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

From: Cheryl Kakazu Park, Director

Date: March 19, 2019, 1:35 p.m.
State Capitol, Conference Room 229

Re: Testimony on H.B. No. 285, H.D. 1
Relating to Public Safety

Thank you for the opportunity to submit testimony on this bill. The Office of Information Practices (“OIP”) **supports this bill**, which would amend the Uniform Information Practices Act (“UIPA”), chapter 92F, HRS, to limit a clause giving special treatment to information about police officers’ misconduct. This proposal would treat information about an officer’s suspension the same way as information about any other government employee’s suspension, and would require police departments to identify officers receiving a suspension in their annual reports to the Legislature. **To reach the same result with less confusing statutory language, OIP has recommended an amendment.**

In section 92F-14(b)(4), HRS, the UIPA recognizes a government employee’s significant privacy interest in information about possible misconduct, up to a point. While all other government employees’ misconduct information becomes public if the misconduct resulted in suspension or termination, the current law gives police officers a special statutory privacy interest even in information about

misconduct that resulted in suspension. **This bill would no longer provide a special statutory privacy interest for an officer's suspension.**

OIP notes as a technical matter, however, that because of the way this bill was originally written, the statutory language proposed by this bill has ended up more complicated than is necessary and could be simplified by taking out the police officer exception altogether, as under this bill the exception would no longer provide for any different treatment of misconduct information than what is set out for public employees in general.

The current law first sets out a general rule that suspension and termination information is not private, then an exception to that general rule for police officer misconduct information, and then an exception to that exception for police officer terminations. This bill would broaden the exception-to-the-exception to remove the privacy protection for police officer suspensions in addition to police officer terminations, which means that the exception-to-the-exception has now swallowed the original exception – in other words, there is no longer any reason to set out an exception at all, since this bill proposes to treat suspension or termination information regarding a county police department officer in the same way as the general rule provides for.

To simplify the proposed amendment and avoid confusion, OIP recommends that instead of the added language in bill page 5, line 10, “discharge or suspension of . . .,” this Committee should amend this bill by entirely removing the exception for misconduct information about a county police department officer, so that the language at bill page 5, lines 8-11 would read as follows:

~~“decision; [provided that subparagraph (B) shall not apply to a county police department officer except in a case which results in the discharge of the officer;]”~~

The UIPA amendment proposed by this bill would close the gap between treatment of law enforcement officers’ misconduct information and that of other government employees, and provide a greater level of government accountability. OIP therefore supports this bill, with a recommended amendment to simplify the language and an effective date of upon approval.

Thank you for considering OIP’s testimony and suggested amendment.



STATE OF HAWAII ORGANIZATION OF POLICE OFFICERS

" A Police Organization for Police Officers Only "
Founded 1971

March 18, 2019

Hand-Delivered

The Honorable Clarence Nishihara, Chair
The Honorable Glenn Wakai, Vice Chair
Senate Committee on Public Safety, Intergovernmental, and Military Affairs
Hawaii State Capitol, Room 214
415 South Beretania Street
Honolulu, HI 96813

Re: **HB285 HD1-Relating to Public Safety**

Dear Chair Nishihara and Vice Chair Wakai:

I write to you on behalf of the State of Hawaii Organization of Police Officers ("SHOPO") in strong opposition to HB285 HD1 which relates to amending HRS §52D-3.5 and HRS §92F-14 to wipe out the current limited privacy protections afforded police officers who have taken on the very dangerous task of protecting you and your constituents in our community.

As you may be aware, over the last 9 months there have been multiple incidents reported in the media involving officer related shootings. This includes the July 17, 2018 murder of one of our officers, 10-year veteran police officer Bronson Kaliloo, who was fatally shot by a suspect on the Big Island. Officer Kaliloo left behind a family including three young children and a wife. You may also recall that when our officers located Officer Kaliloo's killer several days later, a shoot-out erupted, and another officer was wounded during the gun fight and the murder suspect was killed. Officer Kaliloo's fatality started as a traffic stop.

On June 1, 2018, Honolulu Police Department ("HPD") officers responded to a call where they were confronted by a suspect wielding a large knife. The suspect lunged at one of the officers forcing the officers to respond with lethal force which resulted in the death of the suspect. HPD Police Chief Susan Ballard was quoting as saying, "Anytime an officer pulls their weapon and kills somebody, it's not a decision that's made lightly. We want the public to be confident in the fact that our officers are doing the right thing."

