



Hawai'i

Committees: Senate Committee on Public Safety,
Intergovernmental, and Military Affairs
Hearing Date/Time: Thursday, February 3, 2022, 1:10 P.M.
Place: Via videoconference
Re: *Testimony of the ACLU of Hawai'i in Support of S.B. 2239 Relating to Law Enforcement*

Dear Chair Nishihara, Vice Chair DeCoite and members of the Committee:

The American Civil Liberties Union of Hawai'i ("ACLU of Hawai'i") writes in **support of S.B. 2239**, which bans state and local law enforcement agencies from acquiring certain militarized equipment and weapons.

Every year, millions of dollars-worth of military equipment flows from the federal government to state and local police departments. Hawai'i is no exception—in 2019, Honolulu Police Department ("HPD") acquired its second Lenco Bearcat, a "tactical intervention vehicle with chemical, biological, radiological, nuclear, and explosive capabilities," which cost of \$580,000¹.

In addition to armored trucks, other military-grade gear and weaponry has made its way into law enforcement agencies as well. For example, the Hawai'i Department of Land and Natural Resources Division of Conservation and Resources Enforcement ("DLNR") acquired a long-range acoustic device, often referred to as an "LRAD" or "sound cannon."² This weapon, which was developed for and is used by the military to force compliance by causing pain, has been brought by the State to peaceful demonstrations at Mauna Kea³ and at Sherwood Forest⁴, though the State claimed that it would "only be used as a loudspeaker and not to disperse crowds."⁵

¹ Yoohyun Jung, *Honolulu Police Acquire More Military-Style Equipment*, Honolulu Civil Beat (October 17, 2019), <https://www.civilbeat.org/2019/10/honolulu-police-acquire-more-military-style-equipment/>.

² Solicitation No. Q19001912, Portable Battery Powered Public Address and Hailing System Kit, Hawai'i State Procurement Office (May 20, 2019).

³ In July 2019, the ACLU of Hawai'i sent a demand letter

⁴ Choon James, *LRADs Have No Place at Peaceful Hawai'i Protests*, Honolulu Civil Beat (October 21, 2019), <https://www.civilbeat.org/2019/10/lrads-have-no-place-at-peaceful-hawaii-protests/>.

⁵ Wendy Osher, *Hawai'i AG Addresses Concerns Surrounding LRAD "Sound Cannon"*, Maui Now (July 19, 2019), <https://mauinow.com/2019/07/19/hawaii-ag-addresses-concerns-surrounding-lrad-sound-cannon/>

Human and civil rights groups such as Amnesty International have warned that LRADs can cause devastating, long-lasting effects, and even permanent hearing loss.⁶

There is simply no reason why the State would need this caliber of weapon at peaceful demonstrations. There exist far more cost-effective sound amplification devices, and so it stands to reason that its *primary purpose* at these events is to chill First Amendment-protected speech through intimidation.

It is no coincidence that the LRAD has been used to intimidate those participating in demonstrations aimed at protecting land that is sacred to Native Hawaiian communities; across the U.S., militarized law enforcement tactics have been deployed disproportionately against communities of color. For this reason and others, the ACLU sent a demand letter in 2019 to DLNR, calling for the State to publicly commit not to deploy the LRAD for any anti-protest or crowd-control purposes, specifically in connection with the likely protests around TMT on Mauna Kea.⁷ The State declined to make such a commitment.

A 2014 report by the national ACLU found that “the militarization of policing encourages officers to adopt a ‘warrior’ mentality and think of the people they are supposed to serve as enemies.⁸ It is therefore no surprise that studies show that a 2017 study found that “[e]ven controlling for other possible factors in police violence...more-militarized law enforcement agencies were associated with more civilians killed each year by police.”⁹

S.B. 2239 expressly prohibits the acquisition of certain military-grade weapons such as LRADs and BearCats. Other state legislatures and city councils have adopted similar restrictions. A recently passed amendment to the National Defense Authorization Act reforms the federal Department of Defense’s 1033 program, through which surplus military equipment is transferred to state and local agencies, by prohibiting the transfer of 1) bayonets; 2) grenades (other than stuns and flash-bang grenades); 3) weaponized tracked combat vehicles; and 4) weaponized drones.

This is an important reform, but it is not enough to stem the increasing militarization of our local and state law enforcement and the inexcusable, unconstitutional intimidation of community members engaging in free speech. Passage of **S.B. 2239** is critical to fill in the gaps left by

⁶ *On the Streets of America: Human Rights Abuses in Ferguson*, Amnesty International (October 2014), <https://www.amnestyusa.org/files/onthestreetsofamericaamnestyinternational.pdf>.

⁷ Letter re: DLNR’s Acquisition of a Long Range Acoustic Device (LRAD), ACLU Of Hawai‘i, July 9, 2019, <https://acluhi.org/en/news/demand-letter-tmt-issue-ramps-state-must-reassure-public-lrad-sound-cannon-will-not-be-used>.

⁸ *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-rel1.pdf#page=23>.

⁹ Delehanty, Mehrtter, Welch & Wilks, *Militarization and police violence: The case of the 1033 program*, Research and Politics (April-June 2017), <https://journals.sagepub.com/doi/full/10.1177/2053168017712885/>.

federal legislation and prevent further intimidation of our communities by law enforcement's unwarranted use of weapons of war.

For the above reasons, the ACLU of Hawai'i requests that the Committee support this measure. Thank you for the opportunity to testify.

Sincerely,

Carrie Ann Shirota

Carrie Ann Shirota

Policy Director

ACLU of Hawai'i

cshirota@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.

