

JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA



JORDAN LOWE
DIRECTOR

MICHAEL VINCENT
Deputy Director
Administration

JARED K. REDULLA
Deputy Director
Law Enforcement

SYLVIA LUKE
LT GOVERNOR
KE KE'ENA

STATE OF HAWAII | KA MOKU'ĀINA O HAWAII
DEPARTMENT OF LAW ENFORCEMENT

Ka 'Oihana Ho'okō Kānāwai

715 South King Street
Honolulu, Hawaii 96813

TESTIMONY ON HOUSE BILL 2748, HOUSE DRAFT 1
RELATING TO LAW ENFORCEMENT

Before the House Committee on Judiciary & Hawaiian Affairs

Thursday, February 22, 2024; 2:00 p.m.

State Capitol Conference Room 325, Via Videoconference

Testifiers: Michael Vincent or Jared Redulla

Chair Tarnas, Vice Chair Takayama, and members of the Committee:

The Department of Law Enforcement (DLE) **comments** on House Bill 2748,
House Draft 1.

This bill seeks to establish statewide vehicular pursuit policies for state and county law enforcement agencies.

The DLE does not believe that this legislation is necessary. The primary concern with this bill is the specificity of the contents of a single policy among many policies found in our law enforcement agencies and communities. Chapter 139 establishes the Law Enforcement Standards Board which is charged the responsibility of providing programs and standards for training and certification of law enforcement officers. §139-2(a), HRS. Chapter 139 sets parameters for the composition and overall responsibilities of the Board, but generally does not mandate specific requirements for the Board to include standards established by the Board. The Legislature should continue to defer to the work of the Board to set the standards for state and county law enforcement agencies.

With respect to the specifics of this bill, the DLE currently has a comprehensive vehicle pursuit policy that complies with standards established by the Commission on Accreditation for Law Enforcement Agencies Inc. and the International Association of

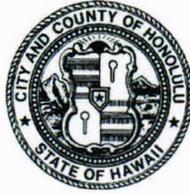
Chiefs of Police. While we have not reviewed other State and county law enforcement agency vehicle pursuit policies, we believe that they have similar policies in force. The requirements of this bill will not address issues of compliance with a particular policy which should be left to the specific agency or the courts in those cases.

Thank you for the opportunity to comment on this bill

LATE *Testimony submitted late may not be considered by the Committee for decision making purposes.

POLICE DEPARTMENT
KA 'OIHANA MĀKA'I O HONOLULU
CITY AND COUNTY OF HONOLULU
801 SOUTH BERETANIA STREET • HONOLULU, HAWAII 96813
TELEPHONE: (808) 529-3111 • WEBSITE: honolulu.police.org

RICK BLANGIARDI
MAYOR
MEIA



ARTHUR J. LOGAN
CHIEF
KAHU MĀKA'I

KEITH K. HORIKAWA
RADE K. VANIC
DEPUTY CHIEFS
HOPE LUNA NUI MĀKA'I

OUR REFERENCE **ST-TK**

February 22, 2024

The Honorable David A. Tarnas, Chair
and Members
Committee on Judiciary
and Hawaiian Affairs
House of Representatives
415 South Beretania Street, Room 325
Honolulu, Hawaii 96813

Dear Chair Tarnas and Members:

SUBJECT: House Bill No. 2748, H.D. 1, Relating to Law Enforcement

I am Stason Tanaka, Major of the Traffic Division of the Honolulu Police Department (HPD), City and County of Honolulu.

The HPD opposes House Bill No. 2748, H.D. 1, Relating to Law Enforcement.

The HPD opposes the proposal to establish statewide vehicular pursuit policies. Each county should be able to independently draft a policy based on their specific needs taking into consideration their training curriculum, available equipment, as well as their unique geographical layouts and communities. As it stands, each county has its own police academy with a curriculum based on their county's needs.

The HPD urges you to oppose House Bill No. 2748, H.D. 1, Relating to Law Enforcement. Thank you for the opportunity to testify.

