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**THE HONORABLE GILBERT S.C. KEITH-AGARAN, CHAIR**  
**HOUSE COMMITTEE ON JUDICIARY**  
**Twenty-sixth State Legislature**  
**Regular Session of 2012**  
**State of Hawai'i**

March 13, 2012

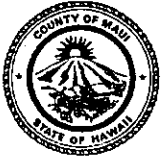
**RE: S.B. 2247, S.D. 2; RELATING TO PUBLIC SAFETY.**

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 in support of Senate Bill 2247, Senate Draft 2.

The purpose of S.B. 2247, S.D. 2, is to add an "exigency provision" to Section 803-42, Hawaii Revised Statutes, which would allow electronic communication service providers to disclose communications to a "law enforcement agency, public safety agency, and public safety answering point," for purposes of responding to emergencies involving the risk of death or serious bodily injury. Although federal law gives electronic communication service providers an exigency provision--found at 18 U.S.C. 2702(b)(8)--there is currently no such provision under State law. The proposed language of S.B. 2247, S.D. 2, follows the federal exigency provision nearly verbatim.

At this time, the lack of a State exigency provision not only creates confusion for local law enforcement, but more importantly, it leaves them without an important tool that could save lives. For example, if a domestic violence victim were to be kidnapped by her boyfriend, police officers could not legally request that a cell phone provider "ping" the suspect's cell phone to obtain real time location information for that device, as the provider's disclosure would violate HRS §803-42(10). In addition, any related information would likely be inadmissible for the purpose of prosecution. Even so, our Department receives calls from detectives, on average about once a month, asking if they can have a cell phone provider "ping" a cell phone.

For all of the reasons noted above, the Department of the Prosecuting Attorney of the City and County of Honolulu strongly supports S.B. 2247, S.D. 2. Thank for you the opportunity to testify on this matter.



ALAN M. ARAKAWA  
MAYOR

OUR REFERENCE  
YOUR REFERENCE

**POLICE DEPARTMENT**  
COUNTY OF MAUI

55 MAHALANI STREET  
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GARY A. YABUTA  
CHIEF OF POLICE

CLAYTON N.Y.W. TOM  
DEPUTY CHIEF OF POLICE

March 12, 2012

The Honorable Gilbert S.C. Keith-Agaran, Chair  
Committee on Judiciary  
House of Representatives  
Hawaii State Capitol  
Honolulu, HI 96813

Re: SB No. 2247, SD2, RELATING TO PUBLIC SAFETY

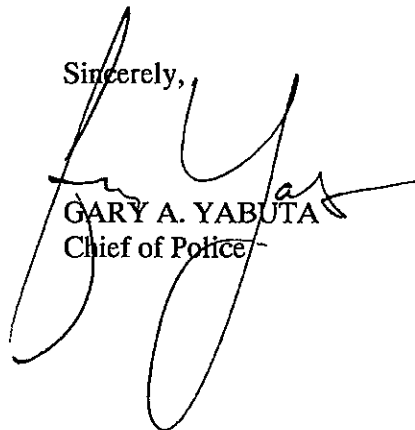
Dear Chair Keith-Agaran and Members of the Committee:

The Maui Police Department, after providing constructive input into the earlier stages of this bill that provides an exemption to electronic communication service providers to divulge the contents of the communication information to law enforcement agencies, public safety agencies, and public safety answering points under certain circumstances, is now supportive of the bill and the successive drafts.

As a Public Safety Answering Point ("PSAP"), the Maui Police Department supports having the ability of call location information for the purpose of responding to a call for emergency services or to an emergency situation that involves the risk of death or serious physical harm. SB No. 2247, SD2, in its current form, now includes our requested amendment for immunity to liability for PSAP.

In closing, the Maui Police Department is in support for SB No. 2247, SD2. Thank you for allowing us to provide input in this legislative process to help keep our communities safe and for giving us the opportunity to testify.

Sincerely,



GARY A. YABUTA  
Chief of Police



Committee: Committee on Judiciary  
Hearing Date/Time: Tuesday, March 13, 2012, 2:00 p.m.  
Place: Room 325  
Re: Testimony of the ACLU of Hawaii offering comments on S.B. 2247, SD2,  
Relating to Public Safety

Dear Chair Keith-Agaran and Members of the Committee on Judiciary:

S.B. 2247, SD2, would allow law enforcement and public safety agencies to access individuals' cell phone information in an emergency involving danger of death or serious bodily injury without a probable cause warrant. Without court oversight, this process may be abused to assist phone owners, including an estranged husband, abusive boyfriend, or even an over-bearing employer, to access the user's location information under the guise of an emergency situation.

