

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

ON THE FOLLOWING MEASURE:

S.B. NO. 2001, RELATING TO POLICE REPORTS.

BEFORE THE:

SENATE COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL, AND
MILITARY AFFAIRS

DATE: Thursday, February 3, 2022 **TIME:** 1:10 p.m.

LOCATION: State Capitol, Via Videoconference

TESTIFIER(S): Holly T. Shikada, Attorney General, or
Kory W. Young, Deputy Attorney General

Chair Nishihara and Members of the Committee:

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

The purpose of the bill is to provide the immediate families of individuals whose deaths were investigated by the police with access to the police closing reports prepared by the investigating police department, upon the conclusion of any criminal proceedings related to the incident, the passage of five years after the report has been completed, or the passage of seven years after the underlying incident, whichever occurs first.

The Department appreciates the intent of the bill. We are, however, concerned about the potential harm to law enforcement efforts to investigate and prosecute crimes relating to the investigated deaths, or even to complete ongoing court proceedings involving those deaths in those cases where any criminal proceedings related to the incident have not concluded. It is not unusual for criminal matters, especially murder cases, to take many years to investigate or resolve, particularly if the cases are appealed and remanded for further trial court proceedings. Murder investigations that are not closed but are pending the uncovering of further evidence, commonly referred to as "cold cases", could also be adversely impacted.

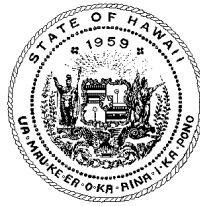
Police closing reports usually include confidential personal information, such as social security numbers, summaries of witnesses' statements where the identity of the

witnesses can be readily ascertained, descriptions of the investigatory techniques used in the case, crime scene photographs, lab results, and conclusions by the investigator regarding the results of the investigation. The premature dissemination of police reports to immediate family members could result in the reports falling into the hands of witnesses whose testimony could be influenced by the contents of the report or even suspects, which is a concern particularly in domestic violence cases. The ability of suspects to potentially obtain copies of the police closing reports, while the case against them is still open, would provide these suspects with a tremendous advantage in forestalling the investigation, destroying evidence, intimidating witnesses, and escaping justice. There is also the possibility that the reports could improperly be acquired by a suspect or offender to garner information for other related or serial crimes.

That is not to say that all police reports should be withheld. In cases where the police are able to determine that the release of these reports would not conflict with any of the provisions of section 92F-13, Hawaii Revised Statutes (Uniform Information Practices Act: Government records; exceptions to the general rule), disclosure to the immediate family would be warranted. That said, the disclosure contemplated by the bill could directly conflict with section 92F-13, Hawaii Revised Statutes, subsections (1), (2), (3) or (4), or a combination of these subsections, depending on the contents of the closing reports.

Thank you for the opportunity to provide comments on the bill.

DAVID Y. IGE
GOVERNOR



STATE OF HAWAII
DEPARTMENT OF PUBLIC SAFETY
919 Ala Moana Boulevard, 4th Floor
Honolulu, Hawaii 96814

MAX N. OTANI
DIRECTOR

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Tommy Johnson
Deputy Director
Corrections

Jordan Lowe
Deputy Director
Law Enforcement

No. _____

TESTIMONY ON SENATE BILL 2001
RELATING TO THE COMPREHENSIVE OFFENDER REENTRY SYSTEM.

by
Max N. Otani, Director
Department of Public Safety

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

Tuesday, February 3, 2022; 1:10 p.m.
State Capitol, Via Videoconference

Chair Nishihara, Vice Chair DeCoite, and Members of the Committee:

The Department of Public Safety (PSD) opposes Senate Bill (SB) 2001, which would allow surviving immediate family members of deceased persons to receive a copy of the closing report in a law enforcement-initiated investigation, prepared by the investigating police department after a specified period of time. The closing report and its related investigative reports contain confidential personal identifiers of deceased person(s), to include their personal medical history, choice of lifestyle, use or nonuse of narcotics and other choices the deceased person may have wanted to remain hidden.

The closing report and its related investigative reports further contain confidential personal identifiers of all witnesses to include their date of birth, social security numbers, work and home addresses, and telephone numbers. These witnesses' statements may be favorable or unfavorable to the investigation and to the surviving family members' opinions or thoughts of the deceased person.

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The closing report and its related investigative reports will identify to the surviving family members the suspects or persons of interest responsible for the death of the deceased person; and that may lead to unforeseen negative consequences.

Thank you for the opportunity to provide this testimony.



TESTIMONY

LIBERTARIAN PARTY OF HAWAII

% 92-149 Kohi Place

Kapolei, HI 96707

RE: **SB 2001** to be heard on Thursday February 3

Please support this bill.

Thank you for your consideration.

Sincerely,

Feena Bonoan
Vice Chair
February 1, 2022