

ORIGINAL

EXECUTIVE CHAMBERS

HONOLULU

June 10, 1999

STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 300

Honorable Members  
Twentieth Legislature  
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, House Bill No. 300, entitled "A Bill for an Act Relating to the Penal Code."

The purpose of House Bill No. 300 is to create a new offense of assault against a police officer in the first degree. Under this bill, any person who intentionally or knowingly causes bodily injury to a police officer who is engaged in the performance of duty would be guilty of a class C felony. In addition, the bill renames the current offense of "assault against a police officer" to "assault against a police officer in the second degree" and penalizes any person who recklessly causes bodily injury to a police officer engaged in the performance of duty.

The intent of this bill is to enhance the penalty for assaulting a police officer in order to deter suspects who might otherwise escalate encounters with police officers into physical confrontations. However, the practical effect of this bill is the opposite. As passed, this bill creates a situation where a person committing the less serious misdemeanor offense of assault against a police officer in the second degree would receive a penalty of a mandatory thirty days in prison while another person who commits the more serious felony offense of assault against a police officer in the first degree would not. Instead, the convicted felon may receive a sentence of probation without any prison term imposed.

Furthermore, although Senate Standing Committee Report No. 1493 on this bill noted that 359 cases of assaults against

police officers were filed in 1997, it has been reported that the incidents of assaults against police officers have been decreasing. For example, in 1995, there were 372 reported cases of assaults against police officers of the Honolulu Police Department. Two years later in 1997, the number of assault cases involving Honolulu police officers dropped nearly twenty-five percent to 284. I am concerned that, with these significant decreasing figures, the added costs of felony prosecution of such offenses may be an unnecessary additional expenditure.

Moreover, if a significant number of the 359 cases of assaults against police officers are prosecuted as felonies, the circuit courts of Hawaii will be inundated with these felony cases and these cases may severely impact a system already straining to keep up with its responsibilities with respect to defendants charged with violating felony laws. Yet, no additional resources are provided in this bill either to the criminal justice system or to the correctional system to address these additional costs.

In the same vein, the legislative committee reports do not cite to any data that indicate that an enhancement of the penalty from a misdemeanor to a felony would have any real effect on reducing the number of assaults against police officers. Indeed, no data are cited as to whether the current authority to impose a term of imprisonment of up to one year, in conjunction with the thirty days mandatory imprisonment, would not provide an adequate and sufficient deterrent effect.

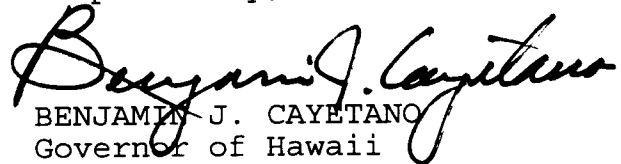
Additionally, this bill will set the threshold trigger in the felony assault against a police officer to only require "bodily injury" to a police officer. We all recognize that police officers are our front-line protection against crime and are called upon to handle volatile situations. However, this bill will allow a felony prosecution when a police officer suffered the slightest pain during an arrest in which the

arrestee may have resisted arrest. The conduct sought to be proscribed by the new felony offense created in this bill is similar to and overlaps the conduct attendant to the misdemeanor offense of resisting arrest.

The legislative committee reports noted that existing laws upgrade misdemeanor assaults to class C felony offenses when committed against correctional and educational workers. This bill apparently seeks to extend equivalent protection to police officers. However, educational workers are afforded special protection because they are unarmed and not trained to deal with aggressive persons. Similarly, while correctional workers may receive some training in handling difficult persons, this training is offset by the fact that correctional workers are unarmed and work in daily close contact with the inmates they supervise. It is reasonable and understandable that the law must provide educational and correctional workers with added protection through enhanced penalties, but the circumstances of those workers are not the same as those of police officers.

For the foregoing reasons, I am returning House Bill No. 300 without my approval.

Respectfully,

  
BENJAMIN J. CAYETANO  
Governor of Hawaii

P R O C L A M A T I O N

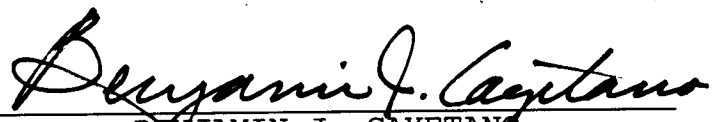
WHEREAS, under Section 16 of Article III of the Constitution of the State of Hawaii, the Governor is required to give notice, by a proclamation, of his plan to return with his objections any bill presented to him less than ten days before adjournment sine die or presented to him after adjournment sine die of the Legislature; and

WHEREAS, House Bill No. 300, entitled "A Bill for an Act Relating to the Penal Code," passed by the Legislature, was presented to the Governor within the aforementioned period; and

WHEREAS, House Bill No. 300 is unacceptable to the Governor of the State of Hawaii;

NOW, THEREFORE, I, BENJAMIN J. CAYETANO, Governor of the State of Hawaii, do hereby issue this proclamation, pursuant to the provisions of Section 16 of Article III of the Constitution of the State of Hawaii, giving notice of my plan to return House Bill No. 300 with my objections thereon to the Legislature as provided by said Section 16 of Article III of the Constitution.

DONE at the State Capitol, Honolulu,  
State of Hawaii, this 10<sup>th</sup>  
day of June, 1999.

  
BENJAMIN J. CAYETANO  
Governor of Hawaii