

DAVID Y. IGE
GOVERNOR OF HAWAII



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

ROBERT K. MASUDA
FIRST DEPUTY

JEFFREY T. PEARSON, P.E.
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

**Testimony of
SUZANNE D. CASE
Chairperson**

**Before the House Committee on
JUDICIARY**

**Thursday, February 13, 2018
2:00 PM**

State Capitol, Conference Room 325

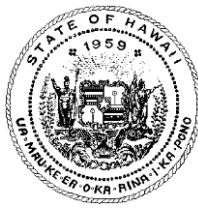
**In consideration of
HOUSE BILL 2071, HOUSE DRAFT 1
RELATING TO LAW ENFORCEMENT**

House Bill 207, House Draft 1, proposes to establish a law enforcement standards board for the certification of county police officers, state public safety officers and employees of the Department of Transportation and Department of Land and Natural Resources (Department) with police powers. **The Department supports this bill, provided that its passage does not replace or adversely impact priorities indicated in the Executive Supplemental Budget request.**

The Department believes that collaboration amongst law enforcement agencies and the other proposed members of this board to create standards pertaining to training and certification of law enforcement officers is a positive step. The Department supports consistency of training and other standards to be employed as a law enforcement officer in Hawaii.

Thank you for the opportunity to testify on this measure.

DAVID Y. IGE
GOVERNOR



STATE OF HAWAII
DEPARTMENT OF PUBLIC SAFETY

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

NOLAN P. ESPINDA
DIRECTOR

Cathy Ross
Deputy Director
Administration

Jodie F. Maesaka-Hirata
Deputy Director
Corrections

Renee R. Sonobe Hong
Deputy Director
Law Enforcement

No. _____

TESTIMONY ON HOUSE BILL 2071 HOUSE DRAFT 1
RELATING TO LAW ENFORCEMENT

by

Nolan P. Espinda, Director
Department of Public Safety

House Committee on Judiciary
Representative Scott Y. Nishimoto, Chair
Representative Joy A. San Buenaventura, Vice Chair

Tuesday, February 12, 2017; 2:00 p.m.
State Capitol, Conference Room 325

Chair Nishimoto, Vice Chair San Buenaventura, and Members of the Committee:

The Department of Public Safety (PSD) **supports the intent** of House Bill (HB) 2071, House Draft (HD) 1, which would establish a law enforcement standards board for the certification of law enforcement officers and training, and further, create a law enforcement standards board special fund. PSD, however, offers comments of concern.

Sections 7 and 8, on pages 9 – 11, address revocation or suspension of certifications and investigations. The Department notes that any provisions of this proposed bill should not violate or be inconsistent with the law enforcement officers' collective bargaining agreement, which is BU 14 for deputy sheriffs and BU 13 for Narcotics Enforcement Investigators and Internal Affairs Investigators, under PSD.

Thank you for the opportunity to present this testimony.



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-NINTH LEGISLATURE, 2018**

LATE

ON THE FOLLOWING MEASURE:

H.B. NO. 2071, H.D. 1, RELATING TO LAW ENFORCEMENT.

BEFORE THE:

HOUSE COMMITTEE ON JUDICIARY

DATE: Tuesday, February 13, 2018 **TIME:** 2:00 p.m.

LOCATION: State Capitol, Room 325

TESTIFIER(S): Russell A. Suzuki, Acting Attorney General, or
Lance Goto, Deputy Attorney General.

Chair Nishimoto and Members of the Committee:

The Department of the Attorney General ("the Department") appreciates the intent of this bill and submits comments.

The purpose of this bill is to establish an unpaid fourteen-member law enforcement standards board, in the Department, that will be responsible for the following:

- (1) Develop minimum standards for state and county law enforcement officers in this State;
- (2) Establish and maintain curriculum and training programs for the officers;
- (3) Establish and require participation in continuing education programs for the officers; and
- (4) Manage a certification program for the officers that includes certification of officers, enforcement of certification requirements, investigations of officers, conducting revocation proceedings, and revoking certifications.

The unpaid law enforcement standards board has great responsibilities. And section 6 of the bill, on page 12, requires all law enforcement officers in the State to be certified by July 1, 2019. That appears to be an ambitious goal. In fact, the proposed scope of the functions and responsibilities of the board appear to require the establishment of not just the board, but an entire training and regulatory agency. This proposal is significant and appears to warrant further study and evaluation.

