

**From:** Michael Contrades [mcontrades@kauai.gov]  
**Sent:** Sunday, April 17, 2016 10:26 AM  
**To:** Kubojiri, Harry S.; Robinson, Richard C.; Tivoli S. Faaumu; Darryl Perry; Kealoha, Louis  
**Cc:** Ferreira, Paul; everett.ferreira@mpd.net; Lum, Andrew; Stacy Perreira; Dean.Rickard@mpd.net; McCauley, Marie A.; Macadangdang, Randal  
**Subject:** RE: SB2411  
**Attachments:** SB2411 SB 2 HD2 Kauai Suggested Changes.docx

Aloha Major Robinson,

Attached are the suggested changes from Kaua'i PD. We added a section on the bottom supporting Hawai'i PD's suggested changes to have [REDACTED] We think it's an important addition. If you have any questions, please give me a call to discuss.

Mahalo!

*Michael M. Contrades*  
Deputy Chief of Police  
Office of the Chief of Police  
Kaua'i Police Department  
3990 Kaana Street, Suite 200  
Līhu'e, HI, 96766-1268  
(808) 241-1602  
[mcontrades@kauai.gov](mailto:mcontrades@kauai.gov)



---

**From:** Kubojiri, Harry S. [mailto:Harry.S.Kubojiri@hawaiicounty.gov]  
**Sent:** Sunday, April 17, 2016 5:21 AM  
**To:** Robinson, Richard C.; Tivoli S. Faaumu; Darryl Perry; Kealoha, Louis  
**Cc:** Michael Contrades; Ferreira, Paul; everett.ferreira@mpd.net; Lum, Andrew; Stacy Perreira; Dean.Rickard@mpd.net; McCauley, Marie A.; Macadangdang, Randal  
**Subject:** RE: SB2411

Major Robinson,

Upon review, the following are the comments (4) provided by staff. Thanks again for all your hard work.:

*Harry S. Kubojiri*

*Police Chief  
Hawaii Police Department  
349 Kapiolani Street  
Hilo, Hawaii 96720*

*(808) 961-2243 Business  
(808) 961-2389 Facsimile*

---

**From:** Robinson, Richard C. [<mailto:rrobinson1@honolulu.gov>]  
**Sent:** Saturday, April 16, 2016 7:19 PM  
**To:** Kubojiri, Harry S.; Tivoli S. Faaumu; Darryl Perry; Kealoha, Louis  
**Cc:** Michael Contrades; Ferreira, Paul; [everett.ferreira@mpd.net](mailto:everett.ferreira@mpd.net); Lum, Andrew; Stacy Perreira; [Dean.Rickard@mpd.net](mailto:Dean.Rickard@mpd.net); McCauley, Marie A.; Macadangdang, Randal  
**Subject:** RE: SB2411

Ok thanks Chief. I will try to find out when they are planning on holding the hearing. The sooner we get our input to them the better. The rules require that the conference committee hearing has to be held, and a version of the bill agreed upon, and in its final written form by April 28<sup>th</sup> at 2300 hours. Also I will be on vacation from the 20<sup>th</sup> to the 27<sup>th</sup>, and off island from the 21<sup>st</sup>. If something happens on the 20<sup>th</sup> I can come in for that if needed.

Thanks

Major Richard Robinson  
Records and Identification Division  
Honolulu Police Department  
801 South Beretania Street  
Honolulu, HI 96813  
(808) 723-3181  
[rrobinson1@honolulu.gov](mailto:rrobinson1@honolulu.gov)

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**From:** Kubojiri, Harry S. [<mailto:Harry.S.Kubojiri@hawaiicounty.gov>]  
**Sent:** Friday, April 15, 2016 5:17 AM  
**To:** Robinson, Richard C.; Tivoli S. Faaumu; Darryl Perry; Kealoha, Louis  
**Cc:** Michael Contrades; Ferreira, Paul; [everett.ferreira@mpd.net](mailto:everett.ferreira@mpd.net); Lum, Andrew; Stacy Perreira; [Dean.Rickard@mpd.net](mailto:Dean.Rickard@mpd.net); McCauley, Marie A.; Macadangdang, Randal  
**Subject:** RE: SB2411

Major Robinson,

Thank you for the follow-up. I will review it over the weekend and if I have any comments, I will get it back to you by next week (mid-week).

Thanks again.

*Harry S. Kubojiri*  
*Police Chief  
Hawaii Police Department*

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**From:** Robinson, Richard C. [<mailto:rrobinson1@honolulu.gov>]  
**Sent:** Thursday, April 14, 2016 3:48 PM  
**To:** Kubojiri, Harry S.; Tivoli S. Faaumu; Darryl Perry; Kealoha, Louis  
**Cc:** Michael Contrades; Ferreira, Paul; [everett.ferreira@mpd.net](mailto:everett.ferreira@mpd.net); Lum, Andrew; Stacy Perreira; [Dean.Rickard@mpd.net](mailto:Dean.Rickard@mpd.net); McCauley, Marie A.; Macadangdang, Randal  
**Subject:** RE: SB2411

Good afternoon,

Attached are the latest revisions. Please let me know what you think.

Major Richard Robinson  
Records and Identification Division  
Honolulu Police Department  
801 South Beretania Street  
Honolulu, HI 96813  
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[rrobinson1@honolulu.gov](mailto:rrobinson1@honolulu.gov)

Kaua'i Police Department  
Suggested Changes  
S.B. No. 2411 S.D.2 H.D.2

Page [redacted] Line [redacted] Section [redacted]

Suggestion: [redacted]  
[redacted]

Reason: [redacted]  
[redacted]

Page [redacted] Line [redacted]

Suggestion: [redacted]  
[redacted]

Reason: [redacted]  
[redacted]

Page [redacted] Line [redacted]

Suggestion: [redacted]

Reason: [redacted]  
[redacted]

Page [redacted] Line [redacted]

Suggestion: [redacted]

Reason: [redacted]  
[redacted]

Page [redacted] Lines [redacted] Page [redacted] Lines [redacted] Page [redacted] Lines [redacted]

Suggestion: [redacted]  
[redacted]  
[redacted]



Reason:

[REDACTED]

We agree with Hawai'i Police Department in adding the language

[REDACTED]

**From:** Robinson, Richard C.  
**Sent:** Friday, April 29, 2016 12:37 PM  
**To:** 'Kubojiri, Harry S.'; 'Tivoli S. Faaumu'; 'Darryl Perry'; Kealoha, Louis  
**Cc:** 'Michael Contrades'; Macadangdang, Randal; Yu, Michelle  
**Subject:** joint editorial on SB2411  
**Attachments:** Police Body.doc

Chiefs,

I did not know who was on the original email list for this so I am sending just to the four of you, Mike, AC Macadangdang and Michelle Yu. I worded it on the stronger side. I figured it is easier to soften it then strengthen it. And as I stated this is just a rough draft.

Thank you

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**From:** Robinson, Richard C.  
**Sent:** Friday, April 29, 2016 7:27 AM  
**To:** 'Kubojiri, Harry S.'; 'Tivoli S. Faaumu'; 'Darryl Perry'; Kealoha, Louis  
**Cc:** 'Michael Contrades'; 'Ferreira, Paul'; 'everett.ferreira@mpd.net'; Lum, Andrew; 'Stacy Perreira'; 'Dean.Rickard@mpd.net'; McCauley, Marie A.; Macadangdang, Randal  
**Subject:** RE: SB2411

Good Morning,

Attached is the most recent version of the CD1. I have not had a chance to go over it thoroughly yet. I wanted to get it out to all of you as quickly as possible.

Major Richard Robinson  
Records and Identification Division  
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801 South Beretania Street  
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**From:** Robinson, Richard C.  
**Sent:** Friday, April 29, 2016 7:23 AM  
**To:** 'Kubojiri, Harry S.'; 'Tivoli S. Faaumu'; 'Darryl Perry'; Kealoha, Louis  
**Cc:** 'Michael Contrades'; 'Ferreira, Paul'; 'everett.ferreira@mpd.net'; Lum, Andrew; 'Stacy Perreira'; 'Dean.Rickard@mpd.net'; McCauley, Marie A.; Macadangdang, Randal  
**Subject:** RE: SB2411

Good Morning,

Below is the text of the email sent to Rep. Rhoads after our discussion

Representative Rhoads,

After the committee meeting today there was a long discussion with the Chiefs from the neighbor islands today. As written all four counties and SHOPO oppose the bill. While we all recognized that significant changes have been made to the bill on our behalf, there are still two issues that we can not accept.

- Page 6 line 1-10-- Having officers trying to figure out all of these issues in an often tense situation is unreasonable. We understand the effort to protect the privacy of the public in their homes. We suggest removing the language completely and inserting into the appropriate section of the bill language that states "recordings made in a private residence are not releasable to the public"
- Page 13 Line 18 – strike out the words "or a felony arrest"

Prohibiting an officer from viewing video footage related to any felony arrest will be counterproductive to police work. No other state has placed such a restriction on law enforcement. This provision comes from a basic distrust of law enforcement.

- Page 13 line 20 – change the word "report" to "statement"

In deadly force situations the involved officer's weapon and camera would be recovered at the scene as evidence by the first responding supervisor. At that time the officer is required to provide a statement to the supervisor without the assistance of counsel. After the arrival of the investigators from the Professional Standards Office and the Homicide Detail the officer provides a more in-depth statement after speaking to counsel. We refer to that second statement as the "the walk through" That second statement is voluntary and protected by the officer's 4<sup>th</sup> and 5<sup>th</sup> amendment rights. I have spoke to lawyers who specialize in officer involved shootings. They have stated that if the officer is prohibited from viewing the video they would likely advise the officer not to make a statement. This could have a very negative impact on the investigation of the crime that occurred, the arrest of the suspect, and any possible prosecution.

We respectfully request the above changes be made to this bill. With these changes all four counties will support the passage of the bill.

Thank you

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**From:** Robinson, Richard C.  
**Sent:** Thursday, April 28, 2016 8:41 AM  
**To:** Robinson, Richard C.; 'Kubojiri, Harry S.'; 'Tivoli S. Faaumu'; 'Darryl Perry'; Kealoha, Louis  
**Cc:** 'Michael Contrades'; 'Ferreira, Paul'; 'everett.ferreira@mpd.net'; Lum, Andrew; 'Stacy Perreira'; 'Dean.Rickard@mpd.net'; McCauley, Marie A.; Macadangdang, Randal  
**Subject:** RE: SB2411

Good Morning,

Attached is the proposed CD1 for SB2411. The biggest change is that there is no longer any funding in the bill for the county police departments.

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801 South Beretania Street  
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**From:** Robinson, Richard C.  
**Sent:** Monday, April 18, 2016 3:27 PM  
**To:** 'Kubojiri, Harry S.'; Tivoli S. Faaumu; Darryl Perry; Kealoha, Louis  
**Cc:** Michael Contrades; Ferreira, Paul; everett.ferreira@mpd.net; Lum, Andrew; Stacy Perreira; Dean.Rickard@mpd.net; McCauley, Marie A.; Macadangdang, Randal  
**Subject:** RE: SB2411

Thank you for getting the recommendations for revisions in so quickly. I have incorporated all of them into the bill. Chief Kubojiri, I added onto your comment [REDACTED] I also cleaned up the section about an officer viewing the video in a deadly force situation. The attached version is what I sent over to Rep Rhoads' and Sen. Nishihara's staff attorneys. I will check with them tomorrow to see if there are any issues. No hearing date has been set yet. The House has appointed Rhoads, Johanson (finance) Takayama, and Pouha to the committee. The Senate is likely Nishihara, Keith-Agaran, Espero, and English-(Finance). I will try to get a sit down with Johanson, Espero, Takayama, Pouha, and English tomorrow.

Thanks Rich

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**Subject:** RE: SB2411

Major Robinson,

Upon review, the following are the comments (4) provided by staff. Thanks again for all your hard work.:

*Harry S. Kubojiri*  
Police Chief  
Hawaii Police Department  
349 Kapiolani Street  
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**Subject:** RE: SB2411

Ok thanks Chief. I will try to find out when they are planning on holding the hearing. The sooner we get our input to them the better. The rules require that the conference committee hearing has to be held, and a version of the bill agreed upon, and in its final written form by April 28<sup>th</sup> at 2300 hours. Also I will be on vacation from the 20<sup>th</sup> to the 27<sup>th</sup>, and off island from the 21<sup>st</sup>. If something happens on the 20<sup>th</sup> I can come in for that if needed.

