



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-EIGHTH LEGISLATURE, 2016**

ON THE FOLLOWING MEASURE:

S.B. NO. 2108, RELATING TO CRIMINAL PROCESS.

BEFORE THE:

SENATE COMMITTEE ON JUDICIARY AND LABOR

DATE: Thursday, January 28, 2016 **TIME:** 9:30 a.m.

LOCATION: State Capitol, Room 016

TESTIFIER(S): Douglas S. Chin, Attorney General, or
Lance M. Goto, Deputy Attorney General

Chair Keith-Agaran and Members of the Committee:

The Department of the Attorney General supports this bill.

The purpose of this bill is to amend chapter 806D, Hawaii Revised Statutes (HRS), entitled Criminal Process Records, to allow the Attorney General and the county prosecuting attorneys to use administrative subpoenas for criminal investigations to obtain records held by entities located outside of the State.

This bill amends the definition of "criminal process" under section 806D-1, HRS, to include subpoenas issued pursuant to chapter 28, HRS. Section 28-2.5, HRS, authorizes the Attorney General and the county prosecuting attorneys to issue administrative subpoenas for purposes of criminal investigations. By expanding the definition of "criminal process" to include the administrative subpoenas, this bill will help these authorities obtain records from entities located outside the State and thereby facilitate criminal investigations.

The Department respectfully requests the passage of this bill.

Justin F. Kollar
Prosecuting Attorney

Jennifer S. Winn
First Deputy



Rebecca A. Vogt
Second Deputy

Diana Gausepohl-White
Victim/Witness Program Director

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TESTIMONY IN SUPPORT OF
SB 2108 – RELATING TO CRIMINAL PROCESS

Justin F. Kollar, Prosecuting Attorney
County of Kaua'i

Senate Committee on Judiciary and Labor
January 28, 2016, 9:30 a.m., Conference Room 016

Chair Keith-Agaran, Vice-Chair Shimabukuro, and Members of the Committee:

The County of Kaua'i, Office of the Prosecuting Attorney, SUPPORTS SB 2108 – Relating to Criminal Process.

Chapter 806D of the Hawaii Revised Statutes ("HRS"), entitled Criminal Records Process, was enacted in 2012. One of the primary purposes of this chapter was to authorize parties in a criminal case to issue subpoenas to entities located outside the State. HRS §806D-1 currently defines "criminal process" to include subpoenas issued pursuant to HRS Chapters 621, 622, and 803, "regardless of whether the recipient or records are physically located within the State." Thus, the current definition authorizes the use of grand jury subpoenas and trial subpoenas, but not subpoenas issued during the investigative stage of a criminal case.

The purpose of SB 2108 is to amend HRS Section 806D-1 by adding subpoenas issued pursuant to HRS Chapter 28 to the definition of "criminal process." Under HRS Chapter 28, specifically, HRS §28-2.5, the attorney general and county prosecutors are authorized to issue subpoenas when conducting criminal investigations. Often times, subpoenas are issued for records held by entities located outside the State, for example some financial institutions.

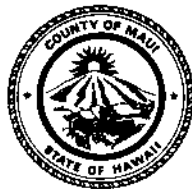
SB 2108 will permit the attorney general and county prosecutors to issue subpoenas for records located outside the State during the investigative stage

of the case. In short, this will properly enable the use of subpoenas during all phases of a criminal case – the investigation, grand jury, and trial.

Accordingly, we are in SUPPORT of SB 2108. We request that your Committee PASS the Bill.

Thank you very much for the opportunity to provide testimony on this Bill.

ALAN M. ARAKAWA
Mayor



JOHN D. KIM
Acting Prosecuting Attorney
ROBERT D. RIVERA
Acting First Deputy Prosecuting Attorney

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TESTIMONY
ON
SB 2108 - RELATING TO CRIMINAL PROCESS

January 28, 2016

The Honorable Gilbert S. C. Keith-Agaran
Chair
The Honorable Maile S. L. Shimabukuro
Vice Chair
and Members
Senate Committee on Judiciary and Labor

Chair Keith-Agaran, Vice Chair Shimabukuro and Members of the Committee:

The Department of the Prosecuting Attorney, County of Maui, SUPPORTS SB 2108 - Relating to Criminal Process. The bill amends the definition to "criminal process" to include administrative subpoenas for purposes of production of documents.

Under Hawaii Revised Statutes §28-2.5, the attorney general and county prosecutors are authorized to issue subpoenas when conducting criminal investigations. Usually, subpoenas are issued for records held by entities located outside the State. SB 2108 will permit the attorney general and county prosecutors to issue subpoenas for records located outside the State, which they are not currently able to do, during the investigative stage of the case, which will enable the use of subpoenas during all phases of a criminal case.

Accordingly, the Department of the Prosecuting Attorney, County of Maui, SUPPORTS the passage of this bill. We ask that the committee PASS SB 2108.

Thank you very much for the opportunity to provide testimony on this bill.