



**WRITTEN TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
THIRTY- FIRST LEGISLATURE, 2021**

ON THE FOLLOWING MEASURE:

S.B. NO. 726, RELATING TO POLICING.

BEFORE THE:

SENATE COMMITTEE ON JUDICIARY

DATE: Wednesday, February 24, 2021 **TIME:** 9:31 a.m.

LOCATION: Via Videoconference

TESTIFIER(S): **WRITTEN TESTIMONY ONLY.**
(For more information, contact Albert Cook,
Deputy Attorney General, at 586-0940)

Chair Rhoads and Members of the Committee:

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

This bill prohibits law enforcement officers in all circumstances from serving a legal warrant without audibly declaring the officers' office and business and waiting at least thirty seconds prior to entry into a house, store, or other building for the purpose of serving a warrant. It also requires an officer who is serving a warrant to be in uniform, and it prohibits an officer serving a warrant from obscuring or concealing the officer's office in the process of serving a warrant.

Executing a warrant is one of the most dangerous activities for law enforcement officers. Officers are more likely to be shot or killed while executing search warrants than almost any other duty. <https://www.msn.com/en-us/news/crime/police-fbi-agent-shot-while-serving-a-warrant-in-sunrise/ar-BB1djLwN>. When officers execute a warrant, they do not know who is on the other side of the door, whether they are armed, under the influence of drugs, or emotionally unstable. Therefore, allowing law enforcement officers flexibility in executing warrants allows the officers the best opportunity to do their job safely and effectively.

Section 803-11, Hawaii Revised Statutes (HRS), requires an officer serving an arrest warrant to "demand entrance in a loud voice, and state that the officer . . . is the bearer of a warrant of arrest[.]" Section 803-37, HRS, allows an officer serving a legal

search warrant to enter a residence with an open door; however, if the door is closed, section 803-37 requires an officer to “declare the officer’s office and the officer’s business and demand entrance[]” and only if the door is then not opened is the officer allowed to enter by force.

The Hawaii Supreme Court has added the additional protection for the resident that “when the police demand entrance to a person’s home pursuant to a search warrant, they are constitutionally required to afford the occupants of the home a ‘reasonable time’ to respond before forcing entry.” State v. Naeole, 148 Haw. 243, 470 P.3d 1120, 1122 (2020) (internal citations omitted). The Court went on to explain that it declined to set a bright-line rule on what a “reasonable time” would be in every circumstance, as this bill attempts to do.

“[W]hat would constitute a reasonable period of time to respond to a knock and announcement must be determined by the circumstances of each case.” Monay, 85 Hawai’i at 284, 943 P.2d at 910 (quoting Garcia, 77 Hawai’i at 468, 887 P.2d at 678). Pursuant to our constitution, we have not adopted a general or “bright-line” rule for what constitutes a reasonable amount of time in all cases, or even in a subset of cases, as is urged by the parties in this case. Rather, our appellate courts have appropriately determined what constitutes a reasonable period of time by considering the totality of the circumstances in each individual case. Cf. United States v. Banks, 540 U.S. 31, 36, 124 S.Ct. 521, 157 L.Ed.2d 343 (2003) (“***W***e have treated reasonableness as a function of the facts of cases so various that no template is likely to produce sounder results than examining the totality of the circumstances in a given case; it is too hard to invent categories without giving short shrift to details that turn out to be important in a given instance, and without inflating marginal ones.”).

State v. Naeole, 148 Haw. 243, 470 P.3d 1120, 1125 (2020) (emphasis added).

The Hawaii Supreme Court has also found it to be an unlawful breaking where the serving officer used force to prevent a door from being closed and failed to expressly demand entrance. In State v. Harada, 98 Haw. 18, 29, 41 P.3d 174, 185 (2002), the Court found even though the door was opened by Harada, because the officers used force to keep Harada from closing the door, without expressly declaring

their office, their business, and demanding entrance, it was an unlawful breaking in violation of the knock and announce rule.

Therefore, there are already sufficient constitutional protections in place for persons upon whom a warrant must be served, and adding the blanket thirty-second waiting period proposed by this bill would give suspects in all circumstances the opportunity to destroy evidence and/or avoid a lawful arrest.

Given the Hawaii Supreme Court's interpretation of sections 803-11 and 803-37, HRS, the requirement of a thirty-second waiting period under all circumstances before entering a residence to execute a warrant is unnecessary and creates greater risk to officer safety and the successful recovery of evidence in criminal cases.

The Department opposes this bill and requests it be held.

STATE OF HAWAI‘I
OFFICE OF THE PUBLIC DEFENDER

**Testimony of the Office of the Public Defender,
State of Hawai‘i to the Senate Committee on the Judiciary**

February 24, 2021

S.B. No. 726: RELATING TO POLICING

Chair Rhoads, Vice Chair Keohokalole, and Members of the Committee:

The Office of the Public Defender supports S.B. No. 726.

The purpose of the search and seizure provision of the Hawai‘i Constitution, and the fourth amendment to the United States Constitution, is to “safeguard individuals from the arbitrary, oppressive, and harassing conduct of government officials. *The knock-and-announce rule is one mechanism that protects this right. Its purpose is to give the person time to respond, avoid violence and protect privacy as much as possible.*

State v. Naeole, 148 Hawai‘i 243, ___, 470 P.3d 1120, 1124 (2020) (citations omitted) (emphasis added).

Currently, when the officer charged with the execution of a search warrant finds that the doors of the place to be searched are shut, HRS § 803-37 requires three steps before the officer may physically break into the place to be searched: (1) the officer state his/her office; (2) the officer state his/her business; and (3) the officer demand entrance.

We generally support this bill, which seeks to require additional measures to safeguard individuals from oppressive and harassing conduct of government officials. Officers serving warrants should do in uniform, and officers’ agency should be prominently displayed. However, we do have concerns with the “thirty seconds” requirement, which is proposed by this measure.

In State v. Naeole, *supra*, the police officers at approximately 6:15 a.m. conducted the knock-and-announce procedure four times within a span of about *twenty-five (25) seconds* without any discernable pause between each knock on the defendant’s modestly sized residence. The Hawai‘i Supreme Court held that giving the

defendant only twenty-five seconds to respond at such an early morning hour was unreasonable.

Based on State v. Naeole, the police are forbidden from breaking down doors, gates, or other bars to the entrance if they are not “immediately” opened. However, waiting thirty seconds prior to entry is also not a reasonable amount of time depending on the circumstances, especially if the officer is executing the warrant in the early morning hours or if the residence is a multi-story “monster” house. The Hawai‘i appellate courts have consistently refused to adopt a general or “bright-line” rule for what constitutes a reasonable amount of time in all cases, or even a subset of cases. The Hawai‘i Supreme Court has repeatedly held, “What would constitute a reasonable period of time to respond to a knock and announcement ***must be determined by the circumstances of each case.***” Therefore, requiring a “bright-line” waiting period of thirty seconds, under certain circumstances, may be unconstitutional.

What is a reasonable amount of time for the officers to wait before forcibly entering a residence? As stated above, one of the purposes of knock-and-announce is to give the resident time to respond. Therefore, paraphrasing a supreme court justice’s remarks during the oral argument in State v. Naeole, ***a reasonable amount of time is enough time to give the resident an opportunity to surrender his/her privacy (i.e., open the door).*** Because the amount of time for a resident to respond to a knock-and-announce depends on the time of day, the size of the residence, and other circumstances unique to the situation, this legislature should follow the supreme court and decline to adopt a “bright line” time period. Instead, the phrases, “wait at least thirty seconds” (page 1, line 7 and page 3, line 2), “waiting at least thirty seconds” (page 2, line 12 and page 5, line 9), and “within thirty seconds” (page 3, line 6) should be replaced with phrases, “wait a reasonable time,” “waiting a reasonable time,” and “within a reasonable time.”

Finally, we would also like to take this opportunity to urge this committee to require the officers serving the warrant to not only do so in uniform but also to be ***equipped with operable body worn cameras***, as we believe that each county police are equipped with such cameras. Using body worn cameras will certainly strengthen police accountability, enhance transparency, and further the intent of this measure.

