



Committee: Judiciary
Hearing Date/Time: Friday, February 16, 2024 at 10:00am
Place: Conference Room 016 & Videoconference
Re: *Testimony of the ACLU of Hawai'i in SUPPORT of SB 2236 SD1
Relating to Law Enforcement*

Dear Chair Rhoads, Vice Chair Gabbard and Members of the Committee:
The American Civil Liberties Union of Hawai'i **supports SB 2236 SD 1 which requires law enforcement to post notice that a search has been conducted on a property if a resident was not present at the time of the search.**

Our constitutional right under the Fourth Amendment to live free of “unreasonable searches and seizures” to protect our “persons, houses, papers and effects” is one of our most cherished under the U.S. Constitution. Similarly, our Hawai'i Constitution affords individuals the right to be free from unreasonable searches and seizures.¹ Additionally, our Hawai'i Constitution explicitly protects the right to privacy.²

Given the highly intrusive nature of searches in houses, stores and buildings, at minimum, law enforcement should be required to post a notice that a search has occurred, and to secure the premises to prevent trespass, theft and further invasions of privacy. This practice comports with the pillars of 21st Century Policing, transparency and greater accountability.

Thank you for the opportunity to testify.

Sincerely,
Carrie Ann Shirota
Carrie Ann Shirota
Policy Director
ACLU of Hawai'i

¹ Article I, Section 7: The right of the people to be secure in their persons, houses, papers and effects against unreasonable searches, seizures and invasions of privacy shall not be violated; and no warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the persons or things to be seized or the communications sought to be intercepted.

² Article I, Section 6: The right of the people to privacy is recognized and shall not be infringed without the showing of a compelling state interest. The legislature shall take affirmative steps to implement this right.

SB-2236-SD-1

Submitted on: 2/15/2024 12:14:41 AM

Testimony for JDC on 2/16/2024 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Merry Mercy	Testifying for Godwits Mercy Inc.	Support	Written Testimony Only

Comments:

Upcoming Hearing for SB2236 SD1

Bill	Committee	Room	Date/Time	
2236 SB RELATED TO LAW ENFORCEMENT.	JDC	CR 016 & Videoconference	Feb 16, 2024 10:00 AM	View Notice

TESTIMONY ON SENATE BILL 2236 RELATING TO LAW ENFORCEMENT

Before the Senate Committee on

Public Safety and Intergovernmental and Military Affairs

To: Chair Wakai, Vice Chair Elefante, and members of the Committee:

This bill requires law enforcement to post notice that a search has been conducted on a property if a resident was not present at the time of the search.

I support this law because it follows US Constitution Amendment 4—Search and Seizure.

The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the persons or things to be seized.

And,

Amendment 14: Citizenship Rights.

1: All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state within which they reside. No state shall make or enforce any law that shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

According to the above two articles of the constitution, all civil rights, legal equality, and the right to protect personal property and life are protected in a fair and transparent manner. . So

searches of property, houses, arrest orders, or summons must be approved by the court and must have a court warrant, "but upon probable cause, supported by oath or affirmation, and particularly describes the place to be searched and the persons or things to be seized."

"Nor shall any state deprive any person of life, liberty, or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

Through the above two provisions of the constitution, I actively support this bill.

All search and seizure information must be posted and notified to the owner and relevant people. Unless there is a special search warrant from the court for reasons related to national security or serious crimes related to the lives of people around you,.

Merry Mercy, President.

SB-2236-SD-1

Submitted on: 2/13/2024 6:14:34 PM

Testimony for JDC on 2/16/2024 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Jenn	Individual	Oppose	Written Testimony Only

Comments:

The language of this bill seems reasonable on its face, if you do not know what is written in the U.S. Constitution under the 4th Amendment and in the Article 1 Section 7 of the Hawaii State Constitution.

4th Amendment

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

The summary of this bill on the legislative hearing page reads as follows:

RELATED TO LAW ENFORCEMENT.

Requires law enforcement to post notice that a warranted or warrantless search has been conducted on a property if a resident was not present at the time of the search.

Here is an Excerpt from Legal Information Institute on "warrantless" searched.

"...In general, most warrantless searches of private premises are prohibited under the Fourth Amendment, unless a specific exception applies. For instance, a warrantless search may be lawful, *if* an [officer](#) has asked and is given consent to search (which would not happen if the resident was not present at the time of search); if the search is incident to a lawful arrest; if there is probable cause to search, and there is [exigent circumstance](#) calling for the warrantless search.

