



STATE OF HAWAII ORGANIZATION OF POLICE OFFICERS

" A Police Organization for Police Officers Only "
Founded 1971

February 9, 2022

ONLINE/FAX: 808-586-6131; 808-587-7220

The Honorable Karl Rhoads
Chair
The Honorable Jarrett Keohokalole
Vice-Chair
Senate Committee on Judiciary
Hawaii State Capitol, Rooms 204, 205
415 South Beretania Street
Honolulu, HI 96813

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

Dear Chair Rhoads, Vice-Chair Keohokalole, 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. 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 while 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 appears to be an attempt to appease or pacify a small minority of people who are anti-police and have asked you and your fellow politicians to defund the police. Without a police presence and 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 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.

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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 accepted bribes.

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 current language in the law has been in existence since 1985 which is more than three and a half decades. The law keeps the focus on the criminal and limits the use of force to 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.

The bill under consideration will turn the law on its head and take the focus off the criminals who are breaking the law, resisting arrest, or trying to escape, and place a target squarely on our police officers. Rather than keeping the emphasis on apprehending the criminal suspect, this bill protects the criminal by redirecting the officer's attention away from the suspect and toward the other officers at the scene who must now be fortune tellers and second guess each other as to what they are doing or what they are about to do. This may 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 trying to

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anticipate what level of force their fellow officers are about to use and whether that anticipated force is reasonable without having all of the relevant information to make such an assessment. Officers will undoubtedly misconstrue what they may believe is excessive force because they are unaware 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. 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 the officer has to draw and discharge their firearm, and evaluate a host of other considerations to figure out 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 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 confines of the law.¹ SB2801 was not needed 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 well-being. That is the life of a police officer and the sacrifices we make to protect our community. Yet, we also expect politicians like yourselves to support us in our efforts to make our community safe.

The bill would 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 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.

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.

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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. The reality is that this bill is confusing, poorly worded, and discourages women and men in our community from aspiring to be police officers to fill our depleted ranks.

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

Respectfully submitted,

ROBERT "BOBBY" CAVACO
SHOPO President

SB-2801

Submitted on: 2/8/2022 1:53:43 PM

Testimony for JDC on 2/11/2022 9:30:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Alan Urasaki	Individual	Support	No

Comments:

I support passage of this bill. Thank you.

LATE

SB-2801

Submitted on: 2/10/2022 12:09:18 PM

Testimony for JDC on 2/11/2022 9:30:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Dara Carlin, M.A.	Individual	Support	No

Comments:

Stand in Support.

DAVID Y. IGE
GOVERNOR



TESTIMONY BY:

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STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
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HONOLULU, HAWAII 96813-5097

February 11, 2022
9:30 A.M.
State Capitol, Teleconference

S.B. No. 2801
RELATING TO LAW ENFORCEMENT

Senate Committee on Judiciary

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.