



LATE TESTIMONY

TESTIMONY OF THE DEPARTMENT OF THE ATTORNEY GENERAL TWENTY-EIGHTH LEGISLATURE, 2015

ON THE FOLLOWING MEASURE:

H.B. NO. 456, H.D. 1, RELATING TO POLICE DEPARTMENTS.

BEFORE THE:

SENATE COMMITTEE ON PUBLIC SAFETY,
INTERGOVERNMENTAL AND MILITARY AFFAIRS

DATE: Tuesday, March 17, 2015

TIME: 1:45 p.m.

LOCATION: State Capitol, Room 229

TESTIFIER(S): Douglas S. Chin, Attorney General, or
Erin L. S. Yamashiro, Deputy Attorney General

Chair Espero and Members of the Committee:

The Department of the Attorney General would like to provide the following comments regarding this bill.

The purpose of this bill is to change the procedure for submitting citizen complaints to the police commission. This bill prohibits any requirement of a written or sworn statement by a complainant when the complaint involves allegations of domestic abuse by a police officer against a family or household member.

This bill has the potential for a judicial constitutional challenge. Article VIII, section 2, Hawaii Constitution allows each political subdivision to adopt a charter for its own self-government and, with respect to each political subdivision, a charter is superior to any statutory provision regarding its structure and organization. The county charters currently allow each county police commission to adopt its own rules necessary to conduct its own business, including, receiving, reviewing, and investigating citizen complaints against a police officer pursuant to sections 6-1606 of the Honolulu Charter, section 7-2.2(c) of the Hawaii County Charter, section 8-12.2 of the Maui County Charter, and section 11.03 of the Kauai County Charter.

Although, the Legislature still retains the authority to enact general laws allocating and reallocating powers and functions and the Legislature considers this bill to be a general law, if there is a judicial constitutional challenge, the courts will make the final decision on whether or not this specific statutory prohibition constitutes a general law allocating and reallocating powers

and functions within the meaning of the county home rule provision in article VIII, section 2, of the Hawaii Constitution.



WOMEN'S CAUCUS

DEMOCRATIC PARTY OF HAWAII

March 17, 2015

LATE TESTIMONY

To: Senator Will Espero, Chair
Senator Rosalyn Baker, Vice Chair and
Members of the Committee on Public Safety, Intergovernmental, and Military Affairs

From: Jeanne Y. Ohta, Co-Chair

RE: HB 456 HD1 Relating to Police Departments
Hearing: Tuesday, March 17, 2015, 1:45 p.m., Room 229

Position: SUPPORT

The Hawai'i State Democratic Women's Caucus writes in support of HB 456 HD1 Relating to Police Departments which would specify that citizen complaints against a police officer that involve allegations of domestic abuse against a family or household member on the part of the police officer shall not be required to be in writing or sworn to by the complainant.

Recent events and questions related to those events made apparent the need for a change in policy with regard to officer-involved domestic violence cases. The requirement that the complaint be in writing or sworn to by the complainant is used to deter victims from filing complaints or the victim is told that she must return when a notary is available to notarize the statement. These requirements re-victimize the victim. Victims are already reluctant to file complaints against their spouses who are officers. When those cases are handled inappropriately by responding officers, when they are not believed and discouraged from filing charges, or when officers refuse to file charges, and victims fear retaliation, these requirements serve as barriers to victims being able to report the handling of a case.

This measure is a good start to improve how officer-involved domestic violence cases are handled. We respectfully request that the committee pass this measure and we thank the committee for the opportunity to provide testimony.



LATE TESTIMONY

TO: Chair Will Espero
Vice Chair, Roz Baker
Members of the Committee

FR: Nanci Kreidman, M.A.

RE: HB 456 HD1 Support

Aloha and thank you for considering the importance of strengthening our community's law enforcement response to domestic violence. This Bill is one measure that will help achieve that.

As public servants charged with the critical and life altering role of responding to domestic violence in our community's homes, it is essential that our law enforcement officers are accountable to those they serve in their professional capacity. Minimizing the seriousness of domestic violence committed by police is a serious and dangerous error.

Given the current community discourse, and the efforts underway to improve police response, we support the Bill to eliminate any barriers that may prevent partners of police officers who have suffered harm from abuse from reporting the abuse.

The danger inherent in the lack of knowledge by police about officer involved abuse and the risk to the partner victimized by the abuse is potentially fatal. We cannot allow officers who engage in the behavior themselves to respond to others in need of protection. The bias, potential for responding inappropriately, minimizing the danger present at a scene, or conveying an inappropriate message to those at the scene all have significant consequences.

Thank you for your favorable action on HB 456 HD 1.

LATE TESTIMONY

From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 16, 2015 9:26 PM
To: PSMTestimony
Cc: ericlee.correa@gmail.com
Subject: Submitted testimony for HB456 on Mar 17, 2015 13:45PM

HB456

Submitted on: 3/16/2015

Testimony for PSM on Mar 17, 2015 13:45PM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Eric Lee Kalei Correa	Individual	Oppose	No

Comments: I oppose bill HB456. It opens the door for a larger problem of false complaints without accountability by eliminating the sworn statement. It also would seem discriminatory as the only group affected are police officers. This is simply the wrong approach to this issue. Thank you for your time.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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LATE TESTIMONY

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, March 17, 2015 12:12 AM
To: PSMTestimony
Cc: annsfreed@gmail.com
Subject: Submitted testimony for HB456 on Mar 17, 2015 13:45PM