On June 24, 2018, Honolulu police officers fatally shot a suspect after the suspect stabbed and attacked an HPD canine.

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On July 26, 2018, a convicted felon armed with a sawed-off shotgun was shot by officers during a standoff in Nanakuli after he pointed his gun at the officers. One of our officers and a police canine were shot and wounded by the suspect.

On September 21, 2018, Honolulu police officers were involved in a fatal shooting while executing a search warrant at a suspect's residence. Following that incident, Chief Ballard was quoted in the media:

You know when drugs are involved obviously like this one, there's a high risk or a high incidence of a possibility of weapons it is unfortunate. It's just the environment we're in now and we are seeing more firearms being involved and it's not something the officers can take lightly. Otherwise they may end up losing their lives as well.

On September 27, 2018, Honolulu police officers responded to a theft case when they were confronted and threatened by a man wielding a 7-inch knife. Officers initially used their tasers to try and stop the suspect but were forced to use their firearms when the tasers proved ineffective. The suspect died.

On October 8, 2018, a Honolulu police officer was attacked by a man with a machete who struck the officer's chest. A responding officer discharged their firearm killing the suspect.

On October 12, 2018, Big Island police officers were forced to use lethal force against a suspect who used her vehicle to repeatedly ram a police vehicle which knocked an officer out of his vehicle. The suspect died.

On November 27, 2018, Big Island officers were confronted by a suspect who stabbed himself with a knife and then pointed a rifle at the officers who responded to the scene. He refused to drop the rifle and the officers discharged their weapons which sadly ended the suspect's life.

On December 11, 2018, while on another traffic stop our Big Island officers were confronted by a female suspect who aimed a gun at the officers and refused to put it down. The officers were again forced to respond with deadly force and the suspect was killed.

On January 29, 2019, a suspect with an extensive criminal record attempted to run over an officer and was in return shot. The suspect died, and cocaine was reportedly found in his vehicle.

During the week of February 17, 2019, law enforcement officers were involved in three (3) separate shootings in a span of four days. On February 18, 2019, a Deputy Sheriff was reported to have shot and killed a man who attacked the officer at the State Capitol. On

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February 20, 2019, Honolulu police officers encountered a theft suspect who rammed several police vehicles while trying to escape. Shots were fired, and the driver was killed. On February 21, 2019, a suspect who pulled a gun on responding Honolulu police officers was shot after he was found in connection with a shooting that had occurred earlier in Kakaako.

You may also recall that in March 2015 several Honolulu officers were confronted with a non-compliant male suspect who was suspected to be high on drugs with meth in his system. The suspect was in the middle of a main thoroughfare on South King Street near Iolani Palace and refused to listen to the officers' requests to move to the sidewalk. It was reported that the responding officers initially used their pepper spray in an attempt to quell the situation without having to use physical force, but the suspect did not comply, and the spray apparently had no effect on the suspect. An officer deployed a taser to stop the suspect. The suspect unfortunately passed away and the Medical Examiner ruled the suspect's death was a homicide. Although the incident occurred in 2015, the Ninth Circuit Court of Appeals ruled last year (July 2018) that the officer's use of the taser was unconstitutional and constituted excessive force. The Court further questioned the propriety of the officers' use of pepper spray during the incident. The officers followed their training and the department's use of force policy, however, the court disagreed with the degree of force used. We understand the City and County of Honolulu will be appealing the decision as they believe our officers acted properly and reportedly viewed the court's ruling as an "affront to law enforcement." What this case illustrates is that while our officers may follow their training and the policies they are required to adhere to, they may later still be adjudged to have engaged in wrongful conduct and be subjected to disciplinary action.

These are just a sample of the volatile and extremely dangerous situations our officers face every day while working to protect our citizens. These are dynamic and highly charged situations that require split second decisions. While we rely on our training to make the correct split-second decisions, we are human and are the first to admit we are by no means perfect and do make mistakes.

The stated purpose of disclosing a suspended officer's name under HB285 is to make our officers and our police departments more accountable. Relative to the extreme dangers of the jobs, officers can and are suspended for relatively minor offenses such as being late to work, turning in a late report, losing a flashlight or being involved in a minor car accident. **No one to date has explained how disclosing a suspended officer's name will make that officer more accountable or responsible for his/her actions.** No one has answered that question.

