

STATE OF HAWAII
DEPARTMENT OF HEALTH
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**Testimony COMMENTING on SB228 SD1
RELATING TO EXCITED DELIRIUM.**

REP. GREGG TAKAYAMA, CHAIR
HOUSE COMMITTEE ON HEALTH

Hearing Date: March 19, 2025

Room Number: 329

1 **Department Testimony:** The Department of Health (DOH) takes no position on prohibiting
2 excited delirium as a cause of death, offers comments, and recommends amendments to chapter
3 326, Hawaii Revised Statutes (HRS), rather than chapter 338, HRS, and other amendments.

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

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

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

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

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

14 Because the Department of Health's role in recording causes of death is purely a ministerial
15 function, amending chapter 338, HRS will be ineffective. DOH recommends Bill Section 1 be
16 added as a new section to chapter 327, HRS, or as new subsections under section [327C-1, HRS,](#)
17 ["Determination of death."](#)

- 1 This measure will be most effective if the prohibition on excited delirium as a cause of death is
- 2 moved upstream from DOH, specifically to medical examiners, coroners, and attending
- 3 physicians in hospital and hospice settings.
- 4 Thank you for the opportunity to testify.
- 5 **Proposed Amendments:** N/A.

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March 17, 2025

Committee on Health
Rep. Greg Takayama, Chair
Rep. Sue L. Keohokapu-Lee Loy, Vice Chair
415 South Beretania Street, Conf. Rm. 329
State Capital
Honolulu, HI 96813

Re: Testimony in Support of Senate Bill No. 228
Hearing: March 19, 2025, 9:05 AM

Dear Chair Takayama, Vice Chair Keohokapu-Lee Loy and Committee members:

I am writing in regard to Senate Bill No. 228, relating to "excited delirium." Specifically, I write to support the support prohibition on use of excited delirium (or any other non-scientific, non-medical "diagnosis") in the context of government action.

Senate Bill No. 228 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 Senate Bill No. 228 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.

Senate Bill No. 228 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. Senate Bill No. 228 would allow, for instance, an officer or witness to report that an individual was yelling or running or committing any other observed act. Senate Bill No. 228 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 Senate Bill No. 228. 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 Senate Bill No. 228, 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.



The Judiciary, State of Hawai'i

Testimony to the Thirty-Third State Legislature, 2025 Session

House Committee on Health

Representative Gregg Takayama, Chair
Representative Sue L. Keohokapu-Lee Loy, Vice Chair

Wednesday, March 19, 2025, 9:05 A.M.
State Capitol, Conference Room 329

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: Senate Bill No. 228, S.D.1, Relating to Excited Delirium.

Purpose: Prohibits the use of the term “excited delirium” by 1) medical professionals in diagnosing medical conditions or determining causes of death and 2) law enforcement officers’ incident reports.

Judiciary's Position:

The Hawai‘i Supreme Court Standing Committee on the Hawai‘i Rules of Evidence (“Committee”) respectfully offers the following comments on Senate Bill No. 228, S.D. 1.

The Committee notes that the original version of Senate Bill No. 228 established a new rule of evidence declaring any evidence that a person experienced or suffered “excited delirium” inadmissible in a civil action. The Committee appreciates the amendments that were incorporated when this measure was heard by HHS/PSM, deleting evidence-related provisions. In an abundance of caution, the Committee provides the following comments as to why removing that language was a wise decision and one that the Committee supports.

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 Senate Bill No. 228 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. However, until there is a definitive consensus within the medical and scientific community regarding “excited delirium,” it is premature to legislatively erase the term from all medical and incident reports.

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.

2. Implications for Fair Trials and Due Process

Senate Bill No. 228, S.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 to fully present their case before a jury. Normally, the admissibility of evidence (including medical expert and police 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, proposed testimony and evidence. A wholesale preemptive prohibition on even the mention of “excited delirium” undermines the adversarial system and constitutional due process.

Conclusion

First, the Committee would respectfully oppose any recommendation to revive the material deleted from Senate Bill No. 228 and modify the HRE.

Secondly, 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 Senate Bill No. 228, S.D.1, and in support of the amendments made by HHS/PSM.

SB-228-SD-1

Submitted on: 3/14/2025 7:00:04 PM

Testimony for HLT on 3/19/2025 9:05:00 AM

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 and we very much support it. 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 realize that SB 228 is narrower in scope than the version of the companion measure HB 36 that this Committee previously passed forward. We believe this Committee was correct in its decision the first time it heard that Bill and we would urge that the contents of HB 36 be inserted into this measure.

COMMUNITY ALLIANCE ON PRISONS

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Today's Inmate; Tomorrow's Neighbor



COMMITTEE ON JUDICIARY

Senator Karl Rhoads, Chair

Senator Mike Gabbard, Vice Chair

Wednesday, March 18, 2025

Room 016 & VIDEOCONFERENCE

9:45 AM

STRONG SUPPORT FOR HB 727 HD1 - WOMEN'S COURT

Aloha Chair Rhoads, Vice Chair Gabbard 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 more than two decades. This testimony is respectfully offered on behalf of the 3,720 Hawai`i individuals living behind bars¹ and under the "care and custody" of the Department of Corrections and Rehabilitation as of March 10, 2025. We are always mindful that 936 - 49.3% - of Hawai`i's male prison population (1,895) 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.

Mahalo for the opportunity to show our strong support for HB 727 HD1 that establishes a 3-year women's court project pilot program within the 2nd and 5th Circuit. It requires the 3rd Circuit and the Hawai`i Island Drug Court to conduct the an interim study to establish a blueprint for a women's court pilot program in the 3rd Circuit.

This bill acknowledges that women's pathways to incarceration are different and we are, therefore, happy to see trauma-informed and gender-responsivity being the focus for this court.

Judge Kim from Hawai`i Island has been at hearings helping O`ahu legislators understand the resource challenges of our neighbor islands. We know we don't have enough programs and services on O`ahu; this is magnified on our outer islands.

Community Alliance on Prisons commends Judge Kim for his belief that we can do more and his willingness to find ways to serve the people on our neighbor islands! Imua, Judge Kim!

We hope that WAM funds this important effort and that Hawai`i will reduce our current population of incarcerated women - 402 (10.8% of Hawai`i's incarcerated population) substantially!

Mahalo nui!

¹ DCR Weekly Population Report, March 10, 2025

<https://dcr.hawaii.gov/wp-content/uploads/2025/03/Pop-Reports-Weekly-2025-03-10.pdf>

March 16, 2025

Chair Gregg Takayama
Hawai'i House Health Committee

Re: SB 228 SD1, Excited Delirium

Dear Chair Takayama and Hawai'i House Health Committee,

Mahalo to Chair Takayama for introducing HB 36 on Excited Delirium, and shepherding that bill through the Hawai'i House of Representatives. HB 36 HD 2 is an extremely effective bill as it is currently drafted, and needs no amendments. Unfortunately, HB 36 HD 2 will die in the Senate, as the joint committees to which it has been referred have declined to give it a hearing. The Senate bill on excited delirium, SB 228 SD 1, that is currently before your Committee will not be effective in freeing Hawaiians from the junk science theory of excited delirium, for the reasons stated below. Therefore, while I support the bill, I request that it be amended to match HB 36 HD 2.

HB 36 HD 2 is based on California's excited delirium law, AB 360, for which I provided amendments and advocacy. I have been a civil rights lawyer for 30 years and have worked to debunk excited delirium for two decades. I 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.

AB 360 passed the California legislature with only one "No" vote in the entire legislature (113 to 1), and was signed into law in October 2023. California's 39.4 million residents are now free of excited delirium. The residents of your great State deserve no less.