APPROVED:

Sincerely,


Arthur J. Logan
Chief of Police


Stason Tanaka, Major
Traffic Division

February 21, 2024

VIA EMAIL

The Honorable David A. Tarnas
Chair
The Honorable Gregg Takayama
Vice-Chair
House Committee on Judiciary & Hawaiian Affairs
Hawaii State Capitol, Rooms 442, 404
415 South Beretania Street
Honolulu, HI 96813

Re: **HB 2748 HD1 - Relating to Law Enforcement – Statewide Vehicular Law Enforcement Pursuit Policies**

Dear Chair Tarnas, Vice-Chair Takayama, and Honorable Committee members:

I serve as the President of the State of Hawaii Organization of Police Officers (“SHOPO”) and write to you on behalf of our Union in **strong opposition** to HB 2748 HD1. We fully understand the Legislature’s intention to speak to the dangerousness of vehicular pursuits. However, establishing statewide vehicular law enforcement pursuit policies is simply not the answer and is unnecessary.

As you may or may not know, each of the county police departments have implemented motor vehicle pursuit policies that comply with standards established by the Commission on Accreditation for Law Enforcement Agencies, Inc. (“CALEA”). CALEA is nationally known as the gold standard benchmark in law enforcement and its accreditation seals are internationally recognized as the “Marks of Professional Excellence” for public safety agencies. Although the policies and training of each county police department have much in common, they also have special provisions and aspects tailored to each island’s unique demands and diverse communities. As such, a statewide policy would not appropriate. In addition, all county officers receive initial training in motor vehicle pursuits, along with annual refresher training and each county police department has its own policies and procedures addressing reporting of pursuits to command and administrative review for compliance.

We thank you for allowing us to be heard and to share our concerns on this bill and hope your committee will unanimously reject this bill.

Respectfully submitted,

ROBERT “BOBBY” CAVACO
SHOPO President

HAWAI‘I HOUSE COMMITTEE ON JUDICIARY AND HAWAIIAN AFFAIRS

HEARING:

Public Hearing on House Bill 2748, Feb. 22, 2024

DATE OF TESTIMONY:

Feb. 22, 2024

TESTIMONY OF THE POLICING PROJECT AT NYU SCHOOL OF LAW IN SUPPORT OF H.B. 2748 WITH ADDITIONAL AMENDMENTS

Dear Chair Tarnas, Vice Chair Takayama, and Members of the House Committee on Judiciary and Hawaiian Affairs:

One of the best ways to ensure transparent, effective, and ethical policing is for the public to be democratically involved in setting expectations for police practices *before* police act, instead of *after* something has gone wrong.¹ Although sometimes necessary, police vehicle pursuits can be dangerous, posing risks of serious injury or death to members of the public and police officers. An increasing number of states are setting forth clear rules in advance for agencies and officers to ensure officers are only engaging in pursuits when necessary and when the public safety benefits of such pursuits outweigh the risks. Hawai‘i should join these jurisdictions and pass H.B. 2748 (with amendments) to advance public safety and avoid needless fatalities and injuries.

Before you pass this legislation, however, we recommend a few amendments that would further improve vehicular pursuit policies in Hawai‘i. In particular, the bill would benefit significantly from amendments narrowing and clarifying the bill’s definition of “vehicular pursuit” and requiring the collection and publication of data on such vehicle pursuits, among other changes.

We thus submit this testimony in support of H.B. 2748 and the amendments suggested below.

¹ As part of its mission to advance democratic accountability in policing, the Policing Project has aided numerous states across the country in establishing and strengthening their policing statutes and regulations. In addition, our testimony is informed by the [American Law Institute’s Principles of Policing on police-involved pursuits](#).

H.B. 2748 Would Bring Much Needed Clarity and Regulation To Police Vehicle Pursuits

Although there are scenarios in which police should pursue and apprehend people seeking to avoid a lawful traffic stop, a growing body of research indicates that not all police vehicle pursuits promote public safety, and that some pose an unreasonable risk of injury or death to officers and members of the public alike. Indeed, from 1996 to 2015, vehicle pursuits resulted in an average of 355 deaths each year across the country.² While individuals in the vehicle being pursued or other nearby vehicles are most likely to die because of vehicle pursuits, a 2019 study found that officer deaths resulting from pursuit-related collisions accounted for five to six percent of all line-of-duty officer deaths each year from 1970 to 2016.³ And many pursuits that do not result in fatalities still result in collisions, causing serious injuries to both officers and members of the public.

