

DEPARTMENT OF THE PROSECUTING ATTORNEY
CITY AND COUNTY OF HONOLULU

ALII PLACE
1060 RICHARDS STREET • HONOLULU, HAWAII 96813
PHONE: (808) 547-7400 • FAX: (808) 547-7515

KEITH M. KANESHIRO
PROSECUTING ATTORNEY

ARMINA A. CHING
FIRST DEPUTY PROSECUTING ATTORNEY



THE HONORABLE GILBERT S.C. KEITH-AGARAN, CHAIR
HOUSE COMMITTEE ON JUDICIARY
Twenty-sixth State Legislature
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State of Hawai'i

February 3, 2012

RE: H.B. 1929; RELATING TO PRODUCTION OF DOCUMENTS IN CRIMINAL PROCEEDINGS.

Chair Keith-Agaran, Vice Chair Rhoads and members of the House Committee on Judiciary, the Department of the Prosecuting Attorney, City and County of Honolulu, submits the following testimony regarding House Bill 1929. The Department supports H.B. 1929 if passed in conjunction with a comprehensive long-arm statute--such as the one laid out in H.B. 1777--but does not support passing H.B. 1929 in lieu of a long-arm statute.

While H.B. 1929 may strengthen our courts' ability to order the production of documents in criminal proceedings, it only pertains to one form of legal process, which takes place after criminal proceedings have already begun. Proposed amendments to the definition of "summons" would not assist courts in ordering the production of documents in other forms of legal process, such as court orders, search warrants, pen register orders or trap-and-trace orders, which are also necessary to obtain certain forms of records or information.

Moreover, H.B. 1929 would not aid in the vast majority of cases processed by our office, in which we utilize subpoenas, court orders, search warrants, and other forms of criminal legal process during the investigative stage of a case, before any criminal proceedings have been initiated. Because Chapter 836, Hawaii Revised Statutes, is only relevant after proceedings have begun, H.B. 1929 would not help with any of these investigative matters. It also would not address persons or entities in Hawai'i who wish to ignore criminal legal processes ordered by courts from other states.

For all of the reasons noted above, the Department of the Prosecuting Attorney of the City and County of Honolulu supports passing H.B. 1929 in conjunction with a comprehensive long-arm statute, does not support enacting H.B. 1929 in lieu of a long-arm statute. Thank for you the opportunity to testify on this matter.