

State of Hawai‘i
The Office of the Public Defender

H.B. 595: Relating to Records of Law Enforcement Activities

Chair Rep. Jackson Sayama
Vice Chair Rep. Mike Lee
Honorable Committee Members

The Office of the Public Defender **SUPPORTS** this bill. The bill codifies the constitutional right to record police activity—a right recognized by the Hawai‘i Supreme Court in *State v. Russo*, 141 Hawai‘i 181, 192-93 (2017). The Court explained, allowing the public to record police activity promotes police accountability:

Exercising the constitutionally-protected rights of free speech and press plays a crucial role in informing and educating the public, offering criticism, and providing a forum for discussion and debate. This aspect of the First Amendment is all the more critical when the ideas and information sought to be disseminated pertain to government officials and law enforcement personnel, who are granted substantial discretion that may be misused to deprive individuals of their liberties. Public access to such information serves the guarantee public oversight law enforcement and minimizes the possibility of abuse by ensuring that police departments and officers are held accountable for their actions.

Id. (cleaned up). Creating a statutory right of action will also promote good police work by making them more accountable to the public. Thank you for reading our testimony in support of this bill.

HB-595

Submitted on: 1/26/2025 2:19:10 PM

Testimony for LAB on 1/28/2025 9:00:00 AM

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

Comments:

The Big Island Press Club strongly supports House Bill 595, relating to the recordings 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 HB595 into law this legislative session.

Sincerely,

Tiffany Edwards Hunt

president, Big Island Press Club



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January 26, 2025

The Honorable Rep. Jackson D. Sayama, Chair
The Honorable Rep. Mike Lee, Vice Chair
House Committee on Labor

From: Nancy Cook Lauer, publisher, All Hawaii News
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In SUPPORT of HB 595 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 HB 595, 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 risk 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 HB 595.

HB-595

Submitted on: 1/26/2025 12:53:42 PM

Testimony for LAB on 1/28/2025 9:00:00 AM

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.

HB-595

Submitted on: 1/27/2025 10:06:01 PM

Testimony for LAB on 1/28/2025 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Raelyn Reyno Yeomans	Individual	Support	Written Testimony Only

Comments:

I am in Strong Support of HB595.

Thank you.