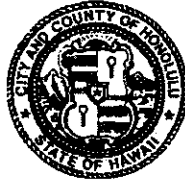


POLICE DEPARTMENT  
CITY AND COUNTY OF HONOLULU

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



PETER B. CARLISLE  
MAYOR

LOUIS M. KEALOHA  
CHIEF

DAVE M. KAJIHIRO  
MARIE A. McCAULEY  
DEPUTY CHIEFS

OUR REFERENCE LH-NTK

January 26, 2012

The Honorable Angus L. K. McKelvey, Chair  
and Members  
Committee on Economic Revitalization  
and Business  
House of Representatives  
State Capitol  
Honolulu, Hawaii 96813

Dear Chair McKelvey and Members:

Subject: House Bill No. 2288, Relating to Recordkeeping

I am Lester Hite, Captain of the Criminal Investigation Division of the Honolulu Police Department, City and County of Honolulu.

The Honolulu Police Department supports House Bill No. 2288, Relating to Recordkeeping.

The Honolulu Police Department often deals with theft-related crimes that incorporate the use of a computer to access the Internet to facilitate the crime. Currently, there is no regulation or continuity regarding the time that records are kept by Internet service providers. Often these crimes are discovered months after the theft has occurred and the Internet service providers' records are no longer available for examination. Cases are often closed because we are unable to obtain this type of valuable evidence to further the investigation.

The Honolulu Police Department urges you to support House Bill No. 2288, Relating to Recordkeeping.

Thank you for the opportunity to testify.

APPROVED:

  
LOUIS M. KEALOHA  
Chief of Police

Sincerely,

  
LESTER HITE, Captain  
Criminal Investigation Division



DEPARTMENT OF INFORMATION TECHNOLOGY  
**CITY AND COUNTY OF HONOLULU**

650 SOUTH KING STREET, 5TH FLOOR  
HONOLULU, HAWAII 96813  
Phone: (808) 768-7684 Fax: (808) 527-8272 Internet: www.honolulu.gov

PETER B. CARLISLE  
MAYOR



GORDON J. BRUCE  
DIRECTOR & CIO

TESTIMONY  
of  
**GORDON J. BRUCE, DIRECTOR AND CHIEF INFORMATION OFFICER**  
Department of Information Technology  
City and County of Honolulu  
before the  
**COMMITTEE ON ECONOMIC REVITALIZATION & BUSINESS**  
on  
Thursday, January 26, 2012  
8:30 a.m.  
State Capitol, Conference Room 312

In consideration of  
**HOUSE BILL 2288 – RELATING TO RECORDKEEPING.**

Chair McKelvey, Vice Chair Choy, and Members of the Committee on Economic Revitalization & Business.

My name is Gordon J. Bruce, and as the Director of the Department of Information Technology for the City and County of Honolulu, I submit testimony against HB 2288.

HB 2288 will require that the City and County of Honolulu shut down the free municipal Wi-Fi provided to both citizens and visitors to Honolulu.

This system is the result of a joint private-public partnership and cooperation on the part of businesses to share their respective internet access and enable the creation of a free Wi-Fi hotspot in around their respective businesses. The system, as designed, enables local businesses to receive free advertising over the network resulting in increased business for those participating in this voluntary program. This system has grown to the point where people living in some government housing projects now receive free basic access to the internet.

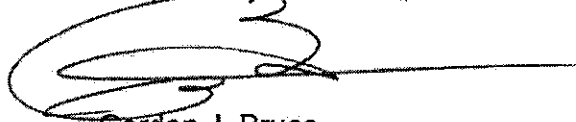
The Honorable Angus L.K. McKelvey, Chair  
The Honorable Isaac W. Choy, Vice Chair  
Committee on Economic Revitalization & Business  
Testimony – HB No. 2288, Relating to Recordkeeping  
Date: Thursday, January 26, 2012  
Time: 8:30 a.m.  
Place: Conference Room 312, State Capitol  
Page 2

No company is in charge of this grassroots service. It is purely voluntary. The requirement of capturing and storing this data will make it cost prohibitive to those who volunteer to participate in this very successful program.

In addition, this bill sends a message that it will be even more difficult to conduct internet service provider (ISP) related businesses in Hawaii. The end result will be less competition and the potential to jeopardize the governor's plan to provide high-speed, affordable broadband to business and the citizen.

Thank you for this opportunity to testify in opposition of HB 2288.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Gordon J. Bruce", with a long horizontal line extending to the right.

