

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

February 24, 2022
10:00 A.M.
State Capitol, Teleconference

S.B. No. 2801, S.D. 1
RELATING TO LAW ENFORCEMENT

Senate Committee on Ways and Means

The Department of Transportation (DOT) **supports** the intent of this bill.

DOT supports the intent that this bill will bring transparency and accountability, as well as, potentially mitigate any future actions of excessive force by Law Enforcement Officers which may lead to unnecessary loss of life or harm.

Thank you for the opportunity to provide testimony.



STATE OF HAWAII ORGANIZATION OF POLICE OFFICERS

" A Police Organization for Police Officers Only "
Founded 1971

February 22, 2022

ONLINE/FAX: 808-586-6091; 808-586-7348

The Honorable Donovan M. Dela Cruz
Chair
The Honorable Gilbert S.C. Keith-Agaran
Vice-Chair
Senate Committee on Ways and Means
Hawaii State Capitol, Rooms 208, 221
415 South Beretania Street
Honolulu, HI 96813

Re: **SB2801 SD1-Relating to Law Enforcement**

Dear Chair Dela Cruz, Vice-Chair Keith-Agaran, 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 to express our strong **opposition** to SB2801 SD1. This bill seeks to amend HRS §803-7 without accounting for the inherent dangers in our jobs that require split second life and death decisions that must be made under extreme duress. The bill also ignores the multi-layers of safeguards already in place that hold each and every county police officer accountable for their individual actions and omissions.

SB2801 SD1 appears to be an attempt to appease and pacify a small group of activists who are anti-police and wish to defund the police. Without a police presence and having our officers patrolling your neighborhoods while you sleep at night, society cannot maintain its civility or its rule of law. Our Hawaii citizens understand and appreciate the community protection and law enforcement services provided by our police officers. The public's strong support for our three officers charged last year with murder after they did what they were trained to do to stop an extremely dangerous suspect on a crime spree was on full display at the courthouse.

As police officers, we have a Code of Ethics:

As a law enforcement officer, my fundamental duty is to serve mankind; to safeguard lives and property; to protect the innocent against deception, the weak against oppression or intimidation, and the peaceful against violence or disorder; and to respect the constitutional rights of all to liberty, equality, and justice.

Main Office & Honolulu Chapter Office
1717 Hoe Street
Honolulu, Hawaii 96819-3125
Tel: (808) 847-4676 "84 SHOPO"
www.shopohawaii.org Fax: (808) 841-4818

Hawaii Chapter Office
688 Kinoole Street, Room 220B
Hilo, Hawaii 96720-3877
Tel: (808) 934-8405
Fax: (808) 934-8210

Kauai Chapter Office
3176 Oihana Street, Suite 104, Lihue
Mailing Add: P. O. Box 1708
Lihue, Hawaii 96766-5708
Tel: (808) 246-8911

Maui Chapter Office
1887 Wili Pa Loop, Suite 2
Wailuku, Hawaii 96793-1253
Tel: (808) 242-6129
Fax: (808) 242-9519

The Honorable Donovan M. Dela Cruz , Chair
The Honorable Gilbert S.C. Keith-Agaran, Vice-Chair
Senate Committee on Ways and Means
February 22, 2022
Re: SB2801 SD1-Relating to Law Enforcement
Page 2

I will keep my private life unsullied as an example to all; maintain courageous calm in the face of danger, scorn, or ridicule; develop self-restraint; and be constantly mindful of the welfare of others. Honest in thought and deed in both my personal and official life, I will be exemplary in obeying the laws of the land and the regulations of my department. Whatever I see or hear of a confidential nature or that is confided to me in my official capacity will be kept ever secret unless revelation is necessary in the performance of my duty.

I will never act officiously or permit personal feelings, prejudices, animosities, or friendships to influence my decisions. With no compromise for crime and with relentless prosecution of criminals, I will enforce the law courteously and appropriately without fear or favor, malice or ill will, never employing unnecessary force or violence and never accepting gratuities.

I recognize the badge of my office as a symbol of public faith, and I accept it as a public trust to be held as long as I am true to the ethics of the police service. I will constantly strive to achieve these objectives and ideals, dedicating myself before God to my chosen profession . . . law enforcement.

We are by no means perfect and have never claimed to be. We have the same human frailties as our neighbors and yes some of us do make mistakes. We are no less human than the politicians arrested for drunk driving or who have accepted bribes, thus breaching the public's trust.

The current law simply states, "In all cases where the person arrested refuses to submit or attempts to escape, such degree of force may be used as is necessary to compel the person to submission." This law in its most basic form goes back to the Hawaiian Kingdom and has been on the books since 1869. The existing language in the law has been in existence since 1985 and has been followed for over three and a half decades. The law keeps the focus on the criminal and limits the use of force to only what is necessary to apprehend the suspect. There is nothing broken with this law that has stood the test of time for over a 100 years.