Thanks

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**Subject:** RE: SB2411

Major Robinson,

Thank you for the follow-up. I will review it over the weekend and if I have any comments, I will get it back to you by next week (mid-week).

Thanks again.

*Harry S. Kubojiri*

*Police Chief*

*Hawaii Police Department*

*349 Kapiolani Street*

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**Sent:** Thursday, April 14, 2016 3:48 PM

**To:** Kubojiri, Harry S.; Tivoli S. Faaumu; Darryl Perry; Kealoha, Louis

**Cc:** Michael Contrades; Ferreira, Paul; [everett.ferreira@mpd.net](mailto:everett.ferreira@mpd.net); Lum, Andrew; Stacy Perreira; [Dean.Rickard@mpd.net](mailto:Dean.Rickard@mpd.net); McCauley, Marie A.; Macadangdang, Randal

**Subject:** RE: SB2411

Good afternoon,

Attached are the latest revisions. Please let me know what you think.

Major Richard Robinson

Records and Identification Division

Honolulu Police Department

801 South Beretania Street

Honolulu, HI 96813

(808) 723-3181

[rrobinson1@honolulu.gov](mailto:rrobinson1@honolulu.gov)

**From:** Robinson, Richard C.  
**Sent:** Wednesday, March 30, 2016 3:21 PM  
**To:** Lum, Andrew  
**Subject:** RE: Ink to testamoy  
**Attachments:** Sample testimony.doc

Something more like this

Major Richard Robinson  
Records and Identification Division  
Honolulu Police Department  
801 South Beretania Street  
Honolulu, HI 96813  
(808) 723-3181  
[rrobinson1@honolulu.gov](mailto:rrobinson1@honolulu.gov)

---

**From:** Lum, Andrew  
**Sent:** Wednesday, March 30, 2016 3:01 PM  
**To:** Robinson, Richard C.  
**Subject:** RE: Ink to testamoy

Oh man, I just briefly hit on points anticipating us giving more on the oral testimony side. Should I have added more in the written testimony?

---

**From:** Robinson, Richard C.  
**Sent:** Wednesday, March 30, 2016 2:45 PM  
**To:** Lum, Andrew  
**Subject:** Ink to testamoy

Big island



[http://www.capitol.hawaii.gov/Session2016/Testimony/SB2411\\_SD2\\_TESTIMONY\\_JUD\\_03-18-16\\_.PDF](http://www.capitol.hawaii.gov/Session2016/Testimony/SB2411_SD2_TESTIMONY_JUD_03-18-16_.PDF)

Kauai

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[rrobinson1@honolulu.gov](mailto:rrobinson1@honolulu.gov)

AL-TS

April 1, 2016

The Honorable Xx, Chair  
and Members  
Committee on Xx  
Hawaii State Capitol, Room 309  
415 South Beretania Street  
Honolulu, Hawaii 96813

Dear Chair Xx and Members:

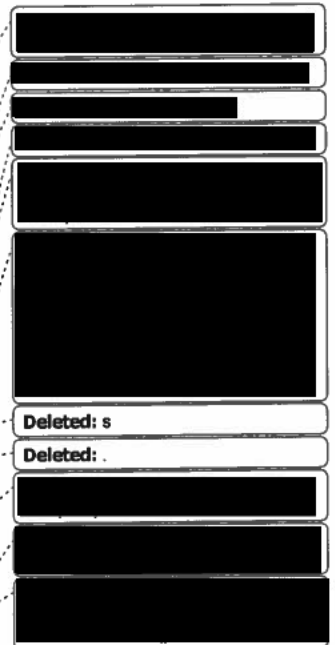
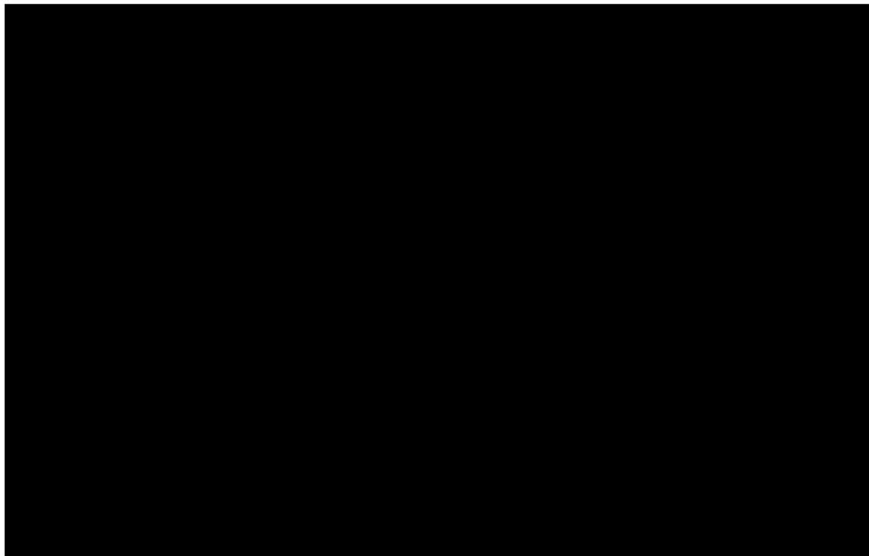
SUBJECT: Senate Bill 2411 S.D.2 H.D.1, Relating to Law Enforcement Cameras

I am Andrew Lum, Major of the Information Technology Division of the Honolulu Police Department (HPD), City and County of Honolulu.

The HPD supports the intent of Senate Bill 2411 S.D.2 H.D.1, Relating to Law Enforcement Cameras, however, opposes specific language in the bill we feel would be detrimental in developing our body worn camera program.

The HPD opposes the following:

- 
- 
- 
- 





Thank you for the opportunity to testify.

Sincerely,

Andrew Lum, Major  
Information Technology Division

APPROVED:

---

Louis M. Kealoha  
Chief of Police

**From:** Robinson, Richard C.  
**Sent:** Wednesday, March 30, 2016 3:03 PM  
**To:** Lum, Andrew  
**Subject:** RE: Ink to testimony

Little more. I will tweak it a bit and upstarts will tweak it a lot. I will send it to you in second

Major Richard Robinson  
Records and Identification Division  
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**From:** Lum, Andrew  
**Sent:** Wednesday, March 30, 2016 3:01 PM  
**To:** Robinson, Richard C.  
**Subject:** RE: Ink to testimony

Oh man, I just briefly hit on points anticipating us giving more on the oral testimony side. Should I have added more in the written testimony?

---

**From:** Robinson, Richard C.  
**Sent:** Wednesday, March 30, 2016 2:45 PM  
**To:** Lum, Andrew  
**Subject:** Ink to testimony

Big island

The issue of retention of the video for a three-year period of time carries with it an in burden on the County Police Departments in terms of video storage capacity. Further, the County Police Departments to a plethora of public requests for release of the videos additional burden in terms of review, redacting to protect legitimate privacy interests as and releasing the video. The Hawai'i County Police Department projects video retention period of time will require an additional three employees to meet public requests 1 manpower required for mandatory three-year retention will in all probability lead to ne least double the projected manpower for complying with public requests for video footage

We believe this legislation as written lacks a law enforcement perspective with respect stated policies and procedures. For instance, those people who will ask not to be rec probability the very ones for which a body camera is best suited for.

[http://www.capitol.hawaii.gov/Session2016/Testimony/SB2411\\_SD2\\_TESTIMONY\\_JUD\\_03-18-16\\_PDF](http://www.capitol.hawaii.gov/Session2016/Testimony/SB2411_SD2_TESTIMONY_JUD_03-18-16_PDF)

Kauai

Major Richard Robinson  
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Honolulu Police Department  
801 South Beretania Street  
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(808) 723-3181  
[rrobinson1@honolulu.gov](mailto:rrobinson1@honolulu.gov)

**From:** Robinson, Richard C.  
**Sent:** Wednesday, March 30, 2016 2:45 PM  
**To:** 'Lum, Andrew'  
**Subject:** Ink to testamoy

Big island

The issue of retention of the video for a three-year period is a significant burden on the County Police Departments in terms of the County Police Departments to a plethora of public information requests. This is an additional burden in terms of review, redacting to protect privacy, and releasing the video. The Hawai'i County Police Department over the period of time will require an additional three employees to manage the manpower required for mandatory three-year retention. This is at least double the projected manpower for complying with the current law.

We believe this legislation as written lacks a law enforcement perspective on stated policies and procedures. For instance, those policies are the very ones for which a body camera is being implemented.

[http://www.capitol.hawaii.gov/Session2016/Testimony/SB2411\\_SD2\\_TESTIMONY\\_JUD\\_03-18-16\\_.PDF](http://www.capitol.hawaii.gov/Session2016/Testimony/SB2411_SD2_TESTIMONY_JUD_03-18-16_.PDF)

Kauai

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(808) 723-3181  
[rrobinson1@honolulu.gov](mailto:rrobinson1@honolulu.gov)

**From:** Robinson, Richard C.  
**Sent:** Thursday, March 31, 2016 8:23 AM  
**To:** Lum, Andrew  
**Subject:** RE: Ink to testimony

Ok sounds good. We will need to hear back from mike by this morning because we have to get it back to alan very soon. I am working on the justification for each of the changes. We will have to give that to alan at the same time. I think the best plan is to [REDACTED]

[REDACTED] The document with your changes was not attached.

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---

**From:** Lum, Andrew  
**Sent:** Thursday, March 31, 2016 8:18 AM  
**To:** Robinson, Richard C.; Castro, Andrew  
**Subject:** RE: Ink to testimony

Aloha Rich,

Made a review and agree with the changes, I will share with Mike Contrades, Kaua'i. I'll see if ACLU is agreeable to meet on this would you like to be there?

Mahalo,

Andy

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**From:** Robinson, Richard C.  
**Sent:** Wednesday, March 30, 2016 4:22 PM  
**To:** Lum, Andrew; Castro, Andrew  
**Subject:** FW: Ink to testimony

If you guys like it once we get it touched up we should send it to the other PD so they know what we are proposing. If it was me I would also set up a meeting with ACLU and go over it with them.

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Honolulu Police Department  
801 South Beretania Street  
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---

**From:** Robinson, Richard C.  
**Sent:** Wednesday, March 30, 2016 4:20 PM  
**To:** Lum, Andrew; Castro, Andrew  
**Subject:** RE: Ink to testamoy

Take a look. Deleted material is strike through new material is underlined

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---

**From:** Robinson, Richard C.  
**Sent:** Tuesday, April 12, 2016 9:54 AM  
**To:** 'keithagaran1@capitol.hawaii.gov'  
**Subject:** FW: SB 2411 police cameras.doc HPD revisions  
**Attachments:** SB 2411 SD 2 HD2 HPD revised 3 aclu.doc; justification 3 aclu.doc

Sorry I got your email address wrong in the first email

Major Richard Robinson  
Records and Identification Division  
Honolulu Police Department  
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[rrobinson1@honolulu.gov](mailto:rrobinson1@honolulu.gov)

---

**From:** Robinson, Richard C.  
**Sent:** Tuesday, April 12, 2016 9:46 AM  
**To:** 'senkeithagaran@capitol.hawaii.gov'  
**Cc:** 'senkeithagaran1@capitol.hawaii.gov'  
**Subject:** FW: SB 2411 police cameras.doc HPD revisions

Senator Keith-Agaran,

Attached are the county police departments proposed changes to SB2411. In this form all four county police departments would fully support this bill. In our discussions with the ACLU there has been significant compromise on the side of the police departments. This proposed bill is also consistent with the laws of all of the other states that have passed BWC legislation. In fact it is more restrictive on the police than any other law I have found.

The attached justification sheet indicates the areas that we are in agreement with the ACLU. Those areas that are highlighted in yellow are areas of disagreement. We have had extensive discussion with the ACLU and it appears that there are issues that we just fundamentally disagree on. Although all of the police departments want to work to pass a bill that we can all live with there are issues within this bill, in its currently form, that would cause us to be very strongly opposed to the bill.

We have an appointment scheduled to meet with you tomorrow at 11:00 a.m. It looks like all four of the county police departments will be sending representatives to the meeting.

I know this is very late in the session to be making such sweeping changes and I appreciate all of the help you folks have given us through the whole session.

