

JON N. IKENAGA
STATE PUBLIC DEFENDER

DEFENDER COUNCIL
1130 NORTH NIMITZ HIGHWAY
SUITE A-254
HONOLULU, HAWAII 96817

HONOLULU OFFICE
1130 NORTH NIMITZ HIGHWAY
SUITE A-254
HONOLULU, HAWAII 96817

APPELLATE DIVISION
TEL. No. (808) 586-2080

DISTRICT COURT DIVISION
TEL. No. (808) 586-2100

FAMILY COURT DIVISION
TEL. No. (808) 586-2300

FELONY DIVISION
TEL. No. (808) 586-2200

FACSIMILE
(808) 586-2222



STATE OF HAWAII
OFFICE OF THE PUBLIC DEFENDER

HAYLEY Y.C. CHENG
ASSISTANT PUBLIC DEFENDER

HILO OFFICE
275 PONAHAHAWAI STREET
SUITE 201
HILO, HAWAII 96720
TEL. No. (808) 974-4571
FAX No. (808) 974-4574

KONA OFFICE
75-1000 HENRY STREET
SUITE #209
KAILUA-KONA HI 96740
TEL. No. (808) 327-4650
FAX No. (808) 327-4651

KAUA'I OFFICE
3060 EIWA STREET
SUITE 206
LIHUE, HAWAII 96766
TEL. No. (808) 241-7128
FAX No. (808) 274-3422

MAU'I OFFICE
81 N. MARKET STREET
WAILUKU, HAWAII 96793
TEL. No. (808) 984-5018
FAX No. (808) 984-5022

February 22, 2025

Committee on Judiciary & Hawaiian Affairs
Rep. David A. Tarnas, Chair
Rep. Mahina Poepoe, Vice Chair
415 South Beretania Street, Conf. Rm. 325
State Capital
Honolulu, HI 96813

Re: Testimony in Support of House Bill No. 36
Hearing: February 26, 2025, 2:00 PM

Dear Chair Tarnas, Vice Chair Poepoe and Committee members:

The Office of the Public Defender ("OPD") supports House Bill No. 36, relating to "excited delirium." Specifically, the OPD supports the prohibition on use of excited delirium (or any other non-scientific, non-medical "diagnosis") in the context of government action.

House Bill No. 36 appears, first of all, to acknowledge and adopt the fact that "excited delirium," including so-called excited delirium syndrome, is not a valid medical diagnosis. This conclusion is correct and appropriate. As House Bill No. 36 reflects, excited delirium is not a recognized diagnosis in the current Diagnostic and Statistical Manual of Mental Disorders ("DSM-5"), which is the primary diagnostic tool for mental health providers in the United States. Excited delirium is also not recognized as a valid diagnosis by most medical professional organizations, including the American Medical Association and the World Health Organization.

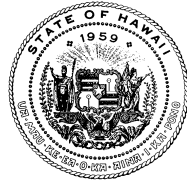
House Bill No. 36 also appears to correctly distinguish between description of the observations of a police officer or trial witness and that officer or witness's attempt to give a medical diagnosis such as excited delirium. House Bill No. 36 would allow, for instance, an officer or witness to report that an individual was yelling or running or

committing any other observed act. House Bill No. 36 simply precludes officer or witnesses from going beyond their observations by drawing unfounded medical conclusions which they are unqualified to make. This distinction is sound.

The lack of genuine scientific or medical basis for use of excited delirium as a diagnosis should, on its own, be sufficient to preclude its use by government agents, as is established in House Bill No. 36. However, it should not be overlooked that excited delirium diagnoses are, by and large, made in the context of deceased or otherwise injured people, usually minorities, and are used to justify often severe levels of force used against them, usually by government agents. Thus, the harms in allowing unwarranted and unqualified diagnosis of a made-up disorder go beyond simply truth and dishonesty.

The complexities underlying police power, government, race, and violence are politically fraught and have been the subject of heavy reporting and debate in recent years. In considering House Bill No. 36, however, I urge the legislators to remember that, regardless of their individual opinions on those issues, this bill does not claim to do anything more than ensure adherence to accepted medical standards. There should be no serious opposition to the idea that medical diagnoses be limited to medically and scientifically accepted practices, regardless of politics.

Thank you for your consideration of these comments.



STATE OF HAWAII
DEPARTMENT OF HEALTH
P. O. Box 3378
Honolulu, HI 96801-3378
doh.testimony@doh.hawaii.gov

**Testimony COMMENTING on HB36 HD1
RELATING TO EXCITED DELIRIUM.**

REP. DAVID TARNAS, CHAIR
HOUSE COMMITTEE ON JUDICIARY AND HAWAIIAN AFFAIRS

Hearing Date: February 26, 2025

Room Number: 329

1 **Fiscal Implications:** N/A.

2 **Department Testimony:** The Department of Health (DOH) takes no position on prohibiting
3 excited delirium as a cause of death, but supports amendments to chapter 327C, Hawaii Revised
4 Statutes (HRS), as opposed to chapter 338, HRS, as originally drafted.

5 • DOH's function in registering deaths is ministerial only, meaning the department does
6 not question, confirm, or alter causes of death. The department only documents and
7 preserves the record.

8 ○ Cause of death is determined by a clinical professional who has physically
9 examined a body, such as a medical examiner or a coroner, but also attending
10 physicians in hospital and hospice settings.

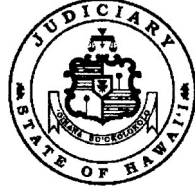
11 ○ Information on a person's death is entered through DOH's Electronic Death
12 Registration System (EDRS) by the person who determined the cause of death.

13 • Since 2006, excited delirium was listed as an immediate cause of death 9 times

14 ○ In recent years, excited delirium appears to have fallen out of use.

15 This intent of this measure will be most effective if the prohibition on excited delirium as a cause
16 of death is applied to medical examiners, coroners, and attending physicians in hospital and
17 hospice settings, as currently drafted.

- 1 Thank you for the opportunity to testify.
- 2 **Proposed Amendments:** N/A.



The Judiciary, State of Hawai'i

Testimony to the Thirty-Third State Legislature, 2025 Session

House Committee on Judiciary & Hawaiian Affairs

Representative David A. Tarnas, Chair
Representative Mahina Poepoe, Vice Chair

Wednesday, February 26, 2025, 2:00 P.M.
State Capitol, Conference Room 325

by

Catherine H. Remigio, Chair
Hawai'i Supreme Court Standing Committee On the Hawai'i Rules of Evidence

WRITTEN TESTIMONY ONLY

Bill No. and Title: House Bill No. 36, H.D.1, Relating to Excited Delirium.

Purpose: Prohibits excited delirium from being recognized as a valid medical diagnosis or cause of death in the State. Prohibits a medical examiner, coroner, or health care provider from stating on a certificate of death or in any report that the cause of death was excited delirium. Prohibits law enforcement officers from using the term excited delirium to describe an individual in an incident report. Establishes a new Hawai'i Rule of Evidence that deems evidence that a person experienced or suffered an excited delirium inadmissible in a civil action. Effective 7/1/3000. (HD1)

Judiciary's Position:

The Hawai'i Supreme Court Standing Committee on the Hawai'i Rules of Evidence ("Committee") respectfully offers the following comments on House Bill No. 36, H.D. 1 and respectfully requests that the Legislature **not** pass House Bill No. 36, H.D. 1.

The Committee understands that "excited delirium" is a subject of debate in the medical and legal community. The Committee does not take a position as to the validity of "excited delirium" as a diagnosis or cause of death. We acknowledge that advocates of House Bill No. 36 question the quality and veracity of experts that have testified on the existence of "excited



delirium” and therefore propose a total ban on those experts’ opinions and to legislatively erase the term from all medical and incident reports. This is concerning for several reasons.

