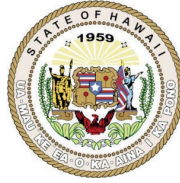


DAVID Y. IGE
GOVERNOR



STATE OF HAWAII
LAW ENFORCEMENT STANDARDS BOARD
425 QUEEN STREET
HONOLULU, HAWAII 96813

TODD G. RAYBUCK
CHAIR

BOARD MEMBERS
SHERRY BIRD
JADE BUTAY
SUZANNE D. CASE
ISAAC W. CHOY
NICHOLAS R. COURSON
ADRIAN DHAKHWA
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MAX N. OTANI
JOHN PELLETIER
HOLLY SHIKADA
CRAIG TANAKA
RADE VANIC

March 1, 2022

Testimony of Chair Todd G. Raybuck
On Behalf of the
Law Enforcement Standards Board

Before the
Committee on Finance
March 3, 2022, 2:00 pm
via Videoconference

In consideration of
House Bill 1239 HD 1
Relating to Law Enforcement

Honorable Chair Luke, Vice Chair Yamashita, and Members of the Committee:

I submit the following testimony on behalf of the Members of the Law Enforcement Standards Board ("Board") to respectfully request this Committee's **support with amendments** for House Bill 1239 Section 4, Relating to Law Enforcement.

The Board requests the following Amendments to House Bill 1239 HD 1 Part III:

1. Amend Section 4 relating to Section 139-2 (a), Hawaii Revised Statutes, on page 3 to read as follows:
 - "... The law enforcement standards board shall consist of the following voting members: nine ex officio individuals ~~[, two law enforcement officers,]~~ or their designees, five law enforcement officers, and four [five] members of the public."
 - (2) The ~~[two]~~ five law enforcement officers shall ~~[each]~~ be persons other than the chiefs of police or designees described in paragraph (1)(F) and shall consist of:
 - (A) One county law enforcement officer from each of the four counties; and
 - (B) One state law enforcement officer.Each law enforcement officer described in this paragraph shall have at least ten years of experience as a law enforcement officer [and], shall be appointed by the governor[;], and, notwithstanding section 26-34, shall serve without the advice and consent of the senate; and
 - (3) The ~~[four members of the]~~ public members shall consist of one member ~~[of the public]~~ from each of the four counties [and], each of whom shall be appointed by the

governor [---] , and, notwithstanding section 26-34, shall serve without the advice and consent of the senate. At least two of the four members ...

- (3)(D) Have work experience in a law enforcement capacity [~~;- provided that experience in a county police department shall not itself be sufficient to qualify under this paragraph~~].
2. Amend Section 4 relating to Section 139-2 (b), Hawaii Revised Statutes, to read as follows:
 - The law enforcement members and the members of the public on the board shall serve for a term of ~~[three]~~ four years [---] ; provided ...
 3. Make no amendments, as annotated in House Bill 1239, to Section 4 relating to Section 139-2 (c).
 4. Amend Section 5 relating to Section 139-3, Hawaii Revised Statutes, on page 7 to read as follows:
 - (6) Employ [~~;- subject to chapter 76,-~~] an administrator, without regard to chapter 76, and other persons necessary ...
 5. Adopt amendments, as annotated in House Bill 1239, in Section 5 relating to Section 139-3, (11), (12), (13), and (14) Hawaii Revised Statutes.

Thank you for allowing the Law Enforcement Standards Board to provide this testimony.



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
THIRTY-FIRST LEGISLATURE, 2022**

ON THE FOLLOWING MEASURE:

H.B. NO. 1239, H.D. 1, RELATING TO LAW ENFORCEMENT.

BEFORE THE:

HOUSE COMMITTEE ON FINANCE

DATE: Thursday, March 3, 2022 **TIME:** 2:00 p.m.

LOCATION: State Capitol, Room 308, Via Videoconference

TESTIFIER(S): Holly T. Shikada, Attorney General, or
Lance Goto, Deputy Attorney General

Chair Luke and Members of the Committee:

The Department of the Attorney General (Department) submits the following comments.