Thanks Rich

Major Richard Robinson  
Records and Identification Division  
Honolulu Police Department

801 South Beretania Street  
Honolulu, HI 96813  
(808) 723-3181  
[rrobinson1@honolulu.gov](mailto:rrobinson1@honolulu.gov)

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**From:** Robinson, Richard C.  
**Sent:** Tuesday, April 12, 2016 9:51 AM  
**To:** 'nishihara1@capitol.hawaii.gov'  
**Subject:** FW: SB 2411 police cameras.doc HPD revisions  
**Attachments:** SB 2411 SD 2 HD2 HPD revised 3 aclu.doc; justification 3 aclu.doc

Laura,

Attached are the county police departments proposed changes to SB2411. In this form all four counties would fully support this bill. In our discussions with the ACLU there has been significant compromise on the side of the police departments. This proposed bill is also consistent with the laws of all of the other states that have passed BWC legislation. In fact it is more restrictive on the police than any other law I have found.

The attached justification sheet indicates the areas that we are in agreement with the ACLU. Those areas that are highlighted in yellow are areas of disagreement. We have had extensive discussion with the ACLU and it appears that there are issues that we just fundamentally disagree on. Although all of the police departments want to work to pass a bill that we can all live with there are issues within this bill, in its currently form, that would cause us to be very strongly opposed to the bill.

We have an appointment scheduled with the Senator tomorrow at 2:00 p.m. It looks like all four of the county police departments will be sending representatives to the meeting.

I know this is very late in the session to be making such sweeping changes and I appreciate all of the help you folks have given us through the whole session.

Thanks Rich

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**From:** Robinson, Richard C.  
**Sent:** Tuesday, April 12, 2016 9:46 AM  
**To:** 'senkeithagaran@capitol.hawaii.gov'  
**Cc:** 'senkeithagaran1@capitol.hawaii.gov'  
**Subject:** FW: SB 2411 police cameras.doc HPD revisions  
**Attachments:** SB 2411 SD 2 HD2 HPD revised 3 aclu.doc; justification 3 aclu.doc

Senator Keith-Agaran,

Attached are the county police departments proposed changes to SB2411. In this form all four county police departments would fully support this bill. In our discussions with the ACLU there has been significant compromise on the side of the police departments. This proposed bill is also consistent with the laws of all of the other states that have passed BWC legislation. In fact it is more restrictive on the police than any other law I have found.

The attached justification sheet indicates the areas that we are in agreement with the ACLU. Those areas that are highlighted in yellow are areas of disagreement. We have had extensive discussion with the ACLU and it appears that there are issues that we just fundamentally disagree on. Although all of the police departments want to work to pass a bill that we can all live with there are issues within this bill, in its currently form, that would cause us to be very strongly opposed to the bill.

We have an appointment scheduled to meet with you tomorrow at 11:00 a.m. It looks like all four of the county police departments will be sending representatives to the meeting.

I know this is very late in the session to be making such sweeping changes and I appreciate all of the help you folks have given us through the whole session.

Thanks Rich

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**From:** Robinson, Richard C.  
**Sent:** Tuesday, April 12, 2016 9:38 AM  
**To:** "sennishihara (laura) "  
**Subject:** SB 2411 police cameras.doc HPD revisions  
**Attachments:** SB 2411 SD 2 HD2 HPD revised 3 aclu.doc; justification 3 aclu.doc

Laura,

Attached are the county police departments proposed changes to SB2411. In this form all four counties would fully support this bill. In our discussions with the ACLU there has been significant compromise on the side of the police departments. This proposed bill is also consistent with the laws of all of the other states that have passed BWC legislation. In fact it is more restrictive on the police than any other law I have found.

The attached justification sheet indicates the areas that we are in agreement with the ACLU. Those areas that are highlighted in yellow are areas of disagreement. We have had extensive discussion with the ACLU and it appears that there are issues that we just fundamentally disagree on. Although all of the police departments want to work to pass a bill that we can all live with there are issues within this bill, in its currently form, that would cause us to be very strongly opposed to the bill.

We have an appointment scheduled with the Senator tomorrow at 2:00 p.m. It looks like all four of the county police departments will be sending representatives to the meeting.

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Thanks Rich

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**From:** Robinson, Richard C.  
**Sent:** Thursday, April 28, 2016 6:33 PM  
**To:** 'Jessie Faige'; rhoads8-Alan; Rep. Karl Rhoads  
**Subject:** RE: SB 2411 Proposed CD1 Body-worn cameras

Representative Rhoads,

After the committee meeting today there was a long discussion with the Chiefs from the neighbor islands today. As written all four counties and SHOPO oppose the bill. While we all recognized that significant changes have been made to the bill on our behalf, there are still two issues that we can not accept.

- Page 6 line 1-10-- Having officers trying to figure out all of these issues in an often tense situation is unreasonable. We understand the effort to protect the privacy of the public in their homes. We suggest removing the language completely and inserting into the appropriate section of the bill language that states "recordings made in a private residence are not releasable to the public"
- Page 13 Line 18 – strike out the words "or a felony arrest"

Prohibiting an officer from viewing video footage related to any felony arrest will be counterproductive to police work. No other state has placed such a restriction on law enforcement. This provision comes from a basic distrust of law enforcement.

- Page 13 line 20 – change the word "report" to "statement"

In deadly force situations the involved officer's weapon and camera would be recovered at the scene as evidence by the first responding supervisor. At that time the officer is required to provide a statement to the supervisor without the assistance of counsel. After the arrival of the investigators from the Professional Standards Office and the Homicide Detail the officer provides a more in-depth statement after speaking to counsel. We refer to that second statement as the "the walk through" That second statement is voluntary and protected by the officer's 4<sup>th</sup> and 5<sup>th</sup> amendment rights. I have spoke to lawyers who specialize in officer involved shootings. They have stated that if the officer is prohibited from viewing the video they would likely advise the officer not to make a statement. This could have a very negative impact on the investigation of the crime that occurred, the arrest of the suspect, and any possible prosecution.

We respectfully request the above changes be made to this bill. With these changes all four counties will support the passage of the bill.

Thank you

Major Richard Robinson  
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**From:** Jessie Faige [<mailto:j.faige@capitol.hawaii.gov>]  
**Sent:** Wednesday, April 27, 2016 5:52 PM  
**To:** Robinson, Richard C.; Sen. Clarence Nishihara; Sen. Gilbert Keith-Agaran; Rep. Gregg Takayama; 'Mandy Finlay'  
**Cc:** Keith Agaran1 - Jimmy; rhoads8-Alan; Rep. Karl Rhoads  
**Subject:** SB 2411 Proposed CD1 Body-worn cameras

Good evening,

Attached is a proposed CD1 for SB 2411 relating to law enforcement cameras prepared at Rep. Rhoads' request. We would appreciate your review and feedback on the proposed draft.

Thank you,  
Jessie

Jessie A. Faige  
Attorney, Committee on Judiciary  
Office of Representative Karl Rhoads  
Hawai'i House of Representatives  
415 South Beretania Street, Room 302  
Honolulu, HI 96813  
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**From:** Robinson, Richard C.  
**Sent:** Thursday, April 28, 2016 1:56 PM  
**To:** 'Jessie Faige'; Sen. Clarence Nishihara; Sen. Gilbert Keith-Agaran; Rep. Gregg Takayama  
**Cc:** Keith Agaran1 - Jimmy; rhoads8-Alan; Rep. Karl Rhoads  
**Subject:** RE: SB 2411 Proposed CD1 Body-worn cameras

Good afternoon,

I just spoke to my supervisor Assistant Chief Macadangdang and from HPD's perspective; the bill in its current form represents a fair compromise. However there are issues with the bill that we feel could be improved:

- Page 10 line 9&10 -- retained until the final disposition of the case or for the period of the applicable statute of limitations ~~or until the final disposition of the case~~, whichever is ~~longer~~ shorter.

This is a language change that clarifies how long the video recording is to be retained. My previous suggested wording was confusing.

- Page 10 line 19 & 20 – strike out the words “or events that constitute a felony level offence”

As worded, the video of any felony investigation (i.e. auto theft, credit card fraud, burglary) even without an arrest would have to be retained for three years

- Page 12 Line 13 &14 – strike out the words “an administrative or”

Video pertaining to an administrative investigation would already be retained for three years under the provisions of 52D-E (c), (1), (C). Requiring a court order to dispose of it would be redundant and cumbersome.

The below two changes we feel very strongly about, and without these changes we would be opposed to the passage of this bill:

- Page 13 Line 18 – strike out the words “or a felony arrest”

Prohibiting an officer from viewing video footage related to any felony arrest will be counterproductive to police work. No other state has placed such a restriction on law enforcement. This provision comes from a basic distrust of law enforcement.

- Page 13 line 20 – change the word “report” to “statement”

In deadly force situations the involved officer's weapon and camera would be recovered at the scene as evidence by the first responding supervisor. At that time the officer is required to provide a statement to the supervisor without the assistance of counsel. After the arrival of the investigators from the Professional Standards Office and the Homicide Detail the officer provides a more in-depth statement after speaking to counsel. We refer to that second

statement as the "the walk through" That second statement is voluntary and protected by the officer's 4<sup>th</sup> and 5<sup>th</sup> amendment rights. I have spoke to lawyers who specialize in officer involved shootings. They have stated that if the officer is prohibited from viewing the video they would likely advise the officer not to make a statement. This could have a very negative impact on the investigation of the crime that occurred, the arrest of the suspect, and any possible prosecution.

We respectfully request the above changes be made to this bill.

Thank you

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**Sent:** Wednesday, April 27, 2016 5:52 PM  
**To:** Robinson, Richard C.; Sen. Clarence Nishihara; Sen. Gilbert Keith-Agaran; Rep. Gregg Takayama; 'Mandy Finlay'  
**Cc:** Keith Agaran1 - Jimmy; rhoads8-Alan; Rep. Karl Rhoads  
**Subject:** SB 2411 Proposed CD1 Body-worn cameras

Good evening,

Attached is a proposed CD1 for SB 2411 relating to law enforcement cameras prepared at Rep. Rhoads' request. We would appreciate your review and feedback on the proposed draft.

Thank you,  
Jessie

Jessie A. Faige  
Attorney, Committee on Judiciary  
Office of Representative Karl Rhoads  
Hawai'i House of Representatives  
415 South Beretania Street, Room 302  
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**From:** Robinson, Richard C.  
**Sent:** Monday, April 11, 2016 4:41 PM  
**To:** 'rhoads8-Alan'  
**Cc:** 'Rep. Karl Rhoads'  
**Subject:** RE: SB 2411 SD 2 HD1 revised text - police cameras.doc  
**Attachments:** SB 2411 SD 2 HD2 HPD revised 3 aclu.doc; justification 3 aclu.doc

Alan,

Attached are the county police departments proposed changes to SB2411. In this form all four counties would fully support this bill. There has been significant compromise on the side of the police departments. This proposed bill is also consistent with the laws of all of the other states that have passed BWC legislation. In fact it is significantly more restrictive on the police than any other law on the books in any state.

The attached justification sheet indicates the areas that we are in agreement with the ACLU. Those areas that are highlighted in yellow are areas of disagreement. I have a meeting scheduled with Rep. Rhoads on Wednesday at 1000 am. I would request that this not be a meeting with the ACLU there. We have had extensive discussion with them and it appears that there are issues that we just fundamentally disagree on. There has also been some miscommunication on issues and we want to ensure that our position is clearly stated. Although all of the police departments want to work to pass this bill there are issues within this bill, as it is currently written, that would cause us to fully oppose the bill and make every effort to stop it from becoming law.

We are looking forward to working with you on this bill.

Thanks Rich

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# A BILL FOR AN ACT

RELATING TO LAW ENFORCEMENT CAMERAS.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1       SECTION 1. The legislature finds that an increasing number  
2 of states are addressing the issue of law enforcement agencies'  
3 use of body-worn video cameras ~~and vehicle cameras~~ as a means to  
4 protect civilians and law enforcement officers. A body-worn  
5 video camera worn by a law enforcement officer acts as a third-  
6 party, independent witness in disputes by clarifying testimony  
7 obtained in the field. ~~Vehicle cameras are video cameras that~~  
8 ~~are typically mounted on a vehicle's dashboard.~~

9       The legislature further finds that people who are aware  
10 that they are being videotaped are more inclined to alter their  
11 behavior, as they know that they will likely be held accountable  
12 for their actions. In light of the recent incidents involving  
13 law enforcement officers and the alleged use of unnecessary  
14 force, body-worn video cameras ~~and vehicle cameras~~ can provide  
15 law enforcement officers and civilians the security of knowing  
16 that a law enforcement officer's or civilian's statements about



1 an incident may be corroborated by the video or audio recording  
2 obtained through the body-worn video camera ~~or vehicle camera~~.