Thank you for the opportunity to comment on S.B. No. 726.

DEPARTMENT OF THE PROSECUTING ATTORNEY
CITY AND COUNTY OF HONOLULU

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THOMAS J. BRADY
FIRST DEPUTY
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THE HONORABLE KARL RHOADS, CHAIR
SENATE COMMITTEE ON JUDICIARY
Thirty-first State Legislature
Regular Session of 2021
State of Hawai`i

February 23, 2021

RE: S.B. 726, RELATING TO POLICING.

Chair Rhoads, Vice Chair Keohokalole, and members of the Senate Committee on Judiciary, the Department of the Prosecuting Attorney of the City and County of Honolulu (“Department”) submits the following testimony, **expressing concerns** regarding S.B. 726.

The purpose of S.B. 726 is to prohibit “no knock warrants” and require law enforcement officers to declare their business and wait at least thirty seconds before entering a house, store, or other building for the purpose of serving a warrant. Our concerns are as follows:

No-knock warrants

It is unclear where the reference to “no-knock warrants” originated from, as we were unable to find any statutory authority for this in either the Hawaii Revised Statutes or Hawaii Rules of Penal Procedure. As such, this provision appears to be unnecessary.

Thirty seconds

The Department is concerned that setting a specific waiting period is overly restrictive, beyond that which is necessary to ensure the public’s constitutional rights and protections. In June 2020, the Hawaii Supreme Court issued an opinion in *State v. Naeole*, 148 Haw. 243, 470 P.3d 1120 (2020), which struck down a search warrant in which the officers waited 25 seconds, but that was based on a “totality of the circumstances” assessment, rather than a set time limit.

What would constitute a reasonable period of time to respond to a knock and announcement must be determined by the circumstances of each case. Pursuant to our constitution, **we have not adopted a general or “bright-line” rule for what constitutes a reasonable amount of time in all cases, or even in a subset of cases, as is urged by the parties in this**

case. Rather, our appellate courts have appropriately determined what constitutes a reasonable period of time by considering the totality of the circumstances in each individual case.

We have treated reasonableness as a function of the facts of cases so various that no template is likely to produce sounder results than examining the totality of the circumstances in a given case; it is too hard to invent categories without giving short shrift to details that turn out to be important in a given instance, and without inflating marginal ones.¹

The Court’s opinion in *Naeole* specifically cited to *State v. Diaz*, a prior case in which police officers executed a search warrant at a video store at approximately 6:45 p.m., during the store’s regular business hours, and waited only fifteen seconds before breaking into an office door. 100 Hawai‘i at 213, 58 P.3d at 1260. In finding that fifteen seconds was appropriate and constitutional under those circumstances, the court considered exigent circumstances:

Exigent circumstances are those under which the demands of the occasion reasonably call for an immediate police response. Such circumstances exist where there is an imminent threat of harm to a person, where there is a danger of serious property damage, where a suspect is likely to escape, or where evidence is likely to be removed or destroyed. Since drugs are by their nature easily destroyed or secreted, exigent circumstances in cases involving searches for drugs exist when the facts show that the occupants of the suspected locale are aware of the police presence and are taking steps which the police realistically fear may lead to destruction of the contraband.²

Thus, while thirty seconds may seem to be a reasonable amount of time for officers to wait in most cases, there is no “one size fits all” appropriate to establish a minimum time frame.

Uniforms

While we understand the concern about plainclothes officers potentially serving search warrants, we would also note that specialized units such as SWAT occasionally serve warrants in unusually dangerous circumstances—such as large-scale drug raids—for which they may wear various degrees of tactical gear, such as body armor, reinforced helmets, etc. Such gear is provided and maintained by the police department, and is crucial for the officers’ safety, but does not resemble standard-issue police uniforms. In light of this, we strongly encourage the Committee to ensure that such gear would be permissible for service of warrants.

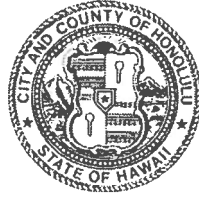
For all of the foregoing reasons, the Department of the Prosecuting Attorney of the City and County of Honolulu expresses concerns regarding the passage of S.B. 726, and asks that this Committee defer the bill. Thank you for the opportunity to testify on this matter.

¹ *State v. Naeole*, 148 Haw. 243, 470 P.3d 1120 (2020). Emphasis added; internal citations and formatting omitted.

² *Id.* Internal citations and formatting omitted.

POLICE DEPARTMENT
CITY AND COUNTY OF HONOLULU

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OUR REFERENCE MT-MM

February 24, 2021

The Honorable Karl Rhoads, Chair
and Members
Committee on Judiciary
State Senate
Hawaii State Capitol
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair Rhoads and Members:

SUBJECT: Senate Bill 726, Relating to Policing

I am Major Mark Thompson of the Specialized Services Division of the Honolulu Police Department (HPD), City and County of Honolulu.

The HPD opposes Senate Bill 726, Relating to Policing. This bill would require officers serving warrants to first audibly declare their office and business and then wait for at least thirty seconds for compliance before entering a house, store, or other building. Officers serving warrants would also be required to do so in uniform.

The HPD standard is to knock and announce when serving warrants. There are also ample safeguards in the process of obtaining warrants to ensure that they are issued only when fully justified. Requests for warrants by the HPD must be vetted and approved by the Department of the Prosecuting Attorney and final approval must be obtained from a judge. With the checks and balances in place, no knock warrants should not be prohibited outright in the event circumstances arise in an investigation in which the danger and urgency factors are so great that a no knock warrant would be the best option. The existing judicial safeguards and the fact that the HPD has not used no knock warrants should substantiate that such warrants would be permitted only in the most severe of cases.

The thirty-second requirement to wait for compliance can prove to be fatal to officers serving warrants or afford time for evidence to be destroyed. There are many factors that present themselves during an investigation and in the early planning stages of the execution

The Honorable Karl Rhoads, Chair
and Members
February 24, 2021
Page 2

of a warrant that can make thirty seconds for entry extremely hazardous. Some of these factors include the type of crime; possession of firearms or other dangerous weapons; type of evidence being sought in the search warrant; suspect's criminal, drug, and mental history; size and type of residence/building; number of people within the location; the interior layout of the location; surveillance cameras; etc. It would be detrimental to the safety of the officers and the community to standardize the wait time when no two situations will ever be the same. All of these factors and other variables established in each situation should determine the reasonable amount of wait time before entry after officers identify their office and business.

As far as the uniform requirement, the HPD has many different investigative divisions and units that have their own authorized uniform. However, all officers must follow policy when it comes to their presence in public. Regardless of which division or unit they are assigned to, all officers must have their badge displayed and possess body armor, authorized firearm, police identification card, and handcuffs on their person whenever they are engaged in duties that could expose them to injury from a weapon.

The HPD respectfully opposes Senate Bill 726, Relating to Policing.

Thank you for the opportunity to testify.

Sincerely,



Mark Thompson, Major
Specialized Services Division

APPROVED:



Susan Ballard
Chief of Police



POLICE DEPARTMENT
COUNTY OF MAUI



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TIVOLI S. FAAUMU
CHIEF OF POLICE

OUR REFERENCE
YOUR REFERENCE

DEAN M. RICKARD
DEPUTY CHIEF OF POLICE

February 19, 2021

The Honorable Senator Karl Rhoads, Chair
The Honorable Senator Jarrett Keohokalole, Vice Chair
Committee on Judiciary
Thirty-First Legislature 2021
Hawaii State Capitol
415 South Beretania Street
Honolulu, HI 96813

RE: SENATE BILL 726 RELATING TO POLICING

Dear Chair Rhoads and Committee Members:

The Maui Police Department strongly OPPOSES the passage of Senate Bill 726, which in part will prohibit no-knock warrants.