The fact is disclosing the name of a suspended police officer as HB285 seeks to do will not hold an officer any more responsible for any errors, mistakes or wrongdoings he/she commits than they are held to. Publicly disclosing an officer's name adds absolutely nothing to the multi-layered disciplinary procedures and protocols that are already in place which holds

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each and every officer responsible for his/her actions under the highest scrutiny. What HB285 will promote is the selling of newspapers, shaming our officers' families and discouraging new recruits from joining the department.

Currently, any officer accused of criminal wrongdoing is fully investigated by the Chief of Police through an Internal Affairs division which is much more extensive than an ordinary citizen accused of wrongdoing is subjected to.¹ The accused officer is investigated twice by the department both criminally and administratively and the entire investigation is required to be documented and forwarded to the Chief of Police for his/her review and disciplinary decision. The Chief of Police is vested with the ultimate authority to discipline an officer and in our experience, the Chiefs do not hesitate to exercise that authority as they feel is appropriate. In addition, the criminal investigation is forwarded to the prosecutor's office for their review and action. Each county also has a police commission that has the authority and power to conduct their own investigations and is another forum where citizens can file complaints against an officer. The police commission employs their own investigators who independently investigate the complaints they receive. Furthermore, if a Chief believes the matter involves an alleged violation of an individual's civil rights, the appropriate federal agency including the FBI can intervene to conduct their own review and investigation which recently happened in a Honolulu case that was reported last year. There is also the State Attorney General's office and County Prosecutors that have their own investigators who can investigate an officer's actions and can bring charges against an officer who has engaged in unlawful conduct. Thus, there already exists a comprehensive investigative and disciplinary system in place that holds our officers fully accountable and responsible for their actions. Even if an officer believed in good faith that his/her actions were correct at the time they occurred such as in the March 2015 incident, they nonetheless can and will be held accountable for their actions.

If a police chief is not properly investigating or effectively disciplining their officers, they will be held accountable by their respective police commissions which are comprised of members of the public. Currently, we have not heard any complaints or calls to oust any of the current police chiefs for failing to properly discharge their legal duties. Based on recent statistics from the HPD's annual reports, HPD experiences approximately 8 police commission complaints per 100,000 calls for service. That is a record any department and community would be proud of, especially when public contact is daily and constant and often involves dangerous, highly confrontational and stressful situations with people in highly emotional states of mind.

The argument that the HB285 will facilitate transparency also rings hollow when each police department is already required to provide annual detailed reports to the legislature for each and every officer who has been suspended or discharged during the year. When the legislature amended HRS §52D-3.5 in 2014 to expand the scope of information required to be

¹ The Detectives assigned to Internal Affairs (aka Professional Standards Office) are excluded SHOPO members.

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disclosed in the annual reports, it stated that the amendment “balances the concern over the public’s right to know with the considerations involved in ensuring and maintaining an effective system of law enforcement in the State.” These annual reports are required to disclose factual information about the underlying incident, the specific type of discipline imposed for each incident, identify any other incident committed by the same police officer in the report, whether the incident concerned conduct punishable as a crime including the department’s findings of fact and conclusions of law, whether the prosecuting attorney was notified of the incident, the number of officers suspended and discharged and whether the officers were involved in the malicious use of physical force, mistreatment of a prisoner, use of drugs/narcotics or cowardice. For any incident resolved without disciplinary action after a grievance adjustment procedure, the Chief must explain the basis for not imposing disciplinary action. Again, disclosing a suspended officer’s name will not make an officer any more accountable or responsible for his/her actions because they are already held fully accountable to the highest standards of conduct by the police chiefs, police commissions and the various county, state and federal agencies.² How the disclosure of a suspended officer’s name will change things has never been explained by anyone supporting this bill.

This bill will also adversely affect the hiring crisis HPD is currently experiencing. HPD is suffering from a shortage of police officers that has left many neighborhoods understaffed because we do not have a sufficient number of police officers to patrol and protect the community in every beat. Officers have been working extensive overtime to cover the open beats which also raises officer safety concerns. Recruiting officers has become much more difficult with mainland police departments coming to Hawaii in a brazen attempt to hire away our officers to their cities. With greater financial incentives to offer that our departments cannot match, officers have left for greener and more affordable pastures.

