



Committee: Senate Public Safety and Military Affairs
Hearing Date/Time: Monday, January 27, 2025, at 3:00pm
Place: Conference Room 225 & Via Videoconference
Re: **Testimony of the ACLU of Hawai'i in SUPPORT of S.B. 307
Relating to Recordings of Law Enforcement Activities**

Dear Chair Elefante, Vice Chair Wakai, 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 is a constitutional right—including police and other government officials carrying out their duties. 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 3rd Circuit (*Fields v. City of Philadelphia* upheld recording the police even if lacking an expressive intent in the moment) in 2017 and 5th 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 police creates an independent record of incidents, free from accusations 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.

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Statement Before The
Monday, January 27, 2025
3:00 PM
Conference Room 309 & Videoconference

in consideration of
SB307

RELATING TO RECORDINGS OF LAW ENFORCEMENT ACTIVITIES.

Chair ELEFANTE, Vice Chair WAKAI, and Members of the
Senate Public Safety and Military Affairs Committee

The Legal Clinic (TLC) supports SB307, which establishes (1) the right of a person to record law enforcement activities and (2) a private right of action for any violation of the right to record law enforcement activities.

TLC is a Hawai'i nonprofit, nonpartisan organization. TLC is a direct legal services provider, representing those in Hawai'i who meet income eligibility guidelines without regard to immigration status, national origin, ethnic background, race, religion, ideology, gender identity, sexual orientation, age, or disability. TLC works alongside immigrants so they can attain authorization to work and live with dignity, reunite with their families after years of separation and escape horrific violence to find refuge in the United States. TLC recognizes that every person needs and deserves to feel a sense of trust, welcome, and belonging.

The current federal administration's rhetoric and actions around immigrants have sown much unrest and fear nationwide throughout the immigrant and migrant communities, including those here in Hawai'i. While SB307 will permit the recordings of officers, including those of the United States, it is unclear if SB307 extends to the civil context. U.S. Immigration and Customs Enforcement actions to enforce civil immigration laws are civil actions.

Given the current federal administration's targeting of immigrants, TLC respectfully requests that SB307 be clarified and amended, if necessary, to permit the recordings of officers when conducting civil federal enforcement actions, such as civil immigration enforcement actions.

According to the 2020 U.S. Census, Hawai'i is the most diverse state in the nation. See <https://thehill.com/homenews/state-watch/567625-hawaii-california-and-nevada-are-most-diverse-states-in-the-us-census/> (retrieved 1/14/2025).

In 2023, Hawai'i had about 256,000 immigrants, which is approx. 18% of the State population. See <https://usfacts.org/answers/how-many-immigrants-are-in-the-us/state/hawaii/> and <https://data.census.gov/profile/Hawaii?g=040XX00US15#populations-and-people> (retrieved 1/14/2025). The top countries of origin for immigrants were the Philippines (45 percent of immigrants), China (9 percent), Japan (8 percent), Korea (6 percent), and the Pacific Island Nations (4 percent). See

https://www.americanimmigrationcouncil.org/sites/default/files/research/immigrants_in_hawaii.pdf
(retrieved 1/14/2025).

SB307 empowers our diverse community to protect itself from overreach by some.

Thank you for the opportunity to testify in support with a clarifying question on SB307. If you have questions of me, please contact me at sma@tlchawaii.org.

Very respectfully yours,

Sandy Ma

Sandy Ma
Community & Policy Advocate
The Legal Clinic



Senate Committee on Public Safety and Military Affairs

Monday, January 27, 2025 3 PM Hearing in Conference Room 225 on
SB 353, Relating to Recordings of Law Enforcement Activities

TESTIMONY

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

Chair Elefante, Vice Chair Wakai, and Committee Members:

The League of Women Voters of Hawaii supports the intent of SB 353. The public should have a right to record law enforcement activities and file lawsuits alleging abuse of this right. However, we lack expertise to comment on proposed statutory provisions.

Thank you for the opportunity to submit testimony.



All Hawaii News * P.O. Box 612 * Hilo, HI 96721 * www.allhawaiinews.com

January 26, 2025

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

**From: Nancy Cook Lauer, publisher, All Hawaii News
www.allhawaiinews.com publisher@allhawaiinews.com 808.781.7945**

In SUPPORT of SB 307, RELATING TO RECORDINGS OF LAW ENFORCEMENT ACTIVITIES

All Hawaii News, a state government and political news, commentary and aggregate blog covering Hawaii since 2008, supports SB 307, establishing the right of a person to record law enforcement activities.

With the diminishing number of journalists in Hawaii, ordinary citizens and neighborhood watch groups are steadily becoming the eyes and ears of their communities.

Generally, the First Amendment protects the right to record a police officer in a public place so long as it does not interfere with the officer's duties and is not done secretly, according to Justia, a legal advocacy group dedicated to providing the community with open and free access to the law.

Police officers and other government security forces are public servants. Their salaries are paid by the public and they should be expected to answer to them. Otherwise, we could expect a police state of unfettered power.

This is a good-government bill that should be supported. I am grateful to the bill's introducers and to the committee for hearing this measure.

Mahalo nui for considering SB 307.

SB-307

Submitted on: 1/26/2025 2:14:32 PM

Testimony for PSM on 1/27/2025 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Tiffany Edwards Hunt, for Big Island Press Club	Testifying for Big Island Press Club	Support	Written Testimony Only

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

Submitted on: 1/26/2025 11:26:05 AM

Testimony for PSM on 1/27/2025 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
lynne matusow	Individual	Support	Written Testimony Only

Comments:

I am in full support. I remember when police officers fought having cameras on their body filming what they were doing. Now that we can see the recordings we know they were hiding a lot. Not all officers are required to wear and use the cameras. Citizen recordings will add to what is available for all to see, including in court. Please move this bill forward.

SB-307

Submitted on: 1/26/2025 12:43:36 PM

Testimony for PSM on 1/27/2025 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Michael Olderr	Individual	Support	Written Testimony Only

Comments:

It's an embarrassment that we need a law to justify recordings of police brutality, but I support this bill nonetheless. If the police officers refuse accountability for themselves or their fellow officers, then the people should reserve the right to document and distribute evidence of their misdeeds in public spaces. While recording in public spaces is already guaranteed under our current definition of free speech, I think cementing this in law is a good practice with one caveat. I would recommend adjustments to this bill that include prohibiting officers from blasting copyrighted music during arrests, seizing property, interfering with recording, and other infractions outlined in this bill. Only because in other states, officers have been doing this to trigger copyright take downs when videos of their misdeeds are posted online. It's a form of preemptive censorship, and I think it would be wise to address this sooner rather than later.

LATE

SB-307

Submitted on: 1/26/2025 11:08:13 PM

Testimony for PSM on 1/27/2025 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Damon Tucker - Big Island Gazette	Individual	Comments	Remotely Via Zoom

Comments:

I will provide my testimony over video-conference. Mahalo for providing video-conferencing available to neighbor island residents. Senator Glenn Wakai can verify that I was the first person to provide video testimony to the senate via neighbor islands.

I will provide further testimony online during my allotted slot. I need to review the bill further before I can say I am for or against at this time. I just want to reserve my spot to testify now.

LATE

LATE

SB-307

Submitted on: 1/27/2025 2:51:44 PM

Testimony for PSM on 1/27/2025 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Susan Pcola_Davis	Individual	Support	Written Testimony Only

Comments:

Strongly support this measure.