3 Law enforcement agencies in this country spend  
4 approximately \$2,000,000,000 annually investigating complaints  
5 against law enforcement officers. The use of body-worn video  
6 cameras ~~and vehicle cameras~~ may reduce complaints against law  
7 enforcement officers and allow complaints to be resolved more  
8 quickly, thus freeing up valuable resources and reducing  
9 financial losses.

10 The legislature also finds that the use of body-worn video  
11 cameras and vehicle cameras can assist law enforcement agencies  
12 with training, assessment, and disciplinary decisions.

13 Accordingly, the purpose of this Act is to promote  
14 transparency, accountability, and protection for law enforcement  
15 officers and civilians by:

- 16 (1) Establishing requirements for the use of body-worn  
17 cameras ~~and vehicle cameras~~; and
- 18 (2) Appropriating funds to each county for the purchase  
19 of body-worn cameras ~~and vehicle cameras~~.

SECTION 2. Chapter 52D, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

"PART . LAW ENFORCEMENT BODY-WORN CAMERAS

§52D-A Definitions. As used in this part:

"Body-worn camera" means a recording device that is:

(1) Capable of recording video and audio or transmitting video and audio to be recorded remotely; and

(2) Worn on the person of a law enforcement officer, and shall include being attached to the law enforcement officer's clothing or worn as glasses.

"Deadly force" means force which the actor uses with the intent of causing or which the actor knows to create a substantial risk of causing death or serious bodily harm. Intentionally firing a firearm in the direction of another person or in the direction which another person is believed to be constitutes deadly force. A threat to cause death or serious bodily injury, by the production of a weapon or otherwise, so long as the actor's intent is limited to creating an apprehension that the actor will use deadly force if necessary, does not constitute deadly force.

1       "Law enforcement officer" means an on duty, uniformed law  
2 enforcement officer, or officer readily identifiable as a law  
3 enforcement officer whose primary duties are:

- 4       (1) Routine law enforcement and/or traffic enforcement, or  
5       (2) Specialized tactical units engaged in tactical or law  
6 enforcement operations

7       "Use of force" means:

- 8       (1) The use of physical force, not including handcuffing,  
9       (2) The use of chemical agents,  
10       (3) The use or threatened use of any weapon including  
11 baton, electric gun, less lethal munition, or firearm.

12       "Subject of the video footage" means any law enforcement  
13 officer or any suspect, victim, detainee, conversant, injured  
14 party, or other similarly situated person who appears on a body  
15 camera recording, and shall not include individuals who only  
16 incidentally appear on a recording.

17       ~~"Vehicle camera" means a recording device that is:~~

- 18       ~~—— (1) Capable of recording video or audio or transmitting~~  
19       ~~video or audio to be recorded remotely; and~~  
20       ~~—— (2) Mounted in or on a law enforcement vehicle.~~

21       §52D-B Use of body-worn cameras for law enforcement  
22 officers. (a) While On-duty, law enforcement officers  
23 shall wear and use body-worn cameras and vehicle cameras only in  
24 accordance with this part. Body-worn cameras shall be worn in a

1 location and manner that ~~maximizes~~ facilitates the camera's  
2 ability to capture video footage of the officer's activities.

3 (b) Except as provided in subsection (d), both the audio  
4 and video recording functions of the body-worn camera shall be  
5 activated:

6 (1) Whenever a law enforcement officer responds to a call  
7 for service; and/or

8 (2) At the initiation of any law enforcement or  
9 investigative encounter between a law enforcement  
10 officer and a member of the public;

11 provided that when an immediate threat to the law enforcement  
12 officer's life or safety makes activating the camera impossible  
13 or dangerous, the law enforcement officer shall activate the  
14 camera at the first reasonable opportunity to do so. The body-  
15 worn camera shall not be deactivated until the call for service  
16 or encounter has fully concluded and the law enforcement officer  
17 leaves the scene or as ordered by a supervisor.

18 (c) Whenever possible a law enforcement officer who is  
19 wearing a body-worn camera shall notify the subjects of the  
20 video footage that the subjects are being recorded by a body-  
21 worn camera as close to the inception of the encounter as is  
22 reasonably possible.

1        (d) Officers are not required to obtain consent from  
2 members of the public when the officer is lawfully in an area  
3 where the recording is taking place.

4        (de) Notwithstanding the requirements of subsection (b):

5        (1) ~~Prior to entering~~ In a private residence entered  
6 without a warrant or in non-exigent circumstances, a  
7 law enforcement officer shall ask the occupants if the  
8 occupants wants the officer to discontinue use of the  
9 officer's body-worn camera. If the all occupants  
10 responds affirmatively, the law enforcement officer  
11 shall immediately discontinue use of the body-worn  
12 camera;

13        (2) When interacting with an apparent crime victim, a law  
14 enforcement officer ~~shall~~ may, ~~as soon as practicable~~,  
15 ask the apparent crime victim if the apparent crime  
16 victim wants the officer to discontinue use of the  
17 officer's body-worn camera. If the apparent crime  
18 victim responds affirmatively, and the situation is  
19 non confrontational, the law enforcement officer ~~shall~~  
20 ~~immediately~~ may discontinue use of the body-worn  
21 camera; and

22        (3) When interacting with a person seeking to anonymously  
23 report a crime or assist in an ongoing law enforcement  
24 investigation, a law enforcement officer ~~shall~~ may, as

1 ~~soon as practicable,~~ ask the person seeking to remain  
2 anonymous if the person wants the officer to  
3 discontinue use of the officer's body-worn camera. If  
4 the person responds affirmatively, and the situation  
5 is non confrontational the law enforcement officer  
6 ~~shall immediately~~ may discontinue use of the body-worn  
7 camera.

8 A law enforcement officer may deactivate the body-worn camera  
9 under the following circumstances:

10 (1) A witness refuses to provide a statement if recorded;

11 (2) Recording would risk the safety of confidential  
12 informant, citizen informant, or undercover law enforcement  
13 officer;

14 (3) In the patient care areas of a hospital, sex assault  
15 treatment center, or other health care facility;

16 (4) When interviewing a witness in a sexual assault case.

17 (e) ~~All~~ A law enforcement officers' ~~offers~~ decision to  
18 discontinue the use of a body-worn camera made pursuant to  
19 subsection (d), ~~and the responses thereto,~~ shall be stated and  
20 recorded by the body-worn camera prior to discontinuation of the  
21 use of the body-worn camera.

22 **§52D-C Prohibited acts.** (a) No ~~police~~ law enforcement  
23 officer ~~on duty~~ shall operate a body-worn camera or vehicle

1 camera that is not issued and maintained by the applicable  
2 county police department or other law enforcement agency.

3 (b) No ~~police~~ law enforcement officer ~~on duty~~ shall use a  
4 body-worn camera:

5 (1) Surreptitiously;

6 (2) To gather intelligence information based on First  
7 Amendment protected speech, associations, or religion;

8 (3) To record activity that is unrelated to a response to  
9 a call for service or a law enforcement or  
10 investigative encounter between a law enforcement  
11 officer and a member of the public; or

12 (4) On the grounds of any public, private, or parochial  
13 elementary or secondary school, except when a law  
14 enforcement officer is responding to a call for  
15 service or during an enforcement encounter.

16 (c) No person shall tamper with, delete, or make an  
17 unauthorized copy of data obtained through the use of a body-  
18 worn camera or vehicle camera under this part.

19 (d) No person shall release a recording created with a  
20 body-worn camera under this part unless the person first obtains  
21 the permission of the applicable ~~county police department and~~  
22 ~~state~~ law enforcement agencies.

23 **§52D-D Training.** (a) No ~~police~~ law enforcement officer  
24 shall use a body-worn camera ~~or vehicle camera~~ without first

1 being trained by the applicable ~~county police department~~ law  
2 enforcement agency on the proper use of the body-worn camera or  
3 vehicle camera.

4 (b) No person from the law enforcement personnel agency  
5 shall come into contact with data obtained from the use of a  
6 body-worn camera or vehicle camera without first being trained  
7 by the applicable ~~county police department~~ law enforcement  
8 agency on the proper handling of the data.

9 (c) The department of the attorney general shall ~~develop~~  
10 ~~or approve a curriculum for~~ review and approve, for consistency  
11 with the provisions of this section, training programs developed  
12 by law enforcement agencies under this section.

13 §52D-E Body-worn camera video footage; retention and  
14 deletion. (a) Body-worn camera video footage shall be retained  
15 by the agency that employs the law enforcement officer whose  
16 camera captured the video footage, or an authorized agent  
17 thereof, for ~~one year~~ thirteen months ~~for non-criminal cases~~  
18 from the date it was recorded.

19 (b) Body-worn camera ~~V~~video footage that has evidentiary or  
20 exculpatory value for use in a criminal or civil cases shall be  
21 retained for the period of the applicable ~~criminal~~ statute of  
22 limitations or until the final disposition of the case,  
23 whichever is shorter. ~~After expiration of this applicable~~  
24 ~~period, the video footage shall be permanently deleted.~~



1           (b)c) Notwithstanding the retention and deletion  
2 requirements in subsection (a-b):

3           (1) Body-worn camera video footage shall be automatically  
4 retained for no less than three years from the date it  
5 was recorded if the video footage captures images  
6 involving:

7           (A) Any use of force;

8           (B) Events leading up to and including an arrest for  
9 a felony-level offense, ~~or events that constitute~~  
10 ~~a felony-level offense~~; or

11           (C) An encounter about which a complaint has been  
12 registered ~~by a subject of the video footage~~;

13           (2) Body-worn camera video footage shall be retained for  
14 no less than three years from the date it was recorded  
15 if the longer retention period is requested by:

16           (A) The law enforcement officer whose body-worn  
17 camera recorded the video footage, if that  
18 officer reasonably asserts the video footage has  
19 evidentiary or exculpatory value;

20           (B) Any law enforcement officer who is a subject of  
21 the body-worn camera video footage, if that  
22 officer reasonably asserts the video footage has  
23 evidentiary or exculpatory value;

1 (C) Any superior officer of a law enforcement officer  
2 whose body-worn camera recorded the video footage  
3 or who is a subject of the video footage, if that  
4 superior officer reasonably asserts the video  
5 footage has evidentiary or exculpatory value;

6 (D) Any law enforcement officer, if the body-worn  
7 camera video footage is being retained solely and  
8 exclusively for ~~police~~ law enforcement training  
9 purposes;

10 (E) Any individual who is a subject of the body-worn  
11 camera video footage;

12 (F) Any parent or legal guardian of a minor who is a  
13 subject of the body-worn camera video footage; or

14 (G) A deceased subject of the body-worn camera video  
15 footage's next of kin or legally authorized  
16 designee.

17 ~~Any individual who is a subject of the video footage,~~  
18 ~~parent or legal guardian of a minor who is a subject~~  
19 ~~of the video footage, or deceased subject's next of~~  
20 ~~kin or legally authorized designee shall be permitted~~  
21 ~~to review the relevant video footage prior to~~  
22 ~~submitting a request pursuant to subparagraph (E),~~  
23 ~~(F), or (G); and~~

1       (3) ~~No~~ body-worn camera video footage documenting an  
2       incident that involves the use of deadly force by a  
3       police law enforcement officer ~~or that is otherwise~~  
4       ~~related to an administrative or criminal investigation~~  
5       ~~of a police officer shall~~ not be deleted or destroyed  
6       without court order.

7       (c) The following body-worn camera video footage shall be  
8       exempt from the public inspection requirements of chapter 92F:

9       (1) Video footage not subject to a minimum three-year  
10       retention period pursuant to subsection (b-c);

11       (2) Video footage that is subject to a minimum three-year  
12       retention period solely and exclusively pursuant to  
13       subsection (~~b~~c)(2)(A), (B), (C), or (D); and

14       (3) Video footage that is subject to a minimum three-year  
15       retention period solely and exclusively pursuant to  
16       subsection (~~b~~c)(2)(E), (F), or (G), if the person  
17       making the request requests the video footage not be  
18       made available to the public.