Exigent circumstances exist in situations where a situation where people are in imminent danger, where [evidence](#) faces imminent destruction, or prior to a [suspect](#)'s imminent escape..."

This bill is very unconstitutional and hearkens back to what the founding fathers lived through with what was called the Writs of Assistance, which was a writ that allowed the British to enter and search premises to look for a crime, without a warrant, probable cause or oath or affirmation. THAT IS A WARRANTLESS SEARCH!

STOP IT!

SB-2236-SD-1

Submitted on: 2/13/2024 6:59:21 PM

Testimony for JDC on 2/16/2024 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Cheryl Rzonca	Individual	Oppose	Written Testimony Only

Comments:

I oppose this bill as it violates our Constitutional rights, namely the 4th amendment.

SB-2236-SD-1

Submitted on: 2/13/2024 7:03:33 PM

Testimony for JDC on 2/16/2024 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Ruben Ongos	Individual	Oppose	Written Testimony Only

Comments:

I STRONGLY OPPOSE THIS BILL

SB-2236-SD-1

Submitted on: 2/13/2024 7:40:57 PM

Testimony for JDC on 2/16/2024 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Chanara Caey Richmond	Individual	Oppose	Written Testimony Only

Comments:

I oppose bill sb2236

SB-2236-SD-1

Submitted on: 2/13/2024 7:44:40 PM

Testimony for JDC on 2/16/2024 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Bronson Teixeira	Individual	Oppose	Written Testimony Only

Comments:

Aloha, I would like to vote to oppose this bill. Thanks

SB-2236-SD-1

Submitted on: 2/13/2024 7:52:55 PM

Testimony for JDC on 2/16/2024 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Gene Lamkin	Individual	Oppose	Written Testimony Only

Comments:

Strongly oppose. This bill would violate the 4th Amendment and individual rights against search and seizures of private property. This bill sets a bad precedence and would be court challenged.

SB-2236-SD-1

Submitted on: 2/13/2024 8:30:20 PM

Testimony for JDC on 2/16/2024 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Denise Veal	Individual	Oppose	Written Testimony Only

Comments:

I strongly urge you to oppose this bill. This bill is very unconstitutional and hearkens back to the Writs of Assistance. The founding fathers wrote the 4th amendment because of W of A - they were subject to this writ that allowed the British to enter and search premises to look for a crime, no warrant, probable cause, oath or affirmation. THAT IS A WARRANTLESS SEARCH!

If we cannot trust "lawmakers" to not find ways to circumvent the law and make it okay for them to break it, then we are treading on dangerous ground. This is a very dangerous attempt to violate my freedom under the guise of "protection". Please oppose this bill.

SB-2236-SD-1

Submitted on: 2/13/2024 9:51:33 PM

Testimony for JDC on 2/16/2024 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Andrew Crossland	Individual	Oppose	Written Testimony Only

Comments:

I **strongly oppose** this Bill because warrantless searches are a disgusting violation of the 4th Amendment. I urge you to **VOTE NO** on this Bill.

SB-2236-SD-1

Submitted on: 2/13/2024 10:14:46 PM

Testimony for JDC on 2/16/2024 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Victoria Johnson	Individual	Oppose	Written Testimony Only

Comments:

I strongly OPPOSE SB2236 SD1

The [Fourth Amendment](#) of the [U.S. Constitution](#) provides that "[t]he right of the people to be secure in their persons, houses, papers, and effects, against [unreasonable searches and seizures](#), shall not be violated, and no [warrants](#) shall issue, but upon [probable cause](#), supported by [oath or affirmation](#), and particularly describing the place to be [searched](#), and the persons or things to be [seized](#)."

For instance, a warrantless search may be lawful, *if* an officer has asked and is given consent to search (If the resident was not present at the time of search how can he/she give consent?);

This bill is very unconstitutional and hearkens back to the Writs of Assistance. The founding fathers wrote the 4th amendment because of W of A -

Respectfully submitted

Victoria Johnson

SB-2236-SD-1

Submitted on: 2/14/2024 5:44:52 AM

Testimony for JDC on 2/16/2024 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Carlo Lomuscio	Individual	Oppose	Written Testimony Only

Comments:

To whom it may concern

This bill is very unconstitutional and hearkens back to the Writs of Assistance. The founding fathers wrote the 4th amendment because of W of A - they were subject to this writ that allowed the British to enter and search premises to look for a crime, no warrant, probable cause, oath or affirmation. THAT IS A WARRANTLESS SEARCH! (Minority Report anyone)?