The use of no-knock warrants is an option only if intelligence is received and verified that a target is in possession of firearms and has demonstrated a willingness to use them against law enforcement. We have policies that incorporate a matrix that determines if certain tactics may be employed in high-risk situations, to include no-knock warrants. These options are in place to give us the best chance of a positive outcome in regards to the safety and well-being of most importantly the public, the officers, and also the offender. As written, the act will prohibit no-knock warrants across the board and remove another tool we currently have at our disposal. Such restrictions would only adversely affect us and not the offenders who do not operate under any guidelines or regard for life and property. In certain situations, having officers wait to make entry into a building will give the offenders an opportunity to prepare to respond with deadly force or destroy evidence. We are judicious in our service to the community ensuring we protect the Constitutional Rights of all. But we must also take into account the ability to protect our officers in doing their jobs safely and not create an opportunity for offenders to escalate the situation. Accordingly, Maui Police Department is requesting Senate Bill 726 NOT be PASSED.

Thank you for the opportunity to testify.

Sincerely,


TIVOLI S. FAAUMU
Chief of Police



ADA

HAWAII

AMERICANS FOR DEMOCRATIC ACTION

OFFICERS

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February 19, 2021

TO: Chair Rhoads and members of JDC Committee

RE: SB 726 Relating to Policing

Support for hearing on Feb. 24

Americans for Democratic Action is an organization founded in the 1950s by leading supporters of the New Deal and led by Patsy Mink in the 1970s. We are devoted to the promotion of progressive public policies.

We support SB 726 as it would prohibit the issuance of warrants that permit entry by an officer to a house, store, or other building without first audibly declaring the officer's office and business, including no-knock warrants. It requires law enforcement officers serving an arrest warrant at a house or a search warrant at a house, store, or other building to audibly declare the officer's office and business and wait at least thirty seconds for compliance before entry.

I hope we have learned from Breonna Taylor's death that no-knock police entry is just plain stupid.

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Thank you for your favorable consideration.

Sincerely,

John Bickel, President



TESTIMONY IN SUPPORT OF SB 726

TO: Chair Rhoads, Vice-Chair Keohokalole, and Judiciary Committee Members

FROM: Nikos Leverenz
Grants, Development & Policy Manager

DATE: February 24, 2021 (9:31 AM)

Hawai'i Health & Harm Reduction Center (HHRC) **strongly supports** SB 726, which would explicitly ban “no knock” warrants and require officers to wait at least 30 seconds before entering a house, store, or other building when executing a warrant. It would also require officers to execute warrants in uniform.

This bill can help forestall otherwise preventable injury and deaths of residents and state and local law enforcement. The states of Virginia, Oregon, and Florida currently ban the use of no-knock warrants, with Virginia enacting its statute in a special session late last year.

A 2014 report from the American Civil Liberties Union notes how the no-knock warrant in drug enforcement actions has eroded the “knock-and-announce” rule:

Drug cases often provide police with vast discretion to use forced entry into a person’s home to execute a search warrant. Even when a court finds that the police have violated the knock-and-announce rule, the Supreme Court has held that the prosecution can still use the evidence seized as a result of a subsequent search at trial, significantly diluting the knock-and-announce requirement’s value as a deterrent to police overreach. (“[War Comes Home: The Excessive Militarization of American Policing](#),” at p. 24.)

Utah, which collects and disseminates data regarding police entry raids, [confirms that no-knock raids are mostly used in narcotics enforcement](#). This was also the case of the death of Breonna Taylor in Louisville, Kentucky, in March of last year, which has precipitated the introduction of measures like this bill in [more than two dozen state and local jurisdictions](#).

A number of officer-involved shootings in Hawai'i, [which have significantly increased in recent years](#), have featured plain clothes officers. This heightens the risk of serious injury and death to residents and officers. (See, e.g., Christina Jedra, “[Honolulu Sued Over Fatal Police Shooting of Waianae Man](#),”

Honolulu Civil Beat, July 2, 2020; Yoohyn Jung, “[Honolulu Police Official Says Suspect Shot Because ‘He was not Compliant,’](#)” *Honolulu Civil Beat*, January 7, 2020; “[HPD Officer, Man Injured in Shooting Near Pokai Bay,](#)” KITV, July 30, 2019; Yoohyn Jung, “[Robbery Suspect Fatally Shot in Fifth Honolulu Officer-Involved Shooting of the Year,](#)” *Honolulu Civil Beat*, November 13, 2019; “[Officer Involved Shooting Reported in Glenwood,](#)” *West Hawai‘i Today*, November 20, 2019; John Burnett, “[Document Details KTA Shooting, Names Officers Involved,](#)” *Hawai‘i Tribune-Herald*, December 6, 2019.)

Last year the New York Police Department disbanded plain clothes units that “were involved in a disproportionate number of civilian complaints and fatal shootings by police.” (Ali Watkins, “[N.Y.P.D. Disbands Plainclothes Units Involved in Many Shootings,](#)” *New York Times*, June 15, 2020.)

As the Office of Hawaiian Affairs has extensively noted, [the current punitive approach to drug use falls particularly hard on Native Hawaiians](#), who do not use drugs at a drastically different rates than other races and ethnicities but go to prison for drug offenses at a higher rate. Police practices, prosecutorial practices, and sentencing structures contribute to this ongoing disparity. A punitive approach to drug use also includes an unduly large probation population that has [the highest average term in the nation at almost five years](#), according a recent report from the Pew Charitable Trusts.

The American Public Health Association (APHA) has observed that “substance use mistreatment is too often unavailable or unaffordable for people who want it. A criminal justice response, including requiring arrest to access health services, is ineffective and leads to other public health problems.” APHA instead recommends “ending the criminalization of drugs and drug consumers, prioritizing proven treatment and harm reduction strategies, and expanding (and removing barriers to) treatment and harm reduction services.” (Policy Statement, “[Defining and Implementing a Public Health Response to Drug Use and Misuse.](#)”)

HHRC’s mission is to reduce harm, promote health, create wellness, and fight stigma in Hawai‘i and the Pacific. We work with many individuals who are impacted by poverty, housing instability, and other social determinants of health. Many have behavioral health problems, including those relating to substance use and underlying mental health conditions. Many of our clients and participants have been deeply impacted by trauma, including histories of physical, sexual, and psychological abuse.

Thank you for the opportunity to testify on this important measure.

COMMUNITY ALLIANCE ON PRISONS

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COMMITTEE ON JUDICIARY

Senator Karl Rhoads, Chair

Senator Jarrett Keohokalole, Vice Chair

Wednesday, February 24, 2021

9:31 a.m.

SUPPORT FOR SB 746 - PROHIBITING NO KNOCK WARRANTS

Aloha Chair Rhoads, Vice Chair Keohokalole, and Members of the Committee!

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 more than 4,100 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 1,000 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.

SB 726 is about how law enforcement interacts with the community. The bill reminds us all to never forget Breonna Taylor, a Black medical worker who was murdered by police who mistakenly entered her home while she was sleeping. This bill prohibits law enforcement from entering a home without first announcing themselves. On page 2, lines 13 to 15 says that *an officer shall not be required to wait if exigent circumstances exist that cause waiting to be hazardous or otherwise impracticable.*

Exigent circumstances are defined as "*circumstances that would cause a reasonable person to believe that entry (or other relevant prompt action) was necessary to prevent physical harm to the officers or other persons, the destruction of relevant evidence, the escape of the suspect, or some other consequence improperly frustrating legitimate law enforcement efforts.*"

This sometimes can come down to a judgement call and therein lies a problem if the definition of exigent circumstances is not narrowed. In the case of drug searches, quick knock raids are justified by things like "sounds of scurrying" or "toilets flushing."

Exigent circumstances should be narrowed to only include those circumstances that are imminently life threatening. Human life is more important than the possible loss of evidence.

An article in the Baltimore Sun¹ cites the Baltimore State’s Attorney directive to her prosecutors:

Baltimore State’s Attorney Marilyn Mosby has directed city prosecutors not to authorize “no-knock” warrants, saying the police shooting of Breonna Taylor in Louisville, Kentucky, demonstrates these warrants are too risky. “The ends do not justify the means,” Mosby wrote her staff Wednesday. “Seventeen states do not allow this tactic, and our office will also no longer sign off on this dangerous measure.”

