



**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. 2353, H.D. 1, RELATING TO CRIMINAL JUSTICE DATA SHARING GROUPS.

BEFORE THE:

SENATE COMMITTEE ON PUBLIC SAFETY AND INTERGOVERNMENTAL AND MILITARY AFFAIRS

DATE: Friday, March 15, 2024 **TIME:** 3:03 p.m.

LOCATION: State Capitol, Room 225 and Videoconference

TESTIFIER(S): Anne E. Lopez, Attorney General, or
Philip D. Higdon, Administrator, Hawaii Criminal Justice Data Center

Chair Wakai and Members of the Committee:

The Department of the Attorney General (Department) supports this bill and offers the following comments.

The purpose of the bill is to increase the efficiency and effectiveness of the data sharing working groups in the State by establishing a permanent Criminal Justice Data Sharing and Research Group (Group) to consolidate the efforts of the Criminal Justice Data Sharing Working Group established in Act 157, Session Laws of Hawaii (SLH) 2023, and the Gun Violence and Violent Crimes Commission (GVVCC), codified under chapter 134C, Hawaii Revised Statutes (HRS). The bill, among other things, requires the Group to make recommendations for the implementation of a statewide criminal justice data repository by July 1, 2028, and develop a formal memorandum of agreement to be executed by participating law enforcement departments and agencies to ensure the repository's continued operation and coordinated planning and development, and expressly exempts the Group from the requirements under chapter 92, HRS. It also requires the Group to report annually to the Legislature.

GVVCC is tasked with identifying criminal data that could be used to reduce gun violence and violent crimes and maximizing the sharing of that relevant criminal data between criminal justice agencies. The Criminal Justice Data Sharing Working Group

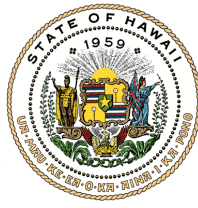
addresses data sharing between criminal justice agencies. In addition to the closely related mandates, the two groups share a common membership base of County Prosecutors, County Police Chiefs, and the Attorney General. Consolidating the two groups will streamline the efforts to (1) identify criminal data relevant to reducing gun violence and violent crimes, (2) improve collection and sharing of the relevant criminal data among criminal justice agencies in the State, and (3) help make government more efficient by reducing the number of duplicative meetings that public servants attend.

Sharing criminal data among the various state and county law enforcement agencies and the judiciary has been difficult for many reasons, chief among them being the difficulty determining what data to share, which agencies should have access to some or all of the data, and what data will provide the agencies with the most critical information. GVVCC's membership includes individuals with expertise in research from different public sectors including the Judiciary. By including these members of the GVVCC in the Criminal Justice Data Sharing Working Group, the law enforcement community will have access to researchers who can assist the agencies in identifying necessary data, identifiers, and resources, among other things.

Because of the current lack of a streamlined method to store and share criminal data, one of the main issues GVVCC has run into is identifying what relevant data is available and where that data resides. In the absence of this basic information, research into understanding and reducing violent crime and gun violence is virtually impossible. By participating in a data sharing group that will develop a standardized method of saving and sharing data, researchers will have access to uniform information that will enable them to analyze relevant data regarding violent crime and gun violence and determine possibilities for reducing both. Therefore, we believe that consolidating these two groups will accomplish the objectives of the groups more effectively and efficiently.

The Department respectfully asks your Committee to change the defective effective date to the original effective date of "upon its approval" and otherwise pass this bill in its current form. Thank you for the opportunity to testify on this bill.

JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA



JORDAN LOWE
DIRECTOR

MICHAEL VINCENT
Deputy Director
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SYLVIA LUKE
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STATE OF HAWAII | KA MOKU'ĀINA O HAWAII
DEPARTMENT OF LAW ENFORCEMENT

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TESTIMONY ON HOUSE BILL 2353, HOUSE DRAFT 1
RELATING TO CRIMINAL JUSTICE DATA SHARING GROUPS

Before the Senate Committee on
Public Safety and Intergovernmental and Military Affairs
Friday, March 15, 2024; 3:03 p.m.
State Capitol Conference Room 225, Via Videoconference
Testifier: Michael Vincent

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

The Department of Law Enforcement (DLE) **supports** House Bill 2353, House Draft 1.