Chief Ballard publicly stated in April 2018 that HPD was suffering a shortage of 257 police officers and that it will take years to fill the gaps. This crisis has been compounded by the recent attempts by the Seattle and San Jose police departments to lure away our officers with offers of higher pay and bonuses. Seattle is offering a \$15,000 “bonus” to join their police department and is utilizing a mobile billboard in Honolulu to promote their recruitment drive. Given the crisis and lack of police officers, Chief Ballard announced that property crimes will have to wait to be investigated while HPD prioritizes more serious and violent crimes. She explained that the victims of other non-violent crimes will be getting letters from HPD saying the department does not have the resources to pursue their matter without new information. As you know, new information cannot be developed unless the case is being actively investigated so that leaves the case in a catch-22 and dead in the water. That means if your house gets broken

² When county prosecutors believe there is sufficient evidence to charge or proceed against an officer for alleged criminal conduction, they file documents in court that names that officer which are available to the public. Likewise, if a person files a civil suit against an officer, those court documents including the officer’s names are available at the courts.

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into and your privacy is violated, your case will not be pursued right away, if at all, given the shortage of officers. For SHOPO that is an appalling and unsafe situation. While that may be acceptable to some people, it is NOT acceptable to SHOPO and its members who know that public safety is ultimately compromised by the lack of police officers patrolling your neighborhood. Again, HB285 does nothing to help this current situation and in fact will contribute to the crisis.

Law enforcement is not an ordinary 9-5 job. It is a unique job that is uniquely dangerous. No other job requires a person to carry a gun to work every day when they leave their families which reflects the unique dangers associated with being a police officer. Those of us that have chosen to serve as police officers have accepted the risks and dangers that are inherent with our jobs, especially in the current climate of ice addicts who are unpredictable, irrational and willing to kill innocent people. Rather than discouraging new officers from joining the police department, we should be doing everything we can to support and encourage new officers to join our depleted ranks. At the end, our job is to protect and serve you, but we cannot effectively serve if we do not have enough officers protecting our island community of over a million residents with Honolulu alone carrying over 900,000 residents.

Disclosing the name of suspended officers is an effective way to sell papers at the expense of our hard-working officers who lay their lives on the line. While we fully appreciate, and respect transparency and our officers are willing risk their lives to protect you, heeding to Civil Beat's self-interests does not help anyone but Civil Beat. The Civil Beat appears to have its own personal law office whose "Executive Director" is a lawyer named Brian Black who has been preoccupied with filing lawsuits to obtain information about our police officers. While Mr. Black complains about the need to have an officer's name, his prior testimony in support of this bill identified an officer by name so he apparently already has access to names.

In addition, Mr. Black should have disclosed to the legislature in his prior testimony that the courts already ruled and issued a decision in 2016 that mandates the disclosure of a suspended officer's name under certain circumstances. The Hawaii Supreme Court set forth a standard that requires the balancing of various factors relating to an officer's privacy interests and the interests of the public, thus the concerns raised by those supporting this bill have already been addressed by the courts. Peer News LLC v. City & Cty. of Honolulu, 138 Haw. 53, 376. P.3d 1 (2016). Civil Beat was directly involved in that case and should have been transparent in disclosing the court's ruling in its prior testimony as opposed to making it sound like the litigation was in limbo for five (5) years.³

³ The case went to the Hawaii Supreme Court because a Circuit Court ruled that police officers had absolutely no privacy interests in their disciplinary records. The Hawaii Supreme Court ruled that was incorrect.

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Last, the proposed changes to HRS §§52D-3.5 and 92F-14 are inconsistent. The proposed amendment to HRS 52D-3.5 would require the disclosure of an officer's name "upon" suspension or discharge and **before** the grievance procedure has been exhausted. If the grievance is later sustained in favor of the officer and the Chief is found to have acted improperly, the disciplinary action could be reversed but the current proposed amendment would have already required the release of the officer's name. On the other hand, HRS §92F-14 does not permit disclosure of an officer's name until the grievance process has been exhausted. This inconsistency highlights what appears to be the undermining of an officer's due process and collective bargaining rights.

Unless the legislature strongly feels the respective county police chiefs and police commissions are not doing their jobs within acceptable standards, disclosing a suspended officer's name will not make an officer any more accountable for his/her actions than already exists and will in fact have a negative impact. We thank you for allowing us to be heard on this very important issue and respectfully hope that your committee will not support this bill.

