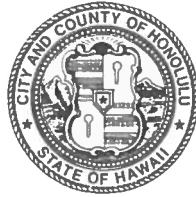


POLICE DEPARTMENT
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OUR REFERENCE

JM-NTK

February 8, 2016

The Honorable Angus L. K. McKelvey, Chair
and Members
Committee on Consumer Protection
and Commerce
House of Representatives
Hawaii State Capitol
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair McKelvey and Members:

SUBJECT: House Bill No. 1663, Relating to Pen Registers

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

The Honolulu Police Department supports House Bill No. 1663, Relating to Pen Registers.

The current definition of pen register uses the dated term of a device using a "telephone line." While telephone lines are still used, a greater number of cellular devices are being utilized. The passage of this bill would clarify that cellular phones are the subject to pen registers.

The Honolulu Police Department urges you to support House Bill No. 1663, Relating to Pen Registers.

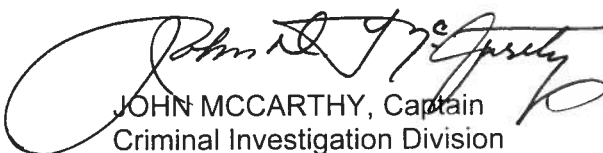
Thank you for the opportunity to testify.

APPROVED:

Sincerely,



LOUIS M. KEALOHA
Chief of Police


JOHN MCCARTHY, Captain
Criminal Investigation Division

DEPARTMENT OF THE PROSECUTING ATTORNEY
CITY AND COUNTY OF HONOLULU

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THE HONORABLE ANGUS L.K. MCKELVEY, CHAIR
HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE
Twenty-Eighth State Legislature
Regular Session of 2016
State of Hawai'i

February 8, 2016

RE: H.B. 1663; RELATING TO PEN REGISTERS.

Chair McKelvey, Vice Chair Woodson and members of the House Committee on Consumer Protection & Commerce, the Department of the Prosecuting Attorney of the City and County of Honolulu ("Department") submits the following testimony in strong support of H.B. 1663. This bill is part of the Department's 2016 legislative package.

The purpose of this bill is to update the definition of a "pen register" to include devices that do not use a landline but still make phone calls, such as cellular telephones and electronic devices that make phone calls via the Internet, and software applications such as Skype, Google Voice, and iCall. In short, the proposed language makes the statute "technology neutral".

The current statutory definition of a "pen register" was adopted in the 1980's, and still refers to numbers dialed on a landline. Specifically, HRS §803-41 defines a "pen register" as a "device that records or decodes electronic or other impulses that **identify numbers dialed or otherwise transmitted on a telephone line** to which such device is attached" (emphasis added).

The language of H.B. 1663 would make the definition of "pen register" technology neutral, and more applicable to current forms of communication. Significantly, however, this proposal would not change the "probable cause" standard, or burden of proof that law enforcement must meet, to obtain a court order for a pen register or trap and trace device. Those standards, set forth in HRS § 803-44.5 and 803-44.6, would remain unaffected by this proposal.

For the foregoing reasons, the Department of the Prosecuting Attorney of the City and County of Honolulu strongly supports the passage of H.B.1663. Thank you for the opportunity to testify on this matter.