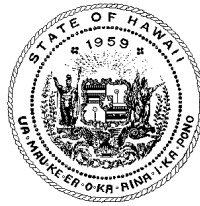


DAVID Y. IGE  
GOVERNOR



STATE OF HAWAII  
**DEPARTMENT OF PUBLIC SAFETY**

919 Ala Moana Boulevard, 4th Floor  
Honolulu, Hawaii 96814

**NOLAN P. ESPINDA**  
DIRECTOR

**Maria C. Cook**  
Deputy Director  
Administration

**Shari L. Kimoto**  
Deputy Director  
Corrections

**Renee R. Sonobe Hong**  
Deputy Director  
Law Enforcement

No. \_\_\_\_\_

TESTIMONY ON HOUSE BILL 1278, HOUSE DRAFT 2, PROPOSED SENATE DRAFT 1  
RELATING TO GOVERNMENT SERVICES RELATING TO LAW ENFORCEMENT.

by  
Nolan P. Espinda, Director

Senate Committee on Public Safety, Intergovernmental, and Military Affairs  
Senator Clarence K. Nsihahara, Chair  
Senator Glenn Wakai, Vice Chair

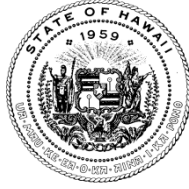
Thursday, June 25, 2020; 1:45 p.m.  
State Capitol, Conference Room 229

Chair Nishihara, Vice Chair Wakai, and Members of the Committee:

House Bill (HB) 1278, House Draft (HD) 2, Proposed Senate Draft (SD) 1, proposes that law enforcement has a duty to intervene if the law enforcement officer reasonably believes that another law enforcement officer is using or about to use unnecessary or excessive force on an arrestee; requires the law enforcement officer to report the incident to the fellow law enforcement officer's supervisor; and requires submission of annual reports to the Legislature. The Department of Public Safety (PSD) offers the following comment.

Regarding the proposed Section 803-7(d) on page 3, lines 6 – 16, PSD submits that the annual reporting requirements should be consistent with parameters of Section 92F-14, Hawaii Revised Statutes, especially since annual reports to the Legislature are made public.

Thank you for the opportunity to testify on this measure.



STATE OF HAWAII  
DEPARTMENT OF TRANSPORTATION  
869 PUNCHBOWL STREET  
HONOLULU, HAWAII 96813-5097

June 25, 2020  
1:45 p.m.  
State Capitol, Room 229

**H.B. 1278, H.D. 2, Proposed S.D. 1,  
RELATING GOVERNMENT SERVICES RELATED TO LAW.**

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Senate Committee on Public Safety, Intergovernmental and Military Affairs

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The Department of Transportation (DOT) **supports** the intent to require greater accountability and transparency in the government's provision of law enforcement services.

The Director of Transportation enforces all laws under the jurisdiction of Airports, Harbors, and Highways Divisions. Each Division has its own unique law enforcement requirements and activities and coordinates prosecution through the Office of the Attorney General, Office of Public Safety and County Police Departments. Each Department or Division upholds standards of conduct in the performance of the law enforcement officers' duties and responsibilities.

The DOT recognizes the importance of the Board to standardize training and policies, however, having the Board review past disciplinary actions should remain personnel matters governed by the county police commission, the employer and exclusive representatives to the collective bargaining agreements.

In lieu of the Board duplicating efforts to review personnel matters, the DOT requests that H.B. 1278, Proposed S.D. 1 be amended to required law enforcement agencies and police departments, upon written request as prescribed by rule, submit information required by the Board to make informed decision regarding the issuance or revocation of certification.

The DOT is a member of the Law Enforcement Standards Board and will consider accountability and transparency in future meetings.

POLICE DEPARTMENT  
CITY AND COUNTY OF HONOLULU

801 SOUTH BERETANIA STREET · HONOLULU, HAWAII 96813  
TELEPHONE: (808) 529-3111 · INTERNET: www.honolulu.org



KIRK CALDWELL  
MAYOR

SUSAN BALLARD  
CHIEF

JOHN D. MCCARTHY  
CLYDE K. HO  
DEPUTY CHIEFS

OUR REFERENCE **RV-MM**

June 25, 2020

The Honorable Clarence K. Nishihara, Chair  
and Members  
Committee on Public Safety, Intergovernmental,  
and Military Affairs  
State Senate  
Hawaii State Capitol  
415 South Beretania Street, Room 229  
Honolulu, Hawaii 96813

Dear Chair Nishihara and Members:

SUBJECT: House Bill No. 1278, S.D. 1, Relating to Government Services Relating to the Law

I am Major Rade Vanic of the Professional Standards Office (PSO), Honolulu Police Department (HPD), City and County of Honolulu.