Respectfully submitted,



MALCOLM LUTU
President



Hawai'i

Committee: Senate Committee on Public Safety, Intergovernmental, and Military Affairs
Meeting Date/Time: Tuesday, March 19, 2019, 1:35 p.m.
Place: Conference Room 229
Re: Testimony of the ACLU of Hawai'i in support of H.B. 285, H.D. 1, Relating to Public Safety


Dear Chair Nishihara, Vice Chair Wakai, and Committee Members:

The American Civil Liberties Union of Hawai'i ("*ACLU of Hawai'i*") writes in support of H.B. 285, H.D. 1, which requires county police departments to disclose the identity of police officers upon the officer's suspension or discharge.

Police transparency and accountability are not only necessary to public trust in the police but they are also integral to public safety and the protection of civil rights and liberties. Presently, obtaining the disciplinary records of county police officers often requires protracted and costly litigation with potentially uncertain results. *See Peer News LLC v. City & County of Honolulu*, 376 P.3d 1 (Haw. 2016) (holding that under current law, "[d]isclosure of the [county police disciplinary] records is appropriate only when the public interest in access to the records outweighs [the] privacy interest [of the police officer].").

This bill seeks to treat county police officers on equal terms as other government employees, whose disciplinary records are more readily available to the public. *See* H.R.S. § 92F-14(b)(4)(B)(v) (treating disciplinary actions, except discharge, taken against "a county police department officer" differently from all other government employees for purposes of public records law). The current unequal treatment of county police officers makes little sense, because—given the extraordinary responsibility delegated to the police—the public interest in access to their disciplinary records is much stronger than that for most other government employees.

Consequently, we urge the Committee to support H.B. 285, H.D. 1. Thank you for the opportunity to testify.

Sincerely,

Mandy Fernandes
Policy Director
ACLU of Hawai'i

The mission of the ACLU of Hawai'i is to protect the fundamental freedoms enshrined in the U.S. and State Constitutions. The ACLU of Hawai'i fulfills this through legislative, litigation, and public education programs statewide. The ACLU of Hawai'i is a non-partisan and private non-profit organization that provides its services at no cost to the public and does not accept government funds. The ACLU of Hawai'i has been serving Hawai'i for 50 years.

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March 19, 2019

Sen. Clarence Nishihara
Senate Committee on Public Safety, Intergovernmental and Military Affairs
State Capitol
Honolulu, HI 96813

Re: HB 285, HD1

Chairman Nishihara and Committee Members:

We support this bill, which would allow disclosure of the names of disciplined police officers in annual reports by the police departments to the Legislature and the public. This would put such officer discipline on a par with that of other disciplined public employees.

Such disclosure will go a long way to assuring the public that the minority of bad officers will be held accountable. Trust is important because of police responsibility due to their powers.

We hope the committee will help end years of secrecy about disciplined officers' identities.

Sincerely,

Stirling Morita
President, Hawaii Chapter SPJ



TO: Chair Clarence Nishihara
Vice Chair Glenn Wakai
Members of the Committee

FR: Nanci Kreidman, MA
Chief Executive Officer

RE: HB 285 HD1

Aloha and thank you for considering the importance of strengthening accountability by law enforcement to the community. This Bill is one measure that will help achieve that.

As public servants charged with the critical and life altering role of responding to domestic violence in our community's homes, it is essential that our law enforcement officers are accountable to those they serve in their professional capacity. We support this Bill to Amend the Uniform Information Practices Act to allow for the disclosure of employment misconduct information that results in the suspension of a county police officer.

The training, supervision and accountability owed to the community by law enforcement should mirror that of other public servants. As held by the Hawaii Supreme Court, the right to privacy will not be violated with the disclosure of discipline and termination when it has resulted from misconduct.

Thank you for your favorable action to repeal the privacy exemption within the Uniform Information Practices Act for county police department officers.

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 Supporting H.B. 285 H.D. 1, Relating to Public Safety
Hearing: March 19, 2019 at 1:35 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 in support of H.B. 285 H.D. 1. The Law Center **strongly supports this bill because it will measurably increase public access to information about police discipline.**

This bill is NOT about the hundreds of police officers who perform their duties professionally every day under stressful and difficult circumstances; who appreciate the responsibility to the community that comes with enforcing the laws; who understand the gravity of their authority to use reasonable force, even lethal force, against citizens when necessary; and who serve as a model for our community in both their professional and personal lives. *This bill concerns the small percentage of police officers who violate statutes, rules, and regulations resulting in their suspension.*

Bills to fix the issues with public access to records of suspended police officers have been introduced every year since 2015. After nearly 25 years, it is apparent that the reasons that the 1995 Legislature distinguished police officers from other government employees (because police officers might be suspended for minor offenses, such as failing to shine their shoes) are no longer legitimate concerns.¹