While we do appreciate the amendments made to the original form of the bill, it is still problematic. The bill under consideration takes the focus off the criminals breaking the law, resisting arrest, or trying to escape, and redirects the officer's attention toward the other officers at the scene to second guess what each of them are doing. The danger with diverting an officer's attention is that an officer's focus should at all times be on the suspect, especially a suspect who is armed and dangerous, the protection and safety of innocent citizens who may be in the danger zone, and the officer's own safety. This bill will create a chilling effect and cause an officer to prematurely intervene, thus escalating a situation and making a dangerous situation even more dangerous for the officers involved. Officers will be required to assess the

The Honorable Donovan M. Dela Cruz , Chair
The Honorable Gilbert S.C. Keith-Agaran, Vice-Chair
Senate Committee on Ways and Means
February 22, 2022
Re: SB2801 SD1-Relating to Law Enforcement
Page 3

appropriateness of force their fellow officers are exercising without having all of the relevant information to make such an assessment and at the same time having to contend with the suspect. Officers will undoubtedly misconstrue what they may believe is excessive force because they may be unaware that the suspect had earlier brandished a gun or knife before the officer arrived at the scene. In performing their duties, the officer's concentration is on what they immediately need to do to protect the public and keep everyone safe, including themselves. Each officer is responsible for their own actions. Assessing a highly charged scene with people running around screaming and armed with deadly weapons requires an officer to quickly determine who are the suspects, what type and how many weapons are involved, who may be helping the suspects, what is in the background in the event an officer has to draw and discharge their firearm, and evaluate a host of other variables to figure out in split seconds what must be done. It is often the case that we do not have the luxury of time to figure everything out or carefully prepare a response because we must react instinctively in reliance on our training. That is our reality.

Last year's Kalakaua shooting ended with the tragic death of a young man who was terrorizing our community. We must also never forget our two officers who were gunned down at Diamond Head and the many other officers who sacrificed their lives or suffered horrendous injuries in order to protect our community. These are heartbreaking situations for everyone involved. However, these horrible incidents highlight the life-threatening situations our officers are suddenly thrust into that can rapidly deteriorate and in seconds escalate into extreme violence.

The stated purpose of the bill is to require "greater accountability and transparency" with law enforcement services. After the Kalakaua incident, the three officers had to answer for their actions with HPD's investigators and commanders, the prosecutor's office, a grand jury, and at the end they stood in judgment in a courtroom before a judge who determined that the officers had acted appropriately and within the parameters of the law.¹ SB2801 SD1 was not required for this level of accountability and transparency to happen. Despite being exonerated, our officers still face a civil lawsuit that jeopardizes their personal and family's financial security and wellbeing. That is the life of a police officer and the sacrifices we make to protect our community. In turn, we would welcome politicians like yourselves giving us greater support in our efforts to protect and make our community safe.

The bill will further require a use of force incident to be reported to a supervisor. That already occurs. Officers who use force to effectuate an arrest must complete a use of force form and a narrative report that explains in detail the level of force that was used, why force was

¹ There is also Internal Affairs, Professional Standards Office, police commissions, Department of the Attorney General, FBI, and the Department of Justice that provides accountability and transparency. The civil rights laws provide a further check and balance on the use of force by our officers.

The Honorable Donovan M. Dela Cruz , Chair
The Honorable Gilbert S.C. Keith-Agaran, Vice-Chair
Senate Committee on Ways and Means
February 22, 2022
Re: SB2801 SD1-Relating to Law Enforcement
Page 4

used, and the justification for the force. These reports are provided to, reviewed, and signed by the officer's supervisor. Body worn cameras are also widely used by our officers and further documents events where force was employed. These videos are downloaded and saved as evidence.

There is also a reporting component to the bill that will require the disclosure of an officer's disciplinary action before the grievance process has concluded. In fairness to our officers, the disclosure of any disciplinary action should be suspensions or terminations and should only be disclosed after the grievance process has concluded. The rationale is that a grievance could be sustained thus overturning or modifying the disciplinary action. Thus, disclosing the discipline before the grievance is final would be premature and serve no valid purpose.

It is not a mere coincidence that our county police departments are suffering a serious staffing shortage like we have never seen before. The staffing crisis is downright scary and compromises the community's safety. There is no way to sugarcoat this reality. Rather than support law enforcement, our officers feel they are under constant attack by bills such as this that make their jobs tenuous, more dangerous, and unnecessarily exposes them to civil liability that enriches criminals and their families. This bill discourages women and men in our community from aspiring to be police officers to fill our depleted ranks. When you think about it, when is the last time a bill was introduced or passed to help our officers?

We thank you for allowing us to be heard on this very important issue and we hope your committee will unanimously oppose and/or defer SB2801 SD1.

Respectfully submitted,

ROBERT "BOBBY" CAVACO
SHOPO President

SB-2801-SD-1

Submitted on: 2/21/2022 9:04:31 PM

Testimony for WAM on 2/24/2022 10:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Johnnie-Mae L. Perry	Individual	Support	No

Comments:

SUPPORT SB 2801 RELATING TO LAW ENFORCEMENT.