In written testimony before the JHA Committee's hearing on HB 36 HD 2, your Department of Health noted that excited delirium was listed as an immediate cause of death in Hawai'i nine times since 2006. That is roughly every other year. In addition, excited delirium still comes up as a defense in restraint or Taser death cases even when it is not listed as an immediate cause of death, which is what happened in Sheldon Haleck's case. Excited delirium has arisen as a defense in every one of my restraint death cases, whether or not a Taser was involved, for the over 20 years I have been handling such cases.

Unlike HB 36 HD 2, SB 228 SD 1 does not prohibit testimony about excited delirium by anyone other than Department of Health employees. Additionally, SB 228 SD 1 omits alternate names for excited delirium that have been used by the theory's proponents for years, and does not prohibit excited delirium from being admitted into evidence in civil cases. Thus, this bill, if passed, will allow another Sheldon Haleck case to happen again. I request that you amend SB 228 SD 1 to match HB 36 HD 2, which does not have the infirmities the Senate bill has.

I note that HB 36 SD 2 has received no opposition whatsoever from the law enforcement community or the medical community.

Five committees of the Hawai'i legislature have found that excited delirium lacks a valid medical foundation and has been used for years to justify excessive force by law enforcement. The Senate Joint Committees on Health and Human Services and Public Safety and Military Affairs have reported:

Your Committees find that “excited delirium,” or “excited delirium syndrome” is not a real medical diagnosis, has no basis in medicine, and has no consistent or diagnostic criteria. Your Committees further find that for decades, “excited delirium” has been invoked to justify law enforcement violence, especially against people of color and those experiencing mental health crises.

(Senate HHS and PSM Joint Committee Report on SB 228 SD 1, p. 2).

Similarly, the Senate Judiciary Committee has reported:

Your Committee finds that the majority of major national and international medical organizations do not classify “excited delirium” as a medical diagnosis. Your Committee further finds that historically, excited delirium has been often utilized and weaponized to shield law enforcement from accountability when negative outcomes occur from police-civilian interactions.

(Senate JDC Committee Report on SB 228 SD 1).

Your Committee has reported with respect to HB 36 HD1:

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 HLT Committee Report).

The House Committee on Judiciary and Hawaiian Affairs has reported with respect to HB 36 HD 2:

Your Committee finds that the term “excited delirium” has been widely discredited by medical and scientific organizations and has been improperly used to justify deaths occurring in law enforcement custody. This unrecognized diagnosis has contributed to legal outcomes that obscure the true causes of death, preventing accountability and justice for affected individuals and their families. This measure ensures that law enforcement and medical determinations are based on scientifically valid and evidence-based practices by prohibiting the use of the term “excited delirium” as a medical diagnosis, cause of death, or legal defense.

(House JHA Committee Report).

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. Despite this, due to extensive promotion of the theory discussed below, excited delirium still appears on autopsy reports and in death certificates.

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.

Like HB36 HD 2, California’s AB 360 was inspired by the completely preventable death of a military veteran of color. Angelo Quinto was a Filipino-American Navy veteran in a behavioral health crisis. His family called for medical assistance, and two police officers forced him prone and put their weight on him for 5 minutes, while he told them at least twice “please don’t kill me,” until he died. Sheldon Haleck was a Native Hawaiian and Samoan military veteran. The vast majority of victims of the excited delirium theory are men of color in a behavioral health crisis, like Angelo and Sheldon. Indeed, as set forth in the Physicians for Human Rights (PHR) report on excited delirium cited above, a study revealed that 56% of the people who are asserted to have been in excited delirium were Black or Latino men.

As discussed in the PHR Report, 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 (now called Axon Enterprise) 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 its longtime in-house trainer and defense expert, John Peters, started a company they called the Institute for the Prevention of In-Custody Death (IPICD). IPICD then organized conferences aimed at making “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).

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 TASER’s trainer and defense expert, Mr. Peters. (**Exhibit A**).

Sheldon Haleck was a combat veteran from a law enforcement family. Sheldon’s father, William -- a lifetime career law enforcement officer in American Samoa and Hawai’i -- 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, put him in leg shackles, 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 ‘ohana 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 Mark Kroll, who served on TASER/Axon’s Board of Directors for 20 years until his resignation last year; Stacey Hail, MD, a longtime TASER/Axon defense expert; and John Peters, the TASER/Axon trainer and defense expert who co-founded the IPICD with TASER’s lawyer to spread propaganda promoting excited delirium. The jury believed their assertion that Sheldon died of excited delirium.

The proponents of excited delirium have had 40 years to prove it is scientific and has a medical basis. They cannot do so, because it is junk science created to excuse deaths in law enforcement custody. The proposal to give judges discretion to admit excited delirium into evidence, and to decide that the junk

science theory should be permitted in medical and law enforcement reports on a case-by-case basis, will result in perpetuation of this junk science despite all evidence of its invalidity.

A rule of evidence precluding testimony that excited delirium is a valid medical diagnosis or cause of death, as HB 36 HD 2 provides, is not revolutionary. For example, the Hawai'i Rules of Evidence already have many provisions precluding the admission of certain kinds of evidence:

- Rule 407 precludes the admission of evidence of subsequent remedial measures to prove negligence or culpable conduct;
- Rule 408 precludes the admission of evidence of settlement offers to prove liability or the invalidity or amount of a claim, as well as statements made during settlement negotiations;
- Rule 409 precludes the admission of evidence of offers to pay medical or hospital expenses to prove liability;
- Rule 410 precludes the admission of pleas, plea discussions, or statements made during the course of plea discussions;
- Rule 411 precludes the admission of evidence concerning insurance upon the issue of whether a person acted negligently or wrongfully;
- Rule 412 precludes the admission in a sexual misconduct criminal case of evidence of a victim's past sexual behavior to show the victim's character or conduct in conformity with that character;
- Rule 610 precludes the admission of evidence of the religious beliefs of a witness to show their credibility is impaired or enhanced.

Giving judges discretion to decide on a case-by-case basis that excited delirium is a valid medical diagnosis or cause of death and should be admitted into evidence, is akin to allowing a judge to admit evidence that a Defendant in a civil case has \$25 million in insurance or offered to pay for the Plaintiff's medical expenses so should be held liable at trial; a Defendant offered to settle the case during mediation and so should be held liable at trial; a rape victim behaved in what the court views as a sexually promiscuous manner in the past, and therefore was not really raped during the incident in question; a criminal Defendant offered to plea to a lesser included offense, and therefore is criminally culpable and should be held guilty; or a witness is more (or less) credible because he or she is a born-again Christian or is Buddhist, Catholic, Hindu, Jewish, or Muslim.

In addition, it is not practical to give judges "case-by-case" discretion to decide that excited delirium should be included in a medical record or police report. Such a rule would broadly expand the role of the judiciary far beyond its current role, and would create the need for extensive unnecessary litigation requiring judges to review police reports and medical records to decide whether they think excited delirium appropriately applies in a particular situation.

As for the removal of "hyperactive delirium, agitated delirium, and exhaustive mania" from the definition of "excited delirium" in SB 228 SD 1, those alternate terms were in the bill when it was introduced because the proponents of excited delirium use those terms interchangeably to describe the theory. SB228 SD 1 makes it easy for Axon Enterprise (the manufacturer of Tasers) and its defense experts to continue to promote excited delirium in your State. The alternate names for excited delirium are in California's law and in HB 36 HD 2, and necessary in any excited delirium legislation, because proponents of the theory use those other terms interchangeably. They say a person was in excited

delirium, or had Excited Delirium Syndrome, or was in agitated delirium, hyperactive delirium, or exhaustive mania. So, if you just prohibit the use of the term “excited delirium,” they can still use the junk science defense by calling it agitated delirium, hyperactive delirium, or exhaustive mania, as they have done for years.

