



**TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
KA 'OIHANA O KA LOIO KUHINA  
THIRTY-SECOND LEGISLATURE, 2023**

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**ON THE FOLLOWING MEASURE:**

H.B. NO. 593, H.D. 1, RELATING TO POLICE REPORTS.

**BEFORE THE:**

SENATE COMMITTEE ON PUBLIC SAFETY AND INTERGOVERNMENTAL AND  
MILITARY AFFAIRS

**DATE:** Wednesday, March 15, 2023      **TIME:** 3:00 p.m.

**LOCATION:** State Capitol, Room 225

**TESTIFIER(S):** Anne E. Lopez, Attorney General, or  
Kory W. Young, Deputy Attorney General

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Chair Wakai and Members of the Committee:

The Department of the Attorney General (Department) opposes this bill and provides the following comments.

The purpose of the bill is to provide the immediate families of individuals whose deaths were investigated by the police with access to the police closing reports prepared by the investigating police department, upon the conclusion of any criminal proceedings related to the incident, the passage of five years after the report was completed, or the passage of seven years after the underlying incident occurred, whichever occurs first.

The Department is concerned that the premature release of the police closing reports could jeopardize law enforcement efforts to investigate and prosecute crimes relating to the investigated deaths. It is not unusual for criminal matters, especially murder cases, to take many years to investigate or resolve, particularly if the cases are appealed and remanded for further trial court proceedings. Murder investigations that are not closed but are pending the uncovering of further evidence, commonly referred to as "cold cases," could also be adversely impacted.

Police closing reports commonly include summaries of witnesses' statements where the identity and residence of witnesses can be readily ascertained, descriptions of the investigatory techniques used in the case, crime scene photographs, lab results,

conclusions by the investigator regarding the results of the investigation, and confidential personal information, such as social security numbers. The premature dissemination of police reports to immediate family members could result in the reports being disclosed to witnesses whose testimony could be influenced by the contents of the reports. Or the reports could be disclosed to suspects, particularly in domestic violence cases. The ability of a suspect to obtain copies of the police closing reports, while the case against the suspect is still open, would provide the suspect with an opportunity to forestall the investigation, destroy evidence, intimidate witnesses, and escape justice. There is also the possibility that the reports could be acquired by a suspect or offender to garner information for other related or serial crimes.

Our position is not that all police reports should be withheld. In cases where the police are able to determine that the release of reports would not interfere with an ongoing investigation or ongoing criminal litigation, disclosure to the immediate family would be warranted. We believe that section 92F-11, HRS, is adequate to allow disclosure of police reports to families as soon as possible, with the exception allowed by section 92F-13, HRS, to allow the police to withhold information that would frustrate a legitimate government function if disclosed. Based on that, we believe this bill is unnecessary and should be held.

Thank you for the opportunity to provide comments on the bill.

DEPARTMENT OF THE PROSECUTING ATTORNEY  
**CITY AND COUNTY OF HONOLULU**

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STEVEN S. ALM  
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THOMAS J. BRADY  
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**THE HONORABLE GLENN WAKAI, CHAIR  
SENATE COMMITTEE ON PUBLIC SAFETY AND  
INTERGOVERNMENTAL AND MILITARY AFFAIRS  
Thirty-Second State Legislature  
Regular Session of 2023  
State of Hawai'i**

March 14, 2023

**RE: H.B. 593, H.D. 1; RELATING TO POLICE REPORTS.**

Chair Wakai, Vice-Chair Elefante and members of the Senate Committee on Public Safety and Intergovernmental and Military Affairs, the Department of the Prosecuting Attorney of the City and County of Honolulu (“Department”) submits the following testimony in **opposition** to H.B. 593, H.D. 1.

The Department recognizes the legitimate frustration and pain that surviving family members may feel, when they are unable to receive police reports pertaining to the death of a loved one. However, the decision of whether to turn over police reports to anyone—particularly before criminal prosecution has been completed—must be made on a case-by-case basis, rather than implementing a blanket mandate for closing reports to be provided to all surviving immediate family members.

Currently, there is no statute of limitations for murder cases in Hawaii, so it is still possible for suspects to be investigated and/or charged years (or even decades) after a murder occurs, particularly if new evidence becomes available. Manslaughter can be charged up to ten years after the offense, and other class A felony charges can be charged six years after the offense (see HRS §701-108). Also, the federal DNA database, which is maintained as part of the FBI’s Combined DNA Index System (“CODIS”), is constantly growing, so there is always a chance that previously unidentified DNA—collected in relation to an unresolved (or technically even a “resolved”) case—could “hit” upon a match at any time, which could lead to re-opening the investigation at any time.

Unfortunately, as we are all aware, there are cases involving death of an individual, in which family members may be potential suspects or in which there is no indication of whom the suspect(s) could be; for those cases in particular, the Department would be extremely concerned about police reports being provided to the family or anyone. If a suspected family member somehow obtained a copy of the report, he or she could potentially destroy or tamper with evidence, or contact other

potential witnesses, which could further decrease the likelihood of them ever being charged. Moreover, aside from that slim possibility, there is a potential concern for vigilantism, slander, or other such misconduct, if no one has ever been charged with causing the death of a loved one, and surviving family members find out that a certain individual(s) in the community (or perhaps even within the family) has been identified as a suspected perpetrator.