This bill makes amendments to the laws regarding the Law Enforcement Officer Independent Review Board (LEOIRB) and the Law Enforcement Standards Board (LESB). For the LEOIRB, this bill: (1) specifies the terms of LEOIRB board members as four-years; and (2) makes the LEOIRB a permanent board by removing the sunset date of June 30, 2022. For the LESB, this bill: (1) reduces the board membership of the LESB by one member by removing the two law enforcement officer members and adding one additional member of the public; (2) allows all nine of the ex-officio board members of the LESB to have designees; and (3) adds that the LESB conduct studies or consider studies relevant to LESB responsibilities.

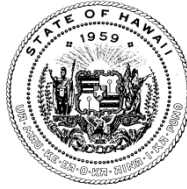
Regarding the amendments to LESB laws, the Department prefers the provisions contained in House Bill No. 892 (H.B. No. 892), Relating to Law Enforcement, with certain amendments as previously recommended to this Committee, including an increased appropriation amount of \$483,000 for fiscal year 2022-2023. This Committee amended H.B. No. 892 on February 24, 2022, by blanking out the appropriation amount and positions, and adding a defective effective date. The H.D. 2 has not yet been posted. H.B. No. 892 is supported by the LESB and contains important provisions for the LESB that this bill does not. H.B. No. 892 provides needed funding and resources

to the board and gives the board more time to accomplish its mission. This bill does not do this. H.B. No. 892 also increases the number of law enforcement officer board members from two to five, while this bill eliminates the two law enforcement officer board members. The additional law enforcement officer members would give the board more experience and expertise in the area of law enforcement training standards, and also give the board more flexibility in its operations. H.B. No. 892 also amends section 76-16, Hawaii Revised Statutes, to add the board administrator position to the list of positions that are exempt from civil service requirements to give the board more flexibility in working with this key position.

If the Committee decides to pass this bill, we respectfully recommend that it remove the provisions relating to the LESB and allow those to be addressed via H.B. No 892.

The Department appreciates this opportunity to provide comments.

DAVID Y. IGE
GOVERNOR



TESTIMONY BY:

JADE T. BUTAY
DIRECTOR

Deputy Directors
ROSS M. HIGASHI
EDUARDO P. MANGLALLAN
PATRICK H. MCCAIN
EDWIN H. SNIFFEN

STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
869 PUNCHBOWL STREET
HONOLULU, HAWAII 96813-5097

March 3, 2022
2:00p.m.
State Capitol, Teleconference

H.B 1239. H.D. 1
RELATING TO LAW ENFORCEMENT

House Committee on Finance

The Department of Transportation (DOT) provides **comments** on this bill which would make changes to the Law Enforcement Standards Board (LESB) membership and provide much needed funding for the LESB to perform their duties of certifying law enforcement officers.

The Legislature wisely established the LESB in 2018 to perform this very important function and provided that the Chiefs of Police and the Attorney General be members of the board. The aspect that we would like to draw attention to is the funding.

At present, the board is not adequately funded. We believe the challenges ahead for the board are many and it's important that it receives appropriate attention and resources to ensure its success in meeting these challenges. We would ask that the funding level more accurately reflect Hawaii's commitment to law enforcement standards.

Thank you for the opportunity to provide testimony on this very important measure.



Hawai'i

Committee: House Committee on Finance
Hearing Date/Time: Thursday, March 3, 2022, 2:00 P.M.
Place: Via videoconference
Re: Testimony of the ACLU of Hawai'i; Comments on HB 1239 Relating to Law Enforcement

Dear Chair Luke, Vice Chair Yamashita and members of the Committee:

The American Civil Liberties Union of Hawai'i ("ACLU of Hawai'i") provides **comments on HB 1239**, which amends the law officer independent review board to include review of any specific incident of alleged misconduct recommended by certain officials and makes it a permanent board. The bill amends the membership of the board and the term for members of each board to four years.

Compared to other public institutions, law enforcement operates under a shroud of secrecy with far less democratic accountability. As noted in the ***President's Task Force on 21st Century Policing, policing fails its community when it is not constitutional, when it lacks integrity and a clear mission, and when it is not conducted by unbiased and adequately trained officers, supervisors, managers and executives.***¹

As long as policing exists, the ACLU advocates for fair and consistent policing, building or rebuilding trust between officers and the communities they serve and preventing avoidable deaths and injuries to citizens and police officers. During the past decade, our community has become increasingly aware of corruption and misconduct within the police department that has resulted in federal criminal convictions, documented racial disparities in policing, abuse of overtime and killings by police officers.