19       (d) Individuals depicted in, or identified by, any of the  
20       following categories of body-worn camera video footage shall be  
21       presumed to have significant privacy interests in the  
22       information contained in the video footage. Consistent with  
23       sections 92F-13 and 92F-14, disclosure of this video footage  
24       shall be deemed to constitute a clearly unwarranted invasion of

1 personal privacy unless the public interest in disclosure  
2 outweighs the privacy interests of the individual.

3 (1) Body-worn camera Video footage that is subject to a  
4 minimum three-year retention period solely and  
5 exclusively pursuant to subsection (b)(1)(C), if the  
6 subject of the video footage making the complaint  
7 requests the video footage not be made available to  
8 the public; and

9 ~~(2) Video footage that is subject to a minimum three-year~~  
10 ~~retention period solely and exclusively pursuant to~~  
11 ~~subsection (b)(2)(A), (B), or (C).~~

12 Consistent with sections 92F-13 and 92F-14, disclosure of  
13 this video footage shall be deemed to constitute a clearly  
14 unwarranted invasion of personal privacy unless the public  
15 interest in disclosure outweighs the privacy interests of the  
16 individual.

17 §52D-F Video footage; prohibitions on use. (a) No law  
18 enforcement officer shall review or receive an accounting of any  
19 body-worn camera video footage that involves the use of deadly  
20 force by the law enforcement officer ~~is subject to an automatic~~  
21 ~~minimum three-year retention period pursuant to section 52-E~~  
22 ~~(b)(1) prior to completing any required initial reports,~~  
23 providing an initial statements, ~~and interviews~~ regarding the  
24 recorded event.

25 (b) Body-worn camera Video footage not subject to a  
26 minimum three-year retention period shall not be viewed by any  
27 immediate supervisor of a law enforcement officer whose body-  
28 worn camera recorded the video footage ~~without a specific~~

~~allegation of misconduct, nor shall the video footage be subject to automated analysis or analytics of any kind. Each law enforcement agency may set policies for random auditing by the agency's respective internal affairs section.~~ except for the following purposes:

(1) Any incident in which a member of a law enforcement agency is injured or killed during the performance of their duties;

(2) Routine inspection to ensure the proper use, and operation of the body-worn camera;

(3) Any in-custody death;

(4) Any law enforcement vehicle pursuit;

(5) When any member of a law enforcement agency not involved in training intentionally or unintentionally discharges a firearm;

(6) When any member of a law enforcement agency not involved in training intentionally or unintentionally discharges a less lethal weapon;

(7) When any member of a law enforcement agency not involved in training intentionally or unintentionally discharges a conductive energy weapon;

(8) Any officer involved traffic collisions.

1       (9) Prior to the release of recordings in response to a  
2       proper legal request (e.g., in response to a subpoena or  
3       other court order, 92F request);

4       (10) In preparation for a civil deposition or responding  
5       to an interrogatory where the incident arises from an  
6       officers official duties;

7       (11) When preparing to testify in a criminal, civil, or  
8       administrative proceeding arising from an employee's  
9       official duties;

10       (12) For criminal investigations undertaken by a law  
11       enforcement agency, for the purpose of proving or  
12       disproving specific allegations of law enforcement officer  
13       misconduct;

14       (13) For administrative purpose, when digital evidence is  
15       used by the law enforcement agency for the purpose of  
16       proving or disproving allegations of administrative  
17       misconduct.

18       (c) Each law enforcement agency may set policies for  
19       random auditing by the agency's respective internal  
20       investigative section.

21       ~~(e)~~ (d)       Video footage shall not be divulged or used by  
22       any law enforcement agency for any commercial or other non-law  
23       enforcement purpose.

1        §52D-G Violation of recording or retention requirements.

2        (a) Should any law enforcement officer, employee, or agent fail  
3        to adhere to the recording or retention requirements contained  
4        in section 52D-E or intentionally interfere with a body-worn  
5        camera's ability to accurately capture video footage:

6            (1) Appropriate disciplinary action shall be taken against  
7            the individual officer, employee, or agent;

8            ~~(2) A rebuttable evidentiary presumption shall be adopted~~  
9            ~~in favor of criminal defendants who reasonably assert~~  
10           ~~that exculpatory evidence was destroyed or not~~  
11           ~~captured; and~~

12           ~~(3) A rebuttable evidentiary presumption shall be adopted~~  
13           ~~on behalf of civil plaintiffs who reasonably assert~~  
14           ~~that evidence supporting their claim was destroyed or~~  
15           ~~not captured in a civil suit against the State, a~~  
16           ~~county, a state or county agency, or a law enforcement~~  
17           ~~officer for damages based on officer misconduct.~~

18           ~~(b) The disciplinary action requirement and rebuttable~~  
19           ~~presumptions in subsection (a) may be overcome by contrary~~  
20           ~~evidence or proof of exigent circumstances that made compliance~~  
21           ~~impossible.~~

22        SECTION 3. Chapter 52D, Hawaii Revised Statutes, is  
23        amended by designating sections 52D-1 to 52D-16 as "Part I.  
24        General Provisions".

SECTION 4. There is appropriated out of the general revenues of the State of Hawaii the sum of \$ or so much thereof as may be necessary for fiscal year 2016-2017 for a grant-in-aid to each county for the purchase of body-worn video cameras ~~and law enforcement vehicle cameras~~ to be used by each county police department, to be allocated as follows:

\$ to the city and county of Honolulu;

\$ to the county of Maui;

\$ to the county of Hawaii; and

\$ to the county of Kauai;

provided that no funds appropriated to a county under this Act shall be expended unless matched dollar-for-dollar by the county.

The sum appropriated shall be expended by each county for the purposes of this Act.

SECTION 5. Each county police department shall become fully operational with respect to ~~police~~ law enforcement body-worn ~~and vehicle-mounted~~ cameras as soon as practicable, and in any event not later than July 1, 2018. Each county police department shall commence preparation for becoming operational promptly after the effective date of this Act. Such preparation shall include, but not be limited to, procurement of appropriate camera equipment, training of police officers and staff in proper use of cameras, acquisition of adequate and proper



1 storage space for video footage, establishment of appropriate  
2 policies relating to storage and access to video footage, and  
3 promulgation of further policies and procedures not inconsistent  
4 with the purposes and policies of this Act.

5 SECTION 6. Each county police department that receives a  
6 grant-in-aid pursuant to section 4 of this Act, shall submit to  
7 the legislature reports no later than twenty days prior to the  
8 convening of the 2017, 2018, 2019, 2020, and 2021 regular  
9 sessions, which shall include the costs of implementing and  
10 maintaining the body-worn camera ~~and vehicle camera~~ program and  
11 the equipment, data storage, and other costs of the program.

12 SECTION 7. This Act shall take effect on July 1, 2016.

## **Justification for Changes to SB 2411,S.D.2,H.D.1**

### **Throughout entire bill**

Proposal changes "police" to "law enforcement" to clarify that the bill covers all law enforcement in the state. ACLU and County Police Departments agree on this change.

Proposed change inserts the words "body-worn camera" before the word video to clarify what type of video is being referenced. ACLU and County Police Departments agree on this change.

Removing language referring to vehicle cameras and limiting the bill to body worn cameras. ACLU and County Police Departments agree on this change.

### **Page 3 line 13**

Proposed change adds a definition of "deadly force" to the bill. Currently there is no definition in the bill. Having a definition will prevent confusion about when a video is to be retained. ACLU and County Police Departments agree on this change.

### **Page 4 line 1**

Proposed change adds a definition of "law enforcement officer" to the bill. The definition clarifies which officers are required to utilize the BWC. Having a clear definition will prevent confusion about what officers are required to use a BWC. ACLU and County Police Departments agree on this change.

### **Page 4 line 7**

Proposed change adds a definition of "use of force" to the bill. Currently there is no definition in the bill. Having a definition will prevent confusion about when a video is to be retained. ACLU and County Police Departments agree on this change.

**Page 4 line 22**

Proposed change removes the "while on duty" provision. The definition of "law enforcement officer" will cover this language and define who shall wear a BWC. ACLU and County Police Departments agree on this change.

**Page 5 line 1**

Proposed change replaces the word "maximizes" with "facilitates". The use of the word "maximizes" indicates the best possible location to capture video. This would likely be a camera mounted to an officer's head. This will limit agencies' choices of equipment and may not be the best location for particle application. Allowing each agency to determine the location their officers will wear the camera seems more reasonable. ACLU and County Police Departments agree on this change.

**Page 5 line 7**

Proposed change adds in the word "or". The intent of the BWC program is to document the interaction of police and the public. The recommended change will cover nearly all police-public interaction. ACLU and County Police Departments agree on this change.

**Page 5 line 17**

Proposed change adds in the words "or as ordered by a supervisor". In an officer involved shooting, upon the arrival of a supervisor, the officer's firearm is recovered as evidence. The BWC should be turned off and recovered at the same time. There also may be times when an officer feels the BWC should be left on but a supervisor determines that it should be turned off (i.e. page 7 lines 5-15).

**Page 5 line 18**

Proposed change adds in the word "whenever possible". As written the language in this section makes it mandatory to notify subjects being recorded. Hawai'i is a one party consent State with regards to the right to record communications (Haw. Rev. Stat. §803-42). The officer recording is one party and may legally record without notification. The addition of this requirement conflicts with Haw. Rev. Stat. §803-42. In a practical sense there may be instances where the officer simply

forgets to make notification because of the situation they are dealing with at the time. An officer's job is already complex and adding the mandate to notify adds an unnecessary burden. The proposed change softens the requirement.

**Page 6 line 1-3**

Proposed change adds in "Officers are not required to obtain consent from members of the public when the officer is lawfully in an area where the recording is taking place.

**Page 6 line 5-12**

Officers in a residence shall offer to turn off the video if all resident say they want the video turned off the officer shall turn it off. ACLU and County Police Departments agree on this change.

**Page 6 line 13-24**

For victims and witnesses an officer may offer to turn the video off in non confrontational situations.

**Page 7 line 5-15**

Proposed change adds in general guidelines where an officer may turn off the BWC. Leaving some flexibility to the law enforcement agencies on this complicated issue may be wise.

- It is not uncommon for a victim or witness to become agitated at the officers handling an investigation, in these situations recording the interaction would be beneficial and would keep the officer and the victim on their best behavior.
- Domestic violence victims often, under pressure or threat by their abuser, recant their statements. Some victims go so far as to testify that the officer fabricated their statement. Victims may also make their children unavailable for investigators or court to avoid their providing statements. By having the recording we will also be able to protect the victim from the pressure or threats from their abuser not testify.
- A dying declaration is another situation where recording the victim would be critical.
- BWCs in general will not be used during sex assault investigations to include statements of victims, witnesses, and interactions with parents of victims.

**Page 7 line 16-20**

Proposed change provides clarification that the reason a BWC was turned off must be documented on the video before the camera is turned off.

**Page 9 line 3**

Proposed change clarifies that no one from a law enforcement agency who is not trained shall have contact with BWC data. ACLU and County Police Departments agree on this change.

**Page 9 line 8-10**

Proposed change gives the attorney general the responsibility to review the training programs developed by the county agencies. Because each county may use a different vendor/technology the development of training will be very system specific, and better suited to the individual agencies. ACLU and County Police Departments agree on this change.

**Page 9 line 15**

The proposed change allows BWC video to be retained for 13 months. An administrative complaint can be filed against an officer for up to one year after the incident. Thirteen months of retention provides the opportunity for the video to be utilized in the administrative investigation. ACLU and County Police Departments agree on this change.

**Page 9 line 17-22**

The proposed change provides for the retention of BWC video that has evidentiary values in both civil and criminal cases. ACLU and County Police Departments agree on this change.

**Page 10 line 7-8**

As written the BWC video of every felony investigation must be retained for three years. This will result in hundreds of thousand of hours of BWC videos. The HPD handled over 92,000 felony investigations in 2015. Requiring the retention of the video of every felony investigation will cause the cost of this program to skyrocket into the 10s of millions. The ACLU has stated that data should be retained no longer than necessary for

the purpose for which it was collected. For the vast majority of police encounters with the public, there is no reason to preserve video evidence, and those recordings therefore should be deleted relatively quickly. The proposed change eliminates the requirement to retain BWC video of all felony cases. ACLU and County Police Departments agree on this change.