For example, I deposed Dr. Charles Wetli, who invented the theory of excited delirium, in one of my restraint asphyxia cases. Dr. Wetli testified under oath:

“Question: Well, you never used the words excited delirium anywhere in your report, did you, Doctor?”

Answer: I think I did. I think I may have called it agitated delirium. It’s the same thing.”

“Question: I have looked at your CV, and sometimes you call it excited delirium and sometimes you call it agitated delirium. Which do you prefer?”

Answer: Either one. It depends on the day of the week, I guess. I don’t know. It’s the same thing.”

(Exhibit B, Excerpts of the deposition of Charles v. Wetli, M.D. in *Martin Harrison, Deceased, et al. v. County of Alameda, et al.*, N.D. Cal. Case No. C11-2868 JST, 1/15/14, pp. 68:24-69:5, 184:16-22).

Finally, proponents of excited delirium have used the theory to promote racist tropes for decades. For example, Dr. Wetli stated in 1990 that seventy percent of people who die of excited delirium were Black men and “it may be genetic.” (Russ Rymer, “Murder Without a Trace,” *In Health*, May/June 1990). Proponents of excited delirium claim that a person in excited delirium is “impervious to pain” and has “superhuman strength,” racist stereotypes used against not only African-Americans, but also Native Hawaiians and Samoans. As stated previously, Sheldon Haleck was Native Hawaiian and Samoan. The people of Hawai'i deserve to be free of this junk science.

Today is the 10th anniversary of Sheldon’s fatal contact with Honolulu Police officers. Sheldon’s parents have no recourse in their own case, but now advocate for the passage of excited delirium legislation, to protect other families. I very respectfully ask you to honor Sheldon and give him and his ‘ohana the respect they deserve, by amending SB 228 SD1 to match HB 36 HD 2, so the law will be effective. Mahalo nui loa for your time.

Sincerely,



Julia Sherwin

EXHIBIT A

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."

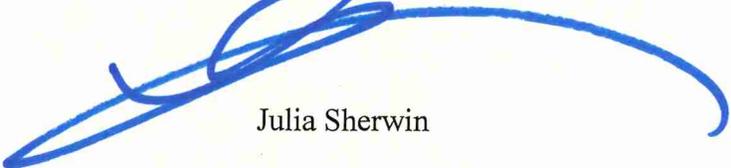
I just deposed ACEP member Gary Vilke last week for the third time, in my restraint asphyxia case *Mario Gonzalez, Deceased, v. City of Alameda*. Dr. Vilke admitted he has been a defense expert in at least 50 to 75 restraint asphyxia cases, and possibly even more than 100 cases. He admitted that by the 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.

EXHIBIT B

UNITED STATES DISTRICT COURT
 FOR THE NORTHERN DISTRICT OF CALIFORNIA
 -----x
 M.H., a minor, through his Guardian Ad :
 Litem, Michelle Henshaw, JOSEPH HARRISON, :
 KRYSTLE HARRISON, MARTIN HARRISON, JR., :
 and TIFFANY HARRISON, all Individually :
 and as Co-Successors in Interest of :
 Decedent MARTIN HARRISON, :
 :
 Plaintiffs, :
 :
 vs. :
 :
 COUNTY OF ALAMEDA, a municipal :
 corporation; SHERIFF GREGORY J. AHERN, :
 in his individual and official :
 capacities; DEPUTIES MATTHEW AHLF, :
 ALEJANDRO VALVERDE, JOSHUA SWETNAM, :
 ROBERTO MARTINEZ, ZACHARY LITVINCHUK, :
 RYAN MADIGAN, MICHAEL BARENO, FERNANDO :
 ROJAS-CASTANEDA, SHAWN SOBRERO, SOLOMON :
 UNUBUN; MEGAN HAST, A.S.W.; CORIZON :
 HEALTH, INC., a Delaware corporation; :
 HAROLD ORR, M.D.; ZELDA SANCHO, L.V.N.; :
 and DOES 5-20, individually, jointly :
 and severally, :
 :
 Defendants. :
 :
 -----x
 VIDEOCONFERENCE and TELEPHONIC DEPOSITION of
 CHARLES V. WETLI, M.D., taken by Plaintiffs at the
 offices of Fink & Carney Reporting, 39 West 37th
 Street, New York, New York, on Wednesday, January 15,
 2014, commencing at 1:09 p.m., before Leah Allbee, a
 Registered Professional Reporter and Notary Public
 within and for the State of New York.

1 C. Wetli, M.D.
 2 CHARLES V. WETLI, M.D.,
 3 called as a witness, having been first
 4 duly sworn by Leah Allbee, a Notary
 5 Public within and for the State of New
 6 York, was examined and testified as
 7 follows:
 8 EXAMINATION
 9 BY MS. SHERWIN:
 10 Q Doctor, we met briefly off the
 11 record. My name is Julia Sherwin, and I'm one
 12 of the attorneys who represents the adult
 13 children of Martin Harrison in this case.
 14 I take it you have been deposed
 15 many times before, right?
 16 A Correct.
 17 Q So is it fair to say I don't need
 18 to go over the rules with you?
 19 A That's correct.
 20 Q Okay. Now, the Deposition Notice
 21 asked you to bring your complete file, and I
 22 understand from you off the record that you have
 23 done that, correct?
 24 A Correct.
 25 MR. ANDRADA: Madam

1
 2 APPEARANCES:
 3 HADDAD & SHERWIN
 4 Attorneys for Plaintiffs
 5 505 Seventeenth Street
 6 Oakland, California 94612
 7 BY: JULIA SHERWIN, ESQ.
 8 - and -
 9 GENEVIEVE K. GUERTIN, ESQ.
 10 (Via videoconference)
 11 ANDRADA & ASSOCIATES
 12 Attorneys for Defendants
 13 County of Alameda, Sheriff Gregory J.
 14 Ahern, Deputies Matthew Ahlf,
 15 Alejandro Valverde, Joshua Swetnam,
 16 Roberto Martinez, Zachary Litvinchuk,
 17 Ryan Madigan, Michael Bareno, Fernando
 18 Rojas-Castaneda, Shawn Sobrero,
 19 Solomon Unubun and Megan Hast, A.S.W.
 20 180 Grand Avenue, Suite 225
 21 Oakland, California 94612
 22 BY: J. RANDALL ANDRADA, ESQ.
 23 VALERIE LY, ESQ.
 24 (Via Videoconference)
 25 LAW OFFICES OF NANCY E. HUDGINS
 Attorneys for Defendants Corizon
 Health, Inc. and Harold Orr, M.D.
 711 Van Ness Avenue, Suite 450
 San Francisco, California 94102
 BY: NANCY E. HUDGINS, ESQ.
 (Via Videoconference)
 WILLIAMS & ASSOCIATES
 Attorneys for Defendant
 Zelda Sancho, L.V.N.
 1250 Sutterville Road, Suite 290
 Sacramento, California 95822
 BY: KATHLEEN J. WILLIAMS, ESQ.
 (Via Telephone)