1. The Hawai‘i Rules of Evidence and the need for Judicial Discretion

Hawai‘i courts already have a mechanism to exclude unreliable scientific evidence under existing rules of evidence. For example, Hawai‘i Rules of Evidence (“HRE”) Rule 702 provides:

*Rule 702. Testimony by Experts. If scientific, technical, or other specialized knowledge will assist the trier of fact to understand the evidence or to determine a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training, or education may testify thereto in the form of an opinion or otherwise. **In determining the issue of assistance to the trier of fact, the court may consider the trustworthiness and validity of the scientific technique or mode of analysis employed by the proffered expert.** (Emphasis added).*

HRE Rule 402 provides “Evidence which is not relevant is not admissible.” HRE Rule 403 provides:

*Rule 403. Exclusion of relevant evidence on grounds of prejudice, confusion, or waste of time. Although relevant, evidence may be excluded if its probative value is substantially outweighed by the **danger of unfair prejudice, confusion of the issues, or misleading the jury**, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence. (Emphasis added).*

The Hawai‘i Rules of Evidence was designed to allow judges to assess, on a case-by-case basis, whether evidence should be admitted, subject to limited admissibility, or prohibited. Rather than imposing a categorical ban in every civil case, judicial discretion should be preserved to determine whether such evidence is admissible pursuant HRE and the specific facts of each case. The role of the courts is not to take sides, but to allow parties to present relevant and credible information to impartial juries who can make informed decisions according to the law.

2. Implications for Fair Trials and Due Process

House Bill No. 36, H.D. 1 prevents a party in a civil action from raising “excited delirium” as a defense or a relevant factor in incidents involving law enforcement actions or other legal matters. It effectively limits the ability of individuals being sued for money damages to fully present their case before a jury. Normally, the admissibility of evidence (including medical expert testimony and law enforcement testimony) would be determined by a judge prior to trial and in accordance with the HRE. Both sides would have the opportunity to argue in support of, and against, such proposed testimony and evidence. A wholesale preemptive



prohibition on even the mention of “excited delirium” undermines the adversarial system and constitutional due process.

Conclusion

Rather than impose an outright prohibition on the use of the term “excited delirium” in medical and law enforcement reports, the Committee recommends that the legislature allow the courts to assess the admissibility of such evidence on a case-by-case basis, with each side having the opportunity to argue their position. The rules of evidence and judicial discretion should guide the handling of these matters in court.

Thank you for the opportunity to provide comments on House Bill No. 36, H.D. 1.

HB-36-HD-1

Submitted on: 2/21/2025 5:09:51 PM

Testimony for JHA on 2/26/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Louis Erteschik	Hawaii Disability Rights Center	Support	Remotely Via Zoom

Comments:

We believe this bill has a lot of merit. The concept of excited delirium has been sadly used in several cases to justify or excuse or certainly negate liability for police misconduct in cases involving death. We have seen instances where individuals who had a mental illness were confronted by police officers who did not exercise proper de—escalation techniques and used excessive force. In civil trials which sought to achieve some measure of justice and compensation the defense of excited delirium was presented to “explain” the cause of death. Our understanding is that this concept has been medically debunked and yet it has confused juries who then rendered verdicts in favor of the police department or the municipality.

We are lawyers and not doctors at the Hawaii Disability Rights Center but it does seem to us that this concept has been abused and that further discussion should occur at the Legislature to determine whether it has any place in our civil or criminal justice system.

HB-36-HD-1

Submitted on: 2/21/2025 11:41:58 PM

Testimony for JHA on 2/26/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Ilima DeCosta	Hui Malama Pono Hawai'i	Support	Written Testimony Only

Comments:

Mahalo for the opportunity to testify in strong support of HB36, which would prohibit the use of the phrase "excited delirium" as a cause of death on any government report.

I appreciate the time and attention the Chair, Vice Chair and the committee members have taken to hear from the Haleck 'Ohana and your willingness to allow additional public testimony at this time.

As you may know, several states, such as California and Colorado, have already passed laws prohibiting the use of the phrase "excited delirium" - including those phrases commonly associated, eg: "agitated delirium" and "exhausted delirium" - as a cause of death on any state or county report.

Experts like Julia Michael have been supporting the Haleck 'Ohana in their efforts to pass this potentially life saving legislation. I urge you to strongly consider Ms. Michael's advice to re insert critical language that was removed during the last hearing, specifically the alternate terms mentioned above.

Jaywalking is certainly a cause for concern when it comes to public road safety, and I agree that we need better enforcement of existing laws to limit pedestrian injury and deaths. However, according to HRS, the punishment for this misdemeanor crime is not death.

Native Hawaiian National Air Guardsman Sheldon Paul Haleck's only crime on the date that he died was jaywalking while suffering a mental health crisis. Sheldon desperately needed trained professionals to help him and the appropriate community support in order to return safely to his 'Ohana, and this will never happen.

While the passage of HB36 will not bring Sheldon back to his 'Ohana, they are seeking reconciliation and are not led by a desire to litigate the matter further. I urge you both and your committee members to vote to pass HB36 on to a full house floor vote WITH the alternative language re inserted.

Please pass HB36 as "Sheldon's Law" out of committee without further delay or potentially confusing amendments.

Mahalo

COMMUNITY ALLIANCE ON PRISONS

P.O. Box 37158, Honolulu, HI 96837-0158

Phone/E-Mail: (808) 927-1214 / kat.caphi@gmail.com

Today's Inmate; Tomorrow's Neighbor



COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS

Representative David Tarnas, Chair

Representative Mahina Poepoe, Vice Chair

Wednesday, February 26, 2025

Room 325 & VIDEOCONFERENCE

2:00 PM

STRONG SUPPORT for HB 36 HD1 - PROHIBITING EXCITED DELIRIUM AS VALID DIAGNOSIS

Aloha e Chair Tarnas, Vice Chair Poepoe and Members of the Committee!

My name is Kat Brady and I am the Coordinator of Community Alliance on Prisons, a community initiative promoting smart justice policies in Hawai'i for 30 years. This testimony is respectfully offered on behalf of the 3,700 Hawai'i individuals living behind bars¹ and under the "care and custody" of the Department of Corrections and Rehabilitation as of February 17, 2025. We are always mindful that 936 - 49.6% of Hawai'i's male prison population are serving their sentences abroad -- thousands of miles away from their loved ones, their homes and, for the disproportionate number of incarcerated Kanaka Maoli, far, far from their ancestral lands.

Community Alliance on Prisons appreciates the opportunity to **strongly support HB 36 HD1** that prohibits excited delirium as a recognized valid medical diagnosis or cause of death in the State or stated on a certificate of death or any report as to the cause of death by a local health officer or agent of the Department of Health; prohibits a law enforcement officer to describe an individual in an incident report; and prohibits excited delirium from being admitted as evidence in any civil action.

¹ DCR Weekly Population Report, February 17, 2025

<https://dcr.hawaii.gov/wp-content/uploads/2025/01/Pop-Reports-Weekly-2025-02-17.pdf>

To put a finer point on it, **this bill prohibits ‘excited delirium’ from being recognized as a valid medical diagnosis.**

There is a movement across the U.S, spearheaded by some families who lost loved ones in police encounters that were characterized as ‘excited delerium’. Momentum is building in several states to ban the discredited medical diagnosis from death certificates, law enforcement training, police incident reports, and civil court testimony.

An article from KFF Health News² reported that ‘excited delerium’ is a four-decade old diagnostic theory that has been used to explain how a person experiencing severe agitation can suddenly die while being restrained.

The American College of Emergency Physicians withdrew a 2009 report³ that had been the last remaining official medical pillar of support for the theory used increasingly over the prior 15 years to explain away policy culpability for many in-custody deaths.

California was the first state to pass a law and Colorado struck ‘excited delerium’ from all law enforcement diagnosis and training documents. Many other states are considering laws as well.

This bill was introduced after William and Verdell Haleck learned about California’s effort and began contacting lawmakers in Hawai`i. Their son Sheldon died in 2015 after he was pepper-sprayed, shocked, and restrained by Honolulu police. In a civil trial that the Halecks lost, officers blamed his death on ‘excited delerium’.