SB-2236-SD-1

Submitted on: 2/14/2024 7:14:08 AM

Testimony for JDC on 2/16/2024 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
julie schaus	Individual	Oppose	Written Testimony Only

Comments:

I strongly oppose sb 2236

this is a violation of our constitutional rights.

it is illegal for government agencies to search and seizure a law abiding citizens home

SB-2236-SD-1

Submitted on: 2/14/2024 7:18:44 AM

Testimony for JDC on 2/16/2024 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Greg schaus	Individual	Oppose	Written Testimony Only

Comments:

I oppose sb 2236

this violates our constitutional rights

This bill is illegal

SB-2236-SD-1

Submitted on: 2/14/2024 7:28:23 AM

Testimony for JDC on 2/16/2024 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Dr Marion Ceruti	Individual	Oppose	Written Testimony Only

Comments:

I very strongly oppose SB2236 because it poses a gross violation of our constitutional rights. More specifically, it violates the U.S. Constitution under the 4th Amendment and also it violates Article 1 Section 7 of the Hawaii State Constitution. If no one is home, obviously, there is no opportunity for an individual to consent to a search.

I remind our lawmakers that our rights were written into constitutions at various levels to protect the people from unreasonable government tyranny. If the government is allowed to violate any right at will with no consequences, we have devolved into a banana-republic style dictatorship. Kill this bill now and don't waste any more time on it. It is a poison to the freedom of the people.

SB-2236-SD-1

Submitted on: 2/14/2024 7:29:15 AM

Testimony for JDC on 2/16/2024 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Sam schaus	Individual	Oppose	Written Testimony Only

Comments:

I oppose sb2236

it is illegal for law enforcement or any government agency to search and seizure a citizens house, based on our constitution, without warrant.

SB-2236-SD-1

Submitted on: 2/14/2024 8:06:39 AM

Testimony for JDC on 2/16/2024 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Monique Perreira	Individual	Oppose	Written Testimony Only

Comments:

strongly oppose this bill.

SB-2236-SD-1

Submitted on: 2/14/2024 8:15:54 AM

Testimony for JDC on 2/16/2024 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Deidra Larissa Henson	Individual	Oppose	Written Testimony Only

Comments:

This is a direct violation of our 4th amendment rights. How is someone supposed to consent to a search (or possible seizure) when they are not present at the time? How is it lawful for law enforcement to come in as they wish, but they posted a notice so it's ok? I would feel violated. When our founding fathers wrote the 4th amendment, it was to protect the American people from unlawful entries. These warrantless, non-consented entries allowed the British to come in a look for a crime or an issue for an arrest without probable cause, oath, or affirmation! The State of Hawaii is already in the process of removing our 2nd amendment rights, now they wish to attack another? We the people of this nation have rights and freedoms to protect us. We have elected you officials to be our voice and let our concerns be heard, not to take away our freedoms.

SB-2236-SD-1

Submitted on: 2/14/2024 8:56:07 AM

Testimony for JDC on 2/16/2024 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Jeffrey King	Individual	Oppose	Written Testimony Only

Comments:

Looks like it attempts to take away 4th Amendment rights.

SB-2236-SD-1

Submitted on: 2/14/2024 9:37:55 AM

Testimony for JDC on 2/16/2024 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Tammy Perkins	Individual	Oppose	Written Testimony Only

Comments:

The language of this bill seems reasonable on its face, if you do not know what is written in the U.S. Constitution under the 4th Amendment and in the Article 1 Section 7 of the Hawaii State Constitution.

"The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."

In general, most warrantless searches of private premises are prohibited under the Fourth Amendment, unless a specific exception applies. For instance, a warrantless search may be lawful, *if* an officer has asked and is given consent to search (If the resident was not present at the time of search how can he/she give consent?); if the search is incident to a lawful arrest; if there is probable cause to search, and there is exigent circumstance calling for the warrantless search.

Exigent circumstances exist in situations where a situation where *people are* in imminent danger, where evidence faces imminent destruction, or prior to a suspect's imminent escape..."

This bill is very unconstitutional and hearkens back to the Writs of Assistance. The founding fathers wrote the 4th amendment because of W of A - they were subject to this writ that allowed the British to enter and search premises to look for a crime, no warrant, probable cause, oath or affirmation. THAT IS A WARRANTLESS SEARCH! (Minority Report anyone)?

I strongly oppose this bill!

SB-2236-SD-1

Submitted on: 2/14/2024 10:44:58 AM

Testimony for JDC on 2/16/2024 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
SUSAN MORRIS	Individual	Oppose	Written Testimony Only

Comments:

I Strongly oppose SB 2236

I uphold the Constitution 4th amendment Artical 1, section 7!!!

