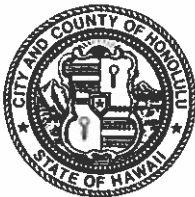


POLICE DEPARTMENT  
**CITY AND COUNTY OF HONOLULU**

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RICK BLANGIARDI  
MAYOR



ARTHUR J. LOGAN  
CHIEF

KEITH K. HORIKAWA  
RADE K. VANIC  
DEPUTY CHIEFS

OUR REFERENCE **MH-SK**

April 3, 2023

The Honorable Kyle T. Yamashita, Chair  
and Members  
Committee on Finance  
House of Representatives  
415 South Beretania Street, Room 308  
Honolulu, Hawaii 96813

Dear Chair Yamashita and Members:

Subject: Senate Bill No. 151, S.D. 2, H.D. 1, Relating to Law Enforcement Reform

I am Manuel Hernandez, Major of the Training Division of the Honolulu Police Department (HPD), City and County of Honolulu.


The HPD supports Senate Bill No. 151, S.D. 2, H.D. 1, Relating to Law Enforcement Reform.

The HPD currently has policies and procedures in place that either meet or exceed those proposed in the bill, including reasonableness in the use of force, a duty to intervene with regard to unlawful use of force, and use of force training and reporting.

The HPD urges you to support Senate Bill No. 151, S.D. 2, H.D. 1, Relating to Law Enforcement Reform.

Thank you for the opportunity to testify.

APPROVED:

  
Arthur J. Logan  
Chief of Police

Sincerely,



Manuel Hernandez, Major  
Training Division



STATE OF HAWAII ORGANIZATION OF POLICE OFFICERS  
" A Police Organization for Police Officers Only "  
Founded 1971

April 1, 2023

**VIA ONLINE**

The Honorable Kyle T. Yamashita  
Chair  
The Honorable Lisa Kitagawa  
Vice-Chair  
House Committee on Finance  
Hawaii State Capitol, Rooms 306, 435  
415 South Beretania Street  
Honolulu, HI 96813

Re: **SB 151 SD2 HD1 - Relating to Law Enforcement Reform**

Dear Chair Yamashita, Vice-Chair Kitagawa, 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 SB 151 SD2 HD1. Respectfully, the amendments made to this measure do not go far enough to account for the inherent dangers in our jobs that require split second life and death decisions while under extreme duress. This bill continues to add unnecessary scrutiny and burden on our police officers when multi-layers of safeguards are already in place that hold each and every county police officer accountable for their individual actions and omissions, both administratively and criminally.

This bill requires any department or agency employing a law enforcement officer to maintain a publicly available policy that provides a minimum standard on the use of force with nineteen (19) sub-requirements, allows the use of force policies and training to be considered in legal proceedings involving a law enforcement officer’s use of force, requires a report and investigation of any force “beyond that which is necessary, as determined by an objectively reasonable officer under the circumstances,” and requires that law enforcement officers receive training designed to minimize the use of force.

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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The Honorable Kyle T. Yamashita, Chair  
The Honorable Lisa Kitagawa, Vice-Chair  
House Committee on Finance  
April 1, 2023

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Re: **SB 151 SD2 HD1 - Relating to Law Enforcement Reform**

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 been caught accepting bribes. However, three recent cases involving our officers who were severely injured in the line of duty should highlight and stand as a stark reminder to you and your committee of the inherent dangers involved with our job. One suspect viciously and critically attacked one of our officers with a crowbar/tire iron while he was responding to a call. Another officer was critically injured while responding to a motor vehicle collision. Yet another officer was severely injured after responding to a call involving a driver who reportedly intentionally ran over an innocent woman pushing a baby in a stroller and then attacked a bystander with a crowbar. These cases flare up and spiral out of control in a matter of **split** seconds leaving our officers with little to no time to react other than to rely on their training.

There is no stated purpose included with this bill although it seeks to inject another layer of bureaucracy into the business of professional policing. After the Sykap incident, each of the three officers involved had to answer for their actions with HPD's investigators and

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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 boundaries of the law.<sup>1</sup> SB 151 SD2 HD1 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.

This bill requires each department or agency employing a law enforcement officer to maintain a policy that provides a "minimum standard" on the use of force, delineates nineteen (19) detailed requirements for such a policy, and mandates that it be made public. It even goes so far as to specify that such a policy may be introduced as evidence in proceedings involving a law enforcement officer's use of force. This bill also requires all law enforcement officers to receive training "designed to minimize the use of force." In doing so, this bill duplicates procedures, certifications, standards, and law enforcement training already established and managed by the respective county police departments through their training academies. All four (4) county police departments and their respective police academies are accredited by the Commission on Accreditation for Law Enforcement Agencies ("CALEA").<sup>2</sup> 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 much in common, but they also have special provisions and aspects tailored to each island's unique demands and diverse communities.

Standards on the use of force have already been established over the many years by each respective county in conjunction with their human resources departments. No one has pointed

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<sup>1</sup> 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.

