

DEPARTMENT OF THE PROSECUTING ATTORNEY  
**CITY AND COUNTY OF HONOLULU**

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**THE HONORABLE GILBERT S. C. KEITH-AGARAN, CHAIR**  
**SENATE COMMITTEE ON JUDICIARY AND LABOR**  
**Twenty-Eighth State Legislature**  
**Regular Session of 2016**  
**State of Hawai'i**

January 28, 2016

**RE: S.B. 2108; RELATING TO CRIMINAL PROCESS.**

Chair Keith-Agaran, Vice-Chair Shimabukuro, members of the Senate Committee on Judiciary and Labor, the Department of the Prosecuting Attorney of the City and County of Honolulu ("Department") submits the following testimony in strong support of S.B. 2108. This bill is part of the Department's 2016 Legislative Package.

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 S.B. 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.

S.B. 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.

For the foregoing reasons, the Department of the Prosecuting Attorney of the City and County of Honolulu strongly supports the passage of S.B. 2108. Thank you for the opportunity to testify on this matter.