One reason such bills are still important is because they prevent policies from fluctuating with each new leadership change, said the legal director of the Surveillance Technology Project, which helped draft legislation banning ‘excited delerium’ and is pushing for a New York bill. “Even if you are doing everything right, you don’t know if your successor will be”, he said.

“It is the law following the science, which is what we want to see” said Joanna Naples-Mitchell, an attorney who worked on an influential Physicians for Human

² **As more states target disavowed ‘excited delirium’ diagnosis, police groups push back**

Colorado Legislature poised to pass measure that would ban the term in some settings

BY: [RENUKA RAYASAM, KFF HEALTH NEWS](#) - MARCH 18, 2024

<https://coloradonewsline.com/2024/03/18/states-disavow-excited-police-groups/>

³ **ACEP Reaffirms Positions on Hyperactive Delirium**

October 12, 2023, October 2023 Update

<https://www.acep.org/news/acep-newsroom-articles/aceps-position-on-hyperactive-delirium>

Rights Review of how the term 'excited delirium' evolved in a concept whose legitimacy is largely rejected by the medical community.

Community Alliance on Prisons thanks the committee for scheduling this bill and we hope that the committee sees that too many people are dying unnecessarily. We urge the committee to move this bill forward, even though it will not ameliorate the grief suffered by the Halecks, so no other families have to endure the tragedy of losing a loved one.

Mahalo nui!

February 24 2025

Hawai'i Representative David A. Tarnas, Chair
Representative Mahina Poepoe, Vice Chair
Representative Della Au Belatti
Representative Elle Cochran
Representative Mark J. Hashem
Representative Kirstin Kahaloa
Representative Amy Perruso
Representative Gregg Takayama
Representative Chris Todd
Representative Diamond Garcia
Representative Garner M. Shimizu
House Committee on Health

Re: HI HB36 HD1, Excited Delirium, Written Testimony in Support

Dear House Judiciary & Hawaiian Affairs Committee Members:

I am writing to support HB36 HD1, to thank Chair Tarnas for scheduling a hearing on the bill, and to thank Representative Takayama for introducing this important legislation. Your House Health Committee has reported:

Your Committee finds that “excited delirium” is a term with no medical basis that is used to justify the use of excessive force by some law enforcement officers against individuals experiencing a mental health crisis. Your Committee further finds that “excited delirium” has no consistent definition or diagnostic criteria and is not currently included in the DSM-5, the authoritative classification system for mental health disorders used by medical professionals in the United States. Your Committee believes that the interests of justice and public health and safety dictate that “excited delirium” should not be recognized as a valid cause of death, used in incident reports, or admissible in civil cases in the State.

(House Committee on Health Report, p. 2).

The World Health Organization, the American Medical Association, the American Psychiatric Association, the American Psychological Association, and now the National Association of Medical Examiners all recognize that excited delirium is not a valid medical diagnosis or cause of death. Excited Delirium has never appeared in any version of the Diagnostic & Statistical Manual of Mental Disorders (DSM), which is now in its fifth revised edition. There has never been any International Classification of Diseases (ICD) 9 or 10 code for excited delirium, which means it cannot legitimately be included in a death certificate for statistical reporting of causes of death. And yet, the junk science theory continues. Additionally, even when excited delirium does not appear as a cause of death on an autopsy report or in a death certificate, there is a cottage industry of defense experts, the majority of whom have ties to the manufacturer of Tasers, who testify that a person who was killed by law

enforcement really died of excited delirium. This happened to Oahu's own Kama'aina, Sheldon Haleck, as I will discuss below. But first I would like to give you some background so you know why a lawyer from California is contacting you.

I have been a civil rights lawyer for 30 years, and have encountered the junk science defense of "excited delirium" for two decades. I provided amendments for California's excited delirium bill, AB360, on which your HB36 HD 1 is based, and advocated for the passage of the bill. California's excited delirium legislation passed with only one "No" vote in the entire legislature, and was signed into law in October 2023.

I handle wrongful death cases involving law enforcement, and co-authored the Physicians for Human Rights (PHR) report on excited delirium, entitled *Excited Delirium and Deaths in Police Custody: The Deadly Impact of a Baseless Diagnosis* (March 2022)(<https://phr.org/our-work/resources/excited-delirium/>). The PHR report includes information I gathered over many years concerning the junk science nature of the excited delirium theory, its racist and sexist roots, and the bankrolling and promotion of the theory by TASER International (now known as Axon Enterprise) and its lawyer and paid defense experts. The PHR report also includes my physician co-authors' review of the medical literature concerning excited delirium, and conclusion that the theory of excited delirium has no medical basis.

I have spoken at conferences concerning law enforcement contacts with the mentally ill, including the International Congress on Law and Mental Health. In 2020, I gave a presentation about excited delirium and its history at an international Death in Custody medical conference that had participants from 27 countries in attendance. I have also provided pro bono consultation to Minnesota Attorney General Keith Ellison and his lead special prosecutor, Steve Schleicher, to assist them in prosecuting the Minneapolis police officers who killed George Floyd, and to help them rebut the excited delirium defense when it arose in their case.

My partner, Michael Haddad, and I have handled many cases involving restraint asphyxia deaths in police custody during the last two decades. We currently represent Mario Gonzalez and his now eight-year-old son. Mario was killed on April 19, 2021, by Alameda, California, police officers who restrained him in a prone position, with three officers putting their weight on him, for over five minutes. For almost four of those minutes, the officers had already handcuffed Mario behind his back. The defense forensic pathologist, Judy Melinek, MD, testified that Mario was in excited delirium, even though excited delirium did not appear on Mario's autopsy report or death certificate. This is a very common problem, highlighting the need for the excited delirium legislation that is before your Committee.

Excited delirium was debunked in Miami in the 1980's but the theory's founder, Charles Wetli, MD, continued to promote the theory nationally. BBC Radio recently released an excellent 30-minute program concerning the history of excited delirium, which you can find wherever you get your podcasts. It is the BBC Radio program by Jon Ronson entitled "The Most Mysterious Deaths," from his "Things Fell Apart" program, Season 2, Episode 1 (<https://www.bbc.com/audio/play/m001v3dw>).

Following Dr. Wetli's lead, TASER International then promoted excited delirium as an alternate cause of death when people died after being Tased, and the company spent a lot of money

promoting the theory in law enforcement training and among forensic pathologists. TASER International's in-house lawyer, Michael Brave, and longtime defense expert and in-house trainer, John Peters, started a company they called the Institute for the Prevention of In-Custody Death (IPICD) and organized seminars to "make law enforcement, medical, and legal history" to promote excited delirium and publish propaganda endorsing excited delirium "in leading medical, legal, and law enforcement journals." (**Exhibit A**, pp. 3-4, Press Release for IPICD 2008 Las Vegas Conference).

The PHR report provides an extensive discussion of the history of the theory that I discovered during my years of investigation. In 2023, the American College of Emergency Physicians (ACEP) -- which has longtime defense experts and TASER/Axon-affiliated experts among its more prominent members -- finally withdrew its endorsement of excited delirium as a diagnosis, and rescinded its 2009 White Paper endorsing the theory. I attach my letter to ACEP's leadership explaining that the 2009 White Paper actually came out of a 2008 propaganda conference organized and hosted by the IPICD, which was founded by TASER's lawyer, Mr. Brave, and defense expert, Mr. Peters. (**Exhibit A**).

Now to Sheldon Haleck, who was a combat veteran from a law enforcement family. Sheldon's father William, a lifetime career law enforcement officer, was trained by the Honolulu Police Academy. Sheldon's mother Verdell worked for the Hawai'i Attorney General for 17 years. Upon Sheldon's graduation from Kaiser High School in Hawai'i Kai on Oahu, he joined the military. He served in the Hawai'i Air National Guard for 12 years until his honorable discharge. Sheldon had combat deployments to Afghanistan and Iraq, as well as numerous humanitarian deployments, including to Thailand after the 2004 tsunami. Sheldon's service to our country left him with PTSD.