<sup>2</sup> We also find it highly ironic that this same legislative body is pushing for funding to have DLNR's conservation and resources enforcement program obtain CALEA certification. See HB 767 and SB 70. By endorsing CALEA certification, this legislative body clearly believes CALEA is a credible and valid accreditation.

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out where any current county police training academy has somehow failed to establish or meet “minimum” use of force standards. Notification of any use of excessive force is already a duty and responsibility of every officer in every county police department. Moreover, every complaint of criminal misconduct is required to be in writing and is fully investigated by the police department’s internal affairs division. The completed investigation is thereafter submitted to the Chief of Police. Thus, the substance of SB 151 SD2 is already in place within the county’s departments which need not be disturbed or interfered with by the legislature.

The bill infers that the county police departments and their respective training curriculums are subpar, do not currently incorporate acceptable and reasonable minimum standards of the use of force, and do not have acceptable criminal justice curriculums. We are not aware of a single legislator who has come forward with any evidence that there is any truth to this in the slightest. This bill, in essence, will usurp the training curriculum and standards implemented by the respective county police department’s training academies, paints with a broad brush, and seeks to add another needless bureaucratic layer at an inopportune time when we are in the midst of a staffing crisis like we have never seen before.

Rather than doing something productive to help us recruit and retain police officers, SB 151 SD2 HD1 makes it that much more difficult for us to recruit and retain an adequate number of police officers to police our communities and unnecessarily burdens our existing police force. For example, as to the bill’s mandate of reporting uses of force “beyond that which is necessary, as determined by an objectively reasonable officer under the circumstances” to a “division head,” which is defined as “the official or officer who, subject to the authority of the department head, has the most managerial or administrative authority within a division in the state department or county agency.” That is something that, in principle, is already required and occurs in our State. 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.

This bill further adds a section to HRS chapter 139 requiring that any time an officer observes use of force “beyond that which is necessary, as determined by an objectively reasonable officer under the circumstances,” he/she must notify the exercising officer’s division head in writing. This bill provides that an investigation must occur within specified timelines upon receipt of a written notification and requires the outcome of the investigation to be shared with the state department deputy director or chief of police. In addition, as currently written, the

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bill calls for the county police commissions or attorney general to investigate reports of the use of force in certain circumstances (where the department head or division head is the subject). In addition, this bill appears to conflict with a county's charter and the powers, duties and functions bestowed on each police commission.<sup>3</sup> The bill further assumes that a police commission has the expertise and that its investigators are trained and experienced to conduct such an investigation as opposed to other agency investigators such as the prosecutor's office who are trained for this very purpose, not to mention the conflicts that may arise with witnesses and other aspects of an investigation when two separate agencies are investigating the same incident.

As stated previously changing the verbiage from requiring reporting any use of force to the use of force "that the officer believes to be beyond that which is necessary, as determined by an objectively reasonable officer under the circumstances" does not change the fact that this measure will redirect an 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 anticipate what level of force their fellow officers are about to use and whether that anticipated force is "objectively 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 should be 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 reports of deadly weapons requires an officer to quickly determine who the suspects are, what type and how many weapons are involved, who may be helping the suspects, the surroundings to determine if it is safe to use a firearm, and to evaluate a host of other considerations. 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 accordance with our training. That is our reality.

In summary, this bill appears to dictate best practices to the county police departments relating to arrest and control tactics that should be employed or not used to effect an arrest. Our police departments are para-military organizations. I am not aware of anyone on this committee

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<sup>3</sup> For example, the Honolulu Police Commission ("HPC") is only authorized to investigate charges brought by the public and those findings are submitted to the Chief of Police. In addition, the HPC is prohibited from interfering "in any way with the administrative affairs of the department." See Revised Charter, Section 6-1606. This bill conflicts with the limited power bestowed upon the HPC which is intended to prevent inference with police operations.

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having law enforcement experience or the extensive training our officers receive in the use of force that would allow them to be subject matter experts on tactics to employ or not employ on an armed and/or violent suspect.

Rather than finding ways to make it more difficult to hire and retain officers, we respectfully ask for your help in finding ways to help replenish our ranks to fight the escalating crime occurring in our community. We are suffering a critical shortage of police officers and it is directly affecting our ability to protect the public. The statistics reflecting the closure and clearance rates of property crimes averages about 6%, and the average clearance rate for violent crimes is a dismal 33.77%. These statistics are downright shameful and embarrassing. In other words, more than half of the people committing violent and property crimes are getting away with it. Those numbers should be alarming for everyone, and this bill does nothing to address this critical problem. Instead, of expending time figuring out how to make it more difficult to serve one's community as a police officer, we should be expending and dedicating that same energy to figuring out how we can recruit and retain officers.

Constructive efforts to support law enforcement is what we need. Subjecting our officers to constant attack by bills such as this which makes their jobs tenuous, dangerous, and exposes them to civil liability, is not what is needed at this time. The reality is that this bill 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 SB 151 SD2 HD1.