¹ *E.g.*, 1995 House Journal at 682 (remarks of Rep. Alcon): “You mean to say, just because the policeman did not shine his shoes that we will have to publish his name in the paper?” Because the 1995 Legislature required annual reports from police departments regarding the nature of discipline imposed, we now have evidence from which to judge the assumptions that motivated the original change to the law. From reviewing HPD’s annual reports, the Law Center is not aware of any instance in which a police officer was suspended solely for such innocuous conduct. (For example, HPD suspended an officer in 2015 for not wearing his duty belt, but he also stole a jacket from another police officer, an offense that HPD referred to the prosecutor.)

The long history of police discipline reflected in the annual legislative reports shows that suspended police officers have committed exceptionally troubling conduct. The public deserves clear and timely access to information about suspended police officers.

HPD's most recent disciplinary report to the Legislature shows that other officers have been suspended (despite HPD's efforts to discharge them) for: (1) "slap[ing] and kick[ing] his girlfriend during an argument" (No. 16-040); (2) "a physical altercation with his ex-wife, causing numerous injuries . . . in the presence of a minor less than 14 years of age" (No. 16-049); (3) DUI and hit-and-run (No. 16-052); (4) DUI, hit-and-run, lying during an investigation, and falsifying records (No. 17-010); (5) stealing drug evidence and lying and/or falsifying records (No. 17-046); and (6) DUI (No. 18-008).

In 2018, the Honolulu Police Department reinstated Sgt. Darren Cachola despite a 2014 video that captured him beating a women in a restaurant. *HPD wanted to disclose his suspension records*; the Department wanted to explain to the public why it was required to reinstate Sgt. Cachola, rather than terminate him. But SHOPO filed a lawsuit to stop HPD from telling the public why Sgt. Cachola is still a police officer.²

That lawsuit is based on the language that this bill would fix. Even though the circuit court recently agreed with HPD that the records should be publicly disclosed, SHOPO already plans an appeal that could tie up public access to the Cachola files for years. Unless the Legislature makes police officers like all other government employees, *every* record requested about a suspended police officer will be held up for years – regardless how strong the public interest.

In 2013, Honolulu Civil Beat filed a lawsuit to require access to records about suspended police officers who used malicious force, lied during investigations, falsified records, hindered a federal investigation, and committed hit and runs. Five years later, that request also is still in litigation, and no records have been disclosed.

This bill is NOT about split-second decisions that police officers must make when confronting violent suspects in the field. For example, as it concerns use of force by police officers in the 2018 HPD report, this bill concerns domestic violence (Nos. 15-054, 16-040, 16-049, 18-018), fighting with a fellow officer (No. 18-016), and using unreasonable force while effecting an arrest (18-019).

This bill is NOT about simply naming suspended police officers. Without the details provided by investigative reports, the information available in the annual disciplinary reports to the Legislature is incomplete and can be misleading. For example, as it concerns Sgt. Cachola, the annual report reflects that HPD tried to discharge him after

² The Law Center represents Honolulu Civil Beat in that litigation, but submits this testimony on its own behalf.

he publicly beat a woman in a restaurant, but an arbitrator reinstated him with a six-month suspension. Why? The underlying records will explain the circumstances that justify the ongoing public trust conferred with a police officer's badge and weapon.³

This bill is NOT about losing police officers to Washington and California. While subject to appropriate redaction, as would remain true even if H.B. 285 were enacted (see the discharge file referenced in footnote 3), Washington police departments may not withhold internal investigation files from the public. *E.g., Sargent v. Seattle Police Dep't*, 314 P.3d 1093 (Wash. 2013); *Cowles Publ'g Co. v. State Patrol*, 748 P.2d 597 (Wash. 1988). And California recently rolled back four decades of secrecy related to police disciplinary files. Moreover, retention of police officers should not be a race to the bottom in competition with other States that focuses on keeping the handful of individuals found to have committed serious misconduct resulting in suspension.⁴

And this bill is NOT about the Law Center or the news media.⁵ The testimony previously submitted in support of this bill reflects the serious *community* concerns about public accountability for police officers.

Thank you again for the opportunity to testify in support of H.B. 285 H.D. 1.