On March 16, 2015, Honolulu Police officers stopped Sheldon for jaywalking in front of 'Iolani Palace. He was unarmed and non-threatening. Officers Tased Sheldon, pepper sprayed him, forced him into a prone position with officers on his back, hogtied him, and an officer put his knee on Sheldon's neck, until Sheldon became unresponsive and was later pronounced deceased. Sheldon left a wife, a 2-year-old son and 13-year-old stepson, parents, and an extended family who loved him deeply. Sheldon's family brought a federal lawsuit arising out of his death, but lost at trial because the jury believed the Honolulu Police Department's junk science defense of "excited delirium." The defense experts in the Halecks' trial included Stacey Hail, MD, a longtime TASER/Axon defense expert, and John Peters, the TASER/Axon trainer and defense expert who co-founded the IPICD to spread propaganda promoting excited delirium. The jury believed their assertion that Sheldon died of excited delirium.

Sheldon's parents have no recourse in their own case, but now advocate for the passage HB 36 HD1, to protect other families. The people of Hawai'i deserve to be free of this junk science. I am happy to arrange to meet with any of you, either by Zoom or in person if you prefer. Mahalo nui loa for your time and attention.

Sincerely,



Julia Sherwin

October 2, 2023

American College of Emergency Physicians (ACEP)

Re: Excited Delirium/Hyperactive Delirium

Dear ACEP Members:

I am writing to request that you rescind your endorsement of Excited Delirium, a/k/a Hyperactive Delirium, and withdraw your 2009 White Paper on “excited delirium” at your upcoming meeting this weekend. I am a longtime civil rights lawyer handling wrongful death cases involving law enforcement, and have worked to debunk “excited delirium” for two decades. I co-authored the report from Physicians for Human Rights (PHR) on excited delirium, entitled *Excited Delirium and Deaths in Police Custody: The Deadly Impact of a Baseless Diagnosis* (March 2022). The report includes information I gathered over many years concerning the junk science nature of the “excited delirium” theory, its racist and sexist roots, and the bankrolling and promotion of the theory by TASER International (now known as Axon Enterprise) and its lawyer and paid defense experts. My PHR physician co-authors also include a review of the medical literature concerning the junk science theory.

I have spoken at conferences concerning law enforcement contacts with the mentally ill, including the International Congress on Law and Mental Health, as well as an international Death in Custody medical conference that had 197 participants from 27 countries in attendance. I have also provided *pro bono* consultation and advice to Minnesota Attorney General Keith Ellison and his lead special prosecutor, Steve Schleicher, to assist them in prosecuting the Minneapolis police officers who killed George Floyd, and to help them rebut the “excited delirium” defense when it arose in their case.

I have handled many cases involving restraint asphyxial deaths in police custody during the last two decades. I currently represent Mario Gonzalez, Deceased, and his seven-year-old son. Mario was killed on April 19, 2021, by Alameda, California, police officers who restrained him in a prone position, with three officers putting their weight on him, for over five minutes. For nearly four of those minutes, the officers had already handcuffed Mario behind his back. Defense forensic pathologist Judy Melinek has tried to insert “excited delirium” into her defense testimony in the case. I have repeatedly encountered the junk science theory of “excited delirium” as a defense in cases such as the Gonzalez case.

ACEP’s 2009 “White Paper” endorsing the existence of “excited delirium” was the result of a 2008 conference in Las Vegas organized by the Institute for the Prevention of In-Custody Deaths, Inc. (IPICD), a corporation founded by TASER International’s in-house lawyer, Michael Brave, along with longtime TASER defense expert and trainer, John Peters. The IPICD advertised its conference as “the first consensus conference that focuses upon excited delirium,” and promised “attendees will help make law enforcement, medical, and legal history through topic-specific breakout groups focused on arriving at a ‘consensus’ about excited delirium.” (**Attachment A**, Press Release for IPICD Conference). The IPICD promised, “The findings from this seminal event will then be published in leading medical, legal, and law enforcement journals.”

The IPICD conference was a propaganda conference organized by defense experts in TASER and restraint death cases. I have highlighted on the attached press release the speakers at the conference

ACEP

October 2, 2023

Page 2

whom I know to be longtime defense experts in TASER and/or restraint asphyxia death cases. ACEP's 2009 "White Paper" was the result of the 2008 IPICD propaganda conference. Many of its authors are longtime defense experts in TASER and/or restraint death cases, including especially Drs. Chan, Ho, Mash, and Vilke.

ACEP -- which has longtime defense experts and TASER/Axon-affiliated experts among its more prominent members -- has so far doubled down on "excited delirium." In response to our PHR report, ACEP simply substituted "hyperactive" for "excited." ACEP continues to promote the defense, now calling it "hyperactive delirium" instead of "excited delirium."

I just deposed ACEP member Gary Vilke last week for the third time, in my restraint asphyxia case *Mario Gonzalez, Deceased, v. City of Alameda*. Dr. Vilke admitted he has been a defense expert in at least 50 to 75 restraint asphyxia cases, and possibly even more than 100 cases. He admitted that by the time of trial next month in the *Gonzalez* case, he will make over \$50,000 as a defense expert from that case alone. He has already made over \$41,000 for his work as a defense expert in the case. In the last four years, he has testified as an expert in court or depositions 78 times. He admitted that, in every single case involving law enforcement, he always testifies that the officer did not cause or contribute to the person's death. Dr. Vilke and his colleagues have repeatedly relied on the ACEP White Paper to bolster their defense testimony. He admitted in deposition that he does not tell medical journals, nor the University of California San Diego's conflict-of-interest officials, that he is a longtime, paid defense expert in TASER and restraint death cases.

Charles Wetli, the forensic pathologist who was the first proponent of the "excited delirium" theory in the 1980's, said in 1990 that seventy percent of people who die from excited delirium are Black men, and "it may be genetic." (Russ Rymer, "Murder Without a Trace," *In Health*, May/June 1990). The PHR report contains further information from my two decades of research into the origins and junk science nature of the theory.

California AB 360, banning the junk science theory of "excited delirium," has been passed by the California legislature, 77 to 0 in the Assembly and 36 to 1 in the Senate. With this new legislation, California will lead the way nationally toward freedom from the racist theory of "excited/hyperactive delirium."

I was very disappointed that, after the PHR report debunking "excited delirium" was published, ACEP simply changed the name from "excited" to "hyperactive," and continues to promote the junk science theory. It is time for the American College of Emergency Physicians to stand up to its prominent members who are making a fortune as defense experts relying on the junk science theory, and rescind its 2009 White Paper and continued embrace of excited/hyperactive delirium. Thank you very much for your time and attention.

Sincerely,



Julia Sherwin



Police Products > Police Training

PRESS RELEASE

IPICD 3rd Annual Sudden Death, Excited Delirium & In-Custody Death Conference—LAS VEGAS

Aug 15, 2008

Henderson, NV—The 3rd Annual Sudden Death, Excited Delirium & In-Custody Death Conference focusing upon the latest medical research findings, theories, and legal issues about excited delirium, sudden death, electronic control devices, and mental illness, which are of great concern for law enforcement agencies around the world, will be held on October 29-31, 2008 at The Orelans Hotel, Las Vegas, Nevada. The three-day Conference is sponsored by the Institute for the Prevention of In-Custody Deaths, Inc. (IPICD), Henderson, Nevada.

The 2008 IPICD Conference will be the first consensus conference that focuses upon excited delirium and response protocols. Attendees will help make law enforcement, medical, and legal history through topic-specific breakout groups focused on arriving at a “consensus” about excited delirium, key law enforcement, emergency medical provider, and emergency department responses to and training issues about one of the most pressing issues of the day. The findings from this seminal event will then be published in leading medical, legal, and law enforcement journals.

Scheduled speakers include, but are not limited to such internationally-renown researchers, scientists, pathologists, and trial lawyers as Deborah Mash, Ph.D., University of Miami Brain Endowment Bank; Charles Wetli, M.D. and David Fishbain, M.D., the two doctors to identify “excited delirium” in the cocaine-wild 1980s; Vincent

DiMaio, M.D. and his wife, Theresa, authors of one of the most definitive texts on excited delirium; Steven Karch, M.D., pathologist and author of several texts on drugs and cocaine; Theodore Chan, M.D. and Gary Vilke, M.D., both from the University of California—San Diego; Judy Melinek, M.D., Assistant Medical Examiner, San Francisco.

