



Advocates for Government Accountability

A 501(c)(3) Nonprofit Corporation

1875 Eye Street NW, Suite 800 · Washington, D.C. 20006

July 7, 2016

**VIA CERTIFIED MAIL**

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U.S. Department of Justice  
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Mr. David Hardy, Chief  
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Records Management Division  
Federal Bureau of Investigation  
U.S. Department of Justice  
170 Marcel Drive  
Winchester, VA 22602-4843

**Re: Freedom of Information Act Request**

Dear FOIA Officers:

I write on behalf of Cause of Action Institute (“CoA Institute”), a nonprofit strategic oversight group committed to ensuring that government decision-making is open, honest, and fair.<sup>1</sup> In carrying out its mission, CoA Institute uses various investigative and legal tools to educate the public about the importance of government transparency and accountability. To that end, CoA Institute is examining the possible involvement of the Department of Justice (“DOJ”) in preparing, designing, advocating for, or otherwise collaborating with state or local government in restricting the exercise of constitutionally-protected gun rights.

On June 23, 2016, Hawaii Governor David Ige signed into law SB 2954, thereby authorizing “county police departments in Hawaii to enroll firearms applicants and individuals registering their firearms” into “Rap Back,” a centralized “criminal record monitoring service” maintained by the Federal Bureau of Investigation (“FBI”).<sup>2</sup> While touted as an important public safety measure designed to encourage responsible gun ownership and assist law enforcement, in

<sup>1</sup> See CAUSE OF ACTION INSTITUTE, *About*, [www.causeofaction.org/about/](http://www.causeofaction.org/about/) (last visited July 7, 2016).

<sup>2</sup> Office of the Gov. of Hawaii, Press Release: Hawai’i Becomes First State in Nation to Enroll Firearms Owners in Centralized Information System (June 23, 2016), *available at* <http://1.usa.gov/29628Rp>; *see also* HAWAII STATE LEGISLATURE, *SB2954*, <http://1.usa.gov/2930IFF> (last visited July 7, 2016).

reality this legislation will register law-abiding American citizens into a biometric database maintained by the Federal government for the monitoring of individuals “under criminal justice supervision or investigation” or who hold “positions of trust” (*e.g.*, security clearances).<sup>3</sup> This measure may severely chill gun ownership in Hawaii and place an impermissible burden on the exercise of important Second Amendment rights. It also raises serious concerns about the potentially abusive collection, maintenance, and use of private personal information by the FBI—a concern that that been echoed across the political spectrum.<sup>4</sup>

The Hawaiian gun law is unprecedented. It makes Hawaii the first state to submit information about its gun-owning citizens to the Federal government.<sup>5</sup> In light of current efforts by the Obama Administration to create a national gun registry—which would be prohibited under current law<sup>6</sup>—there is significant interest in examining the role, if any, played by the Federal government—and the DOJ, in particular—in the development of this new law.<sup>7</sup>

Accordingly, pursuant to the Freedom of Information Act, 5 U.S.C. § 552 (“FOIA”), CoA Institute hereby requests access to the following categories of records for the time period of December 1, 2015 to the present:<sup>8</sup>

1. All communications between or amongst the Office of the Attorney General, the DOJ Civil Rights Division, the DOJ Office of Legislative Affairs, the FBI, or the U.S. Attorney for the District of Hawaii and any of the following individuals, their staff, or other representatives of their offices concerning SB 2954:
  - a. U.S. Senator Brian Schatz;
  - b. U.S. Senator Mazie Hirono;
  - c. U.S. Representative Mark Takai;
  - d. U.S. Representative Tulsi Gabbard;
  - e. Hawaii Governor David Ige;
  - f. Hawaii State Senator Will Espero;
  - g. Hawaii State Senator Lorraine Inouye;
  - h. Hawaii Senator Rosalyn Baker;
  - i. Hawaii Senator Clarence Nishihara; or
  - j. Hawaii Criminal Justice Data Center Administrator Liane Moriyama.
2. All communications between or amongst any DOJ component identified in Item 1 of this request and any component of the Executive Office of the President, including the White House Office, concerning SB 2954.
3. All correspondence received by any DOJ component identified in Item 1 of this request that reflects a complaint, referral, or request for investigation from any

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<sup>3</sup> FED. BUREAU OF INVESTIGATION, *Next Generation Identification (NGI)*, <http://1.usa.gov/29aMs0X> (last visited July 7, 2016).