In response to growing demands for law enforcement transparency and accountability, Hawai'i lawmakers created the Law Enforcement Officer Independent Review Board. Per Act 161, the Board, housed within the Department of the Attorney General, would make recommendations to county prosecuting attorneys in all four counties. In turn, county prosecuting attorneys could decide whether to prosecute or conduct further investigation. In addition, the findings would be made public and the board would receive funding.

The Law Enforcement Independent Review Board's Structure is Fundamentally Flawed

To date, efforts to promote law enforcement transparency and accountability relating to investigations of incidents of police killings through the Law Enforcement Officer Independent Review Board have been ineffective, due in part, to the flawed structure of the Board. The Law

¹ <https://cops.usdoj.gov/RIC/Publications/cops-p341-pub.pdf>

Enforcement Independent Review Board's statutory duties are reactive, and its structure lacks the elements necessary to make it a truly independent oversight or civilian review board.

First, the system is reactive, allowing review only after incidents of killings by police have occurred. It does not prevent those deaths in the first place, nor does it help police departments implement best practices to reduce killings by officers in the first place.

Second, the Law Enforcement Officer Independent Review Board lacks the elements necessary to make an independent oversight or civilian review board effective. The **National Association for Civilian Oversight of Law Enforcement (NACOLE)** is a non-profit organization that brings together individuals and agencies working to establish or improve oversight of police officers in the United States.² As noted by the National Association for Civilian Oversight of Law Enforcement, **Citizen Oversight Law Enforcement bodies were created to provide meaningful civilian oversight with the overarching goals of promoting transparency and accountability within policing to the communities they serve.**

NACOLE's Thirteen Principles for Effective Oversight³ are outlined below:

What makes for effective civilian oversight?

This question has been asked by many oversight practitioners, local officials, and community and law enforcement stakeholders. In terms of oversight models, there is generally no singular "best practice" approach that will guarantee success in every instance. Instead, civilian oversight should be structured according what is considered to be a "best-fit" for the particular community interested in establishing civilian oversight. Visit [this](#) page to learn more about different models of civilian oversight.

Regardless of the civilian oversight model chosen, there are thirteen general principles that are considered key components of successful civilian oversight. The principles detailed below should be thought of as a matter of *degree*, and as such, oversight stakeholders should try to maximize the extent to which a civilian oversight agency adheres to these principles.

For more detailed information on the Thirteen Principles for Effective Civilian Oversight, see NACOLE's "Civilian Oversight of Law Enforcement: Report on the State of the Field and Effective Practices".

Independence

One of the most important and defining concepts of civilian oversight of law enforcement is independence. **In its broadest sense, it refers to an absence of real or perceived influence from law enforcement, political actors, and other special interests looking to affect the operations of the civilian oversight agency.** In order to maintain legitimacy, an agency must

² <https://www.nacole.org/>

³ <https://www.nacole.org/principles>

be able to demonstrate the extent and impact of its independence from the overseen law enforcement agency — especially in the face of high-profile issues or incidents.

Clearly Defined and Adequate Jurisdiction and Authority

An oversight agency's jurisdiction and scope of authority are crucial to its success and effectiveness. While expectations regarding civilian oversight can vary significantly, having adequate jurisdiction and authority are fundamental in achieving organizational goals and ensuring the oversight agency can be responsive to communities. An agency that is not given sufficient authority and jurisdiction to perform its mission simply cannot be effective. While there is no "best" oversight model for all contexts, stakeholders must ensure that the level of authority an oversight agency has in relation to its core oversight functions permits the agency to successfully perform its duties to the greatest degree possible and without limitation.

Unfettered Access to Records and Facilities

Unfettered access to the subject law enforcement agency's records is vitally important for effective civilian oversight. The ability to review all records relevant to an investigation or other matters within the scope of a civilian oversight agency's authority in a timely manner is essential to providing effective, informed, and fact-driven oversight. Similarly, agencies performing correctional oversight must have unfettered access to facilities and staff. Without timely and reliable access to department records, information, and facilities, oversight practitioners and volunteers cannot make decisions that meaningfully address areas of concern.

