

# OFFICE OF INFORMATION PRACTICES

STATE OF HAWAII  
NO. 1 CAPITOL DISTRICT BUILDING  
250 SOUTH HOTEL STREET, SUITE 107  
HONOLULU, HAWAII 96813  
TELEPHONE: 808-586-1400 FAX: 808-586-1412  
EMAIL: oip@hawaii.gov

To: House Committee on Judiciary & Hawaiian Affairs

From: Carlotta Amerino, Director

Date: March 13, 2025, 2:00 p.m.  
State Capitol, Conference Room 325

Re: Testimony on S.B. No. 112, S.D. 2  
Relating to Police Reports

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Thank you for the opportunity to submit testimony on S.B. 112, S.D.2, which allows surviving immediate family members of deceased persons for whom law enforcement initiated an investigation to receive a copy of the closing report prepared by the investigating police department upon the conclusion of all criminal proceedings related to the incident. The Office of Information Practices (OIP) takes no position on the substance of the bill but offers **comments** on how this bill would **limit** the surviving family members' **access** to the closing report and recommends an **amendment** to the confidentiality provision.

S.B. 112, S.D.1 and S.D.2 add a blanket confidentiality provision, with no exceptions, on page 3, lines 3 to 5, stating "(c) All information pertaining to minors and confidential personal information shall be redacted from the closing report when the report is released." The term "confidential personal information" is not defined by the bill or chapter 52D, HRS, and thus is subject to interpretation. This provision could give surviving immediate family members **less access** to the closing report than allowed under existing law, the Uniform Information Practices Act, chapter 92F, Hawaii Revised Statutes (HRS) (the UIPA).

Part III of the UIPA allows someone (e.g. next of kin or an estate trustee) to request the closing report as a *personal record* on behalf of the deceased, which typically allows for a greater level of access. Whether the request for a closing report was analyzed under part III of the UIPA as a joint personal record of the deceased and others involved, or as a public record request under part II of the UIPA, the UIPA would not automatically allow *all* information about minors involved in the incident or *all* personal information of others to be redacted. Instead, the question would be whether the redacted information fell under one of the exceptions applicable to the appropriate type of request. Typically, information such as a third party's social security number or birth date, or the identity of a witness, could be withheld. But other information, such as what the witness did or said, could not be redacted after a certain point in the criminal investigation. In some cases a minor might be not just a witness but instead actively involved in the incident that resulted in a death (perhaps as an assailant), and while statutory confidentiality might apply for a proceeding in family or juvenile court, an automatic redaction of all information about the minor, including what he or she said and did, would leave a family receiving the report with little or no information about what actually happened.

The mandatory confidentiality provision in S.B. 112, S.D.2, also provides no definition or examples of what "confidential personal information" means. While it may be intended to apply to information such as social security numbers and personal contact information, it could be read much more broadly by different agencies and lead to disputes over what constitutes "confidential personal information" and whether a report was over-redacted. Because of its ban on providing any information about a minor or undefined "confidential personal information" about anyone else, S.B. 112, S.D.2, would potentially give surviving family members less access to the closing report than under the UIPA, particularly

if an important part of the report involves a minor (e.g. the deceased or the assailant responsible for the death is a minor). This seems contrary to the bill's apparent intent to provide a clear right to see a copy of the closing report for surviving family members.

OIP therefore recommends replacing the automatic full confidentiality for all information about a minor with an authorization to withhold information protected by law, and adding language specifying what type of personal information can be withheld such as social security numbers, dates of birth, personal addresses, or personal contact information. Specifically, OIP respectfully recommends replacing the proposed subsection 52D-\_\_, HRS, with the following:

(c) Before the closing report is released under this section, the releasing agency shall redact all information made confidential by law, all social security numbers or other identifiers, dates of birth, personal contact information, and personal account numbers.

Thank you for considering OIP's testimony.

C. Kimo Alameda, Ph.D.  
Mayor



Benjamin T. Moszkowicz  
Police Chief

William V. Brilhante Jr.  
Managing Director

Reed K. Mahuna  
Deputy Police Chief

## County of Hawai`i

### POLICE DEPARTMENT

349 Kapi`olani Street • Hilo, Hawai`i 96720-3998  
(808) 935-3311 • Fax (808) 961-2389

March 11, 2025

Representative David A. Tarnas, Chair  
Representative Mahina Poepoe, Vice Chair, and Members  
Committee on Judiciary & Hawaiian Affairs  
State Capitol  
415 South Beretania Street  
Honolulu, HI 96813

Dear Representatives Tarnas and Poepoe:

RE: SENATE BILL 112, SD 2, RELATING TO POLICE REPORTS  
DATE: MARCH 13, 2025  
TIME: 2:00 P.M.  
PLACE: VIDEOCONFERENCE, CONFERENCE ROOM 325

The Hawaii Police Department **opposes** Senate Bill 112, SD 2, Relating to Police Reports.

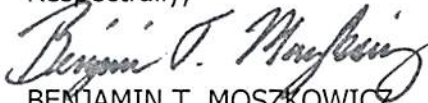
Requests for closing reports in many cases cannot be granted because no such report exists due to the investigation remaining open. Investigators, who have not solved the case at the time of the investigation, document their efforts in follow-up reports.