Another article² reported on a comprehensive bill introduced in New York that seeks to not only ban the vast majority of no-knock raids, but also strictly limit other avenues for forcible entry by police. Here is an excerpt from the article:

New York bill, co-sponsored by Sens. Brian Benjamin and James Sanders Jr. and Assembly Member Daniel J. O’Donnell, seeks to limit the use of unannounced, no-knock raids to the most severe circumstances, like the pursuit of a murder suspect or incidents involving active shooters, hostage-taking, terrorism, or human trafficking. It would ban the issuance of no-knock warrants aimed exclusively at searching for drugs, currently the most common use of these heavily militarized raids. But unlike other current and draft state and local legislation, as well as three federal proposals, the New York bill would also impose a host of restrictions on what are known as “knock-and-announce” search warrants, a more common type of forcible entry that has led to dozens of deadly encounters in recent years.

“We must stop the over militarization of our communities,” Sanders said in a statement. “Today, we are putting forth the most comprehensive, groundbreaking legislation in the nation when it comes to these police raids, which should only be used under extreme circumstances and with accountability.”

Community Alliance on Prisons urges the committee to pass this important measure and perhaps amending the bill to include the section of the NY bill that would ban the issuance of no-knock warrants aimed exclusively at searching for drugs, currently the most common use of these heavily militarized raids.

Mahalo for this opportunity to testify.

Justice is never advanced in the taking of a human life. Coretta Scott King

¹ Citing death of Breonna Taylor in Louisville, State’s Attorney Marilyn Mosby wants to ban no-knock warrants in Baltimore, By TIM PRUDENTE, BALTIMORE SUN | OCT 14, 2020.

² NEW BILL AIMS TO END POLICE RAIDS LIKE THE ONE THAT KILLED BREONNA TAYLOR, Legislation introduced in New York this week is the latest, most ambitious effort to keep police from breaking into people’s homes. By Alice Speri, December 17, 2020. <https://theintercept.com/2020/12/17/no-knock-raid-new-york-breonna-taylor/>



Committee: Committee on Judiciary
Hearing Date/Time: Wednesday, February 24, 2021, 9:31a.m.
Place: Via videoconference
Re: *Testimony of the ACLU of Hawai'i in support of S.B. 726, Relating to Policing*

Dear Chair Rhoads, Vice Chair Keohokalole, and Committee Members:

The American Civil Liberties Union of Hawai'i (ACLU of Hawai'i) writes **in support of S.B. 726**, which expressly prohibits the use of “no-knock” warrants, requires officers to wait *at least* thirty seconds prior to entering a property when executing a warrant, and requires officers to serve warrants in uniform. To further strengthen this measure and clarify that a court may find that *more than* thirty seconds is required depending on the circumstances of a case, the ACLU of Hawai'i respectfully offers two amendments for the Committee's consideration, which are discussed below.

No-knock warrants should be banned nationwide.

No-knock raids are searches in which a law enforcement officer or officers forcibly enter a dwelling without knocking or announcing their presence. In most states, judges may grant what are called “no-knock warrants,” which pre-authorize these raids. A 2014 report by the national ACLU found that no-knock raids are often used in conjunction with military equipment and weaponry when conducting drug searches.¹ On March 14, 2020, Breonna Taylor, a 26-year-old Black medical worker, was murdered in her home in Louisville, Kentucky, during a botched, no-knock raid by Louisville Metro Police wearing plainclothes. While her death renewed national attention on the issue of no-knock warrants and raids, she is far from the first victim of this practice, which has racist roots and is disproportionately deployed against communities of color, particularly Black communities. In 2009, SWAT officers murdered 26-year-old Tarika Wilson when they broke down her front door and opened fire to her home. She was holding her 14-month-old son when she was killed.² The New York Times reported that between 2010 and 2016, no-knock and quick-knock raids led to the deaths of 94 people, 81 of whom were members

¹ *War Comes Home: The Excessive Militarization of American Policing*, American Civil Liberties Union, (June 2014), <https://www.aclu.org/sites/default/files/assets/jus14-warcomeshome-report-web-rell1.pdf#page=23>.

² Christopher Maag, *Police Shooting of Mother and Infant Exposes a City's Racial Tension*, New York Times (January 30, 2008), <https://www.nytimes.com/2008/01/30/us/30lima.html>.

of the public.³ Because the nature of no-knock quick-knock raids capitalizes on surprise and they are often used late at night or early in the morning, they have a high probability of leading to violent interactions between police and members of the public, when residents reasonably believe the police officers invading their home were there to burglarize them, and react defensively.⁴ In response to the role that no-knock and quick knock raids has played in the murders of innocent people, three states – Oregon, Florida, and Virginia – have expressly banned the use of “no-knock” warrants.

A baseline waiting period of at least thirty seconds should be established.

Hawai‘i statute requires officers to knock and announce themselves before forcing their way into a dwelling.⁵ Article 1, Section 7 of the Hawai‘i State Constitution further requires officers to wait a reasonable period of time prior to forcing entry.⁶ What constitutes a “reasonable” time is determined by the facts of the case.⁷ Hawai‘i courts have found that while fifteen seconds was a reasonable time to wait prior to entering a commercial property during business hours,⁸ more than twenty-five seconds was required when executing a warrant early in the morning at a private residence.⁹ S.B. 726 would change Hawai‘i statute to require officers to wait *at least* thirty seconds before forcing their way into a property to execute a warrant, establishing a baseline rule while also allowing courts to determine that, in considering the circumstances of a particular case, *more time* was required to meet the standard of reasonableness. This is necessary to further protect an occupant’s privacy against unreasonable searches and to ban what are essentially quick-knock raids.

³ Kevin Sack, *Door-Busting Raids Leave a Trail of Blood*, New York Times (March 18, 2017), <https://www.nytimes.com/interactive/2017/03/18/us/forced-entry-warrant-drug-raid.html?smid=pl-share>.

⁴ Dara Lind, *Cops do 20,000 no-knock raids a year. Civilians often pay the price when they go wrong*, Vox (May 15, 2015), <https://www.nytimes.com/interactive/2017/03/18/us/forced-entry-warrant-drug-raid.html?smid=pl-share>.

⁵ Haw. Rev. Stat. HRS § 803-37.

⁶ “The protection against unreasonable searches would mean very little if the police, armed with a search warrant, were authorized to break down the door of someone’s premises unless there was an ‘instant’ response.” *Garcia*, 77 Hawai‘i at 467, 887 P.2d at 677 (quoting *State v. Martinez*, 59 Haw. 366, 368, 580 P.2d 1282, 1284 (1978)).

⁷ “[W]hat would constitute a reasonable period of time to respond to a knock and announcement must be determined by the circumstances of each case.” *State v. Monay*, 85 Haw. 282, 284, 943 P.2d 908, 910 (1997) (quoting *State v. Garcia*, 77 Hawai‘i 461, 887 P.2d 671 (App.1995)).

⁸ *State v. Diaz*, 100 Haw. 210, 58 P.3d 1257 (2002).

⁹ “We hold that giving an occupant only twenty-five seconds to respond at such an early morning hour is unreasonable.” *State v. Naeole*, 148 Haw. 243, 470 P.3d 1120, 1127 (2020).

To clarify that a court could still find that the circumstances in a particular case require *more than* thirty seconds, the ACLU of Hawai'i requests that the Committee amend the language on page 3, line 4-7 to reflect the following:

If the doors, gates, or other bars to the entrance are not [~~immediately~~] opened[~~;~~] within a reasonable time of not less than thirty seconds, the officer may break them.

The ACLU of Hawai'i would also support any additional language that the Committee may deem necessary and appropriate to clarify that, depending on the circumstances of a case, thirty seconds may still be an unreasonably short amount of time and that *more than* thirty seconds may be necessary to protect an occupant's constitutional rights.

Exigent circumstances should be limited to those that are imminently life-threatening.