Access to Law Enforcement Executives and Internal Affairs Staff

The effectiveness of civilian oversight can hinge on an agency's ability to effectively communicate with law enforcement officials regarding matters of concern identified throughout the course of the oversight agency's work. Sustained dialogue and communication between law enforcement and oversight stakeholders promotes cooperation and ensures that those involved can develop mutual understanding and support for each other's role in promoting greater accountability. Legislation establishing civilian oversight should require that law enforcement agencies provide timely, written, and public responses detailing why a particular recommendation was either accepted or rejected. These responses are crucial to informing the public of how, if, and why or why not issues identified by the civilian oversight agency will be addressed

Full Cooperation

In addition to having access to relevant records and department executives, effective civilian oversight requires the full cooperation of all officers and department staff throughout the course of its work. Full cooperation is necessary for conducting thorough investigations and obtaining sufficient information for any work performed by the civilian oversight agency. The conditions of such cooperation must respect due process rights and an individual's constitutional right against self-incrimination. Cooperation with civilian oversight should be a condition of employment for all officers and staff within the agency's jurisdiction.

Sustained Stakeholder Support

Ongoing engagement with and support from stakeholders regarding local public safety and law enforcement-related issues is an important component of effectiveness. An otherwise well-designed civilian oversight mechanism can be undermined over time by a lack of meaningful support from those who can contribute to an agency's success. While establishing and supporting civilian oversight may be politically expedient in times of crisis, successful oversight requires the sustained support and interest of stakeholders who value independence, accountability, and transparency. An agency's ability to maintain this support may be a function of its outreach to those stakeholders. Maintaining productive relationships, even in times where disagreement and conflict may be unavoidable, will be crucial to future problem-solving, cooperation, and collaboration on key issues.

Adequate Funding and Operational Resources

Allocating sufficient resources to civilian oversight is a crucial determinant to effectiveness. To ensure that work is being performed thoroughly, timely, and at a high level of competency, adequate resources are necessary. Political stakeholders must ensure that their support for civilian oversight includes a sustained commitment to provide adequate and necessary resources. Providing adequate funding can signal a commitment to reform that may lead to greater cooperation by law enforcement executives and unions. Similarly, civilian oversight agencies must have the resources to retain experienced professional staff, provide staff and volunteer board or commission members with adequate training on a regular basis, perform community outreach, and disseminate public reports and other outreach materials in order to be effective.

Public Reporting and Transparency

An independent entity bringing transparency to a historically opaque process is a fundamental goal and component of civilian oversight. Civilian oversight provides a unique opportunity for the public to learn about misconduct complaints and other areas of the law enforcement agency that serves the community. As such, issuing regular public reports is critical to an agency's credibility. A civilian oversight agency should, at a minimum, issue one written report to the public each year. Reports should be written in an accessible manner that allows the public to clearly understand the agency's authority, purpose, procedures, and accomplishments. In addition, they should include as much information related to the agency's mandate and operations as can be disclosed by law, including patterns and trends in complaints or discipline, the agency's recommendations and activities for the year, and issues that may be of concern to the public. Sufficiently resourced oversight agencies should seek to produce more frequent reports and, where appropriate, issue special reports on specific matters such as the findings of a particular policy review, audit, or investigation.

Policy and Patterns in Practice Analysis

Performing analyses of law enforcement policies and patterns in practice may be among the most critical functions a civilian oversight agency can perform. Such analyses have great potential to advance the goals of effective civilian oversight by addressing systemic problems

of law enforcement agencies and by formulating recommendations that will improve relations with communities. By performing data-driven and evidence-based analyses of specific issues, oversight agencies can pinpoint areas of concern and formulate recommendations for improvement. To hold the overseen law enforcement agency's executives accountable, timely, written responses to the oversight agency's recommendations should be required and made public.

