



STATE OF HAWAII ORGANIZATION OF POLICE OFFICERS
" A Police Organization for Police Officers Only "
Founded 1971

February 21, 2023

VIA ONLINE

The Honorable Karl Rhoads
Chair
The Honorable Mike Gabbard
Vice-Chair
Senate Committee on Judiciary
Hawaii State Capitol, Rooms 228, 201
415 South Beretania Street
Honolulu, HI 96813

Re: **SB 372 SD1 - Relating to Government Services Relating to the Law**

Dear Chair Rhoads, Vice-Chair Gabbard, and Honorable Committee members:

I serve as the President of the State of Hawaii Organization of Police Officers (“SHOPO”) and write on behalf of our Union in **opposition** to SB 372 SD1. The amendments to this measure in removing language that would have required an officer to intervene if the officer reasonably believes that another is about to use unnecessary or excessive force on an arrestee does nothing to acknowledge the inherent dangers involved with our jobs and the dynamics of making split second life and death decisions under extreme duress. Moreover, the bill also does not account for the existing layers of safeguards in place that already hold each and every county police officer accountable for their individual actions and omissions, both administratively and criminally.

Without a police presence and officers patrolling your neighborhoods, society cannot maintain its civility or its rule of law. Our Hawaii citizens understand and appreciate the protections and law enforcement services provided by our police officers. The community’s outpouring of support for our three officers involved in the Sykap case was on full public display at the courthouse.

As police officers, we have a Code of Ethics:

As a law enforcement officer, my fundamental duty is to serve mankind; to safeguard lives and property; to protect the innocent against deception, the weak against oppression or intimidation, and the peaceful against violence or disorder; and to respect the constitutional rights of all to liberty, equality, and justice.

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I will keep my private life unsullied as an example to all; maintain courageous calm in the face of danger, scorn, or ridicule; develop self-restraint; and be constantly mindful of the welfare of others. Honest in thought and deed in both my personal and official life, I will be exemplary in obeying the laws of the land and the regulations of my department. Whatever I see or hear of a confidential nature or that is confided to me in my official capacity will be kept ever secret unless revelation is necessary in the performance of my duty.

I will never act officiously or permit personal feelings, prejudices, animosities, or friendships to influence my decisions. With no compromise for crime and with relentless prosecution of criminals, I will enforce the law courteously and appropriately without fear or favor, malice or ill will, never employing unnecessary force or violence and never accepting gratuities.

I recognize the badge of my office as a symbol of public faith, and I accept it as a public trust to be held as long as I am true to the ethics of the police service. I will constantly strive to achieve these objectives and ideals, dedicating myself before God to my chosen profession . . . law enforcement.

We are by no means perfect and have never claimed to be. We have the same human frailties as our neighbors and yes some of us do make mistakes. We are no less human than the politicians arrested for drunk driving or who have accepted bribes. However, three recent cases involving our officers who were severely injured in the line of duty should highlight and stand as a stark reminder to you and your committee of the inherent dangers involved with our job. One suspect viciously and critically attacked one of our officers with a crowbar/tire iron while he was responding to a call. Another officer was critically injured while responding to a motor vehicle collision. Yet another officer was severely injured after responding to a call involving a driver who reportedly intentionally ran over an innocent woman pushing a baby in a stroller and then attacked a bystander with a crowbar. These cases flare up and spiral out of control in a matter of **split** seconds leaving our officers with little to no time to react other than relying on their training.

The current law simply states, “In all cases where the person arrested refuses to submit or attempts to escape, such degree of force may be used as is necessary to compel the person to submission.” This law in its most basic form goes back to the Hawaiian Kingdom and has been

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on the books since 1869. The current form and language of the law has been in existence since 1985, which is more than three and a half decades. The law as it currently reads keeps the focus on the criminal and limits the use of force to what is necessary to apprehend the suspect. There is nothing broken with this law that has stood the test of time for over 100 years.

The bill under consideration takes the focus off the criminals who are breaking the law, resisting arrest, or trying to escape, and places the focus squarely on our police officers who are doing their best to apprehend and arrest criminals in our communities. Rather than keeping the emphasis on apprehending the criminal suspect, this bill redirects the officer's attention away from the suspect and directs it toward the other officers at the scene who must now second guess what the other officers are doing relating to the use of force. This may cause an officer to prematurely intervene, thus escalating a situation and making a dangerous situation even more dangerous for the officers involved. Officers will be trying to anticipate what level of force their fellow officers are about to use and whether that anticipated force is reasonable without having all of the relevant information available to them to make such an assessment. Officers will undoubtedly misconstrue what they believe is excessive force because they were unaware the suspect had earlier brandished a gun or knife before the officer arrived at the scene. In performing their duties, the officer's concentration is on what they immediately need to do to protect the public and keep everyone safe. Each officer is responsible for their own actions. Assessing a highly charged scene with people running around screaming and armed with deadly weapons requires an officer to quickly determine who are the suspects, what type and how many weapons are involved, who may be helping the suspects, what is in the background in the event the officer has to draw and discharge their firearm and evaluate a cascade of other considerations in split seconds to determine what must be done. It is often the case that our officers do not have the luxury of time to figure everything out or carefully prepare a response because we must react instinctively in reliance on our training. That is our reality.