**Page 11 line 14-19**

We recommend deletion of the language that would allow a person to view BWC video under sections (E), (F) & (G). As written there is no timeline for when the BWC video can be viewed. Permitting any individual to view videos in criminal cases, prior to trial, could affect the prosecution of cases. There are long established procedures for the discovery of evidence that should be followed in all criminal cases. Furthermore, allowing individuals to view their video footage will result in a criminal suspect being able to identify the victims and witnesses in the case.

**Page 11 line 23-24**

Proposed change recommends removing the language that requires a court order to destroy any video that is "otherwise related to an administrative investigation" as written this would be especially cumbersome on law enforcement agencies as well as the courts. The Honolulu police department alone, receives over 100 complaints from the public each year, each case would require a separate court order. ACLU and County Police Departments agree on this change.

**Page 13 line 3-5**

Proposed change is consistent with recommendations by the OIP to remove this section as inconsistent with previous language in the bill.

**Page 13 line 11-16**

Proposal to delete the language prohibiting an officer from viewing a video before preparing his report. New language requires that officers who have used deadly force can not view the video until they have provided an initial statement.

**Page 13 line 20-25**

**Page 14 line 15**

**Page 15 line 1-14**

The recommended change removes the restriction on a supervisor viewing BWC video recorded by his/her subordinates and provides a list of reasons a supervisor can view BWC video. An outright prohibition of supervisory review of BWC video is counterproductive and potentially dangerous. As written the supervisor of an officer wearing a BWC who was shot and killed would be prohibited from viewing the BWC to determine who the suspect is. ACLU and County Police Departments agree on this change.

**Page 16 line 8-21**

Removes all "rebuttable evidentiary presumption".  
ACLU and County Police Departments agree on this change.

**From:** Robinson, Richard C.  
**Sent:** Monday, April 04, 2016 5:26 PM  
**To:** 'rhoads8-Alan'  
**Subject:** RE: SB 2411 SD 2 HD1 revised text - police cameras.doc  
**Attachments:** justification.doc; SB 2411 SD 2 HD2 HPD revised 2.doc

Alan,

Attached are the final versions of both documents. I will see you tomorrow. I have a promotional interview at 1045 tomorrow. I am wide open after that. I understand that on Wednesday Rep Rhoades is meeting with a group of police from all four counties at 1100. I will be at that meeting too.

Thanks again for all your work

Rich

Major Richard Robinson  
Records and Identification Division  
Honolulu Police Department  
801 South Beretania Street  
Honolulu, HI 96813  
(808) 723-3181  
[rrobinson1@honolulu.gov](mailto:rrobinson1@honolulu.gov)

---

**From:** rhoads8-Alan [mailto:[rhoads8@capitol.hawaii.gov](mailto:rhoads8@capitol.hawaii.gov)]  
**Sent:** Monday, April 04, 2016 4:16 PM  
**To:** Robinson, Richard C.  
**Subject:** RE: SB 2411 SD 2 HD1 revised text - police cameras.doc

Thanks. Good to hear about reinstating vehicle cams not being a problem.

Rep Rhoads will not be in tomorrow and I'm not sure whether that will mean I'll have a lot more work to do or somewhat less. I will do my best to get to the police cams bill.

Anything you can do to sit down with ACLU will be very helpful, because if the two of you are agreeing, I will probably have no problem at all.

I should have a better idea around 1030 or 11 am tomorrow what my time will look like.

Alan

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**From:** Robinson, Richard C. [mailto:[rrobinson1@honolulu.gov](mailto:rrobinson1@honolulu.gov)]  
**Sent:** Monday, April 04, 2016 3:03 PM  
**To:** rhoads8-Alan <[rhoads8@capitol.hawaii.gov](mailto:rhoads8@capitol.hawaii.gov)>  
**Subject:** RE: SB 2411 SD 2 HD1 revised text - police cameras.doc



Ok sounds great I will be there tomorrow. Ok I will put the vehicle language back in. It read like an afterthought. Very little about vehicle camera use in the bill. But no big deal of us.

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**From:** rhoads8-Alan [<mailto:rhoads8@capitol.hawaii.gov>]  
**Sent:** Monday, April 04, 2016 1:42 PM  
**To:** Robinson, Richard C.  
**Subject:** RE: SB 2411 SD 2 HD1 revised text - police cameras.doc

Thanks, Major Robinson.

I'd love to be able to meet this pm, but can't. Let's aim for relatively early tomorrow am, say 900 am.

I think you'll have a lot of resistance to deleting vehicle cams from the bill. If you want to push for that, you should specify some important reasons, and not just cost.

Looking forward to meeting with you.

Alan

---

**From:** Robinson, Richard C. [<mailto:rrobinson1@honolulu.gov>]  
**Sent:** Monday, April 04, 2016 1:12 PM  
**To:** rhoads8-Alan <[rhoads8@capitol.hawaii.gov](mailto:rhoads8@capitol.hawaii.gov)>  
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Thank Rich

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---

**From:** Robinson, Richard C.  
**Sent:** Thursday, March 31, 2016 12:56 PM  
**To:** 'rhoads8-Alan'  
**Subject:** RE: SB 2411 SD 2 HD1 revised text - police cameras.doc

Monday afternoon is good for me. Tuesday it would have to be very early like 8 am

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**From:** rhoads8-Alan [mailto:[rhoads8@capitol.hawaii.gov](mailto:rhoads8@capitol.hawaii.gov)]  
**Sent:** Thursday, March 31, 2016 12:54 PM  
**To:** Robinson, Richard C.  
**Subject:** RE: SB 2411 SD 2 HD1 revised text - police cameras.doc

Okay, good. I'm thinking it would be good for you and me to sit down sometime early next week, after I've had a chance to digest both of the documents you've sent me. I'll know better after I review your proposed amendments.

Wednesday and Friday are going to be very difficult but perhaps Monday afternoon or Tuesday morning. Calm before the storm.

I'll let you know soon what further thoughts I have on scheduling.

Alan

**From:** Robinson, Richard C. [mailto:[rrobinson1@honolulu.gov](mailto:rrobinson1@honolulu.gov)]  
**Sent:** Thursday, March 31, 2016 12:31 PM  
**To:** rhoads8-Alan <[rhoads8@capitol.hawaii.gov](mailto:rhoads8@capitol.hawaii.gov)>  
**Subject:** RE: SB 2411 SD 2 HD1 revised text - police cameras.doc

Alan,

Yup feel free to share it with anyone you think would benefit. The "if" should have been deleted. Basically if a sheriff is working with us we can give him a camera and vise versa.

Thanks again

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**From:** rhoads8-Alan [<mailto:rhoads8@capitol.hawaii.gov>]  
**Sent:** Thursday, March 31, 2016 12:19 PM  
**To:** Robinson, Richard C.  
**Subject:** RE: SB 2411 SD 2 HD1 revised text - police cameras.doc

Hi, Major Robinson,

Thank you very much for your prompt responses to our discussions yesterday. At this point, I have quickly reviewed your commentary but not yet reviewed your draft amendments to the bill. I'll be working on that soon.

A question and a comment. Question: May I share your commentary with ACLU to get their responses? I'd really like to start a dialogue between you and see what can happen.

Comment: Your commentary to **52D-C Prohibited acts** is incomplete – it ends with the word "if". So, I guess a second question: what follows the "if"?

Thanks again. We'll stay in touch.

Alan

---

**From:** Robinson, Richard C. [<mailto:rrobinson1@honolulu.gov>]  
**Sent:** Thursday, March 31, 2016 11:16 AM  
**To:** rhoads8-Alan <[rhoads8@capitol.hawaii.gov](mailto:rhoads8@capitol.hawaii.gov)>  
**Cc:** Lum, Andrew <[alum@honolulu.gov](mailto:alum@honolulu.gov)>  
**Subject:** RE: SB 2411 SD 2 HD1 revised text - police cameras.doc

Alan,

Attached is our suggested revisions. For ease of reading I used the same editing format for legislation (deleted material-strikeout new material underlined). I also attached a second document with the justification for each of our changes on it. If you have any questions please give me a call. We tried to get a hold of the ACLU to see what they thought of our changes but there was no answer at their office. Please feel free to forward this email to Rep. Luke's office if you think that is appropriate. We are trying to set a meeting with her before tomorrow mornings hearing.

Thanks again for meeting with us and the time you are putting in on this. I want to apologize again for us coming in on this bill so late.

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**From:** rhoads8-Alan [<mailto:rhoads8@capitol.hawaii.gov>]  
**Sent:** Wednesday, March 30, 2016 2:16 PM  
**To:** Robinson, Richard C.  
**Subject:** SB 2411 SD 2 HD1 revised text - police cameras.doc

Dear Major Robinson,

Thank you and your colleagues very much for coming by and sharing the concerns of Honolulu Police Department regarding the bill for police cameras. I think we all felt the meeting was very helpful and productive.

Attached is a clean copy (I hope) of SB 2411 in MS Word format in its current iteration. I look forward very much to seeing your suggested revisions to the bill.

Please send me a note letting me know that you have received this message.

Best wishes,

Alan Burdick  
Legislative Attorney  
Rep Karl Rhoads  
586-6626

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**Sent:** Thursday, March 31, 2016 12:31 PM  
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(808) 723-3181  
[rrobinson1@honolulu.gov](mailto:rrobinson1@honolulu.gov)

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**From:** rhoads8-Alan [<mailto:rhoads8@capitol.hawaii.gov>]  
**Sent:** Wednesday, March 30, 2016 2:16 PM  
**To:** Robinson, Richard C.  
**Subject:** SB 2411 SD 2 HD1 revised text - police cameras.doc

Dear Major Robinson,

Thank you and your colleagues very much for coming by and sharing the concerns of Honolulu Police Department regarding the bill for police cameras. I think we all felt the meeting was very helpful and productive.

Attached is a clean copy (I hope) of SB 2411 in MS Word format in its current iteration. I look forward very much to seeing your suggested revisions to the bill.

Please send me a note letting me know that you have received this message.

Best wishes,

Alan Burdick  
Legislative Attorney  
Rep Karl Rhoads  
586-6626



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**From:** Robinson, Richard C.  
**Sent:** Thursday, March 31, 2016 11:16 AM  
**To:** rhoads8-Alan  
**Cc:** 'Lum, Andrew'  
**Subject:** RE: SB 2411 SD 2 HD1 revised text - police cameras.doc  
**Attachments:** SB 2411 SD 2 HD2 HPD revised text.doc; justification.doc

Alan,

Attached is our suggested revisions. For ease of reading I used the same editing format for legislation (deleted material-strikeout new material underlined). I also attached a second document with the justification for each of our changes on it. If you have any questions please give me a call. We tried to get a hold of the ACLU to see what they thought of our changes but there was no answer at their office. Please feel free to forward this email to Rep. Luke's office if you think that is appropriate. We are trying to set a meeting with her before tomorrow morning's hearing.

Thanks again for meeting with us and the time you are putting in on this. I want to apologize again for us coming in on this bill so late.

Major Richard Robinson  
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801 South Beretania Street  
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**From:** rhoads8-Alan [<mailto:rhoads8@capitol.hawaii.gov>]  
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**To:** Robinson, Richard C.  
**Subject:** SB 2411 SD 2 HD1 revised text - police cameras.doc

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Attached is a clean copy (I hope) of SB 2411 in MS Word format in its current iteration. I look forward very much to seeing your suggested revisions to the bill.

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Best wishes,

Alan Burdick  
Legislative Attorney  
Rep Karl Rhoads  
586-6626

**From:** Robinson, Richard C.  
**Sent:** Friday, April 29, 2016 8:05 AM  
**To:** 'Kubojiri, Harry S.'; 'Tivoli S. Faaumu'; 'Darryl Perry'; Kealoha, Louis  
**Cc:** 'Michael Contrades'; 'Ferreira, Paul'; 'everett.ferreira@mpd.net'; Lum, Andrew; Macadangdang, Randal  
**Subject:** RE: SB2411

Chiefs I did not send the new CD1 to Barbra Wong because I do not have her email address. Do you want it sent to her?