The Department has some concerns about section 3 of the bill, which begins at the bottom of page 5. This section establishes the powers and duties of the board. But some of the powers and duties are not clearly established. It does not clearly establish the responsibilities to certify all law enforcement officers and to revoke the certification of officers. On page 6, lines 3-5, the bill provides that the board shall establish minimum standards for employment and certification of law enforcement officers. On page 7, lines 16-18, the bill gives the board the authority to collect fees for certifications. And on page 7, lines 19-20, the bill provides that the board shall establish procedures and criteria for revocation of certifications issued by the board. Section 3 does not clearly set out the board duty and authority to certify officers and revoke certifications.

The board's duty and authority regarding training curriculum and training schools and programs are also unclear. On page 6, lines 10-14, the bill provides that the board shall establish minimum criminal justice curriculum requirements for schools training law enforcement officers. This seems to suggest that the board will provide minimum curriculum requirements to the schools. It is not clear that these requirements are mandatory and will be enforced by the board.

On page 6, lines 15-19, the bill provides that the board will "consult and cooperate" with agencies and educational institutions "concerning the development of law enforcement training schools and programs of criminal justice instruction". It is not clear what this means, especially when considering section 5 of the bill, on page 8, lines 8-11:

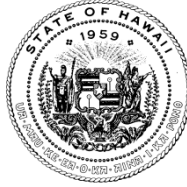
The board shall establish and maintain law enforcement training programs through agencies and institutions deemed appropriate by the board for applications for certification.

It appears that the board is responsible for establishing and maintaining training programs through other agencies and institutions. But it is not clear how that would be accomplished.

On page 7, lines 14-15, the bill provides that the board will establish and require

participation in continuing education programs for law enforcement. It appears to require the board to establish and operate these programs, and enforce participation in these programs by law enforcement officers statewide.

The Department appreciates the opportunity to provide comments.



Testimony by:
JADE T. BUTAY
INTERIM DIRECTOR

Deputy Directors
ROY CATALANI
ROSS M. HIGASHI
EDWIN H. SNIFFEN
DARRELL T. YOUNG

IN REPLY REFER TO:

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

February 1, 2018
9:00 a.m.
State Capitol, Room 309

HOUSE BILL 2071
RELATING TO LAW ENFORCEMENT

House Committee on Labor and Public Employment

The Department of Transportation (DOT) **supports** House Bill 2071, Relating to Law Enforcement.

The purpose of House Bill No. 2071 is to establish a law enforcement standards board for the certification of county police officers, safety public officers, and employees of the department of transportation and land and natural resources with police powers.

The DOT recognizes that currently the law enforcement profession is faced with many complex situations, integrity challenges, and a multitude of new criminal elements (i.e., insider threat, active shooters, terrorism, etc.) and techniques (diversion of law enforcement response teams to determine response time and methods). To address these new developments many law enforcement agencies rely on outdated standards and certification processes, policies and procedures, rules and regulations and recruitment and training standards. Many law enforcement agencies do not have consistent standards and certifiable processes, which are essential to minimize vicarious liability to the State of Hawaii.

To this end, the DOT acknowledges that "best practices" for law enforcement occupation requires the development and establishment of comprehensive entry level minimal qualification standards along with congruent certifiable screening of applicant's knowledge, skills and abilities, testing (physical fitness), evaluation (mental stability), background checks for previous work performance history, reference checks to determine if administrative misconducts were substantiated and criminal convictions (Lautenberg Amendment Federal Gun Ban on Misdemeanor Domestic Violence Convictions) of all qualified applicants for state law enforcement positions. Internal controls must also be developed to ensure fair and equitable application of these standards by the various agencies.

The DOT looks forward to being part of the proposed law enforcement working group and recommends that as one of our immediate responsibilities is to conduct research into the Commission on Accreditation for Law Enforcement Agencies (CALEA) program, as they have developed and established processes, bench marks, and standards specifically for national law enforcement agencies, which demonstrates that the law enforcement services provided to the public is enhanced and improved to meet societal expectations.

The DOT recommends that House Bill No. 2071 (page 2, line 18) be amended as follows:

The purpose of this Act is to establish a law enforcement standards board for the certification of ~~[county police officers,]~~ state public safety officers and employees of transportation, ~~[and]~~ land and natural resources, department of taxation and department of the attorney general with police powers.

Thank you for the opportunity to provide testimony.