1 C. Wetli, M.D.
 2 Reporter, the record should reflect
 3 that Nancy Hudgins has just come
 4 into the room.
 5 MS. HUDGINS: Hi, everyone.
 6 MS. SHERWIN: Hi, Nancy.
 7 Q I will just go through your
 8 report. And I would like to mark a few of the
 9 items in your report but not the whole report,
 10 okay?
 11 A Fine.
 12 Q You have a CD in here in which you
 13 have put my business card in the front. But
 14 what did the CD contain?
 15 A There are two CDs there actually.
 16 One CD is of the autopsy photographs and the
 17 other CD are photographs predominantly of the
 18 scene and Mr. Harrison in the hospital.
 19 Q Okay. In your report or in your
 20 file, you have -- are you able to see the items
 21 as I list them from here?
 22 A Sure.
 23 Q You have your report dated
 24 October 22, 2013. And then I will just pull out
 25 from your report the documents that I would like

1 C. Wetli, M.D.
2 MS. SHERWIN: Kathleen, can
3 you hear him now?
4 THE WITNESS: Did we lose
5 Kathleen?
6 MS. SHERWIN: When I moved
7 the phone, did it disconnect her?
8 Yes, it must have. Let's take a
9 quick break.
10 We are just going to go off
11 the record for a second.
12 (Discussion off the record.)
13 (Whereupon, at 2:20 p.m., a
14 recess was taken to 2:28 p.m.)
15 (The deposition resumed with
16 all parties present.)
17 CHARLES WETLI, M.D., resumed and
18 testified further as follows:
19 MS. SHERWIN: Could you read
20 back the last question and answer?
21 (The record was read.)
22 BY MS. SHERWIN:
23 Q Doctor, can you point me to any
24 peer-reviewed medical literature that would
25 support your testimony that Martin Harrison had

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1 C. Wetli, M.D.
2 excited delirium?
3 A Basically, yes. He's got -- there
4 are a number of articles written on excited
5 delirium and its various causes, and he exhibits
6 all of the characteristic ones, starting with
7 descriptions of it going back to 1840 basically.
8 Q Can you point me to any specific
9 peer-reviewed medical journal articles that I
10 could go look up?
11 A The one I wrote in the
12 Encyclopedia of Forensic and Legal Medicine on
13 excited delirium.
14 Q When was that?
15 A It's in my CV. It would be -- I
16 think the publication is like around No. 113 or
17 something like that.
18 Q Okay. Anything else?
19 A Well, in there you will see a
20 bunch of references otherwise to excited
21 delirium, the characteristics of it.
22 Q Now, Mr. Harrison's presentation,
23 regardless of whether you call it excited
24 delirium, is completely consistent with delirium
25 tremens as a result of alcohol withdrawal,

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1 C. Wetli, M.D.
2 correct?
3 A Well, let's put it this way:
4 Excited delirium never -- is never a diagnosis
5 by itself. It's always due to something. In
6 this case we would say that excited delirium is
7 due to alcohol withdrawal. Whether you choose
8 to call it a variant of excited -- of delirium
9 tremens or not I think is getting into
10 semantics.
11 He has all of the signs and
12 symptoms of excited delirium. The cause for it
13 happens to be alcohol withdrawal. And the usual
14 alcohol withdrawal syndrome that are seen with
15 people hallucinating and so forth is called
16 delirium tremens.
17 It's not the only alcohol
18 withdrawal syndrome, but it's the one with
19 hallucinations that we call delirium tremens.
20 Q Are you aware that Dr. DiMaio
21 classifies death when a person -- when he views
22 someone as having died while they had excited
23 delirium during restraint as homicides?
24 A Yes, I am aware of that. I also
25 don't agree with him.

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1 C. Wetli, M.D.
2 Q But if, in fact, Martin Harrison
3 had excited delirium and died in connection with
4 his restraint, Dr. DiMaio would say that's a
5 homicide, right?
6 A I understand that. My
7 classification is different. I basically call
8 the manner of death dependent upon the cause of
9 the excited delirium.
10 In other words, if the cause of
11 the excited delirium is bipolar disorder or
12 schizophrenia, it's a natural death.
13 Q Well, if Mr. Harrison -- we agree,
14 don't we, Doctor, that if Mr. Harrison had just
15 had delirium tremens and was left alone in his
16 cell, he more likely than not would not have
17 died, right?
18 A Unless it is the excited delirium
19 variety of it, in which case then there is a
20 higher chance of him dying. I think to lump
21 this as excited delirium due to alcohol
22 withdrawal as the usual case of delirium tremens
23 is confusing the issue.
24 Q Well, you never used the words
25 excited delirium anywhere in your report, did

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1 C. Wetli, M.D.
2 you, Doctor?
3 A I think I did. I think I may have
4 called it agitated delirium. It's the same
5 thing.
6 Q You said on occasion the victim of
7 delirium tremens can become agitated and
8 violent, which is what appears to have occurred
9 with Mr. Harrison, right?
10 A I'm sorry. Repeat that. I was
11 looking --
12 Q You said, quote, "On occasion the
13 victim of delirium tremens can become agitated
14 and violent, which is what appears to have
15 occurred with Mr. Harrison," end quote, correct?
16 A Correct. But in the final
17 paragraph of my letter, if I may quote, "It is
18 therefore my opinion to a reasonable degree of
19 medical certainty that Mr. Martin Harrison died
20 from the metabolic complications of agitated
21 delirium due to delirium tremens that was a
22 consequence of his alcoholism."
23 Q So he had delirium tremens that
24 manifested with agitation, right?
25 A Exactly.

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1 C. Wetli, M.D.
2 Q And that's what killed him, right?
3 A Exactly.
4 Q You are aware that TASER warns
5 police officers against the prolonged or
6 repeated application of the taser, right?
7 A Yes.
8 Q It also warns officers against
9 using the taser on a metabolically compromised
10 person, right?
11 A I believe that's correct, yes.
12 Q And a person who is in delirium
13 tremens with agitation is metabolically
14 compromised; is that right?
15 A Correct.
16 Q Is a person who is in tachycardia
17 at an increased risk of going into cardiac
18 arrest?
19 A In and of itself, no.
20 Q Does a person who is in
21 tachycardia have an increased need for oxygen?
22 MR. ANDRADA: Objection.
23 Vague and ambiguous, overly broad.
24 A It would depend upon the degree of
25 tachycardia.

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1 C. Wetli, M.D.
2 Q So let's say if the person had
3 tachycardia with a heart rate over 120 beats per
4 minute, would that person have an increased need
5 for oxygen?
6 A I would --
7 MR. ANDRADA: Objection.
8 Vague and ambiguous, overly broad.
9 A I would presume that is correct,
10 but there are better people to answer that
11 question for you, like a pulmonologist,
12 cardiologist or exercise physiologist.
13 But I know myself when I have a
14 heart rate of 120 on a treadmill that I have an
15 increased need of oxygen, yes.
16 Q Rhabdomyolysis, is that how it's
17 pronounced?
18 A Rhabdomyolysis, correct.
19 Q That's breakdown of skeletal
20 muscle, right?
21 A That's correct.
22 Q And you saw evidence of that
23 somewhere in your review in this case, correct?
24 A Correct.
25 Q Where did you see evidence of it?

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1 C. Wetli, M.D.
2 A It's in the medical records and
3 manifested by -- in the progress notes, they
4 talk about it and the complications, patient
5 complications. It's noted there. And also
6 the -- certain enzyme elevations are very high,
7 typical for rhabdomyolysis.
8 Q Which enzyme elevations?
9 A Creatine phosphokinase, CPK.
10 Q Can you --
11 A Or creatine kinase.
12 Q Creatine --
13 A Creatine kinase.
14 Q Rhabdomyolysis can be caused by
15 muscle trauma, right?
16 A It can be, yes.
17 Q It can also be caused by physical
18 torture?
19 A It depends on --
20 MR. ANDRADA: Objection.
21 Vague and ambiguous as to what you
22 mean by torture.
23 A It depends on the type of torture.
24 Q Torture that causes any muscle
25 damage can cause rhabdomyolysis, right?