The HPD supports the intent of House Bill No. 1278, S.D. 1, Relating to Government Services Relating to the Law; however, we have the following reservations.

The HPD has a concern with requiring an officer to report the incident to the other law enforcement officer's supervisor. Currently, HPD Policy No. 5.01, Complaints and Internal Investigations, allows an officer to report misconduct by another employee directly to the PSO commander. This method of reporting allows HPD employees to initiate complaints without influence or fear of retaliation. Legislation requiring an officer to report any incident directly to the offender's supervisor will discourage misconduct complaints, including incidents involving unnecessary or excessive use of force.

Hawaii Revised Statutes Section 52D-3.5, Reports to Legislature, already requires the chief of police of each county to submit an annual report of misconduct incidents. The annual report includes a summary of the incident, the disciplinary action imposed for each incident, and the number of officers who were suspended or discharged for malicious use of physical force, mistreatment of prisoners, use of drugs and narcotics, and cowardice under the department's Standards of Conduct.

The Honorable Clarence K. Nishihara, Chair  
and Members

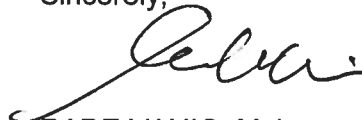
Page 2

June 25, 2020

We believe that signing this measure into law as written, will create unnecessary redundancy and will discourage law enforcement officers from reporting unnecessary and excessive use of force incidents.

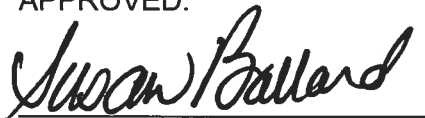
Thank you for the opportunity to testify.

Sincerely,



RADE VANIC, Major  
Professional Standards Office

APPROVED:



SUSAN BALLARD  
Chief of Police



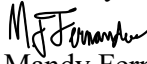
Committee: Committee on Public Safety, Intergovernmental, and Military Affairs  
Meeting Date/Time: Thursday, June 25, 2020 1:45 p.m.  
Place: Conference Room 229  
Re: Testimony of the ACLU of Hawai'i with comments regarding H.B. 1278, H.D. 2, Proposed S.D.1, Relating to Government Services Relating to the Law

Dear Chair Nishihara, Vice Chair Wakai, and Committee Members:

The American Civil Liberties Union of Hawai'i ("**ACLU of Hawai'i**") offers comments on H.B. 1278, H.D. 2, Proposed S.D. 1, which requires county police officers to intervene if they believe another officer is using or about to use unnecessary or excessive force on an arrestee, requires officers to report these incidents to their supervisor, and requires law enforcement department heads to report these incidents annually to the Legislature.

Law enforcement should prioritize the sanctity of human life and treat everyone with dignity, but we know that police too often resort to excessive force in interactions with Black and brown people and communities, despite being charged with protecting and serving those same people and communities. Officers who stand by as their colleagues use unnecessary force are complicit and should be held accountable to victims, victims' families, and the communities they serve. Creating a duty to intervene in such circumstances is appropriate, as is the creation of a duty to report. The ACLU of Hawai'i supports the creation of these affirmative duties. To avoid ambiguity or confusion, we request that the Committee amend H.B. 1278, H.D. 2, Proposed S.D. 1 to create an *explicit*<sup>1</sup> right of action against individual officers who fail to intervene and/or fail to report.

Thank you for the opportunity to testify.

Sincerely,  
  
Mandy Fernandes  
Policy Director  
ACLU of Hawai'i

*The mission of the ACLU of Hawai'i is to protect the fundamental freedoms enshrined in the U.S. and State Constitutions. The ACLU of Hawai'i fulfills this through legislative, litigation, and public education programs statewide. The ACLU of Hawai'i is a non-partisan and private non-profit organization that provides its services at no cost to the public and does not accept government funds. The ACLU of Hawai'i has been serving Hawai'i for over 50 years.*

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<sup>1</sup> The ACLU of Hawai'i does not express an opinion on how the duty could be otherwise enforced.

**HB-1278-HD-2**

Submitted on: 6/22/2020 2:47:42 PM

Testimony for PSM on 6/25/2020 1:45:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Victor K. Ramos	Individual	Oppose	No

Comments:

I oppose this proposed legislation. This proposal seems more like a move in support of national partisan solidarity than a response to problem in Hawaii, supported by impartial data. There is no data. Moreover, county police departments have an effective process already in place to address police misconduct.