Community Outreach

In many cases, civilian oversight is established amid community calls for greater accountability following a high-profile incident involving local law enforcement. As an institution representing the interests of the local community, conducting outreach to the community and local stakeholders is essential to effective civilian oversight. Outreach enables an oversight agency to build awareness of its existence, share reports and findings with the public, build relationships with stakeholders, recruit volunteers, solicit community input and involvement, facilitate learning and greater understanding, broker improved relationships, build coalitions, and develop a greater capacity for problem-solving. These functions are crucial to an agency's transparency, credibility, responsiveness, accountability, and accessibility, and overall ability to successfully maintain public support and legitimacy.

Community Involvement

Effective civilian oversight requires community involvement. Community and stakeholder input regarding how civilian oversight should function and which accountability issues it should address will result in the creation of a "best fit" oversight system that can meet community needs and expectations. Without sufficient involvement of those most interested in and impacted by local issues regarding law enforcement, it is unlikely that civilian oversight will be able to successfully accomplish its goals.

Confidentiality, Anonymity, and Protection from Retaliation

Effective civilian oversight must function with the same integrity, professionalism, and ethical standards it expects from and promotes for law enforcement. Stakeholders and the community must remain confident that civilian oversight will protect sensitive information as well as those who disclose it. An oversight agency cannot maintain credibility, legitimacy, and public trust if it does not or cannot respect confidentiality agreements, maintain the anonymity of those who wish to share information anonymously, and work towards creating an environment where those involved with or contacting the oversight agency can do so without fear of retaliation or retribution.

Procedural Justice and Legitimacy

Procedural justice and legitimacy should serve as core principles guiding the work and processes of effective civilian oversight. Rooted in behavioral psychology, procedural justice typically centers on *how* authority is exercised. For entities whose authority is established by law, the recognition of their right to that authority and perceptions of how fairly that authority is exercised are crucial components of legitimacy. Research has shown that procedurally-just

interactions between law enforcement and the community positively impact the public's compliance with laws and willingness to assist in crime control efforts. The literature has also shown that officer perceptions of a procedurally-just work environment is associated with reduced misconduct and corruption, as well as greater endorsement of policing reforms, reduced mistrust and cynicism with the community, willingness to obey supervisors, and increased officer well-being. Though the literature on procedural justice and civilian oversight is relatively sparse, there is research supporting the notion that procedurally just complaint processes — where complainants report being satisfied with the quality of communication and the process — increase complainant satisfaction.

Many of the elements identified by NACOLE as necessary for an effective Civilian Oversight Board are missing from the Board. Therefore, we recommend incorporating the following guiding principles as amendments to promote transparency and accountability and hold law enforcement officers accountable for wrongdoing. The board shall:

1. Include **individuals nominated by civic organizations and representative of the communities most impacted by policing**
2. Have **broad scope to review complaints including criminal investigations of incidents of officer involved death conducted by law enforcement agencies and issuing recommendations to the prosecuting attorney of the county in which the incident occurred**
3. Have broad independent investigatory authority, including subpoena power, in conducting criminal investigations of incidents of officer involved deaths
4. Have disciplinary authority
5. Be able to audit policies and practices
6. Have ample funding
7. Have the power to review and implement policy that is not subjected to a unilateral veto by police or county government officials
8. Publish reports on their work and findings regularly for residents

We express strong concerns about the current and proposed composition of the Review board – it is stacked with nine ex-officio (9) governmental and law enforcement officials. Moreover, the criteria to hold one of the five (5) positions appointed by the Governor as a “public” member is skewed towards work experience in a law enforcement capacity and the legal profession. Based on the plain language of the statute, the Governor could appoint five public members all with law enforcement backgrounds, rather than in other disciplines. Moreover, **the criteria includes zero public members nominated by civic organizations and representative of the communities most impacted by policing.**

Chair Luke and Members of the Committee on Finance
March 3, 2021, 2:00 P.M.

Without adequate representation of the communities most impacted by policing, and the aforementioned elements for independent oversight, the Law Enforcement Officer Independent Review Board will not work as a meaningful oversight body with checks on abuses of police power. Civilian oversight bodies must be given real power or else they risk being performative political statements with no actual “teeth.”

We urge this Committee to include amendments that will incorporate critical elements of a truly independent Oversight Civilian Review Board into the structure of the Law Enforcement Independent Review Board.

