

SHOPO



STATE OF HAWAII ORGANIZATION OF POLICE OFFICERS

" A Police Organization for Police Officers Only "
Founded 1971

March 28, 2024

The Honorable Karl Rhoads, Chair
The Honorable Mike Gabbard, Vice-Chair
Senate Committee on Judiciary
Hawaii State Capitol
415 South Beretania Street
Honolulu, HI 96813

Re: **HB 2748 HD2 SD1 - Relating to Law Enforcement – Statewide Vehicular Law Enforcement Pursuit Policies**

Dear Chair Rhoads, Vice-Chair Gabbard, 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 HB 2748 HD2 SD1. We fully understand the Legislature’s intention to speak to the dangerousness of vehicular pursuits. However, establishing statewide vehicular law enforcement pursuit policies is simply not the answer and is unnecessary.

As you may or may not know, each of the county police departments have implemented motor vehicle pursuit policies that comply with standards established by the Commission on Accreditation for Law Enforcement Agencies, Inc. (“CALEA”). 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. Although the policies and training of each county police department have much in common, they also have special provisions and aspects tailored to each island’s unique demands and diverse communities. As such, a statewide policy would not be appropriate. In addition, all county officers receive initial training in motor vehicle pursuits, along with annual refresher training and each county police department has its own policies and procedures addressing reporting of pursuits to command and administrative review for compliance.

We thank you for allowing us to be heard and to share our concerns on this bill and hope your committee will unanimously reject this bill.

Respectfully submitted,

ROBERT “BOBBY” CAVACO
SHOPO President

RC jmo

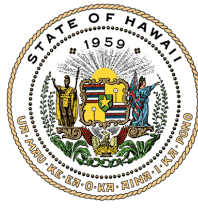
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DEPARTMENT OF LAW ENFORCEMENT

Ka 'Oihana Ho'okō Kānāwai

715 South King Street
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TESTIMONY ON HOUSE BILL 2748, HOUSE DRAFT 2, SENATE DRAFT 1

RELATING TO LAW ENFORCEMENT

Before the Senate Committee on Judiciary

Thursday, April 4, 2024; 10:00 a.m.

State Capitol Conference Room 016, Via Videoconference

WRITTEN TESTIMONY ONLY

Chair Rhoads, Vice Chair Gabbard, and members of the Committee:

The Department of Law Enforcement (DLE) submits the following **comments** on House Bill 2748, House Draft 2.

This bill seeks to establish statewide vehicular pursuit policies for state and county law enforcement agencies and require the DLE to adopt rules for the collecting and reporting of data.

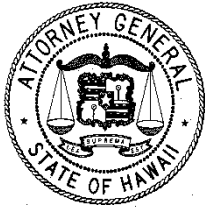
The DLE does not believe that this legislation is necessary. The primary concern with this bill is the specificity of the contents of a single policy among many policies found in our law enforcement agencies and communities. Chapter 139 establishes the Law Enforcement Standards Board which is charged the responsibility of providing programs and standards for training and certification of law enforcement officers. §139-2(a), HRS. Chapter 139 sets parameters for the composition and overall responsibilities of the Board, but generally does not mandate specific requirements for the Board to include standards established by the Board. The Legislature should continue to defer to the work of the Board to set the standards for state and county law enforcement agencies.

The DLE currently has a comprehensive vehicle pursuit policy that complies with standards established by the Commission on Accreditation for Law Enforcement

Agencies Inc. and the International Association of Chiefs of Police. While we have not reviewed other State and county law enforcement agency vehicle pursuit policies, we believe that they have similar policies in force. The requirements of this bill will not address issues of compliance with a particular policy which should be left to the specific agency or the courts in those cases.

The DLE requests that this bill be held. Should this bill move forward, after conferral with the Department of the Attorney General, subsections (e) through (h) should be returned to its original form designating DLE as the reporting department. However, if the DLE is required to collect the data, then the DLE will need one full time equivalent analyst for that purpose with an annual appropriation of \$120,000 annually.

Thank you for the opportunity to submit comments on this bill.



**WRITTEN TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
KA 'OIHANA O KA LOIO KUHINA
THIRTY-SECOND LEGISLATURE, 2024**

ON THE FOLLOWING MEASURE:

H.B. NO. 2748, H.D. 2, S.D. 1, RELATING TO LAW ENFORCEMENT.

BEFORE THE:

SENATE COMMITTEE ON JUDICIARY

DATE: Thursday, April 4, 2024

TIME: 10:00 a.m.

LOCATION: State Capitol, Room 016 and Videoconference

TESTIFIER(S): **WRITTEN TESTIMONY ONLY.**

(For more information, contact Mark S. Tom,
Deputy Attorney General, at 586-1160)

Chair Rhoads and Members of the Committee:

The Department of the Attorney General (Department) respectfully opposes this bill.

The purpose of this bill is to create a statutorily established statewide vehicular law enforcement pursuit policy, and require the Department to gather and share subsequent pursuit data on the Department's website. Notably, the Department has never been involved with any developments surrounding this bill, and was only added to this bill—without prior notice to or consultation with our Department—in its most recent draft.