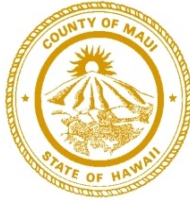
Because the well-established provisions of HRS Chapter 92F already address the scope of information that should be provided in response to inquiries, and because those provisions have been fine-tuned over the years (in statute and caselaw) to account for all of the various interests involved, the Department believes that Chapter 92F should continue to be the prevailing authority on this matter. To the extent further discussion is needed among stakeholders, to determine if there is a potential rule-change, policy-change, or even statutory change, that could better address the concerns raised in Section 1 of this bill, the Department is absolutely willing to engage in such discussions. However, H.B. 593, H.D. 1, does not seem to present a practicable solution at this time.

For all of the foregoing reasons, the Department of the Prosecuting Attorney of the City and County of Honolulu **opposes** passage of H.B. 593, H.D. 1. Thank for you the opportunity to testify on this matter.

**RICHARD T. BISSEN, JR.**  
Mayor

**ANDREW H. MARTIN**  
Prosecuting Attorney

**SHELLY C. MIYASHIRO**  
First Deputy Prosecuting Attorney



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**LATE**

TESTIMONY  
ON  
H.B. 593 HD1 RELATING TO  
POLICE REPORTS

March 14, 2023

The Honorable Glenn Wakai  
Chair  
The Honorable Brandon J.C. Elefante  
Vice Chair  
and Members of the Committee on Public Safety and Intergovernmental and Military Affairs

Chair Wakai, Vice Chair Elefante, and Members of the Committee:

The Department of the Prosecuting Attorney, County of Maui respectfully submits the following comments **in opposition to H.B. 593 HD1**, Relating to Police Reports, and requests that the measure be deferred. This measure amends H.R.S. Chapter 52D to add provisions requiring investigating police departments to provide a copy of the closing report to a decedent's surviving family members upon request after a specified period of time has elapsed.

We sympathize with victims' families and their desire for more information regarding the death of their loved ones. However, our unique role as prosecutors also requires us to ensure the integrity of the criminal justice system, and this measure raises the following concerns in that regard:

1. Even with a specific definition provided as part of the bill, the phrase "Closing report" is ambiguous as to what information the investigating agency is required to provide. This ambiguity may make agencies liable if they disclose too much or too little information. Also, certain personal information, such as the names, addresses and contact information for both witnesses and defendants, creates privacy and safety concerns when disclosed.

2. We share the previously-stated concerns of the Department of the Attorney General regarding the potential impact of this measure on criminal investigations and criminal prosecution. In addition to the personal information mentioned above, police reports typically

contain substantial information about a case (such as statements by the defendant and third-party witnesses, crime scene photographs and scientific test results) that could affect witness testimony if a witness was allowed to review the information prior to testimony at trial. This would also pose a problem if, for example, a defendant was convicted after trial, the witnesses reviewed the police reports, and the defendant's conviction was overturned on appeal and the witnesses were needed to testify at the new trial.

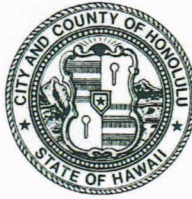
3. The disclosure time limits are also ambiguous and problematic. For example, it is unclear whether the phrase "the conclusion of any criminal proceedings related to the incident" means a dismissal of a case without prejudice (where the defendant could in theory be re-tried on the same charges), a defendant's initial conviction, an appellate court's affirming of the conviction after an appeal, exhaustion of state post-conviction relief, etc. As noted above, allowing a witness to review police reports can be problematic in circumstances where they may need to testify again.

For these reasons, the Department of the Prosecuting Attorney, County of Maui **opposes the passage of H.B. 593 HD1 and requests that the measure be deferred.** Please feel free to contact our office at (808) 270-7777 if you have any questions or inquiries.

Thank you very much for the opportunity to provide testimony on this bill.

POLICE DEPARTMENT  
**CITY AND COUNTY OF HONOLULU**

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CHIEF

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DEPUTY CHIEFS

OUR REFERENCE **PB-MS**

March 15, 2023

The Honorable Glenn Wakai, Chair  
and Members  
Committee on Public Safety and  
Intergovernmental and Military Affairs  
State Senate  
Hawaii State Capitol  
415 South Beretania Street, Room 225  
Honolulu, Hawaii 96813

Dear Chair Wakai and Members:

SUBJECT: House Bill No. 593, H.D. 1, Relating to Police Reports

I am Parker Bode, Acting Major of the Criminal Investigation Division of the Honolulu Police Department (HPD), City and County of Honolulu.

The HPD opposes House Bill No. 593, H.D. 1, Relating to Police Reports.

The premature release of closing investigative reports involving deceased persons could have unintended and irrevocable consequences. Unsolved cases, specifically murder cases, can be open for decades pending further developments or the discovery of evidence. Consequently, the release of investigative reports in unsolved cases could lead to the accidental dissemination to other parties, intimidation/tampering of witnesses, or manipulation of testimony.

The HPD urges you to oppose House Bill No. 593, H.D. 1, Relating to Police Reports. Thank you for the opportunity to testify.

APPROVED:

Sincerely,

A handwritten signature of Arthur J. Logan, consisting of a stylized 'A' and 'L' followed by a horizontal line.

*AR*  
Arthur J. Logan  
Chief of Police

A handwritten signature of Parker Bode, consisting of a stylized 'P' and 'B' followed by a horizontal line.

Parker Bode, Acting Major  
Criminal Investigation Division