Major Richard Robinson  
Records and Identification Division  
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801 South Beretania Street  
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(808) 723-3181  
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**From:** Robinson, Richard C.  
**Sent:** Friday, April 29, 2016 7:27 AM  
**To:** 'Kubojiri, Harry S.'; 'Tivoli S. Faaumu'; 'Darryl Perry'; Kealoha, Louis  
**Cc:** 'Michael Contrades'; 'Ferreira, Paul'; 'everett.ferreira@mpd.net'; Lum, Andrew; 'Stacy Perreira'; 'Dean.Rickard@mpd.net'; McCauley, Marie A.; Macadangdang, Randal  
**Subject:** RE: SB2411

Good Morning,

Attached is the most recent version of the CD1. I have not had a chance to go over it thoroughly yet. I wanted to get it out to all of you as quickly as possible.

Major Richard Robinson  
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---

**From:** Robinson, Richard C.  
**Sent:** Friday, April 29, 2016 7:23 AM  
**To:** 'Kubojiri, Harry S.'; 'Tivoli S. Faaumu'; 'Darryl Perry'; Kealoha, Louis  
**Cc:** 'Michael Contrades'; 'Ferreira, Paul'; 'everett.ferreira@mpd.net'; Lum, Andrew; 'Stacy Perreira'; 'Dean.Rickard@mpd.net'; McCauley, Marie A.; Macadangdang, Randal  
**Subject:** RE: SB2411

Good Morning,

Below is the text of the email sent to Rep. Rhoads after our discussion

Representative Rhoads,

After the committee meeting today there was a long discussion with the Chiefs from the neighbor islands today. As written all four counties and SHOPO oppose the bill. While we all recognized that significant changes have been made to the bill on our behalf, there are still two issues that we can not accept.

- Page 6 line 1-10-- Having officers trying to figure out all of these issues in an often tense situation is unreasonable. We understand the effort to protect the privacy of the public in their homes. We suggest removing the language completely and inserting into the appropriate section of the bill language that states "recordings made in a private residence are not releasable to the public"
- Page 13 Line 18 – strike out the words "or a felony arrest"

Prohibiting an officer from viewing video footage related to any felony arrest will be counterproductive to police work. No other state has placed such a restriction on law enforcement. This provision comes from a basic distrust of law enforcement.

- Page 13 line 20 – change the word "report" to "statement"

In deadly force situations the involved officer's weapon and camera would be recovered at the scene as evidence by the first responding supervisor. At that time the officer is required to provide a statement to the supervisor without the assistance of counsel. After the arrival of the investigators from the Professional Standards Office and the Homicide Detail the officer provides a more in-depth statement after speaking to counsel. We refer to that second statement as the "the walk through" That second statement is voluntary and protected by the officer's 4<sup>th</sup> and 5<sup>th</sup> amendment rights. I have spoke to lawyers who specialize in officer involved shootings. They have stated that if the officer is prohibited from viewing the video they would likely advise the officer not to make a statement. This could have a very negative impact on the investigation of the crime that occurred, the arrest of the suspect, and any possible prosecution.

We respectfully request the above changes be made to this bill. With these changes all four counties will support the passage of the bill.

Thank you

Major Richard Robinson  
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**From:** Robinson, Richard C.  
**Sent:** Thursday, April 28, 2016 8:41 AM  
**To:** Robinson, Richard C.; 'Kubojiri, Harry S.'; 'Tivoli S. Faaumu'; 'Darryl Perry'; Kealoha, Louis  
**Cc:** 'Michael Contrades'; 'Ferreira, Paul'; 'everett.ferreira@mpd.net'; Lum, Andrew; 'Stacy Perreira'; 'Dean.Rickard@mpd.net'; McCauley, Marie A.; Macadangdang, Randal  
**Subject:** RE: SB2411

Good Morning,

Attached is the proposed CD1 for SB2411. The biggest change is that there is no longer any funding in the bill for the county police departments.

Major Richard Robinson  
Records and Identification Division  
Honolulu Police Department  
801 South Beretania Street  
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---

**From:** Robinson, Richard C.  
**Sent:** Monday, April 18, 2016 3:27 PM  
**To:** 'Kubojiri, Harry S.'; Tivoli S. Faaumu; Darryl Perry; Kealoha, Louis  
**Cc:** Michael Contrades; Ferreira, Paul; everett.ferreira@mpd.net; Lum, Andrew; Stacy Perreira; Dean.Rickard@mpd.net; McCauley, Marie A.; Macadangdang, Randal  
**Subject:** RE: SB2411

Thank you for getting the recommendations for revisions in so quickly. I have incorporated all of them into the bill. Chief Kubojiri, I added onto your comment [REDACTED] I also cleaned up the section about an officer viewing the video in a deadly force situation. The attached version is what I sent over to Rep Rhoads' and Sen. Nishihara's staff attorneys. I will check with them tomorrow to see if there are any issues. No hearing date has been set yet. The House has appointed Rhoads, Johanson (finance) Takayama, and Pouha to the committee. The Senate is likely Nishihara, Keith-Agaran, Espero, and English-(Finance). I will try to get a sit down with Johanson, Espero, Takayama, Pouha, and English tomorrow.

Thanks Rich

Major Richard Robinson  
Records and Identification Division  
Honolulu Police Department  
801 South Beretania Street  
Honolulu, HI 96813  
(808) 723-3181  
[rrobinson1@honolulu.gov](mailto:rrobinson1@honolulu.gov)

---

**From:** Kubojiri, Harry S. [mailto:Harry.S.Kubojiri@hawaiiicounty.gov]

**Sent:** Sunday, April 17, 2016 5:21 AM

**To:** Robinson, Richard C.; Tivoli S. Faaumu; Darryl Perry; Kealoha, Louis

**Cc:** Michael Contrades; Ferreira, Paul; everett.ferreira@mpd.net; Lum, Andrew; Stacy Perreira; Dean.Rickard@mpd.net; McCauley, Marie A.; Macadangdang, Randal

**Subject:** RE: SB2411

Major Robinson,

Upon review, the following are the comments (4) provided by staff. Thanks again for all your hard work.:

*Harry S. Kubojiri*

*Police Chief*

*Hawaii Police Department*

*349 Kapiolani Street*

*Hilo, Hawaii 96720*

*(808) 961-2243 Business*

*(808) 961-2389 Facsimile*

---

**From:** Robinson, Richard C. [mailto:rrobinson1@honolulu.gov]

**Sent:** Saturday, April 16, 2016 7:19 PM

**To:** Kubojiri, Harry S.; Tivoli S. Faaumu; Darryl Perry; Kealoha, Louis

**Cc:** Michael Contrades; Ferreira, Paul; everett.ferreira@mpd.net; Lum, Andrew; Stacy Perreira; Dean.Rickard@mpd.net; McCauley, Marie A.; Macadangdang, Randal

**Subject:** RE: SB2411

Ok thanks Chief. I will try to find out when they are planning on holding the hearing. The sooner we get our input to them the better. The rules require that the conference committee hearing has to be held, and a version of the bill agreed upon, and in its final written form by April 28<sup>th</sup> at 2300 hours. Also I will be on vacation from the 20<sup>th</sup> to the 27<sup>th</sup>, and off island from the 21<sup>st</sup>. If something happens on the 20<sup>th</sup> I can come in for that if needed.

Thanks

Major Richard Robinson

Records and Identification Division

Honolulu Police Department

801 South Beretania Street

Honolulu, HI 96813

(808) 723-3181

[rrobinson1@honolulu.gov](mailto:rrobinson1@honolulu.gov)

---

**From:** Kubojiri, Harry S. [mailto:Harry.S.Kubojiri@hawaiicounty.gov]

**Sent:** Friday, April 15, 2016 5:17 AM

**To:** Robinson, Richard C.; Tivoli S. Faaumu; Darryl Perry; Kealoha, Louis

**Cc:** Michael Contrades; Ferreira, Paul; everett.ferreira@mpd.net; Lum, Andrew; Stacy Perreira; Dean.Rickard@mpd.net; McCauley, Marie A.; Macadangdang, Randal

**Subject:** RE: SB2411

Major Robinson,

Thank you for the follow-up. I will review it over the weekend and if I have any comments, I will get it back to you by next week (mid-week).

Thanks again.

*Harry S. Kubojiri*

*Police Chief  
Hawaii Police Department  
349 Kapiolani Street  
Hilo, Hawaii 96720*

*(808) 961-2243 Business  
(808) 961-2389 Facsimile*

---

**From:** Robinson, Richard C. [<mailto:rrobinson1@honolulu.gov>]

**Sent:** Thursday, April 14, 2016 3:48 PM

**To:** Kubojiri, Harry S.; Tivoli S. Faaumu; Darryl Perry; Kealoha, Louis

**Cc:** Michael Contrades; Ferreira, Paul; [everett.ferreira@mpd.net](mailto:everett.ferreira@mpd.net); Lum, Andrew; Stacy Perreira; [Dean.Rickard@mpd.net](mailto:Dean.Rickard@mpd.net); McCauley, Marie A.; Macadangdang, Randal

**Subject:** RE: SB2411

Good afternoon,

Attached are the latest revisions. Please let me know what you think.

Major Richard Robinson  
Records and Identification Division  
Honolulu Police Department  
801 South Beretania Street  
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# A BILL FOR AN ACT

RELATING TO LAW ENFORCEMENT CAMERAS.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1       SECTION 1. The legislature finds that an increasing number  
2 of states are addressing the issue of law enforcement agencies'  
3 use of body-worn cameras as a means to protect civilians and law  
4 enforcement officers. A body-worn camera worn by a law  
5 enforcement officer acts as a third-party, independent witness  
6 in disputes by clarifying evidence and statements obtained in  
7 the field.

8       The legislature further finds that people who are aware  
9 that they are being videotaped are more inclined to alter their  
10 behavior, as they know that they will likely be held accountable  
11 for their actions. In light of recent incidents involving law  
12 enforcement officers and the alleged use of unnecessary force,  
13 body-worn cameras can provide law enforcement officers and  
14 civilians the security of knowing that a law enforcement  
15 officer's or civilian's statements about an incident may be  
16 corroborated by the video or audio recording obtained through  
17 the body-worn camera.



1 Law enforcement agencies in this country spend  
2 approximately \$2,000,000,000 annually investigating complaints  
3 against law enforcement officers. The use of body-worn cameras  
4 may reduce complaints against law enforcement officers and allow  
5 complaints to be resolved more quickly, thus freeing up valuable  
6 resources and reducing financial losses.

7 The legislature also finds that the use of body-worn  
8 cameras can assist law enforcement agencies with training,  
9 assessment, and disciplinary decisions.

10 Accordingly, the purpose of this Act is to promote  
11 transparency, accountability, and protection for law enforcement  
12 officers and civilians by:

- 13 (1) Establishing requirements for the use of body-worn  
14 cameras; and
- 15 (2) Appropriating funds to the office of information  
16 practices to account for an anticipated increase in  
17 that office's duties and workload in relation to  
18 public disclosure of recordings made by body-worn  
19 cameras and review and determination of related  
20 issues.



1       SECTION 2. Chapter 52D, Hawaii Revised Statutes, is  
2 amended by adding a new part to be appropriately designated and  
3 to read as follows:

4               "PART       .   LAW ENFORCEMENT BODY-WORN CAMERAS

5       §52D-A Definitions. As used in this part:

6       "Body-worn camera" means a recording device that is:

7       (1) Capable of recording video and audio or transmitting

8       video and audio to be recorded remotely; and

9       (2) Worn on the person of a law enforcement officer, which

10       shall include being attached to the law enforcement

11       officer's clothing or worn as glasses.

12       "Deadly force" means force that the actor uses with the

13 intent of causing or that the actor knows to create a

14 substantial risk of causing death or serious bodily harm.

15 Intentionally firing a firearm in the direction of another

16 person, or in the direction that another person is believed to

17 be, constitutes use of deadly force. A threat to cause death or

18 serious bodily injury, by the production of a weapon or

19 otherwise, so long as the actor's intent is limited to creating

20 an apprehension that the actor will use deadly force if

21 necessary, does not constitute deadly force.



1 "Law enforcement officer" means an on-duty, uniformed law  
2 enforcement officer, or an officer readily identifiable as a law  
3 enforcement officer, whose primary duties are routine law  
4 enforcement patrol or traffic enforcement or both; or  
5 specialized tactical units engaged in tactical or law  
6 enforcement operations, while on such duty.