Under certain circumstances, officers may enter a house *immediately* after the announcement if justified by the presence of exigent circumstances.¹⁰ The Hawai'i Supreme Court has found that exigent circumstances exist where there is 1) an imminent threat of harm to a person, 2) a danger of serious property damage, 3) when a suspect is likely to escape, or 4) where evidence is likely to be removed or destroyed.¹¹ The ACLU of Hawai'i respectfully requests that the bill be amended to limit exigent circumstances to include only those that are imminently life-threatening. This change is necessary to prevent future harm and recognizing that the threat of destroyed evidence is nothing compared to the actual loss of human life resulting from no-knock and quick-knock raids.

For the above reasons, the ACLU of Hawai'i requests that the Committee support this measure.

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 over 50 years.

¹⁰ *State v. Lloyd*, 61 Haw. 505, 512, 606 P.2d 913, 918 (1980).

¹¹ *Id.*



Young Progressives Demanding Action
P.O. Box 11105
Honolulu, HI 96828

February 20, 2021

TO: Senate Committee on the Judiciary
RE: Testimony in support of SB726

Dear Senators,

Young Progressives Demanding Action (YPDA) strongly supports SB726. This bill explicitly bans “no-knock” warrants and requires officers to wait at least 30 seconds before entering a house, store, or other building when executing a warrant. It also requires officers to execute warrants in uniform.

No-knock raids are searches in which a law enforcement officer or officers forcibly enter a dwelling without knocking or announcing their presence. In most states, judges may grant what are called “no-knock warrants,” which pre-authorize these raids. Quick-knock raids are where police still knock and announce themselves when executing a warrant, but they leave very little time after doing so before they forcibly enter the premises.

No-knock and quick-knock raids are often used in conjunction with military-grade equipment and rely on surprise. They are often executed late at night or early in the morning. This frequently leads to violent interactions between police and people who reasonably assume that the intruders invading their home are there to burglarize or harm them and react defensively.

This is what occurred on March 14, 2020, when police murdered Breonna Taylor, a 26-year-old Black medical worker, in her home in Louisville Kentucky during a botched no-knock raid. Taylor’s murder helped re-energize the movement to reform our law enforcement and criminal-legal system, and renewed calls to end systemic racism in our police forces and throughout society. However, Taylor is only one of the most recent victims of no-knock raids.

The *New York Times* reported that, between 2010–16, 94 people have died during no-knock and quick-knock raids, 81 of whom were members of the public. One case involved 26-year-old

Tarika Wilson, who was holding her toddler son when a SWAT team opened fire into her home, killing her and injuring her son.

Three states have expressly banned no-knock raids and the warrants that authorize them. This type of law is now known as “Breonna’s Law” in Taylor’s honor. Hawai’i should become the next state to ban these raids and their warrants.

Mahalo for the opportunity to testify,

Will Caron
Board President & Secretary
action@ypdahawaii.org

SB-726

Submitted on: 2/22/2021 9:15:33 AM

Testimony for JDC on 2/24/2021 9:31:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Laurie Field	Testifying for Planned Parenthood Votes Northwest and Hawaii	Support	No

Comments:

Planned Parenthood Votes Northwest and Hawaii supports SB 726.

SB-726

Submitted on: 2/22/2021 11:53:33 AM

Testimony for JDC on 2/24/2021 9:31:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Laurie Tomchak	Testifying for League of Woman Voters	Support	No

Comments:

For arrests and warrants to stand up in court, they should be accompanied by a knock at the door and a verbal warning by a uniformed police officer. This avoids the tragedies we have seen in past years where officers break in to the wrong house and shoot and sometimes kill the occupants, or when a situation escalates in a way it wouldn't if things had proceeded in the normal way. Once the normal way was no knock warrants by plainclothes policemen, but we have progressed beyond a television police drama view of reality. Some drug convictions may be lost, but human life will be saved and prison crowding will be alleviated.

SB-726

Submitted on: 2/19/2021 11:13:44 AM

Testimony for JDC on 2/24/2021 9:31:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
cheryl B.	Individual	Support	No

Comments:

Support

IF this protects just one person from the horror of what happened to Breonna Taylor and others, then this law is essential.

SB-726

Submitted on: 2/19/2021 3:01:30 PM

Testimony for JDC on 2/24/2021 9:31:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Greg Puppione	Individual	Support	No

Comments:

We've seen how dangerous these warrants can be. Please eliminate them. Mahalo.

SB-726

Submitted on: 2/19/2021 3:06:04 PM

Testimony for JDC on 2/24/2021 9:31:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Lewis Glenn	Individual	Support	No

Comments:

My name is Lewis Glenn and I am writing in strong support of S.B. 726, which bans “no-knock” warrants, requires officers to wait at least thirty seconds before forcibly entering a property when executing a warrant, and requires officers serving a warrant to do so in uniform. S.B. 726 is known as “Breonna’s Law,” named after 26-year-old Black medical worker Breonna Taylor, who was murdered in her own home by Louisville police during a botched no-knock raid.

To further strengthen this bill and protect the people of Hawai’i against police violence, I request the Committee to narrow the exigent circumstances in section 2 of the bill to those that are imminently life-threatening. Please honor Breonna Taylor’s life and end no-knock raids and warrants in Hawai’i by supporting SB726.

Thank you.

SB-726

Submitted on: 2/19/2021 3:37:08 PM

Testimony for JDC on 2/24/2021 9:31:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
John NAYLOR	Individual	Support	No

Comments:

Aloha,

After what happened to Bianna Taylor in Kentucky, I hope we can all agree that should never happen in Hawaii Nei. First step NO no knock warrents.

Mahalo,

JN

SB-726

Submitted on: 2/19/2021 3:40:31 PM

Testimony for JDC on 2/24/2021 9:31:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Patricia Blair	Individual	Support	No

Comments:

I support this bill.

SB-726

Submitted on: 2/19/2021 3:39:39 PM

Testimony for JDC on 2/24/2021 9:31:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
ANDREW ISODA	Individual	Support	No

Comments:

My name is ANDREW ISODA and I am writing in strong support of S.B. 726, which bans “no-knock” warrants, requires officers to wait at least thirty seconds before forcibly entering a property when executing a warrant, and requires officers serving a warrant to do so in uniform. S.B. 726 is known as “Breonna’s Law,” named after 26-year-old Black medical worker Breonna Taylor, who was murdered in her own home by Louisville police during a botched no-knock raid.

To further strengthen this bill and protect the people of Hawai‘i against police violence, I request the Committee to narrow the exigent circumstances in section 2 of the bill to those that are imminently life-threatening. Please honor Breonna Taylor’s life and end no-knock raids and warrants in Hawai‘i by supporting SB726.

Mahalo,

Andrew Isoda - Napili, Mau'i

SB-726

Submitted on: 2/19/2021 4:01:46 PM

Testimony for JDC on 2/24/2021 9:31:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Jennifer Kau'i Young	Individual	Support	No

Comments:

“My name is Jennifer Kau'i Young and I am writing in strong support of S.B. 726, which bans “no-knock” warrants, requires officers to wait at least thirty seconds before forcibly entering a property when executing a warrant, and requires officers serving a warrant to do so in uniform. S.B. 726 is known as “Breonna’s Law,” named after 26-year-old Black medical worker Breonna Taylor, who was murdered in her own home by Louisville police during a botched no-knock raid.

To further strengthen this bill and protect the people of Hawai'i against police violence, I request the Committee to narrow the exigent circumstances in section 2 of the bill to those that are imminently life-threatening. Please honor Breonna Taylor’s life and end no-knock raids and warrants in Hawai'i by supporting SB726.

SB-726

Submitted on: 2/19/2021 4:53:16 PM

Testimony for JDC on 2/24/2021 9:31:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
David E Sofio	Individual	Oppose	No

Comments:

My name is Dave Sofio, and I am writing in strong support of S.B. 726, which bans “no-knock” warrants, requires officers to wait at least thirty seconds before forcibly entering a property when executing a warrant, and requires officers serving a warrant to do so in uniform. S.B. 726 is known as “Breonna’s Law,” named after 26-year-old Black medical worker Breonna Taylor, who was murdered in her own home by Louisville police during a botched no-knock raid.

Taylor's tragic case is an excellent example of how badly wrong a warrant execution can go under the misapprehension that "the element of surprise" is of great benefit to LEOs.