Office of the Medical Examiner; Ellis Amdur, M.A., psychologist; Lt. Walter Bailey, Texas Sheriff's Department Mental Health Unit; Sgt. Edward Flosi, California peace officer; Carrie L. Sandbaken Hill, J.D., defense lawyer; Christine Hall, M.D. Canadian researcher; Bruce Levy, M.D., medical examiner; Andrew Dennis, M.D., trauma doctor and researcher; and Bob Wood, former drug addict.

Conference topics include the latest research on excited delirium and sudden death, mental illness, the role of the medical examiner, restraints and sudden death, legal defense strategies, handling expert witnesses, plus much more. The Conference flyer can be downloaded from the IPICD Web site: www.ipicd.com.

The 2006 & 2007 IPICD Conferences were sold out, so register NOW for this timely and important conference by visiting the Institute for the Prevention of In-Custody Deaths, Inc. Web site at www.ipicd.com . Early registration tuition for the three-day educational conference is only \$595 per person, and includes a workbook, CD-ROM, certificate, lunch on Wednesday and Thursday, and other materials. After September 27, 2008, tuition is \$695 per person.

For more information about the Conference and/or the Institute for the Prevention of In-Custody Deaths, Inc., please visit www.ipicd.com, e-mail staff@ipicd.com, or telephone toll-free: 866.944.4723.



Committee: House Committee on Judiciary & Hawaiian Affairs
Hearing Date/Time: Wednesday, February 26, 2025 at 2:00 pm
Place: Conference Room 325 & Via Videoconference
Re: *Testimony of the ACLU of Hawai'i in SUPPORT of HB36 Relating to Excited Delirium*

Dear Chair Tarnas, Vice Chair Poepoe, and Members of the Committee:

The ACLU of Hawai'i **supports HB36**, which (1) prohibits recognizing “excited delirium” as a medical diagnosis or cause of death, (2) prohibits law enforcement from using the term in an incident report, and (3) makes evidence of “excited delirium” inadmissible in civil cases.

“Excited delirium” (or “excited delirium syndrome”) is not a real medical diagnosis. Yet for too long, it has been invoked to justify law enforcement violence—especially against people of color and those experiencing mental health crises.

Sheldon Haleck.¹ George Floyd.² Elijah McClain.³ Daniel Prude.⁴ Tyre Nichols.⁵ Angelo Quinto.⁶ Adam Trammell.⁷ All were killed by police.

To justify tasing, choking, asphyxiating, pinning, kneeling on, crushing, handcuffing, pepper-spraying, drugging, clubbing, baton-striking, beating, punching, or kicking these individuals, officers gave the same excuse: “*I thought he had excited delirium.*”

¹ Nick Grube, *Autopsy: Honolulu Man Dies After ‘Violent Physical Struggle’ With Cops*, Honolulu Civil Beat (July 14, 2015), <https://www.civilbeat.org/2015/07/autopsy-honolulu-man-dies-after-violent-physical-struggle-with-cops>.

² Julia Jones, *Authorities claimed these Black men had excited delirium just before they died. But the diagnosis itself is a problem and should be abandoned, a new study says.* CNN (Mar. 12, 2022), <https://www.cnn.com/2022/03/12/us/excited-delirium-police-deaths-study/index.html>.

³ Colleen Slevin, *Paramedics told investigators that Elijah McClain had ‘excited delirium,’ a disputed condition*, Associated Press (Dec. 6, 2023), <https://apnews.com/article/elijah-mcclain-paramedics-trial-excited-delirium-cb42ae9846ab9e4fc07eff970872143a>.

⁴ Chris Gelardi, *What Killed Daniel Prude? The Cops and New York AG Said a Diagnosis That’s Since Been Debunked.* The Intercept (Dec. 21, 2024), <https://theintercept.com/2024/12/21/new-york-police-daniel-prude-excited-delirium-debunked>.

⁵ Adrian Sainz, *Former supervisor: ‘No need’ for officers to beat Tyre Nichols*, The Philadelphia Tribune (Sept. 20, 2024), https://www.phillytrib.com/news/across_america/former-supervisor-no-need-for-officers-to-beat-tyre-nichols/article_efbb2309-0e63-50ff-ae59-462b48db07d2.html.

⁶ Daniela Pardo & Jackson Ellison, *Antioch family led the effort to ban excited delirium diagnosis in California*, Spectrum News 1 (Dec. 15, 2023), <https://spectrumnews1.com/ca/southern-california/inside-the-issues/2023/12/15/antioch-family-led-the-effort-to-ban-excited-delirium-diagnosis-in-california>.

⁷ Gina Barton, *A mentally ill man died after being hit 18 times with a Taser in his home. The police officers weren’t charged.* Milwaukee Journal Sentinel (Apr. 27, 2018), <https://www.jsonline.com/story/news/local/milwaukee/2018/04/27/no-charges-against-west-milwaukee-officers-death-mentally-ill-man-hit-18-times-taser/552071002>.

But “excited delirium” has no basis in medicine. It has no consistent definition or diagnostic criteria.⁸ The American Medical Association states, “current evidence does not support ‘excited delirium’ or ‘excited delirium syndrome’ as a medical diagnosis.”⁹ The World Health Organization’s International Classification of Diseases 10th Revision (the official global standard for diagnosing diseases) and the DSM-5 (the authoritative classification system for mental health disorders used by medical professionals in the United States) both exclude it.¹⁰ And major U.S. medical organizations—including the American Psychiatric Association¹¹, the National Association of Medical Examiners¹², the American College of Emergency Physicians¹³, and the American College of Medical Toxicology¹⁴—explicitly reject it.

Its roots expose why: it is a racist and scientifically baseless theory, weaponized to shield law enforcement from accountability. In the 1980s, at the height of the crack cocaine epidemic, Dr. Charles Wetli, a medical examiner, began attributing to “excited delirium” the sudden deaths of cocaine users in police custody, as well as a group of Black women sex workers in Miami who had used cocaine.¹⁵ A serial killer had actually murdered these women, yet Dr. Wetli insisted genetics explained why Black people were more prone to dying from “excited delirium.”¹⁶ Decades later, researchers and litigation defense experts funded by TASER International (now

⁸ Gonin et al., *Excited Delirium: A Systematic Review*, *Academic Emergency Medicine*, Oct. 9, 2017), <https://onlinelibrary.wiley.com/doi/full/10.1111/acem.13330> (“The overall quality of studies was poor. A universally recognized definition is lacking, remaining mostly . . . based on clinical subjective criteria.”).

⁹ American Medical Association, *Policy H-130.932: Pharmacological Intervention for Agitated Individuals in the Out-of-Hospital Setting* (2021), <https://policysearch.ama-assn.org/policyfinder/detail/excited%20delirium?uri=%2FAMADoc%2FHOD.xml-H-130.932.xml>.

¹⁰ Kevin Fiscella, MD, MPH, et al., ‘*Excited Delirium*’: *Dehumanizing and Unscientific*, National Commission on Correctional Health Care (Sept. 21, 2022), <https://www.ncchc.org/excited-delirium-dehumanizing-and-unscientific> (“[E]xcited delirium is not recognized by DSM-5 or by any single ICD-10 code.”).

¹¹ American Psychiatric Association, *Position Statement on Concerns About Use of the Term ‘Excited Delirium’ and Appropriate Medical Management in Out-of-Hospital Contexts* (Dec. 2020), <https://www.psychiatry.org/getattachment/7769e617-ee6a-4a89-829f-4fc71d831ce0/Position-Use-of-Term-Excited-Delirium.pdf> (“The term ‘excited delirium’ (ExDs) is too non-specific to meaningfully describe and convey information a person. ‘Excited delirium’ should not be used until a clear set of diagnostic criteria are validated.”).

