by that same police department or prosecutors office**, shall be reviewed by the Attorney General, who then in turn may refer the case elsewhere. I am asking that this bill be amended so that the same department who has reviewed the case is not the department that decides whether the Attorney General will review it. Rather, I believe that *any* case involving a police officer or prosecutor as defendant should be automatically referred to either the Attorney General, prosecutors from another county, or a prosecutorial oversight committee consisting of prosecutors of several different counties and the Attorney General.

In light of the current investigations going on in the Honolulu Police Department and the Honolulu County Prosecutors Office, it is more crucial now than ever for police officers and prosecutors to earn the respect of the public. With so much corruption in and between both of these departments, something needs to be done so that these officers and prosecutors are held accountable when they commit crimes. No citizen of the United States should be above the law. The laws apply to all citizens of this country, and police officers and prosecutors should not be given a virtual "Get Out of Jail Free" card.