To further strengthen this bill and protect the people of Hawai'i against police violence, I request the Committee to narrow the exigent circumstances in section 2 of the bill to those that are imminently life-threatening. Please honor Breonna Taylor's life and end no-knock raids and warrants in Hawai'i by supporting SB726.

SB-726

Submitted on: 2/19/2021 5:20:39 PM

Testimony for JDC on 2/24/2021 9:31:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Barbara L. George	Individual	Support	No

Comments:

SUPPORT!!!!

SB-726

Submitted on: 2/19/2021 7:31:24 PM

Testimony for JDC on 2/24/2021 9:31:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Dave Kisor	Individual	Support	No

Comments:

There were two blocks, each with an apartment building. One evening a paramedic team knocked on our front door. It turned out they should have gone next door. Foul ups happen. Regarding a reasonable time, who designates that time and what is reasonable? If someone is a sound sleeper and did not hear the knock, does that make it alright to spray the place with lead?

SB-726

Submitted on: 2/19/2021 7:52:25 PM

Testimony for JDC on 2/24/2021 9:31:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Kathy Shimata	Individual	Support	No

Comments:

"My name is Kathy Shimata and I am writing in strong support of SB726, which bans "no-knock" warrants, requires officers to wait at least thirty seconds before forcibly entering a property when executing a warrant, and requires officers serving a warrant to do so in uniform. I believe there are very few situations that are imminently life-threatening that require a "no-knock" warrant. They should be limited to reduce the chance that someone will get hurt. Please support SB726.

SB-726

Submitted on: 2/19/2021 9:26:26 PM

Testimony for JDC on 2/24/2021 9:31:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Carrie Ann Shirota	Individual	Support	No

Comments:

Dear Senators,

I am submitting testimony in support of SB 726 that would explicitly ban "no knock" warrants and requires police officers to wait at least thirty seconds before entering a house, store, or other building when executing a warrant. I also support an amendment narrowing the exigent circumstances exception to circumstances that are imminently life-threatening.

Let's take proactive steps in Hawaii to prevent unnecessary deaths like the tragic death of Breonna Taylor.

Thank you for the opportunity to submit testimony in support.

Sincerely,

Carrie Ann Shirota, Esq.

SB-726

Submitted on: 2/19/2021 9:47:42 PM

Testimony for JDC on 2/24/2021 9:31:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Anna Chua	Individual	Support	No

Comments:

Dear Chair Rhoads, Vice-Chair Keohokalole, and esteemed members of the committee,

My name is Anna Chua and I am writing in strong support of SB 726, which bans “no-knock” warrants, requires officers to wait at least thirty seconds before forcibly entering a property when executing a warrant, and requires officers serving a warrant to do so in uniform. SB 726 is known as “Breonna’s Law,” named after 26-year-old Black medical worker Breonna Taylor, who was murdered in her own home by Louisville police during a botched no-knock raid. Police brutality is not a far-off phenomenon in Hawai‘i and it is imperative to have stringent measures in place that will truly serve and protect our communities, especially those that have historically been and currently are disproportionately impacted by police violence in Hawai‘i.

To further strengthen this bill and protect the people of Hawai‘i against police violence, I request the Committee to narrow the exigent circumstances in section 2 of the bill to those that are imminently life-threatening. Please honor Breonna Taylor’s life and end no-knock raids and warrants in Hawai‘i by supporting SB726.

Thank you for the opportunity to testify in support of this bill,

Anna Chua

annachua@hawaii.edu

96826

SB-726

Submitted on: 2/20/2021 11:34:50 AM

Testimony for JDC on 2/24/2021 9:31:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Carla Allison	Individual	Support	No

Comments:

My name is Carla Allison and I strongly support SB726. Hawaii needs to ensure we have the best police force possible, the best at serving and protecting. SB726 clearly bans dangerous no-knock warrants and requires officers executing warrants to wait at least thirty seconds before entering a property. SB726 also requires officers to be uniformed when executing a warrant, allowing citizens to clearly identify the officers as law enforcement and help prevent situations in which citizens believe that a burglary is taking place. To further strengthen this bill and protect the people of Hawai'i against injury or loss of life, I ask the Committee to narrow the exigent circumstances in section 2 of the bill to those that are imminently life-threatening. Human life is more important than the possible loss of evidence. Setting forth these clear parameters will ensure police officers are trained and our community protected from any confusion and/or police misconduct. We don't want any Breonna Taylor tragedies in Hawaii. Please support our police officers and our communities by supporting SB726.

SB-726

Submitted on: 2/20/2021 3:28:41 PM

Testimony for JDC on 2/24/2021 9:31:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Cassandra Chee	Individual	Support	No

Comments:

I support this bill because we need to protect our communities from unnecessary violation and violence from law enforcement.

SB-726

Submitted on: 2/20/2021 5:41:39 PM

Testimony for JDC on 2/24/2021 9:31:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Thaddeus Pham	Individual	Support	No

Comments:

Aloha JDC Committee,

As a public health professional and concerned community member, I write in **STRONG SUPPORT** of SB726, which expressly bans no-knock warrants and require officers to wait thirty seconds before entering a property to execute a warrant.

The Legislature could strengthen these measures by narrowing the circumstances that constitute exigent circumstances to only include those that are imminently life-threatening. Human life is more important than the loss of evidence.

Measure like this are important to not only ensure safety in our communities and also to rebuild trust with our local law enforcement. Even without a criminal record, my immediate reaction to any police encounter is fear and mistrust. Please pass SB726 to ensure that we, as community members, can look to our officers for safety rather than fear.

Mahalo,

Thaddeus Pham (he/him)

SB-726

Submitted on: 2/20/2021 9:49:11 PM

Testimony for JDC on 2/24/2021 9:31:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
laura Ramirez	Individual	Support	No

Comments:

No-knock raids and warrants are dangerous and can too easily lead to police misconduct. Protect Hawai'i from this unnecessary abuse of power.

SB-726

Submitted on: 2/21/2021 11:48:06 AM

Testimony for JDC on 2/24/2021 9:31:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Michael Stauber	Individual	Support	No

Comments:

No -knock warrants can result in dangerous situations that have resulted in unnecessary violence. They must be eliminated.

SB-726

Submitted on: 2/21/2021 2:09:46 PM

Testimony for JDC on 2/24/2021 9:31:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Emma Ishihara	Individual	Support	No

Comments:

Chair Rhodes, Vice-Chair Keohokalole, and esteemed members of the committee,

As a lifelong resident of Kā• ne'ohē, Hawai'i, I stand in strong support of SB 726 for the protection of our community. We have all seen the disaster that can arise from no-knock warrants being allowed in the United States. We should not wait for someone from our community to die because of this gap in practice before we pass this possibly life-saving policy.

Thank you for this opportunity to submit testimony in support of SB 726,

Emma Ishihara.

SB-726

Submitted on: 2/21/2021 3:58:32 PM

Testimony for JDC on 2/24/2021 9:31:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
cathy lee	Individual	Support	No

Comments:

Hawai'i must take steps to prevent unnecessary death by expressly banning the issuance of no-knock warrants, and requiring officers executing warrants to wait at least thirty seconds before entering a property. The law assumes innocence and the police cannot act with impunity when dealing with civilians they have deemed suspects. There are far too many variables (including biases) at play and the worst case scenario is the death of human being. This law is commonsense and a small adjustment to ensure we don't have unnecessary killings in the "name of law". An officer should wait 30 seconds before entering a property when executing a warrant and they should absolutely serve the warrant in uniform. To further strengthen this bill and protect the people of Hawai'i against police violence, the Committee should also narrow the exigent circumstances in section 2 of the bill to those that are imminently life-threatening.

*Testimony of Jacquie Esser to the Senate Committee on Judiciary in **Strong Support** of S.B. No. 726, a bill that bans no-knock and quick knock raids.*

February 24, 2021

S.B. No. 726: RELATING TO POLICING.