Gordon J. Bruce  
Director and Chief Information Officer



Committee: Committee on Economic Revitalization and Business  
Hearing Date/Time: Thursday, January 26, 2012, 8:30 a.m.  
Place: Room 312  
Re: Testimony of the ACLU of Hawaii in Opposition to H.B. 2288, Relating to Recordkeeping

Dear Chair McKelvey and Members of the Committee on Economic Revitalization and Business:

The American Civil Liberties Union of Hawaii writes in opposition to H.B. 2288. Any data retention mandate is a direct assault on bedrock privacy principles.

H.B. 2288 would impose sweeping new requirements on companies that provide internet access, forcing them for the first time to keep large volumes of records on their customers — impacting most of Hawaii's residents. The scope of this new requirement is very broad and there is nothing in the bill that would limit the use of these records. In fact, the records would involve all internet users everywhere and they could be made available to anyone for any purpose.

This new mandate is a direct assault on the privacy of internet users. Temporarily assigned network addresses, also known as IP addresses, are the direct link between individuals and their online activity. In many ways, an IP address is similar to an individual's name or other identifier online. Access to this information can allow anyone to determine the websites users visit and, consequently, what their interests are, where they bank, and what online accounts they have.

For more than 40 years it has been a core privacy principle that records should only be created for a specific purpose and deleted as soon as that purpose is complete. But the data retention mandate of H.B. 2288 moves in exactly the opposite direction and creates a true slippery slope.

If individuals are faced with the tempting prospect of access to such a vast treasure trove of private online records, they will be hard-pressed not to desire more retention of those records. And who could blame them? Some internet records — such as identifiers for email and other services — could be useful in criminal investigations — or they could more easily be irrelevant to any criminal investigation. Location information from cell phones could certainly provide help to law enforcement in many cases — but the vast majority of such data has no bearing on any crime. While any record could in theory be useful in investigating some crime somewhere the vast majority are simply the records on innocent Americans.

American Civil Liberties Union of Hawaii  
P.O. Box 3410  
Honolulu, Hawaii 96801  
T: 808.522-5900  
F: 808.522-5909  
E: [office@acluhawaii.org](mailto:office@acluhawaii.org)  
[www.acluhawaii.org](http://www.acluhawaii.org)

Rep. McKelvey, Chair, ERB Committee  
and Members Thereof  
January 26, 2012  
Page 2 of 2

We live in an age where our devices and the way we use the internet are constantly generating records – what we read, where we go, who our friends are. If those records must always be saved for future use, they become a persistent and pervasive assault on our privacy and an irresistible temptation to law enforcement. That is why best practices in privacy demand the deletion of records as soon as they are no longer necessary – exactly the opposite of the mandate of H.B. 2288.

For all of these reasons, we urge this committee to hold H.B. 2288 and all other data retention mandates.

The mission of the ACLU of Hawaii is to protect the fundamental freedoms enshrined in the U.S. and State Constitutions. The ACLU of Hawaii fulfills this through legislative, litigation, and public education programs statewide. The ACLU of Hawaii is a non-partisan and private non-profit organization that provides its services at no cost to the public and does not accept government funds. The ACLU of Hawaii has been serving Hawaii for over 40 years.

Sincerely,

Laurie A. Temple  
Staff Attorney

American Civil Liberties Union of Hawai'i  
P.O. Box 3410  
Honolulu, Hawai'i 96801  
T: 808.522-5900  
F: 808.522-5909  
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[www.acluhawaii.org](http://www.acluhawaii.org)

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The Honorable Angus L.K. McKelvey, Chair  
The Honorable Isaac W. Choy, Vice Chair  
Committee on Economic Revitalization & Business  
Testimony – HB No. 2288, Relating to Recordkeeping  
Date: Thursday, January 26, 2012  
Time: 8:30 a.m.  
Place: Conference Room 312, State Capitol

TESTIMONY  
of  
**Aryn Nakaoka**  
President of Tri-net Solutions - Managed Service Provide  
President of Lava.net - Internet Service Provider  
dba Lava.net

before the

**COMMITTEE ON ECONOMIC REVITALIZATION & BUSINESS**

on

Thursday, January 26, 2012

8:30 a.m.

State Capitol, Conference Room 312

In consideration of

**HOUSE BILL 2288 – RELATING TO RECORDKEEPING.**

Chair McKelvey, Vice Chair Choy, and Members of the Committee on Economic Revitalization & Business.

My name is Aryn Nakaoka, and as the President of Tri-net Solutions & Lava.net, I submit testimony against HB 2288.

HB 2288 will be an unnecessary economic hardship on ISPs in an already challenging economy and is an invasion of privacy of ISP customers.

The additional cost to intercept and log all transactions of an Internet users will increase the cost of Internet access. Effectively preventing ISPs from doing business , which will result in less competition and innovation.

Consumer privacy will be violated and users will also have to agree to have their privacy invaded as the records could become public domain.

Thank you for this opportunity to testify in opposition of HB 2288.

