



Committee on Judiciary

Hearing Date/Time: Tuesday, February 11th, 2025 at 10:00am

Place: Conference Room 016, 415 South Beretania Street

Re: **Testimony of the ACLU of Hawai'i in SUPPORT of S.B. 307 Relating to Recordings of Law Enforcement Activities**

Dear Chair Rhoads, Vice Chair Gabbard, and Committee Members:

The ACLU of Hawai'i SUPPORTS **S.B. 307**, which codifies and protects the public's constitutional right to record law enforcement activities. S.B. 307 will protect members of the public who play a key role in recording officer behavior, which allows for greater transparency and serves to correct abuse of law enforcement powers. Law enforcement officers ultimately answer to the public, and S.B. 307 will help provide necessary accountability to officers from the people they are tasked with serving.

Taking photographs and video of things plainly visible in public spaces-including police and other government officials carrying out their duties-is a constitutional right. The First Circuit in *Glik v. Cunniffe* (2011) affirmed that "the filming of government officials engaged in their duties in a public place, including police officers performing their responsibilities, fits comfortably within" First Amendment principles. Similar rulings in Hawai'i (*State v. Russo*), the 3<sup>rd</sup> Circuit (*Fields v. City of Philadelphia*) noted that recording the police is protected even if lacking an expressive intent in the moment) in 2017 and 5<sup>th</sup> Circuit (*Turner v. Driver*) reinforce this right.

Despite these cases, law enforcement officers routinely order people to stop recording in public places, often harassing, detaining, and arresting those who fail to comply. Recording the police creates an independent record of incidents, avoiding issues of bias or faulty memory. Such documentation has proven crucial in exposing misconduct. S.B. 307 strengthens the right to record by providing a private right of action to protect citizens who face backlash.

**S.B. 307** protects First Amendment rights and strengthens public oversight. It also promotes the mutual interests of law enforcement and the communities they serve by increasing legitimacy and trust in law enforcement activities. Please pass S.B. 307.

Sincerely,

Nathan Lee

Policy Legislative Fellow, ACLU Hawai'i

C: Carrie Ann Shirota, Policy Director

*The mission of the ACLU of Hawai'i is to protect the fundamental freedoms enshrined in the U.S. and State Constitutions. The ACLU of Hawai'i fulfills this through legislative, litigation, and public education programs statewide. The ACLU of Hawai'i is a non-partisan and private non-profit organization founded in 1965 that provides its services at no cost to the public and does not accept government funds.*



Senate Committee on Judiciary  
Honorable Karl Rhoads, Chair  
Honorable Mike Gabbard, Vice Chair

**RE: Testimony with comments on S.B. 307 S.D. 1, Relating to Recordings of Law Enforcement Activities**  
Hearing: February 11, 2025 at 10:00 a.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 submit testimony in **support** of S.B. 307 S.D. 1. This measure codifies the right of a person to record law enforcement activities. Citizens should be able to record police activity to promote transparency, hold law enforcement accountable, and protect civil rights.

Thank you again for the opportunity to testify in support of S.B. 307 S.D. 1.





Senate Committee on Judiciary

Tuesday, February 11, 2025, 10 AM Hearing in Conference Room 016 on  
SB 307, SD1, Relating to Recordings of Law Enforcement Activities

TESTIMONY

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

Chair Rhoad, Vice Chair Gabbard, and Committee Members:

**The League of Women Voters of Hawaii supports the intent of SB 307, SD1.** Almost no one voluntarily admits that their behavior was inappropriately abusive or violent. Video recordings can be used to prove what was actually said and done. That is why the public should have a right to record law enforcement activities and file lawsuits to protect this right. However, we lack expertise to comment on the drafting of proposed statutory provisions.

Thank you for the opportunity to submit testimony.

**LATE**

**SB-307-SD-1**

Submitted on: 2/10/2025 11:49:51 AM

Testimony for JDC on 2/11/2025 10:00:00 AM

| <b>Submitted By</b>  | <b>Organization</b>                  | <b>Testifier Position</b> | <b>Testify</b>         |
|----------------------|--------------------------------------|---------------------------|------------------------|
| Tiffany Edwards Hunt | Testifying for Big Island Press Club | Support                   | Written Testimony Only |

Comments:

Comments: The Big Island Press Club strongly supports Senate Bill 307, relating to the recording of law enforcement activities. The First Amendment to the United States Constitution guarantees the public the right to free speech as well as freedom of the press, which serves as a watchdog for the public. That includes the right to record the actions of law enforcement via photographs, video, audio recordings, as long as those media functions are performed without interference with the performance by law enforcement officers of their duties -- including the recording of pursuit and apprehension of suspects, traffic enforcement, arrests, and use of force by officers, including the discharge of weapons, both lethal and non-lethal. The electronic and technological boom of the past few decades has provided the average citizen with recording tools, now commonplace, that were in the past almost exclusively the province of the media and entertainment industries. The recording of law enforcement activities, especially in public, is now something done routinely by average residents not employed by a media outlet, under a wide array of circumstances. Police are public servants and are paid by the public. As such, their actions, under the color of law, are subject to the public scrutiny of public recordings guaranteed by the First Amendment, as well as the Ninth Amendment as a non-enumerated right retained by the people. While the press has traditionally acted as a public watchdog, members of the general public also have the right to be their own watchdogs, including the recording of the actions of law enforcement officers, as long as the recording doesn't interfere with officers performing their duties. As an entity devoted to openness in government and the public's right to know since 1967, the Big Island Press Club urges passage of SB307 into law this legislative session. Sincerely, Tiffany Edwards Hunt President, Big Island Press Club P.O. Box 1920 Hilo, HI 96720

**SB-307-SD-1**

Submitted on: 2/7/2025 3:53:57 PM

Testimony for JDC on 2/11/2025 10:00:00 AM

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

Comments:

Aloha

I SUPPORT SB 307 SD1 which establishes the right of a person to record law enforcement activities. Establishes a private right of action for any violation the right to record law enforcement activities.

This establishment of this law for people is an important path for the safety of all of our community. There are too many instances of law enforcement not doing the right thing, not turning on their body cameras etc. It is essential for our community to have this right.

C. Burghardt

Kou, Oahu

**SB-307-SD-1**

Submitted on: 2/8/2025 1:10:04 PM

Testimony for JDC on 2/11/2025 10:00:00 AM

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Testify</b>            |
|---------------------|---------------------|---------------------------|---------------------------|
| Dara Carlin, M.A.   | Individual          | Support                   | Written Testimony<br>Only |

Comments: Standing in Support