Chair Rhoads, Vice Chair Keohokalole, and Members of the Committee:

I submit this testimony in **strong support** of S.B. No. 726 which amends Chapter 805 and 803-11 of the Hawai‘i Revised Statutes (“HRS”) by banning no-knock warrants and affirmatively requiring law enforcement to always knock, clearly identify themselves as law enforcement, and wait *at least* thirty seconds for compliance before entry. I also wish to offer recommendations on how to limit the practice of so-called “quick knock” raids, where law enforcement rely on exigent circumstances to circumvent waiting at least thirty seconds prior to entry.

No-knock warrants and requiring officers to wait *at least* thirty seconds before entering a property to execute a warrant must be expressly banned by the Hawai‘i State Legislature to develop a baseline standard for law enforcement and to protect people from injury and death related to the execution of search warrants.

This bill, however, could be strengthened by narrowing the circumstances that constitute exigent circumstances and permit “quick knock” raids to only situations where two conditions are met:

1. The underlying investigation involves an offense that by its nature includes serious physical harm or death (e.g., murder, rape, human trafficking);

and

2. The circumstances justify immediate entry to prevent imminent physical harm or death.

These two conditions establishing the grounds for issuing a “quick knock” warrant based on exigent circumstances must be stated on an affidavit sworn to before a judge. Additionally, the police chief should be required to report the application for such warrants to the city or county council every three months.

Thank you for the opportunity to testify in strong support of S.B. No. 726.

SB-726

Submitted on: 2/22/2021 8:08:23 AM

Testimony for JDC on 2/24/2021 9:31:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Nanea Lo	Individual	Support	No

Comments:

Hello,

My name is Nanea Lo and I'm a lifelong resident of Hawai'i. I'm writing in support of SB726.

I believe that police should take the proper precautions and it be mandatory for them to wait before entering a home as well as make it audibly known that they are outside of any premises before entering. When the death of Ms. Taylor transpired it shook me to the core and I can only imagine how many other innocent black lives or BIPOC lives have been put at risk because of the negligence of the law and procedures that were not required from police forces.

Every life is important and we as the public deserve respect and our rights honored.

Please support this bill.

me ke aloha 'Ä• ina,

Nanea Lo

SB-726

Submitted on: 2/22/2021 11:12:56 AM

Testimony for JDC on 2/24/2021 9:31:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Alani Bagcal	Individual	Support	No

Comments:

Senator Karl Rhoads, Chair

Senator Jarrett Keohokalole, Vice-Chair

Senate Committee on Judiciary

Dear Chair Rhoads, Vice-Chair Keohokalole, and esteemed members of the committee

My name is Alani Bagcal and I am writing today in support for SB726.

I am strongly encouraging you to please support Breonna's Law. Breonna Taylor and her family have still not received justice as the officers who murdered her were not held accountable for their crimes. Hawaii should pass this measure in honor of her life and family, while acknowledging that police brutality happens here too. No-knock raids frequently lead to violent interactions between police and people who reasonably assume that the intruders invading their home are there to burglarize or harm them and react defensively. People in power need to protect Black, Indigenous, People of Color that are disproportionately affected by police violence. Breonna Taylor is one of the most recent victims of no-knock raids. Say her name.

Thank you for this opportunity to testify in strong support of this bill.

Alani Bagcal

alani.bagcal@ppvnh.org

96815

SB-726

Submitted on: 2/22/2021 12:35:52 PM

Testimony for JDC on 2/24/2021 9:31:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Thomas Brandt	Individual	Support	No

Comments:

Strongly support.

SB-726

Submitted on: 2/22/2021 1:46:57 PM

Testimony for JDC on 2/24/2021 9:31:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Shannon Rudolph	Individual	Support	No

Comments:

Strongly Support

SB-726

Submitted on: 2/22/2021 3:37:25 PM

Testimony for JDC on 2/24/2021 9:31:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Shay Chan Hodges	Individual	Support	No

Comments:

I support this bill, which explicitly bans “no-knock” warrants and requires officers to wait at least thirty seconds before entering a house, store, or other building when executing a warrant. It also requires officers to execute warrants in uniform.

I support the ACLU request that language in section 2 of the bill be amended to narrow the exigent circumstances under which an officer does not need to wait at least thirty seconds to those that are imminently life-threatening.

Mahalo,

Shay Chan Hodges

Maui, Hawaii

SB-726

Submitted on: 2/22/2021 3:57:11 PM

Testimony for JDC on 2/24/2021 9:31:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Jen Jenkins	Individual	Support	No

Comments:

Aloha Chair Rhoads and Honorable Committee Members,

Please pass SB726, known as Breonna's Law, to effecuate greater police transparency and accountability.

Mahalo,

Jen J.

SB-726

Submitted on: 2/22/2021 4:16:06 PM

Testimony for JDC on 2/24/2021 9:31:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
jessica hernandez	Individual	Support	No

Comments:

I support this bill, but I respectfully request that the committee consider two amendments.

1. There is a growing concern with evidence or information that is used to issue warrants. I request that the committee consider including language that specifies the quality of the information that is used in order to approve warrants that allow law enforcement to enter a home with force. [In Chicago](#), Anjanette Young's home was raided by police when she had just returned home from work and was changing her clothes. She was naked when police entered her home and surrounded her with their guns displayed. The police had the wrong apartment and used faulty information in order to obtain the warrant approved. As a woman, it pains me to imagine Ms. Young's terror, anger, and feeling of violation in that circumstance. Please consider adding criteria to strengthen the quality of the information that can be used to approve and enact a warrant.
2. The language in the bill ("exigent circumstances") that allows law enforcement to enter a home before the required 30 second waiting period ends is very broad and allows for too much leeway in officers' discretion. I request that the committee replace that term with language that is more clear and narrowed. For example, "imminently life-threatening". Law enforcement are trained to consider normal behavior (eg. washing hands after flushing the toilet) as potential criminal behavior (eg. destroying evidence) which can lead to unnecessary forced entry and chaos.

SB-726

Submitted on: 2/22/2021 5:15:41 PM

Testimony for JDC on 2/24/2021 9:31:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Ana Tejada	Individual	Support	No

Comments:

Ana Tejada

RE: Support S.B. 726

February 22, 2021

Senators Rhoads and Keohokalole;

My name is Ana Tejada and I am writing in strong support of S.B. 726 (Breonna's Law), which prohibits no-knock warrants, requires law enforcement to audibly announce their presence, wait at least thirty seconds before forcibly entering a property when executing a warrant, and requires officers serving a warrant to do so in uniform.

The March 14, 2020 murder of Breonna Taylor in her own home by law enforcement after a botched no-knock raid in Louisville, Kentucky has shed a spotlight on policing system policies and practices that disproportionately prioritizes securing police evidence rather than saving human lives.

This measure would create a baseline standard for law enforcement to follow while allowing the courts the flexibility of requiring more than 30 seconds before entry in some circumstances. To further strengthen this bill and protect the community against police violence, I request the Committee to narrow the exigent circumstances in Section 2 of the bill to those that are imminently life-threatening.

Please honor Breonna Taylor's life and end no-knock raids and warrants in Hawai'i by supporting S.B. 726. Thank you for scheduling this Senate Judiciary Committee hearing and reading my testimony.

SB-726

Submitted on: 2/22/2021 5:18:22 PM

Testimony for JDC on 2/24/2021 9:31:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Raelyn Reyno Yeomans	Individual	Support	No

Comments:

Strong support.

SB-726

Submitted on: 2/22/2021 7:19:09 PM

Testimony for JDC on 2/24/2021 9:31:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Lindsay Terkelsen	Individual	Support	No

Comments:

Aloha Senators,

Mahalo for the opportunity to submit testimony on this critical police reform bill. I support this bill with amendments, but I think there are further amendments to be made. Such as the following:

- To remove from Section 803—11: "or if it is in a case in which arrest is lawful without warrant"
- To remove similar language throughout the bill that enables officers leverage vague language to violate a person's constitutional rights

It is vital that no-knock warrants are prohibited in Hawai'i.