DAVID Y. IGE
GOVERNOR



LATE

LAUREL A. JOHNSTON
ACTING DIRECTOR

EMPLOYEES' RETIREMENT SYSTEM
HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND
OFFICE OF THE PUBLIC DEFENDER

**STATE OF HAWAII
DEPARTMENT OF BUDGET AND FINANCE**

P.O. BOX 150
HONOLULU, HAWAII 96810-0150

ADMINISTRATIVE AND RESEARCH OFFICE
BUDGET, PROGRAM PLANNING AND
MANAGEMENT DIVISION
FINANCIAL ADMINISTRATION DIVISION
OFFICE OF FEDERAL AWARDS MANAGEMENT (OFAM)

WRITTEN ONLY

TESTIMONY BY LAUREL A. JOHNSTON
ACTING DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
TO THE HOUSE COMMITTEE ON JUDICIARY
ON
HOUSE BILL NO. 2071, H.D. 1

**February 13, 2018
2:00 p.m.
Room 325**

RELATING TO LAW ENFORCEMENT

House Bill No. 2071, H.D. 1, establishes a Law Enforcement Standards Board (LESB) for certification of law enforcement officers, the LESB Special Fund to defray the expenses of the LESB, appropriates an unspecified amount of general funds for FY 19 to be deposited into the LESB Special Fund, and an unspecified special fund appropriation.

While the Department of Budget and Finance takes no position on the State certification of law enforcement officers, as a matter of general policy, the department does not support the creation of any special fund which does not meet the requirements of Section 37-52.3, HRS. Special funds should: 1) serve a need as demonstrated by the purpose, scope of work and an explanation why the program cannot be implemented successfully under the general fund appropriation process; 2) reflect a clear nexus between the benefits sought and charges made upon the users or beneficiaries or a clear link between the program and the sources of revenue; 3) provide an appropriate means of financing for the program or activity; and 4) demonstrate the capacity to be financially self-sustaining. In regards to House Bill No. 2071, H.D. 1, the special fund does not meet the criteria of Section 37-52.3, HRS.

Thank you for your consideration of our comments.

HB-2071-HD-1

Submitted on: 2/12/2018 8:53:59 PM

Testimony for JUD on 2/13/2018 2:00:00 PM



Submitted By	Organization	Testifier Position	Present at Hearing
Shana Logan	Individual	Support	No

Comments:

Aloha,

I support any standards for law enforcement, and I hope the standards include a thorough understanding of the disabled population, including how to handle hidden disabilities like PTSD (Post-Traumatic Stress Disorder) and ASD (Autism Spectrum Disorder). Officers are tasked with many duties involving public safety, and they should be aware of the mental and developmental disabilities of citizens today. As the mother of an autistic teenager, I am concerned that my son may act out one day in front of a police officer and get shot and killed because the officer was not properly trained. Also, officers need to know much more than they do now about domestic violence and child abuse. In five minutes, an officer cannot ascertain the complexities of a domestic violence situation and should be better equipped to do so or else not be allowed to remove children from a home unless a parent is beating the child in front of the officer or somehow presents a danger in front of the officer. Removing children from homes based on ignorance is a violation of parents' and childrens' civil and constitutional rights and should be done in only EXTREME cases and with a WARRANT, not just hearsay or the suspicions of an untrained or inexperienced officer. This is a violation of 4th amendment, illegal search and seizure, and HRS587 contains language that allows this violation to occur over and over with impunity, and with little recourse for parents. All officers should follow the US Constitution first, not a state law that is unconstitutional. This is a civil suit waiting to happen. Officers need standards based on protecting citizens' rights, not violating them. Public safety is important, yet so are our rights and freedoms from government tyranny. Please train your officers properly in the US and Hawaii Constitutions, and how to better protect the rights of citizens in the course of providing public safety. Mahalo.

LATE

HB-2071-HD-1

Submitted on: 2/12/2018 10:34:03 PM

Testimony for JUD on 2/13/2018 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Alan Urasaki	Individual	Support	No

Comments:

LATE

HB-2071-HD-1

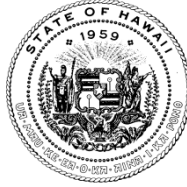
Submitted on: 2/13/2018 11:13:28 AM

Testimony for JUD on 2/13/2018 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Grant Wolf	Individual	Support	No

Comments:

Yes, I agree with this bill we should have a law enforcement standard board. Many officers in Hawai'i are unfit to be cops and running things in their vicinity. I do not feel that our police force should be more militant and depriving of basic rights nor out to pick more money from the people by adhering to this boards quiet quota for tickets that each officer should rake in. I mean this board should be utilized to keep the moral values of officers at a higher standard and that such practices are reviewed as well as their job ethics. Some officers are not physically fit enough to handle their jobs, others avoid doing their work at all if possible, etc. I think a standard board should be used to keep officers in line so that they behave as the good cops we expect to see that take pride in their jobs and also help the community. If this standard board is simply to be a coaching for the cops how to bring more money into the county and state for raking in more tickets then I would be against it. My belief is that this standard board is simply for good cops to continue to be good cops and to review how they interact publicly with citizens as well. At least that is what it should be used for. There have been many issues in Hawai'i with corrupt cops taking money from criminals, engaging in lewd sexual acts with prostitutes, driving drunk, harassing and bullying people, and much more. We need to consider the purpose of this bill and make it the best that it can be. When I reviewed it, the information was rather broad. Anyways, I will support this one in hopes that we can better the police departments overall in Hawai'i. Maui is some of the most corrupt police force and have worked with criminals and other bribers to achieve unlawful aims. The review board should consider also calls made to internal affairs concerning the behaviors of officers. For the moment I support this bill. If it turns out to be a dud I will be very upset.



Testimony by:
JADE T. BUTAY
INTERIM DIRECTOR

Deputy Directors
ROY CATALANI
ROSS M. HIGASHI
EDWIN H. SNIFFEN
DARRELL T. YOUNG

IN REPLY REFER TO:

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

February 13, 2018
2:00 p.m.
State Capitol, Room 325

H.B. 2071, H.D. 1
RELATING TO LAW ENFORCEMENT

House Committee on Judiciary

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The purpose of this bill is to establish a law enforcement standards board for the certification of county police officers, safety public officers, and employees of the department of transportation and land and natural resources with police powers.

The DOT recognizes that currently the law enforcement profession is faced with many complex situations, integrity challenges, and a multitude of new criminal elements (i.e., insider threat, active shooters, terrorism, etc.) and techniques (diversion of law enforcement response teams to determine response time and methods). To address these new developments many law enforcement agencies rely on outdated standards and certification processes, policies and procedures, rules and regulations and recruitment and training standards. Many law enforcement agencies do not have consistent standards and certifiable processes, which is essential to minimize vicarious liability to the State of Hawaii.

To this end, the DOT acknowledges that “best practices” for law enforcement occupation requires the development and establishment of comprehensive entry level minimal qualification standards along with congruent certifiable screening of applicant’s knowledge, skills and abilities, testing (physical fitness), evaluation (mental stability), background checks for previous work performance history, reference checks to determine if administrative misconducts were substantiated and criminal convictions (Lautenberg Amendment Federal Gun Ban on Misdemeanor Domestic Violence Convictions) of all qualified applicants for state law enforcement positions. Internal controls must also be developed to ensure fair and equitable application of these standards by the various agencies.

The DOT looks forward to being part of the proposed law enforcement working group and recommends that as one of our immediate responsibilities is to conduct research into the Commission on Accreditation for Law Enforcement Agencies (CALEA) program, as they have developed and established processes, bench marks, and standards specifically for national law enforcement agencies, which demonstrates that the law enforcement services provided to the public is enhanced and improved to meet societal expectations.

Thank you for the opportunity to provide testimony.



POLICE DEPARTMENT COUNTY OF KAUAI



BERNARD P. CARVALHO JR.
Mayor

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WALLACE G. REZENTES JR.
Managing Director

MICHAEL M. CONTRADES
Deputy Chief of Police
mcontrades@kauai.gov

TO: Representative Aaron Ling Johanson, Chairperson
and Committee Members
Committee on Labor & Public Employment

FROM: Darryl D. Perry, Chief of Police

DATE: February 12, 2018

SUBJECT: **HOUSE BILL 2071, RELATING TO LAW ENFORCEMENT**

LATE

The Kaua'i Police Department opposes House Bill 2071, with its purpose being to establish a law enforcement standards board for the certification of county police officers, state public safety officers, and employees of the departments of transportation, land and natural resources, attorney general, and taxation with police powers.

Our concern is the additional layer of bureaucratic oversight and what amounts to the abolition of home rule as it pertains to each of the Counties. By establishing a "certification process" the Bill in essence strips the hiring authority from the Chief of Police, and places it in the hands of the proposed board.

The Kaua'i Police Department has very stringent hiring practices. After a rigorous process, we accept approximately 2.4% of those who apply to be police officers. Our process includes: application review for qualification, a written exam, a physical readiness standards test, submittal and review of applicants personal history packet, pre-job offer psychological exam, a thorough background check, conditional job offer written psychological exam, polygraph test, conditional job offer psychological exam with our psychologist, drug testing and a medical examination. If the applicant meets all suitability requirements the last step is the job offer.