Thank you for the opportunity to submit comments and proposed amendments relating to HB 1239 HD1.

Sincerely,

Carrie Ann Shiota

Carrie Ann Shiota
Policy Director
ACLU of Hawai'i
cshiota@acluhawaii.org

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.

American Civil Liberties Union of Hawai'i
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SHOPO



STATE OF HAWAII ORGANIZATION OF POLICE OFFICERS

" A Police Organization for Police Officers Only "
Founded 1971

March 3, 2022

ONLINE/FAX: 808-586-6331

The Honorable Sylvia Luke
Chair
The Honorable Kyle T. Yamashita
Vice-Chair
House Committee on Finance
Hawaii State Capitol, Rooms 306, 422
415 South Beretania Street
Honolulu, HI 96813

Re: **HB1239 HD1-Relating to Law Enforcement**

Dear Chair Luke, Vice-Chair Yamashita, and Honorable Committee members:

I serve as the President of the State of Hawaii Organization of Police Officers (“SHOPO”) and write to you on behalf of our Union in **strong opposition** to HB1239 HD1. This bill seeks to use the Law Enforcement Standards Board (“Board”) to add yet another investigatory layer to the many layers of oversight that already exist, and duplicate certifications, standards, and law enforcement training through a training center which are already established and managed by the respective county police departments through their accredited training academies.

We find it highly hypocritical for the legislature and its politicians to be beating the anti-police drum, ad nauseum, by raising the question of the public’s trust in law enforcement at a time when the public’s trust in the legislature is, in our view, at an all-time low. Local politicians are being arrested and charged with serious crimes, yet the legislature, which supposedly has a duty to oversee and police its own members, does nothing of substance in response until prodded into pursuing an inquiry after an outcry from the public. So when we see a bill like HB1239 HD1 that states it is the legislature’s purpose to enhance the public’s trust in law enforcement, we ask the legislature to look in the mirror before pointing fingers at our hard working and courageous officers who are out there every day, 24 hours a day, 365 days a year, putting their lives on the line for you and our community. Rather than finding ways to continue the unyielding attacks against our officers, the legislature should spend its energy helping us and

The Honorable Sylvia Luke, Chair
The Honorable Kyle T. Yamashita, Vice-Chair
House Committee on Finance
March 3, 2022
Re: HB1239 HD1-Relating to Law Enforcement
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our community find ways to fill the empty beats that is compromising our community's safety and exposes our most vulnerable community members such as our senior citizens to be targets and victims of broad daylight assaults and robberies. The simple fact is that our community is in danger when there are not enough officers available to respond to a citizen's call for help. But that is the current reality and we need to do something about it.

We, as a Union, can say that we are doing something about it by demanding meetings and collaborating with our police chiefs to figure out creative ways to get our beats fully staffed. This includes altering our work schedules which tasks our officers with working longer hours and being away from their families, but is a sacrifice we are willing to make for the safety of our community. In contrast, HB1239 HD1 provides no help.

The legislature may not understand what happens to an officer who is merely suspected of engaging in wrongdoing or is arrested or charged with a criminal act. Mere allegations can trigger an avalanche of investigations against any officer accused of wrongdoing. Our officers are subject to full blown criminal **and** administrative Internal Affairs and/or Professional Standards Office investigations by our respective police departments, even if the officer is acquitted in a court of law or the allegations are later dismissed. This is an addition to the investigations that the officer is put through with the prosecutor's office, the police commissions, and when there are conflicts of interest the Attorney General's ("AG") office which will conduct its own independent investigation. We have had officers in the past who were acquitted of charges or had allegations dismissed, but they were nonetheless severely disciplined and fired despite the outcome in court. That is the existing strict scrutiny and oversight our officers are currently subjected to without HB1239 HD1. Unless you are questioning the integrity or have no confidence in those who have the duty and responsibility to investigate and hold our officers accountable, including the prosecutor's office who recently charged three of our officers with murder after they stopped a suspect on a crime spree that terrorized our community, HB1239 HD1 appears to be nothing but another publicity ploy to fuel the anti-police movement. We need to stop this anti-police rhetoric because it provides no solutions.

