



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

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**ON THE FOLLOWING MEASURE:**

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

**BEFORE THE:**

HOUSE COMMITTEE ON JUDICIARY

**DATE:** Tuesday, March 15, 2016

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

**LOCATION:** State Capitol, Room 325

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

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Chair Rhoads 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.

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

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**THE HONORABLE KARL RHOADS, CHAIR**  
**HOUSE COMMITTEE ON JUDICIARY**  
**Twenty-Eighth State Legislature**  
**Regular Session of 2016**  
**State of Hawai`i**

March 15, 2016

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

Chair Rhoads, Vice-Chair San Buenaventura and members of the House Committee on Judiciary, 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.

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**LATE**

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