



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

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**ON THE FOLLOWING MEASURE:**

S.B. NO. 896, RELATING TO THE POWER OF ARREST.

**BEFORE THE:**

SENATE COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL, AND  
MILITARY AFFAIRS

**DATE:** Tuesday, February 7, 2017 **TIME:** 1:20 p.m.

**LOCATION:** State Capitol, Room 229

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

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Chair Nishihara and Members of the Committee:

The Department of the Attorney General supports this Administration bill.

The purpose of this bill is to amend section 803-16, Hawaii Revised Statutes (HRS), to update the list of federal agencies whose officers may make arrests for certain offenses under state law by adding the Immigration and Customs Enforcement (ICE) and removing the Citizenship and Immigration Services (CIS) from the list. The bill also updates and accurately reflects the proper titles of the heads of the district offices for the listed federal agencies and the name of the United States Customs and Border Protection (CBP).

Act 201, Session Laws of Hawaii 1980, codified as section 803-16, conferred the power to arrest under state law on officers of the United States Custom Service and the Immigration and Naturalization Service. This law provided additional protection at state airports and harbors by authorizing customs and immigration agents to assist in maintaining law and order. These agents were often in a position to observe suspicious activities but were not authorized, under prior state law, to take action under state law.

In March 2003, the Department of Homeland Security was created by combining the law enforcement arms of the former Immigration and Naturalization Service and the former Customs Service. The agencies under the Department of Homeland Security were renamed to include ICE, CBP, and CIS.

Act 95, Session Laws of Hawaii 2008, amended section 803-16 in an attempt to address the creation of the new federal agencies. It also created new section 803-17, HRS, which grants arrest powers to deputies of the U.S. Marshal Service. While Act 95 granted authority to deputy marshals, and amended section 803-16 to include CBP and CIS, it did not include ICE, the largest investigative branch of the Department of Homeland Security. Furthermore, by including CIS, it included an agency that, according to ICE legal counsel, does not have the authority to make arrests under federal law. Only ICE and CBP agents have law enforcement authority.

This bill is intended to correct these issues by amending section 803-16 to include agents of ICE, and to delete reference to the officers of the CIS. ICE supports being added to section 803-16.

The grant of limited arrest powers, under state law, to federal agents, like those of ICE, will allow them to provide support to state and county law enforcement efforts, especially in certain times of need. The state and county must rely on federal law enforcement cooperation and support for natural disasters, joint law enforcement task force efforts, and major or national events.

The Department respectfully requests the passage of this bill.

**TESTIMONY OF THE HAWAI'I POLICE DEPARTMENT**

**SENATE BILL 896**

**RELATING TO POWERS OF ARREST**

**BEFORE THE COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL AND MILITARY  
AFFAIRS**

**DATE : Thursday, February 7, 2017**

**TIME : 1:20 P.M.**

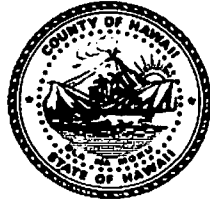
**PLACE : Conference Room 229  
State Capitol  
415 South Beretania Street**

**PERSON TESTIFYING:**

**Police Chief Paul K. Ferreira  
Hawai'i Police Department  
County of Hawai'i**

**(Written Testimony Only)**

Harry Kim  
Mayor



Paul K. Ferreira  
Police Chief

Kenneth Bugado Jr.  
Deputy Police Chief

February 6, 2017

## County of Hawai`i

### POLICE DEPARTMENT

349 Kapi`olani Street • Hilo, Hawai`i 96720-3998  
(808) 935-3311 • Fax (808) 961-2389

Senator Clarence K. Nishihara  
Chairman and Committee Members  
Committee on Public Safety, Intergovernmental and Military Affairs  
415 South Beretania Street, Room 229  
Honolulu, Hawai`i 96813

**Re: SENATE BILL 896, RELATING TO POWERS OF ARREST**

Dear Senator Nishihara:

The Hawai`i Police Department **strongly supports** Senate Bill 896 that seeks to update the list of federal agencies whose officers may make arrests for certain offenses under state law by adding the United States Immigration and Customs Enforcement (ICE) and removing the Citizenship and Immigration Services (CIS) from the list.

In March 2003, the Department of Homeland Security was created by combining the law enforcement arms of the former Immigration and Naturalization Service and the former Customs Service. The agencies under the Department of Homeland Security were renamed to include ICE, the U.S. Customs and Border Protection (CBP), and CIS.

Act 95, Session Laws of Hawai`i 2008, amended section 803-16 in an attempt to address the creation of the new federal agencies granting arrest authority to officers of CIS, however, failed to include ICE, the largest investigative branch of the Department of Homeland Security. Furthermore, by including CIS, it included an agency that does not have the authority to make arrests under federal law; only ICE and CBP agents have law enforcement authority.

ICE's special agents and officers work extensively with law enforcement officers of the State of Hawai`i on federal investigations. Conversely, ICE special agents and officers at the request of state and local law enforcement agencies provide assistance and participate in pursuing local investigations for violations of state statutes. It is essential for ICE special agents and officers to have state arrest authority whenever participating in local law enforcement agency-led operations.

This bill will allow the appropriate federal officers, with clear law enforcement power, to provide arrest support to state and county law enforcement agencies. It is for these reasons, we urge this committee to approve this legislation.

Thank you for allowing the Hawai`i Police Department to provide comments relating to Senate Bill 896.

Sincerely,

PAUL K. FERREIRA  
POLICE CHIEF

"Hawai`i County is an Equal Opportunity Provider and Employer"

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Saturday, February 4, 2017 5:08 PM  
**To:** PSMTestimony  
**Cc:** aurasaki@hawaiiantel.net  
**Subject:** Submitted testimony for SB896 on Feb 7, 2017 13:20PM

**SB896**

Submitted on: 2/4/2017

Testimony for PSM on Feb 7, 2017 13:20PM in Conference Room 229

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Alan Urasaki	Individual	Support	No

Comments: In support of this measure. Mahalo.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Saturday, February 4, 2017 12:59 PM  
**To:** PSMTestimony  
**Cc:** jamesjtz@aol.com  
**Subject:** \*Submitted testimony for SB896 on Feb 7, 2017 13:20PM\*

**SB896**

Submitted on: 2/4/2017

Testimony for PSM on Feb 7, 2017 13:20PM in Conference Room 229

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
James Gauer	Individual	Support	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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