HB456

Submitted on: 3/17/2015

Testimony for PSM on Mar 17, 2015 13:45PM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Ann S Freed	Hawaii Women's Coalition	Support	No

Comments: Coalition Testimony in Support of HB 456 The Coalition supports HB 456, which would allow a safe mechanism for citizen complaints against a police officer regarding domestic violence. We were present at the HPD informational briefing in September of 2014. We heard the Commission testify to receiving over thirty complaints from women in the community about inappropriate responses to an array of domestic violence incidents. These responses included, responding police officers not taking a report of domestic violence, refusing to arrest an abuser because of his relationship to the police department, ordering a victim to provide her confidential address to the abuser, and making light of officer involved domestic violence allegations. Many of the victims who came forward did so anonymously or through a domestic violence service provider. Most were afraid that their complaints would not be taken seriously, but felt compelled to share their stories. HPD's current policy for citizen complaints is onerous. Complaints have to be notarized and written, in person. Not only is this process frightening to victims, it acts as a deterrent on future complaints. We are tempted to think that is the purpose of these procedures. Victims of domestic violence or any other citizen wishing to make a complaint about an officer should not have to go through such a stringent process with little anonymity or mechanism to prevent retaliation. HB 456 would allow victims a mechanism for their voices to be heard, without fear that their name be publicized throughout the department and without fear of retaliation for making the complaint. The cavalier responses from HPD regarding officers committing domestic violence proves the need for this and other measures to insure that their so-called zero tolerance policy exists in a real rather than fictitious way. The Coalition requests that you pass HB 456. Thank you for your consideration of this important bill. Ann S. Freed Co-Chair, Hawaii Women's Coalition

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March 16, 2015

LATE TESTIMONY

The Honorable Will Espero, Chairperson
Senate Committee on Public Safety, Intergovernmental and Military Affairs

The Honorable Rosalyn H. Baker, Vice Chairperson
Senate Committee on Public Safety, Intergovernmental and Military Affairs

Members of the Senate Committee on Public Safety, Intergovernmental and Military Affairs

THE TESTIMONY OF H.B. NO. 456 HD1, RELATING TO POLICE

"HEARING DATE: Tuesday march 17, 2015 @ 1:45 pm Conference Room 229"

Aloha All,

I am submitting this written testimony as a citizen **"opposed to this bill"**, the reasons for this I will cover below;

- 1) I am a retired Police Officer on the island of Maui and retired after 28 years of service as a Captain with the Maui Police Department.
- 2) I was always preached to and taught that we enforce all the laws of the United States, State of Hawaii and the laws and regulations from the different counties within the State of Hawai'i equally to all of its citizens.
- 3) This bill shows the world that being a police officer in the State of Hawai'i makes the Police Officers a second class citizen.
- 4) All criminal cases (unless the evidence that can be verified in court is available) needs the testimony of the Victim (if at all possible – there have been High Criminal cases that the victim is unable to testify the case would still proceed).
- 5) The statements that have been used in the bill seems very one sided with the facts only obtained about the Police Department
- 6) Has anyone does research on the general cases that does not involve police officers? From my 28 + years of service on the island of Maui, the none reporting of domestic abuse is just as prevalent amongst the General Populace that is involved with the Domestic Violence.
- 7) You do not hear a cry from certain areas of the public about these unreported and undocumented cases.
- 8) Let us get one thing straight on this matter **"I am and always be against domestic violence weather it is against a women or a man". And I will also strongly endorse any law that will be delivered fairly to all the people of the community, but when a proposed law comes out that seems to select and pick out one area of the community I will not hesitate to voice my opinion against this as this type of a law is very selective against one group.**
- 9) There is a process in place for the proper action against Police officers not only internally, but thru the courts system and it seems to me that this section of a proposed amendment Chapter 52 in section D is something to isolate the Police Officers.

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- 10) Not only does this law want to change and make uneven the requirements against the Police Officers, but it does actually now want to be a part of the Collective Bargaining agreement that does not pay any monies for the salaries of the Police officers as the Counties in the State of Hawai'i pays for all monies that is used to compensate the Police Officers.
- 11) As this is not the only newly proposed bill from the Legislature that seems to want to take the authority and the governing of the different County Police Departments without paying a dime for the work that they do.
- 12) As a retired captain I have seen that when an officer has violated the law, policies, procedures that they get properly disciplined. We have to make sure that we can meet the constitutional requirements and the collective bargaining agreement.
- 13) It also must be realized that the Collective Bargaining Agreement cannot and will not be able to circumvent a Federal, State or County law.
- 14) So basically what you are stating is that because we want things to be done quickly against Police Officers, forget the due process and make decisions on partial information and statements.
- 15) What would happen if the Police Department was to do that on every crime that is reported or even not reported and brought to the attention of the Police Department by a third party?

As I have mentioned *"I am and always be against domestic violence weather it is against a women or a man". And I will also strongly endorse any law that will be delivered fairly to all the people of the community, but when a proposed law comes out that seems to select and pick out one area of the community I will not hesitate to voice my opinion against this as this type of a law is very selective against one group.*

At the same time I have spend the better part of my adult life enforcing the Laws of the land and cannot and will not let something that is so selective and narrow to one segment of our community go without my voice.

As I have stated that I am a retired Police Captain and I would also like to mention that I am presently employed by the State of Hawaii Organization of Police Officer, but my testimony has nothing to do with SHOPO and I am submitting this on my own accord as a private citizen of the State of Hawai'i.

If you have some questions or concerns you can contact me via the phone number listed or the e-mail.


George Kaho'ohanohano