Mahalo

SB-726

Submitted on: 2/22/2021 8:23:43 PM

Testimony for JDC on 2/24/2021 9:31:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Amy Truong	Individual	Support	No

Comments:

My name is Amy Truong and I am writing in strong support of S.B. 726, which bans “no-knock” warrants, requires officers to wait at least thirty seconds before forcibly entering a property when executing a warrant, and requires officers serving a warrant to do so in uniform. S.B. 726 is known as “Breonna’s Law,” named after 26-year-old Black medical worker Breonna Taylor, who was murdered in her own home by Louisville police during a botched no-knock raid.

To further strengthen this bill and protect the people of Hawai‘i against police violence, I request the Committee to narrow the exigent circumstances in section 2 of the bill to those that are imminently life-threatening. Please honor Breonna Taylor’s life and end no-knock raids and warrants in Hawai‘i by supporting SB726.

Mahalo.

SB-726

Submitted on: 2/23/2021 8:58:31 AM

Testimony for JDC on 2/24/2021 9:31:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Julianna Davis	Individual	Support	No

Comments:

My name is Julianna Davis and I am in strong support of SB726, which bans “no-knock” warrants, requires officers to wait at least thirty seconds before forcibly entering a property when executing a warrant, and requires officers serving a warrant to do so in uniform. S.B. 726 is known as “Breonna’s Law,” named after 26-year-old Black medical worker Breonna Taylor, who was murdered in her own home by Louisville police during a botched no-knock raid.

To further strengthen this bill and protect the people of Hawai‘i against police violence, I request the Committee to narrow the exigent circumstances in section 2 of the bill to those that are imminently life-threatening. Please honor Breonna Taylor’s life and end no-knock raids and warrants in Hawai‘i by supporting SB726. This is an important step to reimagining policing and I strongly support this legislation.

LATE

SB-726

Submitted on: 2/23/2021 10:05:52 AM

Testimony for JDC on 2/24/2021 9:31:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Andrea Staley	Individual	Support	No

Comments:

I strongly support SB726 which would ban no knock warrants.

LATE

SB-726

Submitted on: 2/23/2021 6:14:14 PM

Testimony for JDC on 2/24/2021 9:31:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Sultan White	Testifying for Rock Your Cause	Support	No

Comments:

We support SB726, otherwise known as "Breonna's Law." Hawaii must join the ranks of the many US states that have banned the execution of warrants without knocking. Activists representing all backgrounds across the world marched in honor of Breonna Taylor, in what amounted in the largest protest in history. Even Hawaii broke records as nearly 10,000 protestors rallied against police misconduct and brutality at our State Capitol. The people have demanded what they want, and now democracy must respond. We urge you to represent the will of the people and pass SB726. Realize, also, that this bill is only necessary because of the criminalization and demonization of Black and Brown lives and bodies in this country, and that much more work is needed to make undone the deep-seated biases reinforced in our systems of power.

LATE



Dedicated to safe, responsible, humane and effective drug policies since 1993

TESTIMONY IN SUPPORT OF SB 726

TO: Chair Rhoads, Vice Chair Keohokalole & Senate Judiciary Committee Members

FROM: Nikos Leverenz
DPFH Board President

DATE: February 24, 2021 (9:31 AM)

Drug Policy Forum of Hawai'i (DPFH) supports SB 726, which would explicitly ban no-knock warrants and require officers to wait at least 30 seconds before entering a house, store, or other building when executing a warrant. It would also require officers to execute warrants in uniform.

Three states currently ban no-knock warrants: Oregon, Florida, and Virginia. Hawai'i should join them as a matter of law and practice. More than two dozen jurisdictions have introduced measures like this after the killing of Breonna Taylor in Louisville, Kentucky.

On a national level, most no-knock police entry raids are used in narcotics enforcement. A March 2017 New York Times investigation, [which uncovered the deaths of at least 81 civilians and 13 law enforcement officers between 2010 and 2016 due to forced entry raids](#), underscored the grim reality in many jurisdictions:

As policing has militarized to fight a faltering war on drugs, few tactics have proved as dangerous as the use of forcible-entry raids to serve narcotics search warrants, which regularly introduce staggering levels of violence into missions that might be accomplished through patient stakeouts or simple knocks at the door.... Forcible-entry methods have become common practice over the last quarter century through a confluence of the war on drugs, the rise of special weapons and tactics squads, and Supreme Court rulings that have eroded Fourth Amendment protections against unreasonable searches.

A 2014 report by the ACLU notes how [the aggressive enforcement of the drug war, including the use of forced-entry raids, has become more prevalent even though a punitive approach to drugs in increasingly at odds with public opinion:](#)

The routine use of heavily armed SWAT teams to search people's homes for drugs [means] that law enforcement agencies across the country are using this hyper-aggressive form of domestic policing to fight a war that has waning public support and has harmed, much more than helped, communities.

As the Office of Hawaiian Affairs has extensively noted over many years, Native Hawaiians are disproportionately impacted by the operations of this state's criminal legal system. [This includes the current punitive approach to drug use.](#) Native Hawaiians do not use drugs at a drastically different rates than other races and ethnicities but go to prison for drug offenses at a higher rate. Police practices, prosecutorial practices, and sentencing structures contribute to this ongoing disparity. A punitive approach to drug use also includes an unduly large probation population that has [the highest average term in the nation at almost *five years*,](#) according a recent report from the Pew Charitable Trusts.

In contrast to a punitive approach, DPFH supports the position of the American Public Health Association in ["ending the criminalization of drugs and drug consumers, prioritizing proven treatment and harm reduction strategies, and expanding \(and removing barriers to\) treatment and harm reduction services."](#)

Thank you for the opportunity to provide testimony.

LATE

SB-726

Submitted on: 2/23/2021 10:56:50 PM

Testimony for JDC on 2/24/2021 9:31:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Wendy Gibson-Viviani	Individual	Support	No

Comments:

To: The COMMITTEE ON JUDICIARY

From: Wendy Gibson-Viviani RN

RE: SB726 **(In Support)**

Hearing Wednesday, February 24 at 0930

Aloha Senator Karl Rhoads, Chair, Senator Jarrett Keohokalole, Vice Chair and Members of the Committee,

No-knock raids are supposed to be used in only the most dangerous situations, yet they have become commonplace, even in less-than-dangerous situations—with about 20,000 or more no-knock raids every year across America. This has largely been driven by the failed, racist, violent war on drugs.

Both police and innocent civilians are being killed. Police are getting killed by people defending their homes from intruders. Innocent civilians are being killed or injured by the dozens. The most recent example is Breonna Taylor.

One investigator, Kevin Sacks identified 94 people, including 13 law enforcement officers, who had been killed as a result of forcible-entry raids from 2010 to 2016. “But there is no way to know, he emphasized, how comprehensive the numbers are”, because of a lack of record keeping (there are no federal mandates requiring police departments to catalog such operations) <https://www.nytimes.com/2017/03/18/insider/kevin-sack-no-knock-baby-bou.html>

I support SB726 because it will:

- Prohibit the issuance of warrants that permit entry by an officer to a house, store, or other building without first audibly declaring the officer's office and business, including no-knock warrants.
- Require law enforcement officers serving an arrest warrant at a house or a search warrant at a house, store, or other building to audibly declare the officer's office and business and wait at least thirty seconds for compliance before entry.
- Require officers serving a warrant to do so in uniform

All of these are potentially life-saving measures for both the Law Enforcement Officers and civilians.

Thank you for the opportunity to give testimony on this important bill.

Wendy Gibson-Viviani RN/BSN

Kailua

LATE

SB-726

Submitted on: 2/23/2021 11:01:51 PM

Testimony for JDC on 2/24/2021 9:31:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
donn viviani	Individual	Support	No

Comments:

A fundamental principle of the justice system is that the burden of proof is on the prosecution, Individuals are innocent until proven guilty. We don't punish people without evidence of guilt and without a trail. Yet, no-knock entry is punishment. There is trauma when a SWAT team breaks down a door and heavily armed officers swarm in. Victims have suffered from PTSD after raids. Worse, innocent occupants, police and the named occupant have all been injured or killed in the frenzy of a SWAT team raid. Police have and will continue to make mistakes on warrant addresses... can Hawaii afford innocent civilian or police deaths... either the erosion of trust in police or the cost of a settlement after a tragedy? Please pass this bill

Donn Viviani, Kailua