Respectfully submitted,

ROBERT "BOBBY" CAVACO  
SHOPO President

**SB-151-HD-1**

Submitted on: 4/2/2023 12:26:33 PM

Testimony for FIN on 4/3/2023 2:30:00 PM

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Testify</b>         |
|---------------------|---------------------|---------------------------|------------------------|
| Will Caron          | Individual          | Support                   | Written Testimony Only |

Comments:

Without a complete overhaul of the law enforcement and criminal legal system, police violence will continue to plague communities. We need to redefine our system so that it protects public health and wellbeing, not property and wealth. Restorative justice delivers peace and helps people heal after the trauma that crime inflicts.

In the short term, we can strengthen the laws that regulate police conduct and require much tighter oversight. But we need to continue working toward systemic change. SB151 SD2 HD1 can reduce instances of police brutality and excessive use of force. This is a step in the right direction. Please support this bill.



**SB-151-HD-1**

Submitted on: 4/2/2023 1:28:13 PM

Testimony for FIN on 4/3/2023 2:30:00 PM

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Testify</b>            |
|---------------------|---------------------|---------------------------|---------------------------|
| Emily Garland       | Individual          | Support                   | Written Testimony<br>Only |

Comments:

Without a complete overhaul of the law enforcement and criminal legal system, police violence will continue to plague communities. We need to redefine our system so that it protects public health and wellbeing, not property and wealth. Restorative justice delivers peace and helps people heal after the trauma that crime inflicts.

In the short term, we can strengthen the laws that regulate police conduct and require much tighter oversight. But we need to continue working toward systemic change. SB151 SD2 HD1 can reduce instances of police brutality and excessive use of force. This is a step in the right direction. Please support this bill.

**SB-151-HD-1**

Submitted on: 4/3/2023 4:10:19 AM

Testimony for FIN on 4/3/2023 2:30:00 PM

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Testify</b>         |
|---------------------|---------------------|---------------------------|------------------------|
| Shannon Rudolph     | Individual          | Support                   | Written Testimony Only |

Comments:

Support

**SB-151-HD-1**

Submitted on: 4/3/2023 9:18:19 AM

Testimony for FIN on 4/3/2023 2:30:00 PM

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Testify</b>         |
|---------------------|---------------------|---------------------------|------------------------|
| Maki Morinoue       | Individual          | Support                   | Written Testimony Only |

Comments:

Aloha members of this committee,

*I am in support of this bill. SB151 SD2 HD1 can reduce instances of police brutality and excessive use of force. This is a step in the right direction. Please support this bill.*

*Mahalo*

*Maki*

**SB-151-HD-1**

Submitted on: 4/3/2023 10:04:23 AM

Testimony for FIN on 4/3/2023 2:30:00 PM

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Testify</b>         |
|---------------------|---------------------|---------------------------|------------------------|
| Nanea Lo            | Individual          | Support                   | Written Testimony Only |

Comments:

Hello,

My name is Nanea Lo. I'm born and raised in the Hawaiian Kingdom a Kanaka Maoli.

I'm writing in SUPPORT of SB151 SD2 HD1.

Without a complete overhaul of the law enforcement and criminal legal system, police violence will continue to plague communities. We need to redefine our system so that it protects public health and wellbeing, not property and wealth. Restorative justice delivers peace and helps people heal after the trauma that crime inflicts.

In the short term, we can strengthen the laws that regulate police conduct and require much tighter oversight. But we need to continue working toward systemic change. SB151 SD2 HD1 can reduce instances of police brutality and excessive use of force. This is a step in the right direction. Please support this bill.

me ke aloha 'āina,  
Nanea Lo, Mō'ili'ili

**SB-151-HD-1**

Submitted on: 4/3/2023 11:03:17 AM

Testimony for FIN on 4/3/2023 2:30:00 PM

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Testify</b>         |
|---------------------|---------------------|---------------------------|------------------------|
| Hunter Heavilin     | Individual          | Support                   | Written Testimony Only |

Comments:

SB151 will implement much-needed law enforcement reform. The transparency and accountability measures proposed in this bill are crucial steps towards rebuilding trust between law enforcement and the communities they serve. By requiring departments and agencies employing law enforcement officers to maintain publicly available policies on minimum standards on the use of force, citizens will have a clearer understanding of the guidelines officers must follow, and thus, increased confidence in the actions taken by law enforcement. Additionally, allowing use of force policies and training to be introduced as evidence in proceedings will provide a more comprehensive context for judicial decisions and ensure that the actions of law enforcement officers are evaluated fairly and justly.

Furthermore, SB151 addresses the issue of excessive force by requiring law enforcement officers to report instances involving their colleagues, thus promoting a culture of accountability and responsibility within the profession. To complement this, the bill mandates training designed to minimize the use of excessive force, equipping officers with the knowledge and tools to handle situations in the most effective and least harmful manner. This legislation recognizes that law enforcement reform is an ongoing process and a shared responsibility, one that requires collaboration between officers, their departments, and the communities they serve. By passing SB151, we can take a significant step forward in creating a safer, more just society for all.