¹² National Association of Medical Examiners, *Excited Delirium Statement* (Mar. 2023), <https://name.memberclicks.net/assets/docs/Excited%20Delirium%20Statement%203%20-%202023.pdf> (“[T]he terms ‘Excited Delirium’ or ‘Excited Delirium Syndrome’ . . . are not endorsed by NAME . . .”).

¹³ Carmen Lee, MD, MAS, *ACEP Rejects ‘Excited Delirium’*, *ACEP Now* (Apr. 5, 2024), <https://www.acepnow.com/article/acep-rejects-excited-delirium/?singlepage=1> (“[E]xcited delirium should not be used among the wider medical and public health community, law enforcement organizations, and ACEP members acting as expert witnesses testifying in relevant civil or criminal litigation.”).

¹⁴ Andrew I. Stolbach, MD, MPH, FACMT, et al., *ACMT Position Statement: End the Use of the Term ‘Excited Delirium’*, *American College of Medical Toxicology* (May 1, 2023), https://www.acmt.net/wp-content/uploads/2023/05/PS_230501_End-the-Use-of-the-Term-Excited-Delirium.pdf.

¹⁵ Brianna da Silva Bhatia, MD, et al., ‘*Excited Delirium*’ and Deaths in Police Custody: *The Deadly Impact of a Baseless Diagnosis*, *Physicians for Human Rights* (Mar. 2022), <https://phr.org/our-work/resources/excited-delirium>.

¹⁶ *Id.*

Axon Enterprises) published and distributed materials to police chiefs and medical examiners nationwide to broaden the term’s use and acceptance.¹⁷

Hawai‘i is not immune to this dangerous, psuedoscientific excuse for police violence. On March 16, 2015, Sheldon Haleck—a U.S. Air National Guard veteran—was experiencing a mental health crisis outside Iolani Palace. He was unarmed, non-violent, and not committing a crime. Yet three Honolulu police officers tased him 3 times and pepper-sprayed him 12 times in under 5 minutes.¹⁸ Sheldon died the next day. The Ninth Circuit ruled Sheldon’s family had enough evidence to take their Fourth Amendment excessive force case to trial.¹⁹ Still, they lost. Why? HPD hired three serial Taser/Axon defense experts—Stacey Hail, John G. Peters, and Mark Kroll²⁰—who convinced the jury that he died from “excited delirium,” not police violence.²¹

Sheldon’s parents, Verdell and William Haleck, fought for years seeking justice, only to see the legal system fail them. Their heartbreak is a stark reminder that, as long as “excited delirium” remains an available defense, families of those killed by police will continue to face insurmountable obstacles to holding officers accountable. Notably, other lawsuits in Hawai‘i involving deaths in police custody have invoked the same defense.²²

As one medical group succinctly puts it, “it is time to discontinue the use of this term.”²³ By preventing law enforcement from relying on the baseless and prejudicial defense of “excited delirium,” HB36 ensures that only medically valid, evidence-based explanations are used in official reports and legal proceedings.

Other states—including California, Colorado, and Minnesota²⁴—have already taken this step. Hawai‘i should do the same.

¹⁷ Jason Szep, Tim Reid, and Peter Eisler, *Special Report: How Taser inserts itself into investigations involving its weapons*, Reuters (Aug. 24, 2017), <https://www.reuters.com/article/world/special-report-how-taser-inserts-itself-into-investigations-involving-its-weapo-idUSKCN1B417M>.

¹⁸ Chelsea Davis, *Appeals Court: HPD officers used excessive force during deadly tasing near Iolani Palace*, Hawai‘i News Now (July 10, 2018), <https://www.hawaiinewsnow.com/story/38617628/us-court-of-appeals-hpd-officers-used-excessive-force-during-deadly-tasing-near-iolani-palace>.

¹⁹ *Silva v. Chung*, 740 F. App’x 883 (9th Cir. 2018).

²⁰ Yoohyun Jung and Nick Grube, *Who – Or What – Is To Blame For The Death Of Sheldon Haleck?*, Honolulu Civil Beat (May 22, 2019), <https://www.civilbeat.org/2019/05/who-or-what-is-to-blame-for-the-death-of-sheldon-haleck>.

²¹ Yoohyun Jung, *Defense: ‘Excited Delirium,’ Not Excessive Force, Killed Sheldon Haleck*, Honolulu Civil Beat (May 31, 2019), <https://www.civilbeat.org/2019/05/defense-excited-delirium-not-excessive-force-killed-sheldon-haleck>.

²² Jack Truesdale, *‘Excited Delirium’: Dubious Syndrome Often Cited In Killings By Police Is Benched By Examiners*, Honolulu Civil Beat (Apr. 3, 2023), <https://www.civilbeat.org/2023/04/excited-delirium-dubious-syndrome-often-cited-in-killings-by-police-is-benched-by-examiners>.

²³ *Supra* note 14.

²⁴ Andy Mannix, *Minnesota Gov. Walz signs law banning ‘excited delirium’ for police*, Minnesota. Star Tribune (June 5, 2024), <https://www.startribune.com/minnesota-gov-walz-signs-law-banning-excited-delirium-for-police/600371297>.

For these reasons, the ACLU of Hawai‘i respectfully asks that you move this measure forward.

Sincerely,



Jongwook “Wookie” Kim
Legal Director
ACLU of Hawai‘i
wkim@acluhawaii.org

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.

HB-36-HD-1

Submitted on: 2/22/2025 10:07:49 AM

Testimony for JHA on 2/26/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Verdell B. Haleck	Individual	Support	Remotely Via Zoom

Comments:

February 22,, 2025

I strongly support HB36, Relating to Excited Delirium to ban the use of the term 'excited delirium' or any other term relating to it from being use in the State of Hawaii, based on recently enacted legislation in California.

I am Verdell Haleck and I previously lived in Honolulu for 26 years before moving to Washington, Utah in 2005. I am representing my son, Sheldon Haleck, who was a loving husband, father, son, uncle, friend and a veteran who was honorably discharged from the Air National Guard and who wrestled with the aftermath of his past deployments -- PTSD, drugs and other mental health issues. In March of 2015, Sheldon died as a result of an encounter with Honolulu police in front of Iolani Palace for jaywalking. He was unarmed, non-aggressive and did not harm anyone or damage any property and he was having a mental health crisis. His only crime was walking in the street and he did not obey the commands of the police. Sheldon was pepper sprayed 12 times and tased 3 times before he was hogtied with several police officers on his back and a knee to his neck where he became unresponsive and died the next day. The Police Department claimed he died of "Excited Delirium," which is defined as agitation, aggression and acute distress which leads to sudden death, a defense theory that has been debunked in the medical community. In our civil case, the police defense expert, an ER doctor, testified that Sheldon did not die from being pepper sprayed, being tased or from excessive use of force by police, but he experienced "excited delirium" and that is what caused his death. The jurors believed that it was a real medical diagnosis and found the police not responsible for Sheldon's death. The sudden death symptom of 'excited delirium' is now known to be 'positional asphyxia' or 'respiratory failure' due to the lungs being deprived of oxygen by the body weight of the police officers on the victims back and the knee to the neck or shoulder blade while the victim is in a hogtied position causing the victim to become unresponsive and followed by death. (Like George Floyd) We have no recourse in Sheldon's case, so we now seek changes so that no other family should have to suffer the heartbreak and disappointment in their pursuit of justice for their loved one.

The recent October 2023 vote by the American College of Emergency Physicians (ACEP) disavowed its 2009 position 'white paper' which supported 'excited delirium' as a medical diagnosis that helped undergird court cases across the country, such as ours.

In October 2023, California was the first state to pass a law to ban the controversial term 'excited delirium' followed by the States of Colorado and Minnesota. The ban forbids the use of the term 'excited delirium' as a medical diagnosis or cause of death. It also prohibits coroners and medical examiners from listing it as a cause of death on a death certificate or autopsy report. It would bar law enforcement from using the term to describe the condition of someone in an incident report and it would be inadmissible as evidence in civil lawsuits, such as ours. We now seek a ban on the terms "excited delirium, excited delirium syndrome, hyperactive delirium, agitated delirium, and exhaustive mania" from being used in the State of Hawaii.

