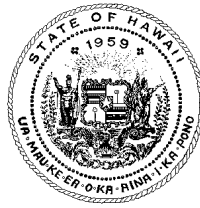


DAVID Y. IGE  
GOVERNOR



STATE OF HAWAII  
**DEPARTMENT OF PUBLIC SAFETY**

919 Ala Moana Boulevard, 4th Floor  
Honolulu, Hawaii 96814

**NOLAN P. ESPINDA**  
DIRECTOR

**Maria C. Cook**  
Deputy Director  
Administration

**Jodie F. Maesaka-Hirata**  
Deputy Director  
Corrections

**Renee R. Sonobe Hong**  
Deputy Director  
Law Enforcement

No. \_\_\_\_\_

TESTIMONY ON HOUSE BILL 456, HOUSE DRAFT 2  
RELATING TO PUBLIC SAFETY.

by  
Nolan P. Espinda, Director

Senate Committee on Public Safety, Intergovernmental, and Military Affairs  
Senator Clarence K. Nishihara, Chair  
Senator Glenn Wakai, Vice Chair

Senate Committee on Judiciary  
Senator Karl Rhoads, Chair  
Senator Glenn Wakai, Vice Chair

Tuesday, March 19, 2019; 10:30 a.m.  
State Capitol, Conference Room 016

Chairs Nishihara and Rhoads, Vice Chair Wakai, and Members of the  
Committees:

The Department of Public Safety (PSD) supports the intent of House Bill (HB) 456, House Draft (HD) 2, which requires the PSD Director to develop policies and procedures to govern the use of force, including training and equipment, and offers the following comments.

PSD understands the importance of less than lethal use of force training and equipment, and appreciates the proposed appropriation of funds. The department appreciates the revision in HD 2 that clarifies that PSD shall develop policies and procedures, as opposed to rules adopted pursuant to Chapter 91 of the Hawaii Revised Statutes. PSD would recommend a further revision that does not mandate the creation of a new statutory section 353C-\_\_\_, HRS, as specified in Section 2 of this measure.

In addition, it should be noted that the department already conducts training in many of the items listed in the proposed section 353C-\_\_(b)(1) – (10). For example, PSD conducts training in use of force, defensive tactics, crisis intervention, and use of force decision making, among others. PSD's training academy maintains records to monitor and track all training activity, as proposed on page 4, lines 9 -10. Deputy sheriff recruits also receive use of force training in their academy curriculum. Based upon the above, PSD would recommend deleting Section 2 in its entirety and replacing Section 2 with the following:

“SECTION 2. (a) The department of public safety shall revise its policies and procedures governing the use of force as well as weapons and equipment. The department shall report progress under this Act to the Legislature by January 1, 2020.

(b) The department of public safety's use of force training will be reviewed by the Law Enforcement Standards Board, enacted pursuant to Act 220, Session Laws of Hawaii, and may include use of force decision making, crisis intervention, de-escalation techniques, and less than lethal alternatives.”

PSD notes that pursuant to Act 220, Session Laws of Hawaii 2018, the Law Enforcement Standards Board will also consider minimum standards and training for law enforcement officers. PSD's revised use of force, as well as weapons and equipment policies will apply not only to deputy sheriffs but also the PSD Narcotics Enforcement Division investigators and Internal Affairs Office investigators.

Thank you for the opportunity to testify on this measure.

# COMMUNITY ALLIANCE ON PRISONS

P.O. Box 37158, Honolulu, HI 96837-0158

Phone/E-Mail: (808) 927-1214 / [kat.caphi@gmail.com](mailto:kat.caphi@gmail.com)



## COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL & MILITARY AFFAIRS

Senator Clarence Nishihara, Chair

Senator Glenn Wakai, Vice Chair

## COMMITTEE ON JUDICIARY

Senator Karl Rhoads, Chair

Senator Glenn Wakai, Vice Chair

Tuesday, March 19, 2019

10:30 am

Room 016

### STRONG SUPPORT w AMENDMENTS - HB 456 HD2 - PSD USE OF FORCE

Aloha Chairs Nishihara and Rhoads, Vice Chair Wakai and Members of the Committees!