There is a better way. Following in the footsteps of states like Washington and Kentucky and recognizing the danger of vehicle pursuits, H.B. 2748 would smartly regulate vehicle pursuits, setting forth clear rules that only permit pursuits where the public safety benefits outweigh the potential harms to officers and members of the public described above. The bill, too, contains other commonsense measures such as requiring officers engaged in vehicle pursuits to (a) when feasible, communicate with other officers engaging in the pursuit; and (b) receive relevant training before engaging in such pursuits.

The bill also laudably follows the lead of many other states and restricts officers from firing a weapon at a moving vehicle unless necessary to protect against an imminent threat of serious harm. Firing at a moving vehicle poses risks of serious injury and death not only to the people in the vehicle targeted but also to people in other surrounding and nearby vehicles, including police vehicles. Accordingly, the bill sensibly only permits firing a weapon when the public safety benefits outweigh the risks.

H.B. 2748 Would Be Strengthened With Amendments

We suggest making the three amendments below to strengthen H.B. 2748.

First, we strongly recommend altering the currently overly broad definition of “vehicular pursuit” in the statute. Currently, “vehicular pursuit” is defined as “an attempt by a law enforcement officer in an authorized emergency vehicle stop a vehicle.” That could be read to include standard traffic stops in which an officer turns their vehicle sirens on and tries to stop a moving vehicle when the

² See BUREAU OF JUST. STAT., U.S. DEPT. OF JUST., POLICE VEHICLE PURSUITS, 2012–2013 (2017), <https://bjs.ojp.gov/library/publications/police-vehicle-pursuits-2012-2013>.

³ See Michael White, Lisa Dario, & John Shjarback, *Assessing dangerousness in policing: An analysis of officer deaths in the United States, 1970–2016*, 18 CRIMINOLOGY & PUB. POL’Y 11, 18 (2019).

driver is speeding or driving recklessly, even when the driver does not resist the stop and pulls over. If that broad definition were to remain, pulling over such a compliant driver would be unlawful unless that driver has also committed one of the serious crimes set forth in proposed § 139(a)(1), among other conditions.

There is an easy fix to this problem: delete proposed section 139(a)(2) and incorporate the awareness requirement from that subsection into the definition of “vehicle pursuit” in the section 139(f). The new definition of “vehicular pursuit” should be the following, or similar language:

an attempt by a law enforcement officer in an authorized emergency vehicle to stop a moving vehicle where the operator of the moving vehicle appears to be aware that the officer is signaling the operator to stop the vehicle and the operator of the moving vehicle appears to be willfully resisting or ignoring the officer's attempt to stop the vehicle by increasing vehicle speed, making evasive maneuvers, or operating the vehicle in a reckless manner that endangers the safety of the community or the officer.

Second, we recommended requiring that a law enforcement officer’s belief that the safety risks of failing to apprehend or identify a person are greater than the safety risks of the vehicular pursuit be a *reasonable* belief. Under the current bill language, an officer can always assert that they subjectively believed the safety risks of failing to apprehend or identify the person outweighed the risks of the pursuit itself. By requiring that belief to be “reasonable,” the legislation would permit courts and law enforcement agencies to inquire into the particular circumstances of the pursuit and determine whether the officer’s subjective belief was objectively reasonable.

Third, we suggest adding data and reporting provisions so that agencies, lawmakers, and the public can assess the efficacy of this legislation. Specifically, we recommend requiring officers and agencies to track, report, and publish incident-level data on data points including the time of the pursuit, the basis for the pursuit, and whether each pursuit results in injury or death to an officer or a member of the public.

Conclusion

H.B. 2748 would bring much-needed clear regulation to police vehicle pursuits in Hawai’i and also wisely would restrict the dangerous police tactic of shooting a weapon at a moving vehicle. Nonetheless, it is essential that H.B. 2748’s definition of “vehicular pursuit” is amended so that the definition does not include standard police vehicle stops in which the driver of the stopped vehicle is not fleeing the police. We also recommend making additional amendments, including collecting and publishing data concerning the pursuits so agencies, lawmakers, and the public can meaningfully assess the efficacy of this legislation.

Thank you for considering our testimony.