

POLICE DEPARTMENT  
**CITY AND COUNTY OF HONOLULU**

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CARY OKIMOTO  
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OUR REFERENCE  
ST-DA

February 3, 2017

The Honorable Scott Y. Nishimoto, Chair  
and Members  
Committee on Judiciary  
House of Representatives  
Hawaii State Capitol  
415 South Beretania Street, Room 325  
Honolulu, Hawaii 96813

Dear Chair Nishimoto and Members:

SUBJECT: House Bill No. 300, Relating to Search Warrants

I am Stason Tanaka, Captain of the Criminal Investigation Division of the Honolulu Police Department (HPD), City and County of Honolulu.

The HPD supports House Bill No. 300, Relating to Search Warrants.

Currently, Sections 831-31 through 831-37 of the Hawaii Revised Statutes require that search warrants be executed only by a law enforcement officer. The HPD cannot always execute a search warrant without the assistance of another person or entity outside of law enforcement. This often occurs when the evidence involves electronic devices (cellular telephones and computers) or storage media (hard drives and other digital electronic devices) that cannot be searched without the expertise and equipment that only other persons or entities outside of law enforcement can provide. Those persons and entities are sometimes outside of Hawaii.

Although we support this bill, we suggest the following amendments be made: Lines 14 and 15 on page 2 currently read, "the sheriff or chief of police or any of the sheriff's or chief's deputies." This should be amended to read, "the sheriff or chief of police or any of the sheriff's deputies or police officers."

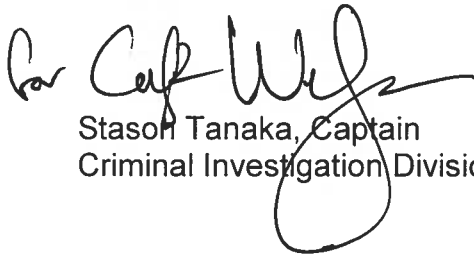
The Honorable Scott Y. Nishimoto, Chair  
and Members  
Committee on Judiciary  
Page 2  
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We believe this legislation would give law enforcement the authority to seek the assistance they require from persons or entities outside of law enforcement as needed.

The HPD urges you to support House Bill No. 300, Relating to Search Warrants.


Thank you for the opportunity to testify.

Sincerely,



Stason Tanaka, Captain  
Criminal Investigation Division

APPROVED:



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Cary Okimoto  
Acting Chief of Police

**Justin F. Kollar**  
Prosecuting Attorney

**Jennifer S. Winn**  
First Deputy

**Amu I. Keahi** First Deputy



**Rebecca Vogt Like**  
Second Deputy

**Diana Gausepohl-White**  
Victim/Witness Program Director

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**OFFICE OF THE PROSECUTING ATTORNEY**

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TESTIMONY IN SUPPORT OF HOUSE BILL 300

RELATING TO SEARCH WARRANTS

COMMITTEE ON JUDICIARY

February 3, 2017

Chair Nishimoto, Vice Chair San Buenaventura, and members of the House Committee on Judiciary, the Department of the Prosecuting Attorney of the County of Kaua'i submits the following testimony in strong support of H.B. 300.

The purpose of H.B. 300 is to amend parts of HRS Section 803-31 to 803-37 to authorize a judge to permit law enforcement to obtain specialized assistance with the execution of a search warrant.

Currently, Sections 803-31 through 803-37 of the Hawaii Revised Statutes ("HRS") require that a search warrant be executed by a law enforcement officer. In other words, current law requires that a law enforcement officer conduct the search and seizure that was authorized by the court. However, in many cases involving electronic evidence, law enforcement is unable to execute the warrant without specialized assistance from non-law enforcement personnel. For example, there are currently no law enforcement officers in the State capable of executing a search warrant on a computer server, a computer mainframe, or encrypted devices. In order to execute such warrants, law enforcement must rely on specialized assistance from non-law enforcement personnel, typically those with an Information Technology background.

In addition, in cases that involve a search warrant directed to service providers, such as Google, Microsoft, Yahoo, Verizon, etc., law enforcement officers do not access company premises or company computers. Rather, it is company personnel that execute the search warrant by accessing their computer systems and seizing the electronic evidence authorized by the warrant. It would be impractical for law enforcement officers to enter the premises of a service provider and to start searching through their electronic records systems. Besides being disruptive to the operations of the company, law enforcement simply doesn't have the technical knowledge or training to execute a search involving the vast computer networks of services providers. It is

more practical that a company personnel conduct the search in accordance with the court's search warrant.

Lastly, law enforcement is encountering more and more scenarios where they don't have the technical skill to execute a search warrant on encrypted devices. For example, right now, there is no law enforcement officer in the State with the technical knowledge, skill, or training to execute a search warrant on an encrypted, passcode-protected device that runs the latest operating system. Law enforcement must rely on specialized assistance from forensic IT personnel located in other States.

It is also important to note that H.B. 300 will not require or mandate that a judge permit such assistance. Rather, it gives the judge the *discretion* to permit assistance. In addition, the judge remains free to set limitations on the manner in which such assistance is provided.

For all of the foregoing reasons, the Department of the Prosecuting Attorney of the County of Kaua'i strongly supports the passage of H.B. 300. Thank you for the opportunity to testify on this matter.