7 "Subject of the recording" means any law enforcement  
8 officer or any suspect, victim, detainee, conversant, injured  
9 party, or other similarly situated person who appears or is  
10 heard on a body camera recording, and shall not include  
11 individuals who only incidentally appear on a recording.

12 "Use of force" means and includes:

- 13 (1) The use of physical force, not including handcuffing;  
14 (2) The use of chemical agents; and  
15 (3) The use or threatened use of any weapon including  
16 baton, electric gun, less lethal munition, or firearm.

17 **§52D-B Use of body-worn cameras for law enforcement**

18 **officers.** (a) Law enforcement officers shall wear and use  
19 body-worn cameras only in accordance with this part. Body-worn  
20 cameras shall be worn in a location and manner that facilitates



1 the camera's ability to capture audio and video recordings of  
2 the officer's activities.

3 (b) Except as provided in subsection (d), both the audio  
4 and video recording functions of the body-worn camera shall be  
5 activated:

6 (1) Whenever a law enforcement officer responds to a call  
7 for service; and

8 (2) At the initiation of any law enforcement or  
9 investigative encounter between a law enforcement  
10 officer and a member of the public;  
11 provided that when an immediate threat to the law enforcement  
12 officer's life or safety makes activating the camera impossible  
13 or dangerous, the law enforcement officer shall activate the  
14 camera at the first reasonable opportunity to do so. The body-  
15 worn camera shall not be deactivated until the call for service  
16 or encounter has fully concluded and the law enforcement officer  
17 leaves the scene or as ordered by a supervisor.

18 (c) A law enforcement officer who is wearing a body-worn  
19 camera shall notify the subjects of the recording that the  
20 subjects are being recorded by a body-worn camera as close to  
21 the inception of the encounter as is reasonably possible.



(d) Notwithstanding the requirements of subsection (b):

(1) ~~Prior to entering a private residence without a~~  
~~warrant or in non exigent circumstances, a law~~  
~~enforcement officer shall ask all the adult occupants~~  
~~if the occupants want the officer to discontinue use~~  
~~of the officer's body worn camera. Only if all of the~~  
~~occupants respond affirmatively, the law enforcement~~  
~~officer shall immediately discontinue use of the body-~~  
~~worn camera; whenever the officer is in doubt, the~~  
~~officer shall continue operating the camera; When~~  
~~entering a private residence without a warrant, a law~~  
~~enforcement officer shall continue operating the body-~~  
~~worn camera, but may exercise discretion to~~  
~~discontinue operation;~~

(2) When interacting with a person who appears to the  
officer to be a an apparent crime victim, a law  
enforcement officer may ask that person whether the  
person the apparent crime victim if the apparent crime  
victim wants the officer to discontinue use of the  
officer's body-worn camera. If the apparent crime  
victim responds affirmatively, and the law enforcement



1        officer reasonably believes that the situation is non-  
2        confrontational and not volatile, the law enforcement  
3        officer may discontinue use of the body-worn camera;

4        (3) When interacting with a person seeking to anonymously  
5        report a crime or assist in an ongoing law enforcement  
6        investigation, a law enforcement officer may ask the  
7        person seeking to remain anonymous if the person wants  
8        the officer to discontinue use of the officer's body-  
9        worn camera. If the person responds affirmatively,  
10       and the situation is non-confrontational and appears  
11       not to be volatile, the law enforcement officer may  
12       discontinue use of the body-worn camera; and

13       (4) A law enforcement officer may deactivate the body-worn  
14       camera under the following circumstances:

15       (A) A witness refuses to provide a statement if  
16       recorded;

17       (B) Recording would risk the safety of a confidential  
18       informant, civilian informant, or undercover law  
19       enforcement officer;



(C) In the patient care areas of a hospital, sex assault treatment center, or other health care facility;

(D) When interviewing a witness in a sexual assault case; or

(E) While in a courthouse or judge's chamber unless responding to a call for service.

(e) A law enforcement officer's offer or decision to discontinue the use of a body-worn camera made pursuant to subsection (d), and the responses thereto, shall be stated and recorded by the body-worn camera prior to discontinuation of the use of the body-worn camera.

**§52D-C Prohibited acts.** (a) No law enforcement officer shall operate a body-worn camera that is not issued and maintained by the applicable county police department.

(b) No law enforcement officer shall operate a body-worn camera:

(1) Surreptitiously, except when acting in an undercover investigative capacity;





(2) To gather intelligence information on speech, associations, or religion protected by the First Amendment to the United States Constitution;

(3) To record activity that is unrelated to a response to a call for service or a law enforcement or investigative encounter between a law enforcement officer and a member of the public; or

(4) On the grounds of any public, private, or parochial elementary or secondary school, except when a law enforcement officer is responding to a call for service or during an enforcement encounter.

(c) No person shall tamper with or make an unauthorized copy of a body-worn camera recording subject to this part, nor may any person delete a body-worn camera recording in violation of section 52D-E.

(d) No person shall release a body-worn camera recording a subject to this part unless the person first obtains the permission of the applicable agency.

**§52D-D Training.** (a) No law enforcement officer shall use a body-worn camera without first being trained by the



1 applicable law enforcement agency on the proper use of the body-  
2 worn camera.

3 (b) No person from the law enforcement agency shall come  
4 into contact with any body-worn camera recording without first  
5 being trained by the applicable law enforcement agency on the  
6 proper handling of the recording.

7 (c) The department of the attorney general shall develop  
8 or approve a curriculum for training programs to ensure  
9 consistency with the requirements of this part.

10 §52D-E Body-worn camera recordings; retention  
11 requirements. (a) Body-worn camera recordings shall be  
12 retained by the agency that employs the law enforcement officer  
13 whose camera captured the recording, or by an authorized agent  
14 thereof, for thirteen months from the date it was recorded  
15 unless subsections (b) or (c) require a longer retention period.

16 (b) Body-worn camera recordings that have evidentiary or  
17 exculpatory value for use in a criminal or civil case shall be  
18 retained for the period of the applicable statute of limitations  
19 or until the final disposition of the case, whichever is longer.

20 (c) Notwithstanding the retention requirements in  
21 subsections (a) and (b):



(1) Body-worn camera recordings shall be automatically retained for not less than three years from the date recorded if the recording captures images or sounds involving:

(A) Any use of force by the law enforcement officer;

(B) Events leading up to and including an arrest for a any of the following serious felony-level offenses: murder or attempted murder in the first or second degree, or a Class A felony; 7 or events that constitute a any such serious felony-level offense; or

(C) An encounter about which a complaint has been registered alleging misconduct by a law enforcement officer;

(2) Body-worn camera recordings shall be retained for not less than three years from the date recorded if the longer retention period is requested by:

(A) The law enforcement officer whose body-worn camera recorded the recording, if that officer reasonably asserts the recording has evidentiary or exculpatory value;



1 (B) Any law enforcement officer who is a subject of  
2 the recording, if that officer reasonably asserts  
3 the recording has evidentiary or exculpatory  
4 value;

5 (C) Any superior officer of a law enforcement officer  
6 whose body-worn camera recorded the recording or  
7 who is a subject of the recording, if that  
8 superior officer reasonably asserts the recording  
9 has evidentiary or exculpatory value;

10 (D) Any law enforcement officer, if the body-worn  
11 camera recording is being retained solely and  
12 exclusively for law enforcement training  
13 purposes;

14 (E) Any individual who is a subject of the recording  
15 upon a showing of good cause;

16 (F) Any parent or legal guardian of a minor who is a  
17 subject of the recording upon a showing of good  
18 cause; or

19 (G) A deceased subject of the recording's next of kin  
20 or legally authorized designee upon a showing of  
21 good cause;



(3) Body-worn camera recordings documenting an incident that involves the use of deadly force by a law enforcement officer or that is otherwise related to an administrative or criminal investigation of a law enforcement officer shall be retained indefinitely and shall not be deleted or destroyed without court order;

(4) Body-worn camera recordings identified as part of a preservation order or litigation shall be retained until such hold is lifted or by a final court order, as applicable, and for such additional time as may be applicable if the recording may be preserved under another provision of law.

(d) Individuals depicted in or identified by body-worn camera recordings shall be presumed to have significant privacy interests in the information contained in a body-worn camera recording that is subject to a minimum three-year retention period solely and exclusively pursuant to subsection (c)(1)(C), if the subject of the recording making the complaint requests the recording not be made available to the public.

Consistent with sections 92F-13 and 92F-14, disclosure of the recordings shall be deemed to constitute a clearly



1 unwarranted invasion of personal privacy unless the public  
2 interest in disclosure outweighs the privacy interests of the  
3 individual.

4 §52D-F Body-worn camera recordings; prohibitions on use.

5 (a) No law enforcement officer shall review or receive an  
6 accounting of any body-worn camera recording that involves the  
7 use of ~~deadly force or a felony arrest~~ by the law enforcement  
8 officer prior to the time that the law enforcement officer  
9 completes an initial written report of the incident. A law  
10 enforcement officer may thereafter review all relevant  
11 recordings and prepare a supplemental report or reports, in  
12 which the officer shall identify the recordings that the officer  
13 reviewed. Nothing herein shall be deemed to compel an officer  
14 to complete any initial or supplemental report if a person has  
15 been seriously injured or has died in, or in consequence of, the  
16 incident.

17 (b) Body-worn camera recordings shall not be viewed by any  
18 supervisor of a law enforcement officer for the sole purpose of  
19 searching for violations of department policy or law not related  
20 to a specific complaint, investigation, or incident.



1 (c) Notwithstanding subsection (b), each law enforcement  
2 agency may set policies for random auditing by the agency's  
3 respective internal affairs section.

4 (d) Body-worn camera recordings shall not be divulged or  
5 used by any law enforcement agency for any commercial or other  
6 non-law enforcement purpose.

7 **§52D-G Violation of recording or retention requirements.**

8 (a) Should any law enforcement officer, employee, or agent fail  
9 to adhere to the recording or retention requirements contained  
10 in section 52D-B or 52D-E or intentionally interfere with a  
11 body-worn camera's ability to accurately record audio or video,  
12 appropriate disciplinary action shall be taken against the  
13 individual officer, employee, or agent.

14 (b) Disciplinary action may be mitigated or overcome by  
15 proof of exigent circumstances or other mitigating circumstances  
16 that made compliance impossible."

17 SECTION 3. Chapter 52D, Hawaii Revised Statutes, is  
18 amended by designating sections 52D-1 to 52D-16 as "Part I.  
19 General Provisions".

20 SECTION 4. There is appropriated out of the general  
21 revenues of the State of Hawaii the sum of \$100,000 or so much



1    thereof as may be necessary for fiscal year 2016-2017 for the  
2    establishment of two full-time equivalent (2.00 FTE) permanent  
3    positions in the office of information practices to perform  
4    duties relating to public disclosure of recordings made by law  
5    enforcement agencies with body-worn cameras, including review  
6    and determination of related issues.

7            The sum appropriated shall be expended by the office of  
8    information practices for the purposes of this Act.

9            SECTION 5. This Act shall apply to all law enforcement  
10   agencies in the State, provided that any law enforcement agency  
11   that has a program using body-worn cameras in operation on the  
12   effective date of this Act shall conform its policies and  
13   procedures to the provisions of this Act within one year after  
14   the effective date of this Act.

15           SECTION 6. This Act shall take effect on July 1, 2016.





S.B. NO. 2411  
S.D. 2  
H.D. 2  
C.D. 1  
PROPOSED

**Report Title:**

Body-Worn Cameras; Law Enforcement Agencies; Appropriation

**Description:**

Establishes requirements, restrictions, and implementation timelines for body-worn cameras for law enforcement agencies. Appropriates funds to the Office of Information Practices for purposes of this Act. (SB2411 CD1 PROPOSED)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*



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**Sent:** Friday, April 29, 2016 7:27 AM  
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**Subject:** RE: SB2411  
**Attachments:** SB2411 CD1 rev 1-B -Apr 28.doc

Good Morning,

Attached is the most recent version of the CD1. I have not had a chance to go over it thoroughly yet. I wanted to get it out to all of you as quickly as possible.

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Prohibiting an officer from viewing video footage related to any felony arrest will be

counterproductive to police work. No other state has placed such a restriction on law enforcement. This provision comes from a basic distrust of law enforcement.

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Good Morning,

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Major Robinson,

Upon review, the following are the comments (4) provided by staff. Thanks again for all your hard work.:

*Harry S. Kubojiri*  
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