Releasing these reports to family members prematurely could compromise the integrity of the investigation. It would grant access to witness information, potential witness details, and specific evidence, potentially jeopardizing the case, hinder future progress, and reduce the likelihood of identifying a suspect and securing a prosecution.

Typically, families may meet with a detective to discuss and review the case. However, as with other investigations, detailed information will not be disclosed until a suspect is identified and the case is adjudicated. The risk of jeopardizing justice for the victim and their family far outweighs the benefit of providing partial closure or information at this stage.

The Hawaii Police Department urges you to **oppose** Senate Bill No. 112, SD 2.

Respectfully,

  
BENJAMIN T. MOSZKOWICZ  
POLICE CHIEF

**DEPARTMENT OF THE PROSECUTING ATTORNEY  
KA 'OIHANA O KA LOIO HO'OPI'I  
CITY AND COUNTY OF HONOLULU**

ALII PLACE  
1060 RICHARDS STREET • HONOLULU, HAWAII 96813  
PHONE: (808) 768-7400 • FAX: (808) 768-7515 • WEBSITE: www.honoluluProsecutor.org

STEVEN S. ALM  
PROSECUTING ATTORNEY  
LOIO HO'OPI'I



THOMAS J. BRADY  
FIRST DEPUTY PROSECUTING ATTORNEY  
HOPE MUA LOIO HO'OPI'I

**THE HONORABLE DAVID A. TARNAS, CHAIR  
HOUSE COMMITTEE ON JUDICIARY AND HAWAIIAN AFFAIRS  
Thirty-Third State Legislature  
Regular Session of 2025  
State of Hawai'i**

March 13, 2025

**RE: S.B. 112 S.D. 2; RELATING TO POLICE REPORTS.**

Chair Tarnas, Vice Chair Poepoe, and members of the House Committee on Judiciary and Hawaiian Affairs, the Department of the Prosecuting Attorney for the City and County of Honolulu submits the following testimony in **opposition** to S.B. 112 S.D. 2.

Victims of crime deserve answers as well as justice. Nowhere is this more keenly felt than in homicide cases, where grieving survivors have lost a loved one. The Department sympathizes with that frustration and pain. But mandating the release of police records will undermine the integrity of criminal prosecutions arising from homicides.

The effective and just prosecution of homicides often takes time. New forensic technologies, particularly the growth of DNA databases, have recently offered fresh leads in cold cases. Completing a closing report does not necessarily terminate all relevant legal proceedings. After formal charging, a case may still be litigated for years. Because this bill requires disclosure of police reports on a compressed timeline, it impedes four legitimate government objectives.

First, releasing a police report could cause irreparable invasions of privacy or reputational harm in cases where no criminal charge can be sustained. Once a police report is released, its further circulation cannot be reasonably restricted. A closing report may document suspicions, rumors, or tips that do not meet the evidentiary standard for probable cause. It may place innocent persons under a cloud of suspicion without a formal opportunity to defend themselves.

Second, during pending prosecutions, releasing a police report to the public will taint potential jury pools. As a general rule, the prosecution cannot introduce police reports into evidence at trial. *State v. Abrigo*, 144 Hawai'i 491, 445 P.3d 72 (2019). Exposing potential jurors to inadmissible evidence would jeopardize the fairness of trials. Professional rules of conduct limit trial publicity by the prosecution; releasing police reports would circumvent and undermine these rules.

Third, family members may be potential witnesses whose testimony could be influenced or impeached by the information contained in the reports. In most cases, a witness may only testify based on personal knowledge. Hawai'i Rules of Evidence (HRE) Rule 602. This is one reason why witnesses are usually excluded from trial proceedings except when testifying. See HRE Rule 615. See also *State v. Culin*, 97 Hawai'i 206, 231-32, 35 P.3d 233, 258-59 (2001) (discussing concerns about witnesses tailoring their testimony to those of other witnesses).

Fourth, in some cases, immediate family members could be suspects. Disclosing the progress of the police investigation to a suspect would afford opportunities to destroy evidence, intimidate witnesses, or flee prosecution.

Chapter 92F of the Hawai'i Revised Statutes governs the release of public records, including police reports. This law balances the right to access information with concerns about individual privacy, fair trials, and investigative integrity. Because S.B. 112 upsets that careful balance, the Department opposes this bill.

Thank you for the opportunity to testify.

**SB-112-SD-2**

Submitted on: 3/11/2025 10:52:39 PM

Testimony for JHA on 3/13/2025 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
M. Leilani DeMello	Individual	Support	Written Testimony Only

Comments:

Aloha,

I SUPPORT this bill, give 'ohana access to information.

Mahalo,

M. Leilani DeMello

‘Ōla‘a, Puna, Hawai‘i

**SB-112-SD-2**

Submitted on: 3/12/2025 8:35:51 AM

Testimony for JHA on 3/13/2025 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Harrison Ho	Individual	Support	Written Testimony Only

Comments:

Should be allowed for the family, it only makes sense.



**SB-112-SD-2**

Submitted on: 3/12/2025 12:40:46 PM

Testimony for JHA on 3/13/2025 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Jamie Yokoyama	Individual	Oppose	Written Testimony Only

Comments:

I oppose this SB112.

**SB-112-SD-2**

Submitted on: 3/12/2025 9:19:36 PM

Testimony for JHA on 3/13/2025 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Ted Baldonado	Individual	Oppose	Written Testimony Only

Comments:

I oppose SB112.