My goal is not only for my son Sheldon, but for all those individuals who have unjustly lost their lives while in police custody and for those who might find themselves in the same tragic situation in the future.

I would like to thank you for your time and I humbly ask for your support to pass HB36, Relating to Excited Delirium to ban the term "excited delirium" or any term relating to it from being used in the State of Hawaii. I would humbly ask if this bill gets passed if it could please be called "Sheldon's Law or Act" in honor of my son so that his death was not in vain.

Mahalo,

Verdell Haleck

HB-36-HD-1

Submitted on: 2/22/2025 12:20:47 PM

Testimony for JHA on 2/26/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
WILLIAM HALECK	Individual	Support	Written Testimony Only

Comments:

February 22, 2025

I strongly support HB36, Relating to Excited Delirium to ban the use of the term 'excited delirium' or any other term relating to it from being used in the State of Hawaii, based on recently enacted legislation in California.

I am William Haleck and I previously lived in Honolulu for 26 years before moving to Washington, Utah in 2005. I am representing my son, Sheldon Haleck, who was a loving husband, father, son, uncle, and a veteran who was honorably discharged from the Air National Guard and who wrestled with the aftermath of his past deployments -- PTSD, drugs and other mental health issues. In March of 2015, Sheldon died as a result of an encounter with Honolulu police in front of Iolani Palace for jaywalking. He was unarmed, non-aggressive and did not harm anyone or damage any property and he was having a mental health crisis. His only crime was walking in the street, and he did not obey the commands of the police to move to the sidewalk. Sheldon was pepper sprayed 12 times and tased 3 times before he was handcuffed and hogtied with several police officers on his back and a knee to his neck where he became unresponsive and died the next day. The Police Department claimed he died of "Excited Delirium," which is defined as agitation, aggression and acute distress which leads to sudden death, a defense theory that has been debunked in the medical community. In our civil case, the police defense expert, an ER doctor, testified that Sheldon did not die from being sprayed with pepper spray, or being tased, or from excessive use of force by police but that he experienced "excited delirium" and that is what caused his death. The jurors in our case believed that it was a real medical diagnosis and found the police not responsible for Sheldon's death. The sudden death symptom of 'excited delirium' is suspected to be 'positional asphyxia' or 'respiratory failure' due to the lungs being deprived of oxygen by the body weight of the police officers on the victims back and the knee to the neck while the victim is in a prone position while being handcuffed and hogtied causing the victim to become unresponsive and followed by death. (Like George Floyd) We have no recourse in Sheldon's case, so we now seek changes by introducing HB36, Relating to Excited Delirium.

The recent October 2023 vote by the American College of Emergency Physicians (ACEP) disavowed its 2009 position 'white paper' which was the backing in support of 'excited delirium' as a medical diagnosis that helped undergird court cases across the country, such as ours.

This injustice is what spurred the introduction of HB36, Relating to Excited Delirium. I call on the Hawaii Legislature to enact the following legislation:

1. Prohibits 'excited delirium' from being recognized as a valid medical diagnosis or cause of death in the State of Hawaii, including prohibiting coroners, medical examiners, physicians, or physician assistants from stating on a death certificate or in any report that a cause of death was 'excited delirium;'
2. Prohibits peace officers from using the term 'excited delirium' to describe an individual in an incident report;
3. Prohibits a party or witness in any legal proceeding from testifying that a person was in 'excited delirium;'
4. Prohibits a state or local government entity, or employee or contractor of a state or local government entity, from documenting, testifying to, or otherwise using in any official capacity or communication 'excited delirium' as a recognized medical diagnosis or cause of death;
5. Defines prohibited 'excited delirium' to include a person's state of agitation, excitability, paranoia, extreme aggression, physical violence, and apparent immunity to pain that is not listed in the most current version of the Diagnostic and Statistical Manual of Mental Disorders, or for which the court finds there is insufficient scientific evidence or diagnostic criteria to be recognized as a medical condition, including 'excited delirium' syndrome, 'excited delirium,' hyperactive delirium, agitated delirium, and exhaustive mania.

My goal is not only for my son Sheldon, but for all those individuals who have unjustly lost their lives while in police custody and for those who might find themselves in the same tragic situation in the future.

I would like to thank you for your time and for the opportunity to submit written testimony and I humbly ask for your support to pass HB36, Relating to Excited Delirium to ban the term "excited delirium" or any term relating to it from being used in the State of Hawaii. I would humbly ask if this bill gets passed, if it could please be called "Sheldon's Law or Act" in honor of my son so that his death was not in vain.

Mahalo,

William Haleck

HB-36-HD-1

Submitted on: 2/22/2025 1:52:05 PM

Testimony for JHA on 2/26/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Jared Haleck	Individual	Support	Written Testimony Only

Comments:

Support for HB36, Relating to Excited Delirium

I fully support HB36 to ban the term 'excited delirium' from being used in the State of Hawaii. This bill should be passed in memory of Sheldon Haleck who was denied justice in his civil lawsuit because of that controversial term 'excited delirium.' Please watch the footage of his arrest and you will see he was posing no threat and was nevertheless killed by HDPD's lack of training in how to use tasers in that circumstance.

I urge the committee to pass HB36. I ask that you take this testimony into consideration and I thank you for the opportunity to testify.

HB-36-HD-1

Submitted on: 2/22/2025 2:08:24 PM

Testimony for JHA on 2/26/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Gulstan Elleighton Silva	Individual	Support	Written Testimony Only

Comments:

I fully support HB36, relating to Excited Delirium in honor of Sheldon Haleck so that his death was not in vain.

HB-36-HD-1

Submitted on: 2/22/2025 2:27:51 PM

Testimony for JHA on 2/26/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Chanelle Taimani Haleck	Individual	Support	Written Testimony Only

Comments:

I fully support HB36, Relating to Excited Delirium in honor of Sheldon Haleck so that his death was not in vain and to prevent another family from facing all the obstacles that' we faced, with no closure or Justice. It's about making a CHANGE, and being the EXAMPLE of Change. It's about holding people accountable for their ACTIONS, with just unbiased consequences. What's done in the DARK, will always come to the LIGHT.

-Thank you for your time in reading my testimony.

Sincerley,

Chanelle Taimani Haleck

HB-36-HD-1

Submitted on: 2/22/2025 8:23:57 PM

Testimony for JHA on 2/26/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
DONALD F RUMFORD	Individual	Support	Written Testimony Only

Comments:

Aloha,

I fully support HB36 to ban the term "excited delirium" from being used in the state of Hawai'i and ask that they validate the real cause of death or injury. May I also ask this bill be passed in memeory of Sheldon Halek who was denied justice!

I ask the commitee to please pass HB36 and thank you for the opportunity to testify.

Mahalo,

Donald Rumford

HB-36-HD-1

Submitted on: 2/22/2025 8:59:32 PM

Testimony for JHA on 2/26/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Peggy Haleck	Individual	Support	Written Testimony Only

Comments:

Support for HB36, Relating to Excited Delirium

I fully support HB36 to ban the term ‘excited delirium’ from being used in the State of Hawaii. This bill should be passed in memory of Sheldon Haleck who was denied justice in his civil lawsuit because of that controversial term ‘excited delirium.’

I urge the committee to pass HB36. I ask that you take this testimony into consideration and I thank you for the opportunity to testify.

HB-36-HD-1

Submitted on: 2/22/2025 9:03:06 PM

Testimony for JHA on 2/26/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Vince Haleck	Individual	Support	Written Testimony Only

Comments:

Support for HB36, Relating to Excited Delirium

I strongly support HB36, Relating to Excited Delirium. This bill will ban ‘excited delirium’ or any words related to that term from being used in the State of Hawaii. The goal is to ensure that no other family will suffer the heartbreak and disappointment Sheldon Haleck’s family has from being denied justice for their loved one.