The Department specifically opposes subsections (e), (f), and (g), found on page 5, line 17, through page 7, line 16, of the new section proposed to be added to chapter 139, Hawaii Revised Statutes, by section 2 of this bill, to the extent those subsections name the Department as the recipient of all law enforcement agencies' vehicular pursuit data, and further require the Department to process and post such data on the Department's website. The Department does not have the resources to assume these duties.

Currently, the Department's Research and Statistics Branch consists of only three employees, of which 1.50 FTE positions are dedicated to the creation and operation of the statewide National Incident-Based Reporting System (NIBRS), and

1.50 FTE positions are dedicated to completing statutorily required reports. NIBRS is an incident-based reporting system for crimes known to the police, and is the national standard for law enforcement crime data reporting in the United States. Hawaii's transition to NIBRS, which began about 6 years ago, represents a significant shift and improvement in how reported crime is measured, and is part of a national movement being pushed by the FBI. NIBRS data provides specific information per incident of crime reported and when it is fully operational will be made available to the public in a user-friendly dashboard. The transition to NIBRS has required additional staff time to certify the four county police departments (to meet FBI standards for data submission) and develop the state's data repository and public dashboard. In addition, the Department's Research and Statistics Branch is planning to assist the new Department of Law Enforcement in becoming NIBRS certified. Because Hawaii's transition to NIBRS continues to be a high priority for the Department's Research and Statistics Branch, there are no available resources to coordinate and publish an annual statewide vehicular law enforcement pursuit report.

In addition to creating and operating the statewide NIBRS, the Research and Statistics Branch does conduct certain statutorily mandated annual reports, which include but are not limited to Firearms, Corrections, and Hate Crimes¹. However, these reports are uniquely placed with the Department, as they require criminological and statistical research. Based on the reporting requirements and targeted data in this bill, the Department does not believe its Research and Statistics Branch would be the appropriate division to house and collect this data.

Based on the foregoing concerns, we respectfully ask the Committee to defer this bill. Thank you for the opportunity to provide testimony.

¹ <https://ag.hawaii.gov/cpja/rs/>. Last accessed March 21, 2024



National Police Accountability Project

A Project of the National Lawyers Guild

SUPPORT FOR HB 2748 – Relating to Law Enforcement

Written Testimony of National Lawyers Guild-National Police Accountability Project, Eliana Machefsky, Legal Fellow

Senate Judiciary Committee – Thursday, April 4, 2024

Chair Rhoads, Vice-Chair Gabbard, and Members of this Committee,

Thank you for the opportunity to provide testimony on this important issue. The National Police Accountability Project (“NPAP”) is a nonprofit organization dedicated to holding law enforcement officers accountable to constitutional and professional standards. NPAP supports HB 2748, a bill that would save lives by providing common-sense limitations on law enforcement’s use of vehicular pursuits.

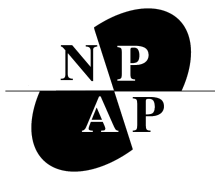
Vehicular pursuits, which regularly culminate in high-speed chases through densely populated areas,¹ pose immense risks to public safety. According to the Bureau of Justice Statistics, between 1996 and 2015 “an average of 355 persons (about 1 per day) were killed annually in pursuit-related crashes.”² Of the people killed in pursuit-related crashes from 1996 to 2015, approximately 33% were bystanders, 65% were occupants of the vehicles being pursued, and “slightly more than 1%” were law enforcement officers.³ Nationwide, these dangers are borne disproportionately by people of color.⁴

¹ See, e.g. Jennifer Gollan and Susie Neilson, *Police chases are killing more and more Americans. With lax rules, it’s no accident*, San Francisco Chronicle (Feb. 28, 2024), <https://www.sfchronicle.com/projects/2024/police-chases/> (describing several fatal police chases through populated areas, including a chase in Evansville, Indiana that “tore through more than two dozen intersections, past parked cars lining narrow streets in a dense neighborhood on the city’s overwhelmingly Black south side” before ending in a collision with a bystander’s car, killing one adult passenger, a 2-year-old child, and a 7-month-old baby).

² Brian A. Reaves, *Police Vehicle Pursuits, 2012-2013*, BUREAU OF JUSTICE STATISTICS 1 (May 2017), <https://bjs.ojp.gov/content/pub/pdf/pvp1213.pdf>.

³ *Id.* at 6.

⁴ See, e.g., Thomas Frank, *Black people are three times likelier to be killed in police chases*, USA TODAY (Dec. 1, 2016), <https://www.usatoday.com/pages/interactives/blacks-killed-police-chases-higher-rate/>. (“Black people were more likely than whites to be chased in more crowded urban areas, during peak traffic hours and with passengers in their cars, all factors that can increase the danger to innocent bystanders.”); Andrew Ford, *Deadly NJ police chases kill innocent victims, catch few crooks*, ASBURY PARK PRESS (Dec. 29, 2019), <https://www.app.com/in-depth/news/investigations/2019/12/29/deadly-police-chases-kill-dozens-nj-catch-few-fleeing-crooks/2506355001/>.