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1 C. Wetli, M.D.
2 her and Dr. Davis reclassified that autopsy as a
3 homicide, right?
4 A He reclassified a lot of them,
5 including skeletal remains, as homicide by
6 undetermined means.
7 Q Dr. Davis said in some cases the
8 women had been clearly asphyxiated and he said,
9 quote, "you could stand 10 feet away, it's that
10 clear," end quote; isn't that right?
11 A That's what he said. It's not
12 true, but that's what he said.
13 Q You disagree with Dr. Davis'
14 decision?
15 A Oh, yes.
16 Q Is Dr. Davis still alive?
17 A No. He died about a year ago.
18 MS. SHERWIN: So let's just
19 take a quick break. I might be
20 done. I'm just trying to get into
21 my notes here on my computer.
22 (Whereupon, at 4:41 p.m., a
23 recess was taken to 4:48 p.m.)
24 (The deposition resumed with
25 all parties present.)

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1 C. Wetli, M.D.
2 CHARLES V. WETLI, M.D.,
3 resumed and testified further as follows:
4 MS. SHERWIN: I have no
5 further questions. Thank you,
6 Doctor.
7 EXAMINATION
8 BY MS. HUDGINS:
9 Q Hi, Doctor.
10 A Hi.
11 Q I'm Nancy Hudgins. I represent
12 the medical folks at the jail except for Nurse
13 Sancho.
14 Can you hear me?
15 A Yes.
16 Q Let me bring this a little closer.
17 Is that a little bit better?
18 A Good. Thank you.
19 Q Thank you. So I was curious about
20 the number of cases you have looked at where
21 lawyers have asked you to review a case and in
22 which you have opined that the cause of death
23 was excited delirium?
24 A Okay. I'm not sure what your
25 question is.

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1 C. Wetli, M.D.
2 Q So how many cases have you
3 actually looked at in a medical-legal context
4 where a lawyer has retained you and you have had
5 the opinion that the cause of death was excited
6 delirium?
7 A Quite a few. I never really
8 counted them, but it would be quite a few of
9 them. A hundred would not surprise me.
10 Q How many of those cases were
11 referred to you by plaintiffs' lawyers?
12 A I really can't think of any --
13 offhand, I can't think of any that were referred
14 by plaintiffs' lawyers. There may have been one
15 or two along the lines, but usually it's going
16 to be a defense counsel.
17 Q Okay. For the hundred or so cases
18 that you looked at, how many involved alcohol as
19 opposed to other stimulants?
20 A Well, alcohol is not a stimulant,
21 but --
22 Q So noted. Sorry. I will withdraw
23 it and let me ask you a better question maybe.
24 A Okay.
25 Q Of the hundred or so cases that

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1 C. Wetli, M.D.
2 you have reviewed for lawyers in which you have
3 determined that the cause of death was excited
4 delirium, how many of them involved alcohol?
5 A I think only one that I can think
6 of offhand.
7 Q What case was that?
8 A I can't remember offhand.
9 Q When did you have that opinion?
10 A You know, I can't remember. I
11 remember I had one other case where it was
12 alcohol withdrawal and resulting in excited
13 delirium, and I can't remember where or when it
14 was or anything like that. I just remember I
15 had one and that was it. It was very unusual.
16 Q I have looked at your CV, and
17 sometimes you call it excited delirium and
18 sometimes you call it agitated delirium. Which
19 do you prefer?
20 A Either one. It depends on the day
21 of the week, I guess. I don't know. It's the
22 same thing.
23 Q How many times have you testified
24 in federal court regarding excited delirium?
25 A Again, I have that on my Rule 26,

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SB-228-SD-1

Submitted on: 3/16/2025 10:12:30 PM

Testimony for HLT on 3/19/2025 9:05:00 AM

Submitted By	Organization	Testifier Position	Testify
Ilima DeCosta	Hui Malama Pono Hawai'i	Support	In Person

Comments:

Mahalo to the Chair, Vice Chair and Committee members for allowing me to testify in support of SB228 SD1, which would prohibit the use of junk science in the reporting of death by any Department of Health employee.

While I appreciate the attention that the Senate has paid to the language, by removing language intended to preserve victims rights in the rules of evidence, I respectfully request that SB228 SD1 be amended to match the House excited delirium bill, HB36 HD2.

SB228 SD1 does not prohibit evidence of excited delirium from civil actions. This needs to be corrected.

The only people SB228 SD1 prohibits from documenting or testifying about excited delirium are Department of Health employees. This renders the measure inadequate and does not protect persons in the custody of the state or its agents from being discriminated with the use of junk science or non scientific phraseology.

In its current version SB228 SD1 allows people to keep using excited delirium by just changing the name to agitated delirium or hyperactive delirium.

Without amendment of the bill, people can still use excited delirium as an excuse for people's deaths in Hawai'i. HB36 HD2 is an effective bill and does not have these weaknesses.

Unfortunately, SB228 SD1 crossed over 20 minutes prior to HB36 SD1 and therefore we are obliged to settle for a hearing on just one of companion bills.

Please amend SB228 SD1 to match your House bill that already passed the House, and please refer the amended version of SB228 on to the Judiciary for a hearing.

Mahalo



SUPPORT FOR SB 228– A Bill That Will Prohibit the Use of Excited Delirium
Written Testimony-National Police Accountability Project, Lauren Bonds, Executive
Director
Hawaii House Health Committee – Wednesday, March 19, 2025

Dear Members of this Committee,

On behalf of the National Police Accountability Project (“NPAP”), we write to urge you to support SB 228, a bill that will would prohibit: (1) excited delirium from being recognized as a valid cause of death; (2) peace officers from using the term “excited delirium” when describing an individual in an incident report; and (3) using the term excited delirium to describe a person as part of an affirmative defense in a civil wrongful death action. SB 228 will help reduce the use of the unscientific, racist theory excited delirium to justify law enforcement violence and hinder accountability. However, NPAP respectfully urges this committee to amend the bill to expressly: (1) prohibit the use of alternative terms such as “agitated delirium” or “exhaustive mania”; and (2) prohibit all employees of the government from using excited delirium and related terms.

NPAP is a nonprofit organization dedicated to holding law enforcement and corrections officers accountable to constitutional and professional standards. We have hundreds of members across the country, including members in Hawaii, who regularly represent the loved ones of people who have been killed in police or prison custody. In many of our clients’ cases, officers and their legal defense teams claim that their loved ones died due to “excited delirium” rather than the obvious consequences of excessive force. Moreover, many officers attempt to justify their continued use of deadly force because our clients’ loved ones were in a “state of excited delirium.” For instance, the officers that killed George Floyd cited excited delirium as a defense in his criminal case and his colleagues referenced it at the scene of the crime.¹

¹ Steve Karnowski, *EXPLAINER: Why ‘excited delirium’ came up in at Chauvin trial?* Associated Press, Apr. 19, 2021, <https://apnews.com/article/health-death-of-george-floyd-trials-george-floyd-3b60b3930023a2668e7fc63f903fc3aa>.