My name is Kat Brady and I am the Coordinator of Community Alliance on Prisons, a community initiative promoting smart justice policies in Hawai'i for more than two decades. This testimony is respectfully offered on behalf of the families of **ASHLEY GREY, DAISY KASITATI, JOEY O'MALLEY, JESSICA FORTSON AND ALL THE PEOPLE WHO HAVE DIED UNDER THE "CARE AND CUSTODY" OF THE STATE** as well as the approximately 5,500 Hawai'i individuals living behind bars or under the "care and custody" of the Department of Public Safety on any given day. We are always mindful that more than 1,600 of Hawai'i's imprisoned people are serving their sentences abroad thousands of miles away from their loved ones, their homes and, for the disproportionate number of incarcerated Kanaka Maoli, far, far from their ancestral lands.

Community Alliance on Prisons is in strong support of this measure. The recent PREVENTABLE deaths by the department of public safety employees has highlighted the pressing need for GOOD, EVIDENCE-BASED TRAINING in Hawai'i's very broken correctional system.

We respectfully ask the committee to consider the following amendments to make this bill stronger:

- 1) If the **head of the law enforcement** division is armed, then we request that this person **be included in all weapons trainings and obtain certification**, and
- 2) Replace the language on page 2, lines 8-16 with the language in the original bill (page 2, lines 8-16 - HB 456) that puts **the use of force in statute**. This is crucial since the policies and procedures are done by the department with no public input. This is crucial to rein in this rogue agency and hold them accountable.

Hopefully, the two preventable deaths at the Capitol of an unarmed young man with polio who was small in stature and intoxicated and the “major mistake” of leaving doors unlocked at OCCC that allowed a man to be shot and killed as he escaped, will underline the need for real training of those armed public safety employees.

An article in Civil Beat on March 15<sup>th</sup> and the letter from Senator Nishihara with a long-delayed response from the department, highlights the fact that the head of the law enforcement division has no law enforcement training and that policies and procedures about the use of force have not been enacted, is a wake-up call that the department is in crisis.

Community Alliance on Prisons supports training – especially from outside experts – and asserts that training is not a one-shot deal – training must be ongoing to keep employees abreast of current research and best practices.

These deaths should not be swept under the rug as “mistakes”; they must be thoroughly investigated and if/when negligence is found, there must be accountability by director of the department and the person(s) responsible for the killing.

Community Alliance on Prisons urges the committee to pass this important bill with our suggested amendments to make it stronger and to hold this department accountable for their actions.

Mahalo for this opportunity to testify.

**HB-456-HD-2**

Submitted on: 3/16/2019 8:13:24 AM

Testimony for PSM on 3/19/2019 10:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Alan Urasaki	Individual	Support	No

Comments:

## SUPPORT FOR HB 456 HD2

TO: FROM: Barbara Polk

I SUPPORT training of all public safety officers in less than lethal use of force.

I have noticed in the past decade or so that there is increased use of force by public safety officers of all kinds. I do not know whether that increase also has occurred with public safety officers and deputy sheriffs, but I believe it is important to introduce training in less than lethal use of force for all officers who may encounter difficult situations.

We do not have capital punishment in this State, so it is particularly important that officers of all kinds not take the law into their own hands and violate the State punishment proscriptions except under the most unusual circumstances.

Please pass HB456 HD2

**HB-456-HD-2**

Submitted on: 3/18/2019 8:54:46 AM

Testimony for PSM on 3/19/2019 10:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Diana Bethel	Individual	Support	No

Comments:

HB 456 HD2 will provide training and implement the use of less than lethal weapons when apprehending individuals in encounters with law enforcement.

This is especially important given the tragic and preventable deaths of individuals killed by Department of Public Safety employees.

The bill could be made better by including the Head of the Law Enforcement Division in the trainings.

Also, it is suggested that the language on Page 2, lines 8-16 be replaced with the language from HB 456 Page 2, lines 8-16.

It has been observed that these Policies and Procedures have been created without any public input.

This process is problematic because the end result does not engender community support and cooperation and also leaves out important stakeholders whose input could help improve the policies and procedures.

In any case, more training is a valuable addition and will enhance law enforcement contact with the public and incarcerated persons.

**HB-456-HD-2**

Submitted on: 3/19/2019 5:00:50 AM

Testimony for PSM on 3/19/2019 10:30:00 AM

**LATE**

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
De MONT R. D. CONNER	Testifying for Ho'omanapono Political Action Committee (HPAC)	Support	Yes

Comments:

**WE STRONGLY SUPPORT THIS BILL.**