

OFFICE OF INFORMATION PRACTICES

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To: House Committee on Transportation

From: Carlotta Amerino, Director

Date: February 6, 2025, 10:00 a.m.
State Capitol, Conference Room 430

Re: Testimony on H.B. No. 277
Relating to Relating to Vehicular Pursuit

Thank you for the opportunity to submit testimony on House Bill 277, which would establish a vehicular pursuit policy for law enforcement agencies. The Office of Information Practices (OIP) takes no position on the substance of the bill but offers **comments** on how this bill would affect the public's access to records.

Page 10, lines 6-13, heightens the standard for law enforcement agencies to withhold or redact portions of their vehicular pursuit policy. House Bill 277 proposes to allow law enforcement agencies to redact information only if:

- (1) Allowed under the state's open records law, the Uniform Information Practices Act, chapter 92F, Hawaii Revised Statutes (HRS) (the UIPA);
and
- (2) "The redacted material, if made public, would *substantially and materially undermine ongoing investigations or endanger the life or safety of officers or members of the public.*"

The UIPA provides law enforcement agencies with a limited ability to withhold vehicular pursuit policies. Under the frustration exception at section 92F-13(3), HRS, access to predominately internal policies may be withheld or redacted only when public disclosure would “significantly risk circumvention” of the policy or law and thus frustrate a legitimate government purpose. Applying the current standard, OIP concluded that only a portion of a police department’s motor vehicle pursuit policy could be redacted on the basis that its disclosure would significantly risk circumvention of the law. OIP Op. Ltr. No. 95-13.

If House Bill 277 passes, it will no longer be enough for law enforcement agencies to show that public disclosure would essentially let persons pursued know what needs to happen to make a police officer stop chasing them. Law enforcement agencies will also have to show that public disclosure would substantially and materially undermine an ongoing investigation, or endanger the life or safety of others. The issue of whether vehicle pursuit policies should be subject to a heightened standard of non-disclosure is a policy decision for the Legislature to decide.

House Bill 277 also makes the reports collected under proposed section 139-__ (e) public. Section 139-__ (h) requires law enforcement agencies to de-identify suspects from the report by leaving out “the name, address, social security number, or other unique personal identifying information of the persons pursued.” This policy is consistent with the UIPA because it allows agencies to protect the suspects’ significant privacy interest in their personal information under section 92F-13(1), HRS, while still allowing for better public understanding of vehicular pursuits.

Thank you for considering OIP’s testimony.

C. Kimo Alameda, Ph.D.
Mayor



Benjamin T. Moszkowicz
Police Chief

William V. Brillhante Jr.
Managing Director

Reed K. Mahuna
Deputy Police Chief

County of Hawai`i

POLICE DEPARTMENT

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February 4, 2025

Representative Darius K. Kila, Chair
and Members
Committee on Transportation
House of Representatives
Hawaii State Capitol
415 South Beretania Street
Honolulu, HI 96813

Dear Representative Kila:

RE: HOUSE BILL 277 RELATING TO VEHICULAR PURSUIT
DATE: FEBRUARY 6, 2025
TIME: 10:00 A.M.
PLACE: VIA VIDEOCONFERENCE (ROOM 430)

The Hawaii County Police Department (HPD) respectfully submits testimony in opposition to House Bill No. 277, Relating to Vehicular Pursuit.

HPD values the sanctity of life and recognizes that motor vehicle pursuits are among the most dangerous actions an officer may undertake. With this in mind, HPD's existing pursuit policy already aligns with many of the elements outlined in HB277, including guidelines for initiation, operations, termination, and reporting.

Rather than codifying pursuit policies through legislation, HPD believes that the appropriate avenue for establishing statewide standards is through the Law Enforcement Standards Board. Additionally, specifying particular crimes for which pursuits are permitted is both unnecessary and potentially confusing, as it could create ambiguity in critical, time-sensitive situations.

For these reasons, HPD respectfully opposes HB277. Thank you for the opportunity to provide testimony.