The Sykap Kalakaua shooting ended with the tragic death of a young man who was terrorizing our community. We must also never forget our two officers gunned down at Diamond Head and the many other officers who sacrificed their lives or suffered horrendous injuries to protect our community. These are heartbreaking situations for everyone involved. However, these horrible incidents highlight the life-threatening situations our officers are suddenly thrust into that can rapidly deteriorate in a matter of seconds and escalate into extreme violence and death.

The stated purpose of the bill is to require "greater accountability and transparency" with law enforcement services. After the Kalakaua incident, the three officers had to answer for their actions with HPD's investigators and commanders, the prosecutor's office, a grand jury, and at

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the end they stood in judgment in a courtroom before a judge who determined that the officers had acted appropriately and within the boundaries of the law.¹ This level of accountability and transparency happened with the system in place and without SB 372 SD1.

SB 372 SD1 also requires an officer involved in a use of force incident to report it to a supervisor. However, that requirement is already in place within our county police departments. Officers who use force in the field or to effectuate an arrest must complete a mandatory use of force report that explains, in detail, the level of force used, why force was used, and the justification for the force. These reports are provided to, reviewed, and signed by a supervisor. Body worn cameras are also widely used by our officers and further document incidents where force was employed. These videos are required to be downloaded and saved as evidence.

There is also a disciplinary reporting component to the bill that will require the disclosure of the department's disciplinary action taken against an officer who used force, **before** the grievance process has concluded. In fairness to our officers and to avoid undermining our officers constitutionally protected collective bargaining right embodied in Article 13 of the Hawaii Constitution, the disclosure of any disciplinary action should be limited to suspensions or terminations and should only be disclosed **after** the grievance process has concluded. This would also be consistent with HRS § 92F-14. The rationale is that if a grievance is sustained, the disciplinary action at issue may be completely overturned and/or modified. Thus, disclosing the discipline before the grievance is final would be premature.

It is not a mere coincidence that our county police departments are suffering serious staffing shortages like we have never seen before. The staffing crisis is downright scary and compromises the community's safety. There is no way to sugarcoat this reality. Rather than support law enforcement, our officers feel they are under constant attack which makes their jobs tenuous, more dangerous, and unnecessarily exposes them to civil liability that enriches criminals and their families. The reality is that this bill is unnecessary, confusing, and discourages women and men in our community from aspiring to be police officers to fill our depleted ranks. The safeguards already in place protect everyone involved without the need for SB 372 SD1.

¹ There is also Internal Affairs, Professional Standards Office, police commissions, Department of the Attorney General, FBI, and the Department of Justice that provides accountability and transparency. The civil rights laws provide a further check and balance on the use of force by our officers.

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We thank you for allowing us to be heard on this important issue and we hope your committee will unanimously oppose SB 372 SD1.

Respectfully submitted,

ROBERT "BOBBY" CAVACO
SHOPO President

SB-372-SD-1

Submitted on: 2/21/2023 9:06:17 PM

Testimony for JDC on 2/24/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Will Caron	Individual	Support	Written Testimony Only

Comments:

Without a complete overhaul of the law enforcement and criminal legal system, police violence will continue to plague communities. We need to redefine our system so that it protects public health and wellbeing, not property and wealth. Restorative justice delivers peace and helps people heal after the trauma crime can inflict.

In the short term, we can strengthen the laws that regulate police conduct and require much tighter oversight. But we need to continue working toward systemic change. Please support SB372 SD1.

SB-372-SD-1

Submitted on: 2/22/2023 5:48:35 AM

Testimony for JDC on 2/24/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Caroline Azelski	Individual	Support	Written Testimony Only

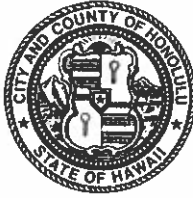
Comments:

In support of SD1. Thank you.

POLICE DEPARTMENT
CITY AND COUNTY OF HONOLULU

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RICK BLANGIARDI
MAYOR



ARTHUR J. LOGAN
CHIEF

KEITH K. HORIKAWA
RADE K. VANIC
DEPUTY CHIEFS

OUR REFERENCE MH-SK

February 24, 2023

The Honorable Karl Rhoads, Chair
and Members
Committee on Judiciary
State Senate
Hawaii State Capitol
415 South Beretania Street, Room 016
Honolulu, Hawaii 96813

Dear Chair Rhoads and Members:

Subject: Senate Bill No. 372, S.D. 1, Relating to Government Services Relating to the Law

I am Manuel Hernandez, Captain of the Training Division of the Honolulu Police Department (HPD), City and County of Honolulu.

The HPD supports Senate Bill No. 372, S.D. 1, Relating to Government Services Relating to the Law.

The HPD currently has policies and procedures in place that meet those proposed in the bill, specifically to include a duty to intervene with regard to the use of unlawful force, thus supporting the intent of the proposed legislation.

The HPD urges you to support Senate Bill No. 372, S.D. 1, Relating to Government Services Relating to the Law.


Thank you for the opportunity to testify.

APPROVED:



Arthur J. Logan
Chief of Police

Sincerely,



Manuel Hernandez, Captain
Training Division