The bill and the establishment of this Board directly infers that the county police departments and their respective training academies are subpar, do not currently incorporate acceptable and reasonable minimum standards of employment, and do not have acceptable criminal justice curriculums. The Board, in essence, wants to usurp the training curriculum and standards implemented by the respective county police department's training academies. This is simply duplicative of what already exists and a complete waste of money.

Aside from the significant monetary expenditures associated with this Board and the baseless assumption that our county police academies are substandard or deficient, it is unclear why this Board is needed for "certifications" when all four (4) county police departments and

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The Honorable Kyle T. Yamashita, Vice-Chair
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their respective police academies are accredited by the Commission on Accreditation for Law Enforcement Agencies (“CALEA”). CALEA is nationally known as the gold standard benchmark in law enforcement and its accreditation seals are internationally recognized as the “Marks of Professional Excellence” for public safety agencies. Our county officers are highly trained, experienced, and investigate the broad range of crimes set forth in the Hawaii penal code as codified in the Hawaii Revised Statutes. Our officers are held to the highest professional standards and are investigated and held accountable for the slightest deviations or infractions. The policies and training of each county police department have many in common, but they also have special provisions and aspects tailored to each island’s unique demands and diverse communities. The money required to fund this Board could be better spent on expanding our prison system so that the same criminals we arrest over and over can be properly incarcerated rather than being allowed to roam the streets to continue terrorizing our law abiding citizens.

In addition, decisions made by the Board could impact collective bargaining and undermine the mandatory negotiation requirements set forth in HRS §89-9 that are part of our constitutional rights under the Hawaii Constitution. The Board can also act to revoke an officer’s certification which may also indirectly conflict with our collective bargaining agreement, the outcome of a grievance proceeding, and HRS §89. We do not believe these intended or unintended ramifications were thoroughly considered and vetted before the Board was established in the first instance. The Board will require a labor specialist to fully understand HRS §89 and its implications, which does not appear to be the criteria for any of the Board members. In addition, it is an inherent conflict of interest to have the four county police chiefs serving in an ex officio capacity on the Board who will also be reviewing an officer’s certification for cases that may have already been adjudicated through the grievance process and resulted in the grievance being sustained. In essence, the chief will get a second bite at the apple by revoking the officer’s certification. This will for all intents and purposes completely undermine and subvert the collective bargaining process and our collective bargaining rights guaranteed under the Hawaii Constitution.

To make the Board truly all-inclusive and transparent, we recommend that a Board position be created for the appointment of a representative from our Union for the purpose of providing insight and input on training, certification, standards, and collective bargaining. Our Union and our members operate on the front lines in the battle against crime and have training, relevant experience and knowledge that others on the Board will not possess. If the true intent is to make things better, having a Union representative on the Board will further that objective. We further recommend and suggest that the “One county law enforcement officer from each of the four counties” also be an officer nominated by the Union for the governor’s appointment.

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Page 4

The existing statute also requires officers to participate in continuing education programs. I am not sure if you realize that our officers already attend refresher (recall) training every year as part of our continuing education training. The training covers various subject matters, including use of force, escalation and de-escalation of force, arrest laws, firearms recertification, community issues relating to mental illness and drug addiction, self-defense training, and other relevant law enforcement topics. Given our existing training the bill should be amended to eliminate this requirement.

Last, we suggest that the appointment of anyone to the Board should be with the advice and consent of the senate like any other board or commission, and that a study relating to the “centralized state enforcement division or agency” exclude the county police departments who operate on a county budget and county needs and requirements.

In summary, this bill duplicates existing levels of officer misconduct review that already exist. We also believe that the funding required for this Board could be better spent on other meaningful projects especially given the economic hardship many in our community are suffering from the Covid-19 pandemic.

We thank you for allowing us to be heard and to share our concerns on this bill and hope your committee will unanimously reject this bill and withhold funding until further consideration is given to the issues and concerns we have raised.

Respectfully submitted,

ROBERT “BOBBY” CAVACO
SHOPO President

HB-1239-HD-1

Submitted on: 3/1/2022 5:05:41 PM

Testimony for FIN on 3/3/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Gerard Silva	Individual	Oppose	No

Comments:

More wast of Money!!