Respectfully,


BENJAMIN T. MOSZKOWICZ
POLICE CHIEF

HAWAI'I HOUSE COMMITTEE ON TRANSPORTATION

HEARING:

Public Hearing on House Bill 277, March 6, 2025

DATE OF TESTIMONY:

March 5, 2025

TESTIMONY OF THE POLICING PROJECT AT NYU SCHOOL OF LAW IN SUPPORT OF H.B. 277

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

One of the best ways to ensure transparent, effective, and ethical policing is for the public to be democratically involved in setting expectations for police practices *before* police act, instead of *after* something has gone wrong.¹ Currently, though, police pursuits are almost always dealt with after the fact, with little guidance offered to law enforcement officers on the front end. But police vehicle pursuits are highly dangerous, posing risks of serious injury or death to members of the public and police officers, rendering front-end regulation necessary. An increasing number of jurisdictions are setting forth clear rules in advance for agencies and officers to ensure officers are only engaging in pursuits when necessary and when the public safety benefits of such pursuits outweigh the immense risks. Hawai'i should join these jurisdictions and pass H.B. 277 to advance public safety and avoid needless fatalities and injuries.

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

Vehicle Pursuits Are Dangerous and Costly

A growing body of research indicates that most police vehicle pursuits do not promote public safety, and that far too many pose an unreasonable risk of injury or death to officers and members of the public alike. Indeed, [a recent national study](#) reported that more than 3,000 people have died in vehicle pursuits in the past five years, including more than 500 bystanders. And, according to federal government estimates, police pursuits injured more than 52,000 people from 2017 to 2021. While individuals in the vehicle being pursued or other nearby vehicles are most likely to die, a 2019 study found that officer deaths resulting from pursuit-related collisions accounted for five to six percent of all line-of-duty officer deaths each year.² Although there are scenarios in which police should pursue and apprehend people seeking to avoid a lawful traffic stop, pursuits undoubtedly create extreme risk to police, bystanders, and the public at large.

Importantly, the recent study also found that just one out of fifteen people killed during pursuits were chased for violent crimes. Most of the time, the study explained, officers are conducting chases at high speeds to stop drivers suspected of non-violent crimes or low-level driving infractions, like having a broken taillight or playing loud music. Consistent with the recent study's finding, [a 2021 study our organization conducted](#) found no evidence that restrictive pursuit policies produced more criminal activity.

To make matters worse, vehicle pursuits are also costly. The recent national study found that, in the past five years, local governments and insurers have paid more than \$80 million in settlements and judgments in lawsuits arising from pursuit-related injuries and death. For example, in Oahu, a 2021 pursuit caused a crash, seriously injuring the pursued driver, who endured a six-week coma and suffered traumatic brain injury. This pursuit sparked a settlement in which the City and County of Honolulu [paid the driver \\$12.5 million](#).

H.B. 277 Would Limit Dangerous and Unnecessary Vehicle Pursuits

There is a better way. In light of the danger posed by vehicle pursuits, [a comprehensive 2023 report on vehicle pursuits by the Department of Justice and Police Executive Research Forum](#) urged police to only pursue vehicles in narrow circumstances. The PERF working group that developed the report's recommendations consisted of the

² See Michael White, Lisa Dario, & John Shjarback, *Assessing dangerousness in policing: An analysis of officer deaths in the United States, 1970–2016*, 18 CRIMINOLOGY & PUB. POL'Y 11, 18 (2019).

National Highway Traffic Safety Administration's Director of Office of Safety Programs, ten different police chiefs and lieutenants hailing from states as varied as Nevada, South Carolina, and Texas, and an academic expert on vehicle pursuits. The working group determined that the risks of pursuits were only justified when a driver or passenger in the vehicle is reasonably suspected of committing a violent crime, or, in very limited situations, for vehicles driven by reckless or impaired drivers. Jurisdictions all across the country have taken heed. With [the support of the NYC Police Benevolent Association, NYPD recently adopted](#) a restrictive pursuit policy in which police are prohibited from chasing vehicles unless someone in the vehicle is suspected of having committed a violent crime. A growing number of states and agencies have adopted similarly restrictive pursuit laws and policies, including the state of New Jersey, Washington D.C., the Michigan State Police, and law enforcement agencies in Boise, Boston, Detroit, Miami, and New Orleans.

Following these jurisdictions and agencies' footsteps and recognizing the danger of vehicle pursuits, H.B. 277 would smartly regulate vehicle pursuits, setting forth clear rules that only permit pursuits for particular serious crimes and traffic infractions, where the public safety benefits outweigh the potential harms to officers and members of the public. The bill, too, contains other common-sense measures such as requiring officers engaged in vehicle pursuits to communicate with other officers engaging in the pursuit and receive relevant training before engaging in such pursuits. The bill also laudably requires police departments to collect data on all vehicle pursuits, which would enable departments, lawmakers, and members the public to meaningfully assess the efficacy of this new pursuit policy. H.B. 277 will make permitted pursuits less dangerous.