With regards to our training requirements, as illustrated in the 2015 International Association of Directors of Law Enforcement Standards and Training report, Hawai'i has one of the highest number of training hours reported in the Nation. The Kaua'i Police Department's academy training hours is higher than any State listed, with the exception of Minnesota. Unlike other States, we do not readily accept training certifications and hours from other police departments and law enforcement agencies and require all new hires, with or without law enforcement

experience, to attend our full training academy. This is necessary because of the vast differences in laws and acceptable practices. We want to ensure that every officer has more than adequate and acceptable training and we will not rely on another agencies' training.

Furthermore, all four of the County Police Departments—Honolulu, Maui, Hawai'i and Kauai—are nationally recognized as fully accredited Law Enforcement Agencies (LEA) through the Commission on Accreditation for Law Enforcement Agencies (CALEA®).

In order for any agency to gain accreditation they must conform to prescribed standards with appropriate policies and procedural adherence, and provide proof of compliance during on-site assessments conducted by CALEA.

CALEA standards cover all aspects of training, and other obligations which include but are not limited to:

1. Recruit training
2. Reserve Officer training
3. Specialized tactical weapons training for Special Response Teams and Crisis Negotiators
4. Use of Force mandates which includes annual reviews; equipment needs, and specialized and remedial training.
5. Annual audits and reviews of evidence and property storage
6. Inspections of various operational funding controls and sources
7. Annual review of agency needs based on quarterly, annual and triennial reports concerning liability, workload assessments, and management of resources
8. Mandates concerning all aspects of criminal report writing
9. Evidence collection and preservation to include latent fingerprints and DNA identification
10. Crime scene preservation of evidence

11. Crime Laboratory responsibilities with respect to identifying evidence authentication related to the crime scene; followed by court-accepted expert testimony of certified trained personnel
12. Departmental annual recall refresher training on use of force, natural and man-made hazardous response plans, critical incidents, ethics, bias based profiling, law enforcement updates, court rulings, and the like

To ensure conformance, accredited agencies must undergo and pass an independent on-site assessment by CALEA every four years.

Each Police Chief submits a yearly assessment report that is used in evaluating the agency's commitment to accreditation and to identify future assessment review issues. Having an independent assessment places a high value on the accreditation for the agency as it opens the doors for independent scrutiny.

No other commission or entity places such a microscopic evaluation on a law enforcement agency than CALEA. Being an accredited agency is the difference between validated professionalism and claiming to be professional.

Hawai'i has an established training coalition comprised of representatives from each County Police Department, the Department of the Attorney General and the Federal Bureau of Investigation. Quarterly meetings are held to discuss the latest trends in law enforcement and the best practices to address those trends through training.

The training curriculums of each County Police Department were reviewed by the coalition. It was determined that all County Police Departments met or exceeded the training hours for both Academy level and In-service level training as compared to States with Peace Officer Standards Training (P.O.S.T.) for which this bill appears to be modelled after.

The Kaua'i Police Department provides over 1,005 hours of academy training and a minimum of 24 hours of annual recall training a year. This meets and exceeds P.O.S.T. academies on the Continental U.S.

In terms of revoking a police officer's certification for serious misconduct, the Kaua'i Police Department has a process in place for the review of allegations of misconduct. Detailed internal affairs reports are created after an exhaustive investigation. A review of the facts of each case is completed and in serious cases, members of our Administrative Review Board hold a hearing and make a recommendation to the Chief of Police with regards to disciplinary action. For serious violations of our Standards of Conduct personnel are terminated, which essentially amounts to decertification.

State oversight is a troubling concept given that the State currently struggles to address the issues surrounding the law enforcement officers it employs in the Department of Land and

Natural Resources and the Department of Public Safety. Based on our experiences with State law enforcement agencies on Kaua'i, we believe that the State should seek to address standards of professionalism and training within its own law enforcement entities and not County Police Departments. Best practices in hiring and training are needed within the State's own law enforcement agencies and the State should focus their efforts on becoming CALEA accredited and establish a level of standards and professionalism commensurate with the four County Police Departments.

House Bill 2071 would create an unnecessary level of bureaucracy, waste critical resources and duplicate processes that already exist.

For these reasons the Kaua'i Police Department is **opposed** to House Bill 2071. Thank you for the opportunity to testify.

Resource:

I. (2015). *January 2015 Reciprocity Handbook* (Rep.). Retrieved February 9, 2016, from International Association of Directors of Law Enforcement Standards and Training website: <http://www.iadlest.org>