Similarly, the City of Aurora cited excited delirium to justify the use of a prolonged stranglehold against Elijah McClain.²

“Excited delirium” is a condition that lacks clear diagnostic criteria and is almost exclusively cited as a cause of death in cases where a person was killed by law enforcement officers.³ There is no consensus about the definition of excited delirium in medical literature or surveyed clinicians.⁴ Even the shrinking community of proponents of excited delirium concede that it is a “diagnosis of exclusion,” or a potential explanation for deaths “when there are no other explanations.”⁵ Unsurprisingly, a recent report by Harvard University and University of Michigan doctors found that the syndrome is “scientifically meaningless,” not a proper medical diagnosis, and should not be cited as a cause of death.⁶

Courts across the country have also raised doubts about excited delirium in law enforcement death cases questioning the syndrome’s scientific validity and an officer’s ability to determine whether a person was in a state of excited delirium.⁷ Accordingly, the restrictions proposed by SB 228 would be consistent with how many courts already treat cause of death findings of excited delirium and officer statements claiming a person was suffering from the syndrome.

² *Id.*

³ *Excited Delirium and Deaths in Police Custody: The Deadly Impact of a Baseless Diagnosis*, Physicians for Human Rights, March 2, 2022, https://phr.org/our-work/resources/excited-delirium/?CID=701f40000018pCHAAY&ms=FY20_SEM_GoogleAd&gclid=CjwKCAiAg6yRBhBNEiwAeVyL0MLe0cfsU9OOQ2h3yxBloHm8vQxxSa5IeE5YWqTx6rS4avOGK2F0UhoCtpwQAvD_BwE.

⁴ *Id.*

⁵ Eric Dexheimer and Jeremy Schwartz, *In fatal struggles with police, a controversial killer is often blamed*, Austin American-Statesman, May 27, 2017, <https://www.statesman.com/news/20170527/in-fatal-struggles-with-policecontroversial-killer-is-often-blamed>.

⁶ *Supra.*, Note 3

⁷ *Lombardo v. St. Louis City*, 141 U.S. 2239 (2021); *Morad v. City of Long Beach*, 2017 WL 5187826 (C.D. Cal. 2017); *Estate of Berger v. Spokane County*, 2017 WL 5639939 (W.D. Wash.); *Pedro v. Town of West Warwick ex rel. Moore*, 889 F.Supp.2d 292 (D.R.I. 2012).



In addition to the problems of scientific validity, excited delirium is rooted in racial stereotypes and has been disproportionately applied in deaths of Black men. The most commonly cited symptoms of people experiencing “excited delirium” are imperviousness to pain and superhuman strength, characteristics that have been baselessly attributed to Black people to justify abuse and mistreatment dating back to slavery.⁸ Additionally, Black people were overrepresented in a study of in-custody deaths where excited delirium was cited as a cause of death.⁹

Respectfully, the current version of the bill does require amendments to have its intended effect and limit injustice. First, the bill should be amended to restrict all terms that are commonly used interchangeably with the term “excited delirium” including but not limited to “hyperactive delirium, agitated delirium, and exhaustive mania.” Second, the bill should be amended to prevent all government employees from using these problematic terms, including hired experts.

SB 228—with the proposed amendments so the bill matches HB 36 HD 2—would place meaningful restrictions on law enforcement’s ability to avoid accountability and perpetuate racist stereotypes about victims of police violence We strongly urge you to pass this bill. If you have any questions, please do not hesitate to contact Lauren Bonds at legal.npap@nlg.org or (620) 664-8584.

Sincerely,

Lauren Bonds
National Police Accountability Project

⁸ *Examining the Myth of the ‘Superhuman’ Black Person*, NPR, Nov. 30, 2014, <https://www.npr.org/2014/11/30/367600003/examining-the-myth-of-the-superhuman-black-person>.

⁹ Julia Jones, *Authorities claimed these Black men had excited delirium just before they died*. CNN, March 12, 2022, <https://www.cnn.com/2022/03/12/us/excited-delirium-police-deaths-study/index.html>.



Committee: House Committee on Health
Hearing Date/Time: Wednesday, March 19, 2025 at 9:05am
Place: Conference Room 329 & Via Videoconference
Re: Testimony of the ACLU of Hawai'i in SUPPORT of SB228 SD1
Relating to Excited Delirium

Dear Chair Takayama, Vice Chair Keohokapu-Lee Loy, and Committee Members:

The ACLU of Hawai'i **supports SB228 SD1 with amendments**, 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 in its original formulation, (3) made 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,” SB228 SD1 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>.

The ACLU of Hawai‘i proposes three amendments to ensure that “excited delirium” is not used to block accountability for families in the future:

- Section 1: in adding a new section in Chapter 338 of the Hawai‘i Revised Statutes, add the following language (as already reflected in the House companion bill, HB36):
 - (d) A state or county government entity, or employee or contractor of a state or county government entity, shall not document, testify to, or otherwise use in any official capacity or communication excited delirium as a recognized medical diagnosis or cause of death.

This would foreclose the ability of serial defense experts (like those mentioned above), who are often contracted by state/county government entities, to keep submitting expert reports and testifying about “excited delirium”—which is precisely what happened in Sheldon’s case.

In addition, the Senate Committees on Health and Human Services and Public Safety and Military Affairs removed critical provisions in SB228 SD1, and the ACLU of Hawai‘i is proposing that the language be added back in.

- Section 1: add the following language to the definition of “excited delirium”:
 - Excited delirium includes but is not limited to excited delirium syndrome, hyperactive delirium, agitated delirium, and exhaustive mania.

This language will prevent parties from easily circumventing SB228 SD1 by having police officers, medical examiners, and other witnesses use terminology that has long been used interchangeably with “excited delirium.”

- Section 3: re-insert language adding a new rule of evidence to Chapter 626-1 prohibiting the use of “excited delirium” evidence in civil cases.
 - (a) Evidence that a person suffered or experienced excited delirium shall not be admitted in any civil action.
 - (b) A party or witness may describe the factual circumstances surrounding the case, including a person's demeanor, conduct, and physical and mental condition at issue, but shall not describe or diagnose the demeanor, conduct, or condition as excited delirium, or attribute the demeanor, conduct, or physical and mental condition to excited delirium.
 - (c) As used in this rule, "excited delirium" means a term used to describe 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. Excited delirium includes but is not limited to excited delirium syndrome, hyperactive delirium, agitated delirium, and exhaustive mania.

The ACLU of Hawai‘i asserts that the prohibition on using evidence about “excited delirium” in civil cases is the very heart of SB228 SD1, as it is the use of “junk science” in civil cases that deprives families of closure and allows law enforcement officers to evade accountability. While the Hawai‘i Rules of Evidence (HRE), HRS Chapter 626-1, includes guidance for courts about the admissibility of medical testimony, that guidance is discretionary. *See, e.g.*, HRE 702 (“[T]he court *may* consider the trustworthiness and validity of the scientific technique or mode of analysis employed by the proffered expert” (emphasis added)); *State v. Vliet*, 95 Haw. 94, 107, 19 P.3d 42, 55 (2001) (“Rule 702 grants the [trial] judge the discretionary authority, reviewable for its abuse, to determine reliability in light of the particular facts and circumstances of the particular case.” (quotation marks and citation omitted)). The reality is, evidence about “excited delirium” *has* been admitted in courts, despite the fact that it is not recognized as a valid medical diagnosis. Accordingly, the ACLU of Hawai‘i believes that an explicit prohibition on the use of such evidence is necessary.

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

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.

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SB-228-SD-1

Submitted on: 3/15/2025 8:30:53 AM

Testimony for HLT on 3/19/2025 9:05:00 AM

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

Comments:

"Excited Delirium" has been discredited as a legitimate Medical Diagnosis by multiple National Medical organizations, including the American College of Emergency Physicians, which, until 2023 gave its tentative endorsement. Since then, no official Medical Entity has attributed credibility to this term. A Wrongful Death suit by the Halecks following the death of their son, Sheldon was dismissed on the basis of this term as a diagnosis, and cannot be relitigated, as a result. However, the term, "Excited Delirium" continues to have legitimacy and has resulted in a loss of accountability by law enforcement nationally. Only 4 states have passed legislation to prevent its continued use to justify death in police custody.