National Police Accountability Project

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Even when police pursuits do not result in deaths, they nevertheless cause immense harm. For example, an investigation of police pursuits on Oahu found that about 32% of all pursuits from 2017 to 2019 involved collisions, and over 42% of those collisions resulted in documented injuries.⁵ Nearly every pursuit resulted in damage to personal property.⁶

While the risks associated with these high-speed chases are colossal, the benefits are exceedingly slim. The primary purpose of police pursuit is the immediate apprehension of suspects—presumably those suspected of such dangerous crimes that their escape would pose an intolerable threat to public safety. The U.S. Department of Justice has presumed as much since at least 1990, when it determined: “For anyone other than a violent felon, the balance weights against the high-speed chase.”⁷ Yet the vast majority of police chases begin with minor, non-violent crimes. Indeed, more than 90% of law enforcement-initiated vehicle pursuits nationwide stem from traffic infractions.⁸ In 2019, 40% of the police pursuits on Oahu began with traffic offenses, while only 12% began with a felony crime other than a stolen vehicle.⁹ At the same time, only 19% of those chases resulted in the apprehension of the suspect.¹⁰

The most effective way to protect Hawaiians from the outsized risks of vehicular pursuits is to limit law enforcement’s authority to initiate and continue these dangerous chases. Individuals may flee from law enforcement for any number of reasons, ranging from

⁵ Jacob Geanous, *HPD’s Loose Pursuit Policy Leads To Crashes In A Third of Chases*, HONOLULU CIVIL BEAT (Oct. 31, 2021), <https://www.civilbeat.org/2021/10/hpds-loose-pursuit-policy-leads-to-crashes-in-a-third-of-chases/>.

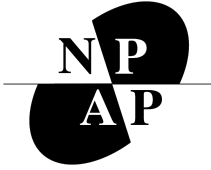
⁶ *Id.*

⁷ Hugh Nugent et al., *Restrictive Policies for High-Speed Police Pursuits*, U.S. DEPARTMENT OF JUSTICE NATIONAL INSTITUTE OF JUSTICE 20 (May 16, 1990), <https://www.ojp.gov/pdffiles1/Digitization/122025NCJRS.pdf>.

⁸ POLICE EXECUTIVE RESEARCH FORUM, *Vehicular Pursuits: A Guide for Law Enforcement Executives on Managing the Associated Risks* (2023), <https://portal.cops.usdoj.gov/resourcecenter/Home.aspx?item=cops-r1134>. Moreover, police are more likely to initiate these pursuits for minor offenses against Black drivers. “In 2013 and 2014, nearly every deadly pursuit triggered by an illegally tinted window, a seat-belt violation or the smell of marijuana involved a black driver.” Frank, *supra* note 4.

⁹ Geanous, *supra* note 5.

¹⁰ *Id.*



National Police Accountability Project

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knowledge of guilt to knowledge of innocence and fear of police force, despite knowing that fleeing from police can increase the penalties they face.¹¹ Yet research shows that drivers fleeing from the police will slow down and resume safe driving once the police stop chasing them.¹²

Just last year, the Police Executive Research Forum (“PERF”), in conjunction with the U.S. Department of Justice’s Office of Community Oriented Policing Services, published a guide for law enforcement agencies recommending “that pursuits should take place only when two very specific standards are met: (1) A violent crime has been committed and (2) the suspect poses an imminent threat to commit another violent crime.”¹³ Several jurisdictions had restricted police authority to engage in vehicular pursuits prior to the PERF report, all with positive public safety outcomes.¹⁴ After the state of Washington passed legislation similar to Hawaii’s HB 2748, it saw a 50% reduction in pursuit-related fatalities.¹⁵

We urge you to pass HB 2748, which will align Hawaii’s vehicular pursuit policy with research-based best practices for law enforcement. HB 2748’s common-sense restrictions on vehicular pursuits will prevent unnecessary tragedy while authorizing officers to engage in pursuits when public safety concerns truly outweigh the many risks of the chase.

Thank you again for the opportunity to provide testimony on this important issue. Please do not hesitate to contact me at fellow.npap@nlg.org if you have any questions.

¹¹ See, e.g., John Eligon, *Running From Police Is the Norm, Some in Baltimore Say*, THE NEW YORK TIMES (May 10, 2015), <https://www.nytimes.com/2015/05/11/us/running-from-police-is-the-norm-some-in-baltimore-say.html>.

¹² POLICE EXECUTIVE RESEARCH FORUM, *Vehicular Pursuits*, *supra* note 8, at 16.

¹³ *Id.* at ix.

¹⁴ *Id.* at 30-32 (discussing various policies).

¹⁵ *Pursuits and Fatalities in WA since 2015* (Feb. 9, 2024), https://rpubs.com/moxbox/wa_pursuits.