I urge the committee to pass HB36. I ask that you take this testimony into consideration and I thank you for the opportunity to testify.

HB-36-HD-1

Submitted on: 2/22/2025 9:09:23 PM

Testimony for JHA on 2/26/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Krista Haleck	Individual	Support	Written Testimony Only

Comments:

Support for HB36, Relating to Excited Delirium

I fully support HB36 to ban the term ‘excited delirium’ from being used in the State of Hawaii. This bill should be passed in memory of Sheldon Haleck who was denied justice in his civil lawsuit because of that controversial term ‘excited delirium.’

I urge the committee to pass HB36. I ask that you take this testimony into consideration and I thank you for the opportunity to testify.

HB-36-HD-1

Submitted on: 2/23/2025 8:10:04 AM

Testimony for JHA on 2/26/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Glenn HayashiHAKUTORA	Individual	Support	Written Testimony Only

Comments:

I am writing in support HB 36 to ban the use of the term "Excited Delirium" in the State of Hawaii, as this is not a legitimate Medical Entity and has been wrongfully used in numerous cases across our Country to deny justice to individuals and families who have experienced death or severe injury in the course of an arrest. Having reviewed available literature and as a licensed Hawaii Physician, I urge passage of HB 36.

HB-36-HD-1

Submitted on: 2/23/2025 8:23:36 AM

Testimony for JHA on 2/26/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Frances Foster Haney	Individual	Support	Written Testimony Only

Comments:

I strongly support HB36 Relating to 'Excited Delirium'. This bill will ban 'excited delirium' or any words related to it in the State of Hawaii. The Haleck's have suffered a great loss and I want to ensure that no other families will suffer the same heartbreak. Justice is needed for the Family of Sheldon Haleck's and other Families who have suffered the same devastation.

I urge the committee to pass HB36. Please take this testimony into consideration and I thank you for the opportunity to testify.

HB-36-HD-1

Submitted on: 2/24/2025 8:33:41 AM

Testimony for JHA on 2/26/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Carolyn Eaton	Individual	Support	Written Testimony Only

Comments:

Aloha, Chair Tarnas, Vice Chair Poepoe, and Members of the Committee,

My name is Carolyn Eaton. I am a resident of Makiki, a tax-payer, and I strongly support this bill, which eliminates use of "excited delirium" as a valid medical diagnosis, or cause of death.

Mahalo for your hard work. We will have reason to put new faith in our police who are no longer using this unscientific term to shield themselves, but, on the contrary, who become skilled in performing non-violently when they encounter agitated individuals.

HB-36-HD-1

Submitted on: 2/24/2025 9:12:42 AM

Testimony for JHA on 2/26/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Lottie Lyons	Individual	Support	Written Testimony Only

Comments:

I fully support HB36 to ban the term ‘excited delirium’ from being used in the State of Hawaii. This bill should be passed in memory of Sheldon Haleck who was denied justice in his civil lawsuit because of that controversial term ‘excited delirium.’

I urge the committee to pass HB36. I ask that you take this testimony into consideration and I thank you for the opportunity to testify.

HB-36-HD-1

Submitted on: 2/24/2025 10:20:05 AM

Testimony for JHA on 2/26/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Otto Tuiolosega	Individual	Support	Written Testimony Only

Comments:

I urge the committee to pass HB36. I ask that you take this testimony into consideration and I thank you for the opportunity to testify.

HB-36-HD-1

Submitted on: 2/24/2025 10:21:12 AM

Testimony for JHA on 2/26/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Mark Meredith	Individual	Support	Written Testimony Only

Comments:

Support for HB36, Relating to Excited Delirium

I strongly support HB36, Relating to Excited Delirium. This bill will ban ‘excited delirium’ or any words related to that term from being used in the State of Hawaii. The goal is to ensure that no other family will suffer the heartbreak and disappointment Sheldon Haleck’s family has from being denied justice for their loved one.

I urge the committee to pass HB36. I ask that you take this testimony into consideration and I thank you for the opportunity to testify.

Mark Meredith

HB-36-HD-1

Submitted on: 2/24/2025 12:18:38 PM

Testimony for JHA on 2/26/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Carmael Stagner	Individual	Support	Written Testimony Only

Comments:

Carmael K Stagner

1065 Kawaiahao Street 1801

Honolulu Hawaii 96814

(808) 673-0143

26 February 2025

Honorable Chairpersons & Committee Members:

The first time I heard a form of the phrase " excited delirium" was when a hoard of B52 bomber-cockroaches mad-dogged me when I turned on the light to the kitchen. I ran into the parlor screaming and yelling at the top of my lungs, "Get off of me! Stop touching me! "

In my fear I banged my knees on the corner table, hit my elbows and head against the door jamb, swatting myself and the air as I ran around in circles in the front yard.

My very soft-spoken and rather even-keeled husband only said slowly and deliberately," You are okay. You are not in danger. Everything going be all right."

Conversely, without any context, my onlooking neighbors described me as, "Agitated. Agressive. Excited and Delirious."

Aloha!

My name is Carmael Stagnee. I am submitting testimony as a private citizen in FAVOR of and SUPPORT for HB 36.

Please help our law enforcement officers to provide safe de-escalation techniques in our communities without having to complete psychiatric and/or psychological assessments as part of reducing risk of harm to self or others while in the line of duty.

I have been credentialed since 1999 in the State of Hawaii as a clinical supervisor, community mental health worker, certified substance abuse counselor, and psychiatric case manager.

I have not only served the homeless, mental health, and substance abuse populations, but also pre-trial detainees, post-conviction offenders, probationary, incarcerated and paroled youth, women and men over the past 25 years.

I support the Spirit and Intent of HB 36 as it seeks to apply Hawaii State Governor Green's Trauma-Informed Care framework interpreted through the Department Of Health's Office of Wellness & Resiliency.

This initiative encourages community members to request a Community Intervention Training (CIT) officer when calling 911. CIT officers are skilled in de-escalation techniques specific to individuals who may be experiencing a mental health crisis.

The Hawaii Chapter of The National Mental Health Alliance (NAMI) reports on their website nearly 600 law enforcement officers across all counties have been CIT trained since December 2024.

This is just one facet.

Let us maintain Aunty Pilahi Pahi's Aloha Spirit Law 5-7.5, which was underscored in opening ceremonies in both the House and the Senate this 2025 legislative session by passing HB 36.

Sincerely,

Carmael K Stagner

HB-36-HD-1

Submitted on: 2/24/2025 12:28:09 PM

Testimony for JHA on 2/26/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Carla Allison	Individual	Support	Written Testimony Only

Comments:

I strongly support HB36 prohibiting 'excited delirium' from being recognized as a valid medical diagnosis.

HB-36-HD-1

Submitted on: 2/24/2025 7:39:31 PM

Testimony for JHA on 2/26/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Gale Kamitono	Individual	Support	Written Testimony Only

Comments:

I support HB36 to ban the term 'excited delirium' from being used in the State of Hawai'i. I want to prevent other families from suffering the excruciating heartbreak that Sheldon Haleck's family has from being denied justice for their loved one because of the controversial term 'excited delirium.'

I urge the committee to please take this testimony into consideration and pass HB36. Thank you for the opportunity to testify.

HB-36-HD-1

Submitted on: 2/25/2025 10:27:27 AM

Testimony for JHA on 2/26/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Glenn Philhower	Individual	Support	Written Testimony Only

Comments:

I am in support of this bill ..

HB-36-HD-1

Submitted on: 2/25/2025 1:03:36 PM

Testimony for JHA on 2/26/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Brady Corry	Individual	Support	Written Testimony Only

Comments:

Support for HB36, Relating to Excited Delirium

I strongly support HB36, Relating to Excited Delirium. This bill will ban ‘excited delirium’ or any words related to that term from being used in the State of Hawaii. The goal is to ensure that no other family will suffer the heartbreak and disappointment Sheldon Haleck’s family has from being denied justice for their loved one.

I urge the committee to pass HB36. I ask that you take this testimony into consideration and I thank you for the opportunity to testify.