I understand that Sheldon Haleck's death in 2015 followed 12 volleys of Pepper Spray, 3 tasings, hand and leg cuffs, and pressure applied to his neck for an extended period. Viewing the original video of his arrest reveals that he was apprehended with hands raised, with a non-threatening body habitus. Incredibly, the reasoning for his subsequent death was "Excited Delirium", which has been recognized as a non-entity.

It is time for Hawaii to join this effort to restore trust in our law enforcement agencies by eliminating the use of "Excited Delirium" to avoid accountability. As a Board Certified Physician after 37 years of practice in the State of Hawaii, I urge passage of SB 228_SD1 and necessary ammendments to eliminate use of the term "Excited Delirium".

SB-228-SD-1

Submitted on: 3/15/2025 8:38:38 AM

Testimony for HLT on 3/19/2025 9:05:00 AM

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

Comments:

I fully support SB228_SD1 to ban the term 'excited delirium' from being used in the State of Hawaii. I ask this committee to please add the necessary amendments to SB228_SD1 so that this bill will protect other families in Hawaii from suffering the same fate as the Haleck family. 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 SB228_SD1 and I ask that you take this testimony into consideration. I thank you for the opportunity to testify.

SB-228-SD-1

Submitted on: 3/15/2025 8:40:56 AM

Testimony for HLT on 3/19/2025 9:05:00 AM

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

Comments:

I strongly support SB228_SD1, 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. I ask this committee to please make amendments to this bill to help protect other families in 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 SB228_SD1 and I ask that you take this testimony into consideration. I thank you for the opportunity to testify.

SB-228-SD-1

Submitted on: 3/15/2025 9:10:11 AM

Testimony for HLT on 3/19/2025 9:05:00 AM

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

Comments:

I fully support SB228_SD1 to ban the term 'excited delirium' from being used in the State of Hawaii. I ask this committee to please add the necessary amendments to SB228_SD1 so that this bill will protect other families in Hawaii from suffering the same fate as the Haleck family. 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 SB228_SD1 and I ask that you take this testimony into consideration. I thank you for the opportunity to testify.

SB-228-SD-1

Submitted on: 3/15/2025 9:15:18 AM

Testimony for HLT on 3/19/2025 9:05:00 AM

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

Comments:

March 15, 2025

I am Verdell Haleck and I strongly support SB228 SD1, Relating to Excited Delirium and I please ask if amendments can be made to this bill so it can be identical to HB36 HD2 which was previously passed by your House Health Committee and also by the House Judiciary and Hawaiian Affairs Committee before it was denied a hearing by the Senate HHS, since only one bill with the same subject matter is conferred on. HB36 HD2 has the perfect language like California's bill and it did not require amendments.

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. 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 on March 17, 2015. 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 while the victim is in a prone position 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 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. This injustice is

what spurred our desire for change with the introduction of SB228_SD1, Relating to Excited Delirium.

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, Minnesota and New York. 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 again for your time and I humbly ask for your support to pass SB228_SD1, Relating to Excited Delirium with amendments so it will be exactly like HB36-HD2 which your committee passed in an earlier hearing. 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

SB-228-SD-1

Submitted on: 3/15/2025 10:11:22 AM

Testimony for HLT on 3/19/2025 9:05:00 AM

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

Comments:

March 15, 2025

I strongly support SB228 SD1, 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. I humbly ask if SB228 SD1 could be amended to be exactly like HB36 HD2 which has the perfect language based on recently enacted legislation in California that passed with '113' Yes votes and '1' No vote.

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 from 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. 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 pepper sprayed, or tased, or from the excessive use of force by the police but Sheldon 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, but we hope that no other family shall suffer the heartbreak and disappointment from being denied justice because of that term "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 us to ask for change by the introduction of SB228_SD1, 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 again for your time and I humbly ask for your support to pass SB228_SD1, Relating to Excited Delirium with amendments to be exactly like HB36 HD2 which has the perfect language and which was previously passed in your Health Committee hearing. 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

SB-228-SD-1

Submitted on: 3/15/2025 12:21:18 PM

Testimony for HLT on 3/19/2025 9:05:00 AM

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

Comments:

I strongly support SB228 SD1 , 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. I ask this committee to please make amendments to this bill to help protect other families in 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

SB-228-SD-1

Submitted on: 3/15/2025 6:46:10 PM

Testimony for HLT on 3/19/2025 9:05:00 AM

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

Comments:

I fully support SB228_SD1 to ban the term ‘excited delirium’ from being used in the State of Hawai‘i. I ask this committee to please add the necessary amendments to SB229_SD1 so that this bill will protect other families in Hawai‘i from suffering the same fate as the Haleck family. 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 SB228_SD1 and I ask that you take this testimony into consideration. I thank you for the opportunity to testify.

Mahalo,

Chanelle Taimani Haleck

SB-228-SD-1

Submitted on: 3/16/2025 10:02:20 AM

Testimony for HLT on 3/19/2025 9:05:00 AM

Submitted By	Organization	Testifier Position	Testify
Angela Haleck-Roberts	Individual	Support	Written Testimony Only

Comments:

I fully support SB228_SD1 to ban the term 'excited delirium' from being used in the State of Hawaii. I ask this committee to please add the necessary amendments to SB228_SD1 so that this bill will protect other families in Hawaii from suffering the same fate as the Haleck family. 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 SB228_SD1 and I ask that you take this testimony into consideration. I thank you for the opportunity to testify.

SB-228-SD-1

Submitted on: 3/16/2025 10:07:39 AM

Testimony for HLT on 3/19/2025 9:05:00 AM

Submitted By	Organization	Testifier Position	Testify
Angelina Roberts	Individual	Support	Written Testimony Only

Comments:

I fully support SB228_SD1 to ban the term 'excited delirium' from being used in the State of Hawaii. I ask this committee to please add the necessary amendments to SB228_SD1 so that this bill will protect other families in Hawaii from suffering the same fate as the Haleck family. 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 SB228_SD1 and I ask that you take this testimony into consideration. I thank you for the opportunity to testify.

SB-228-SD-1

Submitted on: 3/16/2025 10:08:22 AM

Testimony for HLT on 3/19/2025 9:05:00 AM

Submitted By	Organization	Testifier Position	Testify
Brianna Roberts	Individual	Support	Written Testimony Only

Comments:

I fully support SB228_SD1 to ban the term 'excited delirium' from being used in the State of Hawaii. I ask this committee to please add the necessary amendments to SB228_SD1 so that this bill will protect other families in Hawaii from suffering the same fate as the Haleck family. 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 SB228_SD1 and I ask that you take this testimony into consideration. I thank you for the opportunity to testify.

SB-228-SD-1

Submitted on: 3/16/2025 3:52:07 PM

Testimony for HLT on 3/19/2025 9:05:00 AM

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

Comments:

I strongly support SB228_SD1, 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. I ask this committee to please make amendments to this bill to help protect other families in 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.

SB-228-SD-1

Submitted on: 3/16/2025 4:00:51 PM

Testimony for HLT on 3/19/2025 9:05:00 AM

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

Comments:

I strongly support SB228_SD1, 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. I ask this committee to please make amendments to this bill to help protect other families in 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.

SB-228-SD-1

Submitted on: 3/16/2025 8:39:04 PM

Testimony for HLT on 3/19/2025 9:05:00 AM

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

Comments:

March 16, 2025

Aloha, Ladies & Gentlemen of the Health Committee:

My name is Carmael Stagner, and I am submitting testimony in SUPPORT of SB 228.