Respectfully submitted,

Aryn Nakaoka  
President of Tri-net Solutions





The Honorable Angus L.K. McKelvey, Chair  
The Honorable Isaac W. Choy, Vice Chair  
Committee on Economic Revitalization & Business  
Testimony – HB No. 2288, Relating to Recordkeeping  
Date: Thursday, January 26, 2012  
Time: 8:30 a.m.  
Place: Conference Room 312, State Capitol

TESTIMONY  
of  
**Sean Fairchild**  
System Administrator - Tri-net Solutions  
System Administrator - Lava.net  
System Architect - Aloha tone  
Concerned member of the people

before the

**COMMITTEE ON ECONOMIC REVITALIZATION & BUSINESS**  
on  
Thursday, January 26, 2012  
8:30 a.m.  
State Capitol, Conference Room 312

In consideration of  
**HOUSE BILL 2288 – RELATING TO RECORDKEEPING.**

Chair McKelvey, Vice Chair Choy, and Members of the Committee on Economic Revitalization & Business.

My name is Sean Fairchild, I submit testimony against HB 2288. I am a technical professional and work for a small Internet Service Provider as defined in this bill. This bill will produce an unfair burden on a private company to collect and store private data.

**The Constitution of the State of Hawaii Section 7**

Section 7. The right of the people to be secure in their persons, houses, papers and effects against unreasonable searches, seizures and invasions of privacy shall not be violated; and no warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the persons or things to be seized or the communications sought to be intercepted

This Bill violates the security and privacy of the people of the state, per very definition of the law. The government already has a mechanism called a search warrant to obtain information from Internet Providers. This Bill is unconstitutional and should not be passed.

Thank you for this opportunity to testify in strong opposition of HB 2288.

Respectfully submitted,  
Sean Fairchild



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**From:** Burt Lum [bytemarks@gmail.com]  
**Sent:** Wednesday, January 25, 2012 2:48 PM  
**To:** ERBtestimony  
**Subject:** Testimony against HB 2288

Testimony against HB 2288

Submitted by Burt Lum - Hawaii Open Data Foundation Bill scheduled to be heard by ERB on Thursday, 01-26-12 8:30AM in House conference room 312

The purpose of this bill is flawed and it's implementation would be a violation of civil liberties and an invasion of privacy.

It would be technically arduous to implement, it would be impossible to enforce on ISPs based outside Hawaii, but most of all, it's a bad idea.

Per the Center for Democracy and Technology, there are some straightforward reasons why HB2288 should die a quiet and premature death:

1. Data retention laws threaten personal privacy and pose a security risk, at the very time the public is justifiably concerned about security and privacy online.
2. Data retention laws create the danger of mission creep.
3. Data retention laws are unnecessary, as authority already exists to preserve records.
4. The Internet and telecommunications industry is committed to cooperating with law enforcement, but the DOJ and other law enforcement agencies have not effectively used the authority already at their disposal.
5. Proceeding with data retention would require a full-scale re-examination of data privacy laws.
6. A data retention database would principally serve as a honeypot for trial lawyers in civil cases.
7. Data retention laws are not likely to be effective.
8. Data retention laws undermine public trust in the Internet.
9. Data retention laws are burdensome and costly.

If you want Hawaii to be an attractive potential host to a technology industry, and if you want Hawaii residents to continue to embrace what technology can do for everything from civic engagement to education to cultural exchange and plain entertainment, bills like HB2288 cannot pass.

Mahalo!



---

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, January 25, 2012 2:36 PM  
**To:** ERBtestimony  
**Cc:** ryanozawa@gmail.com  
**Subject:** Testimony for HB2288 on 1/26/2012 8:30:00 AM

Testimony for ERB 1/26/2012 8:30:00 AM HB2288

Conference room: 312  
Testifier position: Oppose  
Testifier will be present: No  
Submitted by: Ryan Ozawa  
Organization: Individual  
E-mail: [ryanozawa@gmail.com](mailto:ryanozawa@gmail.com)  
Submitted on: 1/25/2012

**Comments:**

This short bill is so broad and overreaching in scope, it's troubling. It would be technically arduous to implement, it would be impossible to enforce on ISPs based outside Hawaii, but most of all, it's a bad idea.

Per the Center for Democracy and Technology, there are some straightforward reasons why HB2288 should die a quiet and premature death:

1. Data retention laws threaten personal privacy and pose a security risk, at the very time the public is justifiably concerned about security and privacy online.
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9. Data retention laws are burdensome and costly.

If you want Hawaii to be an attractive potential host to a technology industry, and if you want Hawaii residents to continue to embrace what technology can do for everything from civic engagement to education to cultural exchange and plain entertainment, bills like HB2288 cannot pass.

Mahalo!

Ryan