³ The discharge records of another police officer provide a different example. The annual report stated that he was discharged because he “[f]ailed to inform dispatch of status and location and failed to initiate a report for a domestic argument. Transported the complainant to another district without the supervisor’s approval. Conducted personal business while on duty.” (2012 HPD Report, No. 6) Because the officer was discharged, the public had access to the underlying investigative report that revealed that the “personal business” concerned the officer allegedly raping the woman involved in the domestic argument. www.slideshare.net/civilbeat/james-easley-investigation. The annual summaries are useful, but are not a substitute for access to the actual records for purposes of public accountability.

⁴ In prior testimony, SHOPO made the questionable assumption that potential police recruits anticipate engaging in serious misconduct that will result in their being suspended and thus seek out a police department that will cover up such future behavior.

⁵ From its limited perspective concerning the multiple lawsuits that it has filed to obstruct public access to police records – in which it is ably represented by its own attorneys – SHOPO erroneously claims that the Law Center is the “personal law office” for Honolulu Civil Beat. As reflected on its website, the Law Center represents individuals, organizations, and the general public – including, but not limited to Civil Beat – in lawsuits and other advocacy concerning government transparency.



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HOUSE COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL, AND MILITARY AFFAIRS

Tuesday, March 19, 2019, 1:35 PM, Conference Room 229
HB 285, HD 1, Relating to Public Safety

TESTIMONY

Douglas Meller, Legislative Committee, League of Women Voters of Hawaii

Chair Nishihara and Committee Members:

The League of Women Voters strongly supports HB 285, HD 1. This bill requires county police departments to disclose to the Legislature the identify of an officer upon that officer's suspension or discharge and amends UIPA to allow public disclosure of information about employment misconduct that results in the suspension of a police officer.

The League of Women Voters of Hawaii believes that UIPA should apply to suspensions of county police officers in exactly the same way that UIPA applies to all suspensions of other public employees. It should not be necessary to file a lawsuit and obtain a court order to compel disclosure of the identity of, and summary information about misconduct by, a county police officer who has been suspended but not discharged for serious misconduct.

Thank you for the opportunity to submit testimony.



Common Cause Hawaii • 307A Kamani St. • Honolulu, HI 96813 • 808.275.6275

March 16, 2019

**Testimony IN SUPPORT of HB 285 HD1
Relating to Public Safety**

TO: Chair Clarence Nishihara, Vice Chair Glenn Wakai and Members of the
Senate Committee on Public Safety, Intergovernmental and Military Affairs

FROM: Barbara Polk, on behalf of the Board of Common Cause Hawaii

Major focuses of Common Cause Hawaii are transparency and accountability in government. For these reasons, we **strongly support HB 285** that would require the release of the names of police officers who have been suspended or dismissed.

It is very important for people to trust and respect police officers, but that is difficult to do when the public lacks information on the integrity of the police. The names of the people the police arrest are made public, as are disciplinary actions against other public employees. There is no reason to exempt the police.

Over the past few years, and especially recently, there have been many incidents that call into question the behavior of police and the willingness of the police department to call officers to account for their misdeeds. In some cases, it appears that criminal behavior is involved in suspensions or dismissals, but those crimes are not pursued. Better information would increase the respect for police and perhaps also make police officers more careful, if their misdeeds were to be reported publicly.

Please pass HB 285 HD1.

HB-285-HD-1

Submitted on: 3/16/2019 8:11:23 AM

Testimony for PSM on 3/19/2019 1:35:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Alan Urasaki	Individual	Support	No

Comments:

HB-285-HD-1

Submitted on: 3/18/2019 8:36:51 AM

Testimony for PSM on 3/19/2019 1:35:00 PM

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

Comments:

This is long overdue. The public has a right to know, and that right should be sooner rather than later which seems to be the norm as SHOPO files suit, if it loses it appeals, etc., etc., etc. and by the time we, the public taxpayer get to see reports years have gone by.

Please support this important bill so it can become law.

HB-285-HD-1

Submitted on: 3/18/2019 8:51:30 AM

Testimony for PSM on 3/19/2019 1:35:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Barry Aoki	Individual	Oppose	No

Comments:

Oppose HB285. This bill serves no purpose except to embarrass the police officer and their family. This kind of scrutiny should be reserved for elected officials which individual officers are not.

The individual police departments do a good job at handling disciplinary actions against officers when warranted.

With this kind of scrutiny, it will be difficult to attract and retain good officers.

Please OPPOSE HB285 and all its drafts.

Barry Aoki