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COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL & MILITARY AFFAIRS

Senator Clarence Nishihara, Chair

Senator Lynn DeCoite, Vice Chair

Thursday, February 3, 2022

1:10 PM

SB 2239 - NO WEAPONS OF WAR AGAINST PEACEFUL CITIZENS!

Aloha Chair Nishihara, Vice Chair DeCoite 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 4,103 Hawai`i individuals living behind bars or under the "care and custody" of the Department of Public Safety or the corporate vendor on any given day. We are always mindful that 1,113 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 2239 Prohibits police departments from acquiring certain types of military equipment and using certain types of equipment on protesters and demonstrators.

Well, this should be a no-brainer:

WEAPONS OF WAR SHOULD NOT BE USED AGAINST PEACEFUL PROTECTORS AND PROTESTERS EXERCISING THEIR RIGHT TO GATHER AND PETITION THE GOVERNMENT!

It is Hawai`i's shame that these weapons have been used against peaceful citizens on the Mauna and at Sherwoods, and even more egregious that they were used against Kanaka Maoli and Kupuna...sanctioned by the government. Auwe. Please pass this measure.

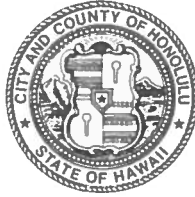
Mahalo for this opportunity to testify.

POLICE DEPARTMENT
CITY AND COUNTY OF HONOLULU

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LATE

RICK BLANGIARDI
MAYOR



RADE K. VANIC
INTERIM CHIEF

OUR REFERENCE DV-TA

February 3, 2022

The Honorable Clarence K. Nishihara, Chair
and Members
Committee on Public Safety, Intergovernmental,
and Military Affairs
The Senate
Hawaii State Capitol
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair Nishihara and Members:

Subject: Senate Bill No. 2239, Relating to Law Enforcement

I am Deric Valoroso, Captain of the Major Events Division, Honolulu Police Department (HPD), City and County of Honolulu. The HPD opposes the passage of Senate Bill No. 2239, Relating to Law Enforcement.


This bill as written, will hamper law enforcement's capability to effectively manage and be able to respond to protests or other police situations where specialized equipment and protective vehicles are needed to protect the community. The language in this bill also impacts current everyday police operations as pepper spray and less lethal bean bag kinetic energy options are tools for normal police and Special Weapons and Tactics (SWAT) operations. Senate Bill No. 2239, states that police departments may petition the director of public safety for approval to acquire items needed for SWAT and specialized units, however, the director of public safety may not have a law enforcement background, credentials or expertise in everyday police use of force options and/or the knowledge on how the application would be appropriate. In managing protests around the City and County of Honolulu and neighbor island counties, the ability for the police departments to have needed equipment and tools is crucial in keeping our state and county citizens and properties safe.

The HPD stands opposed of Senate Bill No. 2239, Relating to Law Enforcement.

Thank you for the opportunity to testify on this bill.

APPROVED:

Sincerely,


RADE K. VANIC
Interim Chief of Police


DERIC VALOROSO, Captain
Major Events Division

Serving and Protecting With Aloha

SB-2239

Submitted on: 1/31/2022 8:51:55 PM

Testimony for PSM on 2/3/2022 1:10:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Rachael Siciliano	Individual	Support	No

Comments:

Police departments should not be armies. Citizens should be able to exercise their constitutional right to peacefully protest their government without fear of having war waged against them.

SB-2239

Submitted on: 2/1/2022 9:17:55 AM

Testimony for PSM on 2/3/2022 1:10:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Wendy Gibson-Viviani	Individual	Support	No

Comments:

Aloha Chair, Vice-Chair and Members of the Committee,

Please support this bill. I believe that weapons of war should NOT be used on people who have assembled for a peaceful protest.

Thank you,

Wendy Gibson-Viviani RN/BSN

Kailua

SB-2239

Submitted on: 2/1/2022 1:01:30 PM

Testimony for PSM on 2/3/2022 1:10:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Diana Bethel	Individual	Support	No

Comments:

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

I am writing in strong support of SB 2239 that would prohibit police departments from acquiring certain types of military equipment and using certain types of equipment on protesters and demonstrators.

Purchase of expensive and unnecessary "toys" seems to be a theme for the Honolulu police department. The funds could be much better spent on things that directly contribute to public safety rather than on over-the-top weaponry that would serve no useful civilian purpose, but are designed to intimidate and would surely alienate the police from the public that it is meant to serve.

In the interests of public safety and cost-effective criminal justice policy, please pass SB 2239.

Mahalo,

Diana Bethel, Honolulu



TESTIMONY

LIBERTARIAN PARTY OF HAWAII

% 92-149 Kohi Place

Kapolei, HI 96707

RE: **SB 2239** to be heard on Thursday February 3

Please support this bill.

Thank you for your consideration.

Sincerely,

Feena Bonoan
Vice Chair
February 1, 2022

LATE

SB-2239

Submitted on: 2/2/2022 3:23:17 PM

Testimony for PSM on 2/3/2022 1:10:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Nikos Leverenz	Individual	Support	No

Comments:

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

I am writing in strong support of SB 2239, which would prohibit police departments from acquiring certain types of military equipment and using certain types of equipment, including chemical agents, on protesters and demonstrators.

This bill should be amended to include state law enforcement, including sheriffs and DLNR Division of Conservation and Resource Enforcement (DOCARE).

While Hawaii is fortunate that military equipment, rubber bullets, and chemical agents have not yet been used on its residents, including its dispossessed indigenous population, it is imperative for the Legislature to establish clear rules as a prophylactic measure to forestall such engagement.

Mahalo for the opportunity to provide testimony on this measure.