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

Some opposing the bill may say that we should defer to the county police departments to set their own pursuit policies. But the only publicly available Hawai'i county police department pursuit policy does not appear to comply with the best

practices set forth by the Department of Justice and Police Executive Research Forum.³ For example, [the Honolulu Police Department permits pursuits](#) for any crime or traffic infraction, no matter how low-level, and tasks officers with conducting a complex balancing test on the fly when deciding whether to pursue. In contrast, the policy set forth in H.B. 277 draws the line in advance, creating clarity for officers in fast-moving situations. [One review](#) found that agencies who leave the pursuit decision up to officer discretion, as Honolulu does, engage in eight times as many pursuits as those with a policy that discourages or prohibits certain pursuits.

The tragic result of overly relaxed pursuit policies is more avoidable injuries and deaths. For example, before 2018, Milwaukee had a restrictive pursuit policy akin to H.B. 277, but in 2018 it loosened its pursuits policy to give officers more discretion. [Pursuits more than doubled](#), increasing from a little over 400 to more than 1,000 per year, with pursuit-related injuries tripling and deaths increasing as well. Similarly, after the Little Rock Police Department relaxed a restrictive chase policy, pursuit-related crashes ballooned, [going from a low of 6 in 2016 to 32 in 2020](#).⁴

We Recommend Tasking the Attorney General’s Office with Data Collection

The bill currently tasks the Department of Law Enforcement with collecting and analyzing the pursuit data gathered by the police departments. Although an understandable selection, we instead recommend tasking the crime prevention and justice assistance division of the Attorney General’s office (the “Division”) with that responsibility. The Division already would be tasked with collecting and publishing the policing data required in H.B. 278, and it makes sense to vest this related policing data collection obligation with the same state agency. It will already be in the practice of collecting data from county departments and liaising with relevant department contacts. And the Division can issue common guidance when there is overlap (for example, the guidance for reporting injuries is likely to be the same for use of force

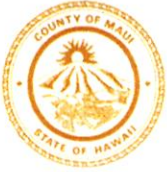
³ The [Hawai’i Police Department pursuit policy](#) is partially publicly available, but we were unable to review its core components because they are redacted. H.B. 277 commendably would require county police departments to publish their policies with limited redactions.

⁴ Others opposing the bill may assert that the county police department pursuit policies comply with the pursuit standards set forth by Commission on Accreditation for Law Enforcement Agencies (“CALEA”). But the CALEA standards are not public, and, to the extent those standards permit dangerous pursuits for non-violent crimes and infractions, they simply do not cohere with best practices and needlessly put the lives of officers and members of the public at risk.

data, set forth in H.B. 278, and vehicle pursuit data). Moreover, if H.B. 278 is enacted, the Division can secure [Section 1906 federal funding](#) to hire additional full-time staff and contract with third-party vendors to ease the cost and burden of any data collection.

Conclusion

H.B. 277 would save lives and prevent serious injuries by bringing much-needed clear regulation to police vehicle pursuits in Hawai'i. The bill also wisely would restrict dangerous police tactics like shooting a weapon at or from a moving vehicle. We urge this Committee to pass this bill.



RICHARD T. BISSEN, JR.
MAYOR

POLICE DEPARTMENT COUNTY OF MAUI

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JOHN PELLETIER
CHIEF OF POLICE

WADE M. MAEDA
DEPUTY CHIEF OF POLICE

TO: Representative Darius K. Kila, Chair
Representative Tina Nakada Grandinetti, Vice Chair
Members of the Committee on Transportation

FROM: John Pelletier, Chief of Police

DATE: February 5, 2025

SUBJECT: **OPPOSITION OF HB277, RELATED TO VEHICULAR PURSUIT**

Thank you for the opportunity to testify in OPPOSITION of this important measure. The bill establishes a vehicular pursuit policy for law enforcement agencies. Effective 07/01/2026.

The Maui Police Department's principal responsibility in pursuit circumstances is the safeguarding of the lives, safety and wellbeing of its officers and residents it serves. We understand that pursuits initiate risk and danger to the officer and public, however, there are high-priority situations when an appropriate law enforcement response necessitates a pursuit, which supersedes the level of endangerment and jeopardy involved.