10 years ago at around the time I write this testimony, on this very night, our kid brother, Sheldon Haleck was killed as he jaywalked between the Iolani Palace and the King Kamehameha statue,

Please pass this bill to prohibit the use of the term "excited delirium," and all its derivative phrasology that may be disguised as a different animal, but is still a duck.

Sincerely,

Carmael K Stagner

1065 Kawaiahao St 1801

Honolulu, HI 96814

SB-228-SD-1

Submitted on: 3/17/2025 10:32:08 AM

Testimony for HLT on 3/19/2025 9:05:00 AM

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

Comments:

I strongly support SB228_SD1, Relating to Excited Delirium. This bill will ban ‘excited delirium’ or any words related to that term from being used in the State of Hawai‘i. I ask this committee to please make amendments to this bill to help protect other families in Hawai‘i. 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 SB228_SD1 and I ask that you take this testimony into consideration. I thank you for the opportunity to testify.

SB-228-SD-1

Submitted on: 3/17/2025 10:51:56 AM

Testimony for HLT on 3/19/2025 9:05:00 AM

Submitted By	Organization	Testifier Position	Testify
Barbara Polk	Individual	Support	Written Testimony Only

Comments:

Please pass SB228 SD1. Excited Delirium is not a recognized diagnosis; it seems to have been made up by police or others, to cover the killing of certain people. Enough of that! Let's use medical classifications, not false ones!

SB-228-SD-1

Submitted on: 3/17/2025 10:52:08 AM

Testimony for HLT on 3/19/2025 9:05:00 AM

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

Comments:

I support Senate Bill No. 228, S.D. 1, to ban ‘excited delirium’ or any words related to that term from being used in the State of Hawai‘i, in honor of Sheldon Haleck. I ask this committee to please add important amendments to this bill. Thank you for the opportunity to testify.

SB-228-SD-1

Submitted on: 3/17/2025 12:29:05 PM

Testimony for HLT on 3/19/2025 9:05:00 AM

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

Comments:

I strongly support SB228_SD1, 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. I ask this committee to please make amendments to this bill to help protect other families in 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.

SB-228-SD-1

Submitted on: 3/17/2025 1:16:38 PM

Testimony for HLT on 3/19/2025 9:05:00 AM

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

Comments:

I fully support SB228_SD1, Relating to Excited Delirium in honor of Sheldon Haleck. These important amendments need to be added to the Bill to protect Hawaii Families. Hawaii Families have gone through too much Loss and Devastation over a loved who was denied Justice.

I urge the committee to pass SB228_SD1 and I ask that you take this testimony into consideration. I thank you for giving me this opportunity to testify in Sheldon Halecks and in his Families behalf.

SB-228-SD-1

Submitted on: 3/17/2025 6:58:35 PM

Testimony for HLT on 3/19/2025 9:05:00 AM

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

Comments:

I fully support SB228_SD1, Relating to Excited Delirium in honor of Sheldon Haleck so that his death was not in vain. I ask this committee to please add the important amendments to this bill in order to protect another Hawaii family from suffering the heartbreak and disappointment from being denied justice

SB-228-SD-1

Submitted on: 3/18/2025 3:00:23 AM

Testimony for HLT on 3/19/2025 9:05:00 AM

Submitted By	Organization	Testifier Position	Testify
Puanani Kneubuhl	Individual	Support	Written Testimony Only

Comments:

I strongly support SB228_SD1, 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. I ask this committee to please make amendments to this bill to help protect other families in 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.

SB-228-SD-1

Submitted on: 3/18/2025 3:02:48 AM

Testimony for HLT on 3/19/2025 9:05:00 AM

Submitted By	Organization	Testifier Position	Testify
Shiloh Kneubuhl	Individual	Support	Written Testimony Only

Comments:

I strongly support SB228_SD1, 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. I ask this committee to please make amendments to this bill to help protect other families in 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.

SB-228-SD-1

Submitted on: 3/18/2025 3:04:11 AM

Testimony for HLT on 3/19/2025 9:05:00 AM

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

Comments:

I strongly support SB228_SD1, 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. I ask this committee to please make amendments to this bill to help protect other families in 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.

SB-228-SD-1

Submitted on: 3/18/2025 10:41:38 AM

Testimony for HLT on 3/19/2025 9:05:00 AM

Submitted By	Organization	Testifier Position	Testify
William Sword	Individual	Support	Written Testimony Only

Comments:

It is only fair that the public is protected without reservation. I fully support SB228_SD1, Relating to Excited Delirium in honor of Sheldon Haleck so that his death was not in vain. I ask this committee to please add the important amendments to this bill in order to protect another Hawaii family from suffering the heartbreak and disappointment from being denied justice.

I urge the committee to pass SB228_SD1 and I ask that you take this testimony into consideration. I thank you for the opportunity to testify.

SB-228-SD-1

Submitted on: 3/18/2025 10:28:43 PM

Testimony for HLT on 3/19/2025 9:05:00 AM

Submitted By	Organization	Testifier Position	Testify
Haley Meyer	Individual	Support	Written Testimony Only

Comments:

Hello Senators,

My name is Haley Meyer, and I am a Sociology student at the University of Hawai‘i at Mānoa.

I am in strong support of SB 228 SD1, which would prohibit excited delirium from being recognized as a valid medical diagnosis or cause of death in Hawai‘i. According to the American Medical Association, The World Health Organization, DSM 5 (classification system for mental health), the American Psychiatric Association, The National Association of Medical Examiners, the American College of Emergency Physicians, and the American College of Medical Toxicology, excited delirium has no basis in medicine.

Police have used excited delirium to justify the killing of many people across the country. In fact, an Austin-American Statesman investigation discovered that more than one in six people (of 289 total) dying in police custody in Texas from 2005-2007 were attributed to excited delirium. In 2020 in Antioch, California, Bella Quinto-Collins called 911 asking for help when her brother, Angelo Quinto, was agitated and showing signs of a mental health crisis. Police arrived, and his family had to watch as they knelt on Quinto’s back for five minutes until he stopped breathing. Later on, he died in the hospital, and his official cause of death was “excited delirium syndrome.” This hits close to home as a veteran suffering from PTSD, Sheldon Haleck, who was jaywalking by ‘Iolani Palace, was killed.

This bill will prevent many officers from getting away with the deaths of people going through a crisis. Please support this bill.

Mahalo for your time,
Haley Meyer

HOUSE OF REPRESENTATIVES
THE THIRTY-THIRD LEGISLATURE
REGULAR SESSION 2025

COMMITTEE ON HEALTH
Rep. Gregg Takayama, Chair
Rep. Sue L Keohokapu-Loy, Vice Chair

Wednesday, March 19, 2025
9:00 AM, Rm. 329

Re: SB 228, SD1 (SSCR954) Relating to Excited Delirium.

Aloha Representative Takayama and Members of the Health Committee.

My name is Max Sword, writing in support of SB228.

While “Excited Delirium” has been a subject of continued debate in both the medical and legal communities over the years, it has been used consistently as a valid cause of death. While this diagnosis is not a recognized diagnosis by organizations such as the AMA (American Medical Association), it is still used to describe actions of a person yelling or committing any other actions, such as those who were in the military suffering from PTSD (Post-Traumatic Stress Disorder).

This has been used in defense of law enforcement’s action in several cases, such as the death of Sheldon Haleck. This does an injustice to our service personnel, who may be suffering from PTSD and the family who is grieving their loss.

It is easy to use Excited Delirium as a cause of death and should be abolished.

I support the passage of this measure and urge this Committee to move this bill forward.

Mahalo for your consideration.