**MITCHELL D. ROTH**  
PROSECUTING ATTORNEY

**DALE A. ROSS**  
FIRST DEPUTY  
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## **OFFICE OF THE PROSECUTING ATTORNEY**

TESTIMONY IN SUPPORT OF HOUSE BILL 300

A BILL FOR AN ACT RELATING TO RELATING TO  
SEARCH WARRANTS

COMMITTEE ON JUDICIARY

Rep. Scott Y. Nishimoto, Chair  
Rep. Joy A. San Buenaventura, Vice Chair

Friday, February 3, 2017, 2:00 P.M.  
State Capitol, Conference Room 312

Honorable Chair Nishimoto, Vice-Chair San Buenaventura and Members of the Committee on Judiciary, the Office of the Prosecuting Attorney, County of Hawai'i submits the following testimony in support of House Bill No. 300.

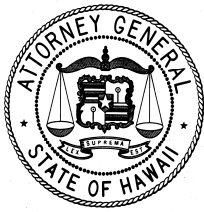
This measure amends parts of HRS Section 803-31 to 803-37 to authorize a judge to permit law enforcement to obtain specialized assistance with the execution of a search warrant.

Currently, Sections 803-31 through 803-37 of the Hawaii Revised Statutes ("HRS") require that a search warrant be executed by a law enforcement officer. Current law requires that a law enforcement officer conduct the search and seizure that was authorized by the court. However, in many cases involving electronic evidence, law enforcement is unable to execute the warrant without specialized assistance from non-law enforcement personnel. For example, there are currently no law enforcement officers in the State capable of executing a search warrant on a computer server, a computer mainframe, or encrypted devices. In order to execute such warrants, law enforcement must rely on specialized assistance from non-law enforcement personnel, typically those with an Information Technology background.

Law enforcement is encountering more and more scenarios where they don't have the technical skill to execute a search warrant on encrypted devices. For example, right now, there is no law enforcement officer in the State with the technical knowledge, skill, or training to execute a search warrant on an encrypted, passcode-protected device that runs the latest operating system. Law enforcement must rely on specialized assistance from forensic IT personnel located in other States.

It is also important to note that HB 300 will not require or mandate that a judge permit such assistance. Rather, it gives the judge the *discretion* to permit assistance. In addition, the judge remains free to set limitations on the manner in which such assistance is provided.

The Office of the Prosecuting Attorney, County of Hawai‘i supports the passage of House Bill No. 300. Thank you for the opportunity to testify on this matter.



**TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
TWENTY-NINTH LEGISLATURE, 2017**

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**LATE**

**ON THE FOLLOWING MEASURE:**

H.B. NO. 300, RELATING TO SEARCH WARRANTS.

**BEFORE THE:**

HOUSE COMMITTEE ON JUDICIARY

**DATE:** Friday, February 3, 2017

**TIME:** 2:00 p.m.

**LOCATION:** State Capitol, Room 325

**TESTIFIER(S):** Douglas S. Chin, Attorney General, or  
Albert Cook, Deputy Attorney General

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Chair Nishimoto and Members of the Committee:

The Department of the Attorney General supports this bill.

This bill would provide that a person or entity authorized by the court, who is not a law enforcement officer, could assist law enforcement with the execution of search warrants in the State of Hawaii or as authorized by Hawaii courts.

Currently, sections 803-31 through 803-37 of the Hawaii Revised Statutes require that a search warrant be executed by a law enforcement officer. In other words, current law requires that a law enforcement officer conduct the search and seizure that was authorized by the court. However, in many cases involving electronic evidence, law enforcement is unable to execute the warrant without specialized assistance from non-law enforcement personnel. For example, there are currently no law enforcement officers in the State capable of executing a search warrant on a computer server, a computer mainframe, or encrypted devices. In order to execute such warrants, law enforcement must rely on specialized assistance from non-law enforcement personnel, typically those with an Information Technology background.

In addition, in cases that involve a search warrant directed to service providers, such as Google, Microsoft, Yahoo, and Verizon, law enforcement officers do not access company premises or company computers. Rather, it is company personnel that execute the search warrant by accessing their computer systems and seizing the electronic evidence authorized by the warrant. It would be impractical for law

enforcement officers to enter the premises of a service provider and to start searching through their electronic records systems. Besides being disruptive to the operations of the company, law enforcement simply does not have the technical knowledge or training to execute a search involving the vast computer networks of service providers. It is more practical that company personnel conduct the search in accordance with the court's search warrant.

Lastly, more and more, law enforcement is encountering scenarios where the officers do not have the technical skill to execute a search warrant on encrypted devices. Law enforcement often must rely on specialized assistance from forensic IT personnel located in other states.

The purpose of this bill is to amend parts of sections 803-31 to 803-37 to authorize a judge to permit law enforcement to obtain specialized assistance from non-law enforcement persons, with the execution of a search warrant. This bill will not require or mandate that a judge permit such assistance. Rather, it gives the judge the *discretion* to permit assistance. In addition, the judge remains free to set limitations on the manner in which such assistance is provided. This bill also protects internet service providers and other electronic communication providers by explicitly stating that no one can be compelled to provide technical assistance without consent.

For the foregoing reasons, the Department of the Attorney General supports the passage of this bill.