Law enforcement policy development requires determining leading practices, establishing committees, examining intelligence, assembling manuals, composing policies, implementing new policies, reviewing policies and conducting compliance inspections. The Maui Police Department has formulated its policy and procedures based on Hawaii Revised Statutes, County of Maui Ordinances, our unique community circumstances, and best practices from the International Association of Chiefs of Police, the Police Executive Research Forum, the National Highway Traffic Safety Administration and the gold standard in public safety the Commission on Accreditation for Law Enforcement Agencies, Inc.

Policymakers should be cautioned that each law enforcement agency operates in a distinctive environment of court rulings, local ordinances, regulations, judicial and administrative decisions, and exclusive community characteristics that must be evaluated, therefore, the Maui Police Department is in OPPOSITION of HB277, as a one size fits all policy is not the appropriate approach to addressing vehicle pursuits.

Mahalo for your consideration.

JOHN PELLETIER
Chief of Police



Committee: Transportation

Hearing Date/Time: Thursday, February 6, 2025 at 10am

Place: Conference Room 430, 415 South Beretania Street

Re: Testimony of the ACLU of Hawai'i in SUPPORT of H.B. 277 relating to vehicular pursuit.

Dear Chair Kila, Vice Chair Grandinetti, and Committee Members:

The American Civil Liberties Union of Hawai'i **SUPPORTS H.B. 277** which provides a much-needed policy on vehicular pursuit for law enforcement officers, and basic protection against the miscarriage of justice by those entrusted with public safety.

The current lack of standardized pursuit policies across Hawaii's law enforcement agencies creates unnecessary risks and potential for abuse of police discretion. Implementing basic requirements for pursuits to be authorized and for documenting them afterwards are common sense measures to protect citizens against the use of force that officers are entrusted with.

Guidance issued by the Department of Justice and the Police Executive Research Forum found that *“the high-speed chase is not—nor should it be—a routine part of law enforcement work. The safety of fleeing suspects, their passengers, pursuing officers, and uninvolved bystanders are too important to risk on a regular basis.”*¹ Across the country, oversight bodies are calling for vehicular pursuit policies that provide standards for how officers engage in pursuits, especially given the tremendous harm these chases pose to officers, suspects, and innocent individuals nearby.² Los Angeles, Phoenix, and Orlando have all reduced police chases without crime escalating.³ This is likely because most of the time, police pursuits begin with minor violations rather than violent crimes. Police pursuit fatalities also exacerbate existing racial disparities in the criminal justice system. Black Americans, for example, are disproportionately killed in police pursuits each year and are twice as likely to start over non-violent crimes or minor offenses.⁴

H.B. 277's reporting requirements will create much needed transparency and allow for meaningful public oversight of pursuit practices. The inclusion of clear limitations on firing weapons at moving vehicles will keep the public safer and provide a check against a “shoot first, ask questions later” mindset that harms uninvolved third parties and violates the due process rights of suspected individuals.⁵ The ACLU of Hawai'i asks that you move H.B. 277 forward.

Sincerely,

Nathan Lee, Policy Legislative Fellow, ACLU Hawai'i

C: Carrie Ann Shirota, Policy Director, ACLU Hawai'i

The mission of the ACLU of Hawai'i is to protect the fundamental freedoms enshrined in the U.S. and State Constitutions. The ACLU of Hawai'i fulfills this through legislative, litigation, and public education programs statewide. The ACLU of Hawai'i is a non-partisan and private non-profit organization founded in 1965 that provides its services at no cost to the public and does not accept government funds.

¹ <https://portal.cops.usdoj.gov/resourcecenter/content.ashx/cops-r1134-pub.pdf>

² <https://boltsmag.org/after-deadly-car-chases-san-diego-police-oversight-body-wants-to-restrict-pursuits/>

³ <https://dcjusticelab.org/library/policing/car-chases/>

⁴ <https://www.usatoday.com/pages/interactives/blacks-killed-police-chases-higher-rate/>

⁵ <https://www.nytimes.com/2021/11/06/us/police-traffic-stops-shooting.html>

HB-277

Submitted on: 2/5/2025 10:12:56 AM

Testimony for TRN on 2/6/2025 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Patti Cook	Individual	Support	Written Testimony Only

Comments:

Support - mahalo for considering this and keeping it moving forward. Patti Cook - Waimea, Island of Hawai'i