SB-2236-SD-1

Submitted on: 2/14/2024 11:02:21 AM

Testimony for JDC on 2/16/2024 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Terri Yoshinaga	Individual	Oppose	Written Testimony Only

Comments:

I strongly oppose this bill.

SB-2236-SD-1

Submitted on: 2/14/2024 12:02:53 PM

Testimony for JDC on 2/16/2024 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Michael G. Subee	Individual	Oppose	Written Testimony Only

Comments:

In general, most warrantless searches of private premises are prohibited under the Fourth Amendment, unless a specific exception applies. For instance, a warrantless search may be lawful, *if* an officer has asked and is given consent to search (If the resident was not present at the time of search how can he/she give consent?); if the search is incident to a lawful arrest; if there is probable cause to search, and there is exigent circumstance calling for the warrantless search. Exigent circumstances exist in situations where a situation where *people are* in imminent danger, where evidence faces imminent destruction, or prior to a suspect's imminent escape..." Why are we trying to change judicial precedence?

To: Judiciary Committee
From: Glen Murray
Date: 2/15/2024
Subject: SB 2236

This is my bill, my story, and journey. I object to and oppose the amendment submitted by DLE Deputy Director Michael Vincent. His amendment to my bill talks about a search warrant which demands more planning and many officers to collect evidence as stated in the search warrant. My bill (SB2236) covers warrantless entry and search of a residence which is more fluid, spontaneous, and spur of the moment.

In my case, three (3) officers responded and spent approximately ten (10) minutes entering and reentering my studio apartment three (3) times and then left without securing my door. Intrusion and invasion of the people's fourth (4th) amendment rights is a serious issue not to be taken lightly. The people want to know immediately the officers involved and their badge numbers. These officers need to be held accountable for any transgression regarding the entry and search of residences and possible violation of Fourth Amendment rights.

A search warrant is approved by a judge based on his knowledge of the law and judicial experience in these matters. Whereas a warrantless entry/search is based on an officer's interpretation of probable cause. The U.S. Supreme Court has ruled law enforcement officers are not legal technicians. Therefore the people demand more accountability -- a simple name and badge number, in addition to the categories stated in the bill, will assist the people in securing sufficient information regarding the incident and ease their anxiety and apprehension.

I have submitted a packet to every Senate member of the Public Safety and Judiciary committees which is over forty (40) pages and represents

my efforts to retrieve information from HPD in my case. Do you want the people of our state to experience this? **NO!**

This incident gave me high anxiety, stress, and sleeplessness for which I was prescribed medication by my PCP. I am a poor man and to receive the information from HPD was a financial burden. Initially, HPD stated no information existed. But, with the dedication and persistence of the Office of Information Practices (OIP) staff attorney Lori Kato, I was able to obtain some records, reports, call logs, names, and badge numbers of officers involved. Three (3) months after the fact, I am still waiting for more information. (See attached OIP appeal.)

In conclusion, give the people of our state the courtesy, dignity, and respect they deserve. Respect our customs, ways, and values which equate to local style. Our law enforcement agencies and their officers need to be forthright, honest, and most of all transparent, therefore promoting trust and developing a partnership between the people and law enforcement to fight the war on crime. Most of all, TAKE OFF YOUR SHOES when you enter our residences – What? Your mother nevah told you that!? I learned the hard way – CRACKS. Remember this, STAND BY THE PEOPLE, STAND FOR JUSTICE.

Lastly, I have worked in the State of Hawaii criminal justice system (courts, corrections, law enforcement). I support the system. However, improvements are always needed. This bill will also give law enforcement officers a layer of protection. Be pono!

JOSH GREEN, M.D.
GOVERNOR
KE KIA'AINA



JORDAN LOWE
DIRECTOR

MICHAEL VINCENT
Deputy Director
Administration

SYLVIA LUKE
LT GOVERNOR
KE KE'ENA

STATE OF HAWAII | KA MOKU'ĀINA O HAWAII
DEPARTMENT OF LAW ENFORCEMENT
Ka 'Oihana Ho'okō Kānāwai
715 South King Street
Honolulu, Hawaii 96813

JARED K. REDULLA
Deputy Director
Law Enforcement

TESTIMONY ON SENATE BILL 2236
RELATING TO LAW ENFORCEMENT **I OBJECT**
Before the Senate Committee on **TO THIS**
Public Safety and Intergovernmental and Military Affairs **Amendment**
Friday, January 26, 2024; 3:00 p.m.
State Capitol Conference Room 225, Via Videoconference
Testifiers: Michael Vincent

Chair Wakai, Vice Chair Elefante, and members of the Committee:

The Department of Law Enforcement (DLE) submits comments on, Senate Bill 2236.

