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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

RELATING TO LAW ENFORCEMENT

Before the House Committee on Transportation

Tuesday, February 13, 2024; 11:00 a.m.

State Capitol Conference Room 312, Via Videoconference

**WRITTEN TESTIMONY ONLY**

Chair Todd, Vice Chair Kila, and members of the Committee:

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

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

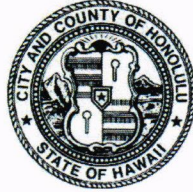
agency vehicle pursuit policies, we believe that they have similar policies in force. The requirements of this bill will not address issues of compliance with a particular policy which should be left to the specific agency or the courts in those cases.

Thank you for the opportunity to comment on this bill

POLICE DEPARTMENT  
KA 'OIHANA MĀKA'I O HONOLULU  
**CITY AND COUNTY OF HONOLULU**

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OUR REFERENCE **ST-TK**

February 13, 2024

The Honorable Chris Todd, Chair  
and Members  
Committee on Transportation  
House of Representatives  
415 South Beretania Street, Room 312  
Honolulu, Hawai'i 96813

Dear Chair Todd and Members:

**SUBJECT: House Bill No. 2748, 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, 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, Relating to Law Enforcement. Thank you for the opportunity to testify.

APPROVED:

Sincerely,

  
Arthur J. Logan  
Chief of Police

  
Stason Tanaka, Major  
Traffic Division

Mitchell D. Roth  
Mayor



Benjamin T. Moszkowicz  
Police Chief

Reed K. Mahuna  
Deputy Police Chief

## County of Hawai'i

### POLICE DEPARTMENT

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February 12, 2024

Representative Chris Todd  
Chairperson and Committee Members  
Committee on Transportation  
415 South Beretania Street, Room 312  
Honolulu, Hawai'i 96813

Dear Representative Todd:

RE: HOUSE BILL 2748; RELATING TO STATEWIDE VEHICULAR PURSUIT POLICIES  
HEARING DATE: FEBRUARY 13, 2024  
TIME: 11:00 A.M.

The Hawai'i Police Department **OPPOSES** House Bill 2748, with its purpose to establish statewide vehicular pursuit policies.

The Hawai'i Police Department serves to protect the lives of the residents and visitors of the Big Island and recognizes the inherent dangers that motor vehicle pursuits pose. For those reasons, the Hawai'i Police Department has implemented a strict motor vehicle pursuit policy that addresses a myriad of topics related to motor vehicle pursuits. All officers receive initial training in motor vehicle pursuits, along with annual refresher training. Current policy details when a pursuit can be initiated, who is authorized to engage in the pursuit, how a pursuit is reported to supervisors/dispatch, supervisory oversight/responsibilities/authority, and required actions upon termination of a pursuit. Officers who are involved in a pursuit are required to report the same to the Police Chief and for each pursuit, an administrative review is conducted to ensure policy compliance and to detect any identified training deficiencies. Those who are found to have violated pursuit policies are dealt with via administrative means and any training deficiencies are addressed via retraining methods. Finally, an annual analysis of all pursuits is conducted to identify and address any patterns or trends, training needs or recommendations, as well as a pursuit policy review and any recommended policy modifications.

Nationally recognized as the gold standard in Public Safety, the Hawai'i Police Department has been awarded the Commission on Accreditation for Law Enforcement Agencies (CALEA) certification since 2012. The accreditation process requires our department to participate in a multi-year, in-depth review of departmental practices, policies, procedures, and standards process, to demonstrate that current departmental practices, policies, procedures, and standards provide nationally recognized best practices related to life, health, and safety procedures. This review includes the review of our motor vehicle pursuit policy and having recently received CALEA recertification in 2023, we have demonstrated that our department has in place a comprehensive motor vehicle pursuit policy along with compliance measures.

It is for these reasons, that we urge this committee **not to approve** this legislation. Thank you for allowing the Hawai'i Police Department to provide comments relating to House Bill 2748.

Sincerely,

  
BENJAMIN T. MOSZKOWICZ  
POLICE CHIEF



## **HAWAI‘I HOUSE COMMITTEE ON TRANSPORTATION**

### **HEARING:**

Public Hearing on House Bill 2748, Feb. 13, 2024

### **DATE OF TESTIMONY:**

Feb. 13, 2024

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

Dear Chair Todd, Vice Chair Kila, and Members of the House Committee on Transportation:

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.<sup>1</sup> 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.

### **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

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<sup>1</sup> 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](#).

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.<sup>2</sup> 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.<sup>3</sup> 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 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

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<sup>2</sup> 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>.

<sup>3</sup> 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).



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 “vehicle 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 “vehicle 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.