This bill amends the Criminal Justice Data Sharing Working Group to combine its members and functions with certain members and functions of the Gun Violence and Violent Crimes Commission to increase efficiency and effectiveness and eliminate redundancy.

The DLE participates in several of the working groups that are the subject of this bill. At one point, these various working groups were holding separate meetings which required members to schedule multiple meetings when a single meeting would be sufficient. This bill will clarify in the statutory requirements of these working groups and enable them to consolidate their work and increase efficiency by eliminating multiple meetings.

Thank you for the opportunity to testify in support of this bill.

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To: Senate Committee on Public Safety and Intergovernmental
and Military Affairs

From: Cheryl Kakazu Park, Director

Date: March 15, 2024, 3:03 p.m.
State Capitol, Conference Room 225

Re: Testimony on H.B. No. 2353, H.D. 1
Relating to Criminal Justice Data Sharing Groups

Thank you for the opportunity to submit testimony on this bill, which would replace the Gun Violence and Violent Crimes Commission with a Criminal Justice Data Sharing and Research Group, and exempt the renamed board from the Sunshine Law, part I of chapter 92, HRS. The Office of Information Practices (OIP) takes no position on the substance of this bill, but has concerns about the proposed exemption of the Research Group from chapter 92.

First, OIP notes as a technical matter that since the Sunshine Law is only part I of chapter 92, the proposed Research Group would also be exempted from various other statutes in chapter 92, including the one authorizing groups to charge copy fees for government records.

Second, with respect to the Sunshine Law exemption, the purpose of the Research Group is to look into statewide criminal justice data sharing and make recommendations for a new statewide criminal justice data repository. This proposal would **allow** the Research Group to “[h]old informational briefings and listening sessions to gather input from the public,” but the Sunshine Law exemption

means it would **not actually be required** to accept or consider public input on the current practice and mechanism of criminal justice data sharing or the Research Group's recommendations for revamping it. Similarly, the Research Group would not be required to keep the public abreast of its work by holding open meetings or publishing minutes of its discussions. This is obviously **contrary to the Sunshine Law's statutory policy** "that the formation and conduct of public policy – the discussions, deliberations, decisions, and action of governmental agencies – shall be conducted as openly as possible." HRS §92-1.

The purpose section of this bill does not explain why the proposed Sunshine Law exemption is necessary for the Research Group to operate. In the absence of an explanation for why the Task Force cannot operate under the Sunshine Law, **OIP recommends deleting the Sunshine Law exemption on page 2 at lines 13-15.** OIP notes, however, that the Research Group may at times discuss examples of individually identifiable criminal justice data that could include non-public information. The bill (at page 14 lines 3-6) requires the Research Group and the agencies working with it to do what they can to protect such information, but does not contain a confidentiality provision that would mandate the nondisclosure of information that is otherwise public under the criminal justice data standards set out in chapter 846, HRS, and the open records law (UIPA) found at chapter 92F, HRS. If the Sunshine Law exemption was intended to enable the Research Group to protect individually identifiable criminal justice data by discussing it in a closed meeting, without affecting the existing disclosure standards for criminal justice data under chapter 846 and the UIPA, and if this Committee believes the Sunshine Law's existing closed meeting purposes are not sufficient for that purpose, then **OIP recommends the following amendment. In addition to deleting the Sunshine Law exemption, this Committee could create a special closed**

meeting purpose by adding the following sentence to the end of proposed subsection 134C-3(e) at page 14, lines 3-6:

The protection of individually identifiable criminal justice data shall be an authorized purpose under section 92-5(a) for the criminal justice data sharing and research group to hold an executive meeting that is closed to the public pursuant to section 92-4.

Thank you for considering OIP's testimony and recommended amendments.



Senate Committee on Public Safety and
Intergovernmental and Military Affairs
Honorable Glenn Wakai, Chair
Honorable Brandon J.C. Elefante, Vice Chair

**RE: Testimony in Opposition to H.B. 2353 H.D. 1, Relating to Criminal
Justice Data Sharing Groups**
Hearing: March 15, 2024 at 3:03 p.m.

Dear Chair and Members of the Committee:

My name is Ben Creps. I am a staff attorney at the Public First Law Center, a nonprofit organization that promotes government transparency. Thank you for the opportunity to respectfully submit testimony **in opposition to the Sunshine Law exemption** in H.B. 2353 H.D. 1.