This bill requires law enforcement to post notice that a search has been conducted on a property if a resident was not present at the time of the search.

The officers of the DLE currently follows the practice outlined in the bill. However, the DLE believes including the names of the officers involved in the search on the notice left at the residence places an unreasonable burden on the on-scene officer is charge of the execution of the warrant as they would be required to stop every officer participating to capture the information. Depending on the size and type of warrant, this has the potential of including numerous officers or personnel and would most likely involve many related or follow-up police reports. The identification of all officers and personnel involved in any search are included in the key, related, and follow-up reports associated with any search. As such, requiring the identification of participating officers in the notice is unnecessary.



JOSH GREEN, M.D.
GOVERNOR

**STATE OF HAWAII
OFFICE OF INFORMATION PRACTICES**

CHERYL KAKAZU PARK
DIRECTOR

NO. 1 CAPITOL DISTRICT BUILDING
250 SOUTH HOTEL STREET, SUITE 107
HONOLULU, HAWAII 96813
Telephone: (808) 586-1400 FAX: (808) 586-1412
E-MAIL: oiip@hawaii.gov
www.oiip.hawaii.gov

January 19, 2024

Mr. Glen Murray
P.O. Box 310
Kailua, HI 96734

Re: U APPEAL 22-21 and U APPEAL 22-28

Dear Mr. Murray:

As you know, I was assigned your appeal concerning the Honolulu Police Department's (POLICE HON) denial of your request for records made under the Uniform Information Practices Act (Modified), chapter 92F, Hawaii Revised Statutes (HRS) (the UIPA). Specifically, you indicated that you made a written request to POLICE-HON dated December 5, 2021, for access to: "All records, reports, documents and any other information including telephone logs regarding an entry and subsequent illegal search and seizure on 11-5-21, 1800 hrs, at the Kulaokahua Apts @ 1311 Ward Av Unit #307."

I was also assigned your appeal concerning Honolulu Police Commission's (POLICEC-HON) denial of your request for records made under Parts II and III of the UIPA. Specifically, you indicated that your request pertained to the event "[o]n 01-04-22 at approx 1400 hrs James Yuen executive officer Honolulu Police Commission interviewed and received statements from the following HSI personnel (1) Tani Kalahiki (2) Keala Souza (3) Betany (4) Kaleo. This event occurred at the Kulaokahua Apt resident mgr office 1311 Ward Av." Further, you indicated that you made a written request to POLICEC-HON dated March 11, 2022, for access to "the statements of the above mentioned HSI personnel and any reports compiled from their statements."

Given the time that has passed since the date of your appeals to the Office of Information Practices (OIP) on January 7, 2022 (U APPEAL 22-12), and March 30, 2022 (U APPEAL 22-28), please let OIP know whether you wish to pursue these appeals. If OIP does not receive a response from you within 20 business days of the date of this letter, both of these appeals will be dismissed.

Very truly yours,

Lori Kato
Staff Attorney

LKK:rt

SB-2236-SD-1

Submitted on: 2/14/2024 6:15:36 PM

Testimony for JDC on 2/16/2024 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Martin Choy	Individual	Oppose	Written Testimony Only

Comments:

SB2236 is a violation of our Constitutional rights and needs to be rewritten or denied approval.

All effort should be taken to notify the resident that the police has a search warrant, and contact should be made with approval before any search is conducted.

If all the conditions of the Fourth Amendment are met, then bill would be acceptable, but not necessarily adequate for the safety and confidentiality of ordinary citizens.

SB-2236-SD-1

Submitted on: 2/15/2024 9:09:31 AM

Testimony for JDC on 2/16/2024 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Patty Takahashi	Individual	Oppose	Written Testimony Only

Comments:

Oppose

We the US citizens have rights, the U.S. Constitution under the 4th Amendment and in the Article 1 Section 7 of the Hawaii State Constitution.

SB-2236-SD-1

Submitted on: 2/15/2024 6:34:37 PM

Testimony for JDC on 2/16/2024 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
tom laidlaw	Individual	Oppose	Written Testimony Only

Comments:

I strongly oppose this bill as it contains and seeks to impose several serious /unconstitutional challenges and remove several of our sacred constitutional rights as Americans!