To address these concerns and provide additional protections to all parties, this Committee should consider the following reporting requirements:

- (a) the request shall document the factual basis for believing that an emergency involving danger of death or serious bodily injury to a person requires disclosure without delay of the communications relating to the emergency.
- (b) not later than 48 hours after the date on which a law enforcement agency, public safety agency, and public safety answering point obtains access to records under subsection (c), a governmental entity shall file with the appropriate court a signed, sworn statement of a supervisory official of a rank designated by the head of the governmental entity setting forth the grounds for the emergency access.

The ACLU of Hawaii's mission is to protect the fundamental freedoms enshrined in the U.S. and State Constitutions. The ACLU of Hawaii fulfills this through legislation, litigation, and public education programs statewide. For over 45 years, the ACLU of Hawaii, a non-partisan and private non-profit organization, has provided its services at no cost to the public and without using government funds.

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  
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To: The Honorable Gilbert S.C. Keith-Agaran, Chair  
The Honorable Karl Rhoads, Vice Chair  
COMMITTEE ON JUDICIARY

From: Veronika Geronimo, Executive Director  
Hawaii State Coalition Against Domestic Violence

RE: S.B. 2247, SD2, Relating to Public Safety – Comments only

DATE & TIME: Tuesday, March 13, 2012, 2:00 p.m.

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Good afternoon Chair Keith-Agaran, Vice-Chair Rhoads, and Members of the House Committee on Judiciary. As a statewide coalition of domestic violence service providers, our mission is to engage communities and organizations to end domestic violence through education, advocacy, and action for social justice.

SB2247, SD2, would allow law enforcement and public safety agencies to access individuals' cell phone information in an emergency involving danger of death or serious bodily injury without a probable cause warrant. Without court oversight, this process may be abused to assist phone owners, including an estranged husband or abusive boyfriend to access the user's location information under the guise of an emergency situation.

To address these concerns and provide additional protections to domestic violence survivors and their families, the Hawai'i State Coalition Against Domestic Violence submits the following comments on SB2247, SD2:

- (a) the request shall document the factual basis for believing that an emergency involving danger of death or serious bodily injury to a person requires disclosure without delay of the communications relating to the emergency
- (b) not later than 48 hours after the date on which a law enforcement agency, public safety agency, and public safety answering point obtains access to records under subsection (c) a governmental entity shall file with the appropriate court a signed, sworn statement of a supervisory official of a rank designated by the head of the governmental entity setting forth the grounds for the emergency access.

Thank you for your consideration.

## Testimony for S. B. 2247

As the Communications Supervisor for Honolulu Emergency Medical Services, I fully support SB 2247, requiring a communications service provider to provide call location information to the public safety agency or public safety answering point. If the person calling 9-1-1 for help is unable to provide his or her location of the emergency, the enhanced 9-1-1 information supplied by the communications service provider directs emergency responders to the site.

The EMS public safety answering point fields over 78,000 calls per year for medical assistance. We are faced with life and death calls multiple times a day. Most of the callers are able to provide their location information. Unfortunately, the callers that is not able to provide their location information generally have the most life threatening circumstances: an abused or robbery victim hiding or being pursued; a tourist who's loved one collapsed; or a child who's parent is in a diabetic coma.

EMS received a call from a man who was experiencing an evolving stroke, and his symptoms worsening every moment. He called 9-1-1, told the Emergency Medical Dispatcher (EMD) he was having a stroke, and provided his address. He called from a cell phone as he was fading rapidly, and the EMD was unable to verify his location.

When EMS got to the scene they discovered an apartment complex, with no apartment number. First responders went door to door to find the patient. EMDs made multiple and unsuccessful attempts to call him back.

Our 9-1-1 caller may have been affected by the part of the brain that is responsible for taking thoughts and transforming them into speech. Victims of this type of stroke report that they knew what they wanted to say but were unable to put it into words.

This was a graphic example of how the public would benefit from the "information indicating the geographical location of a telecommunications device or from which the location can be determined." As a matter of quality emergency medical care, I support SB 2247 and ask that you do, also.

Thank you,  
Diana P. Chun  
Communications Center Supervisor  
City & County of Honolulu EMS  
3375 Koapaka St. H-450  
Honolulu, Hi. 96719