H.B. 2353 H.D. 1 provides a Sunshine Law exemption for a **permanent** policy-making group tasked with establishing a statewide criminal justice repository for data critical to public confidence and trust in law enforcement. The measure merges two bodies that are *currently subject to the Sunshine Law*, but then makes the new board exempt.

The Criminal Data Group will shape significant public policy, including: (1) what data the government collects on justice-system-involved individuals; (2) how it uses and maintains that data; and (3) under what circumstances the data may or must be disclosed, destroyed, or altered. These are not policy decisions that should be decided by fiat, without public access or participation.

In addition, this data is an important source of information for the public to understand our criminal justice system. It is critical for the Criminal Data Group to consider and make recommendations regarding public access to the data repository – a concern shared by the Legislature in passing Act 157 (2023). *E.g.*, House Stand. Com. Rep. No. 1629 (2023) (“Your Committee notes that the Criminal Justice Data Sharing Working Group should also address concerns related to public access of information as it relates to transparency and confidentiality.”). Refusing to even consider the issue of public access at the outset of the process will mean that this data will most likely remain hidden or difficult for the public to obtain.

The permanent nature of this Criminal Data Group, its policy-making function, and close nexus to both individual rights and community safety, demand public access and participation. Although some information within the purview of the Criminal Data



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Group might need to be kept confidential, a wholesale exemption from Hawai`i Revised Statutes (HRS) chapter 92 is not needed.

The Law Center respectfully asks the Committee to adopt the following amendments to H.B. 2353 H.D. 1: (1) remove the exemption from HRS chapter 92; (2) require the Criminal Data Group to consider issues of public access; (3) add a member to the Criminal Data Group who represents a non-government organization with an interest in the criminal justice system; and (4) add a member to the Criminal Data Group who represents a non-government organization with an interest in public access to government information.

Far from hindering the work of the Criminal Data Group, the Sunshine Law and public participation will strengthen the output of the Criminal Data Group while fostering public trust in government.

Thank you again for the opportunity to testify in opposition to H.B. 2353 H.D. 1.



Senate Committee on Public Safety and Intergovernmental and Military Affairs
Chair Glenn Wakai, Vice Chair Brandon J.C. Elefante

Friday, March 15, 2024, 3:03 PM Public Hearing in Conference Room 225 on
HB 2353, HD1, RELATING TO CRIMINAL JUSTICE DATA SHARING GROUPS

TESTIMONY

Douglas Meller, Legislative Committee, League of Women Voters of Hawaii

Chair Wakai, Vice Chair Elefante, and Committee Members:

The League of Women Voters of Hawaii opposes HB 2353, HD1.

HB 2353, HD1 would:

- establish a new multi-year Criminal Justice Data Sharing and Research Group (CJDSRG) to replace and consolidate functions of the Criminal Justice Data Sharing Working Group and the Gun Violence and Violent Crimes Commission;
- exempt the new CJDSRG from the Sunshine Law;
- list options for “data to be shared between departments and agencies”;
- require that CJDSRG “... members and their respective departments and agencies shall protect the information and data that may be shared as part of the group.”

The League opposes exemption of the proposed CJDSRG from Chapter 92, Hawaii Revised Statutes. And the League opposes the proposed statutory requirement that departments and agencies “shall protect” - - i.e. redact - - information and data which now must be publicly disclosed under UIPA.

Sunshine Law exemption is inappropriate because this would mean:

- A quorum of CJDSRG members could discuss and set policy on any subject at any time without public notice.
- The public would not have to be notified of handouts for CJDSRG meetings.
- The public could be excluded from in-person and remote CJDSRG meetings.
- CJDSRG meeting minutes would not be required or posted on a public website.

Thank you for the opportunity to submit testimony.

HB-2353-HD-1

Submitted on: 3/14/2024 9:17:52 AM

Testimony for PSM on 3/15/2024 3:03:00 PM

Submitted By	Organization	Testifier Position	Testify
Todd Yukutake	Individual	Comments	Written Testimony Only

Comments:

I provide comments for HB2353

The references to guns should be removed from the bill, and have it just focused on violent crimes. This is to prevent unnecessary biases that could negatively affect the group.

As we have seen in the recent Manoa tragedy, violence can be conducted by many means. It is important to focus on the root cause of the problem, people.

Todd Yukutake