<sup>4</sup> Coalition Letter from Forty-Five Civil Rights, Privacy, & Transparency Groups to the Dep’t of Justice, Privacy & Civil Liberties Office (May 27, 2016), *available at* <http://bit.ly/29rfz04>.

<sup>5</sup> *See* Madison Park, *Hawaii enacts first state law in the U.S. to place gun owners in database*, CNN (June 25, 2016), <http://cnn.it/290SUUv>.

<sup>6</sup> 18 U.S.C. § 926.

<sup>7</sup> *See* John R. Lott, *Obama just got one giant step closer towards creating a national gun registry*, FOX NEWS (May 27, 2016), <http://fxn.ws/296oHaX>.

<sup>8</sup> For purposes of this request, the term “present” should be construed as the date on which the agency begins its search for responsive records. *See Pub. Citizen v. Dep’t of State*, 276 F.3d 634 (D.C. Cir. 2002).

non-governmental entity or private individual concerning efforts by Hawaiian state or local government, including police departments, to restrict the exercise of gun rights, including all correspondence related to SB 2954.

### **Request for a Public Interest Fee Waiver**

CoA Institute requests a waiver of any and all applicable fees. The FOIA and applicable regulations provide that an agency shall furnish requested records without or at reduced charge if “disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.”<sup>9</sup>

In this case, the requested records unquestionably shed light on the “operations or activities of the government,” namely the processes by which the DOJ might have corresponded or collaborated with Hawaiian officials, or other officials within the White House, vis-à-vis the passage of SB 2954. The requested records could provide insight into potential politicization of state legislation, as well as impropriety in Federal involvement in that process. These records have not been made available to the public. Their disclosure and dissemination would contribute to public understanding about DOJ and FBI operations, especially as they pertain to intergovernmental relations and public transparency. There is also a particularly significant public interest in understanding whether the White House played any role in directing the DOJ or the FBI in any interactions with Hawaiian officials.

CoA Institute has both the intent and ability to make the results of this request available to a reasonably broad public audience through various media. Its staff has significant experience and expertise in government oversight, investigative reporting, and federal public interest litigation. These professionals will analyze the information responsive to this request, use their editorial skills to turn raw materials into a distinct work, and share the resulting analysis with the public, whether through the regularly published CoA Institute online newsletter, memoranda, reports, or press releases.<sup>10</sup> In addition, as CoA Institute is a non-profit organization as defined under Section 501(c)(3) of the Internal Revenue Code, it has no commercial interest in making this request.

### **Request To Be Classified as a Representative of the News Media**

For fee status purposes, CoA Institute also qualifies as a “representative of the news media” under the FOIA.<sup>11</sup> As the D.C. Circuit recently held, the “representative of the news media” test is properly focused on the requestor, not the specific FOIA request at issue.<sup>12</sup> CoA Institute satisfies this test because it gathers information of potential interest to a segment of the public, uses its editorial skills to turn raw materials into a distinct work, and distributes that work to an audience.<sup>13</sup> Although it is not required by the statute, CoA Institute gathers the news it

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<sup>9</sup> 5 U.S.C. § 552(a)(4)(A)(iii); 28 C.F.R. § 16.11(k)(1); *see also Cause of Action v. Fed. Trade Comm’n*, 799 F.3d 1108, 1115–19 (D.C. Cir. 2015) (discussing proper application of public-interest fee waiver test).

<sup>10</sup> *See also Cause of Action*, 799 F.3d at 1125–26 (holding that public interest advocacy organizations may partner with others to disseminate their work).

<sup>11</sup> 5 U.S.C. § 552(a)(4)(A)(ii)(II); 28 C.F.R. § 16.11(b)(6).

<sup>12</sup> *See Cause of Action*, 799 F.3d at 1121.

<sup>13</sup> CoA Institute notes that the agency’s definition of “representative of the news media” (28 C.F.R. § 16.11(b)(6)) is in conflict with the statutory definition and controlling case law. The agency has improperly retained the outdated

regularly publishes from a variety of sources, including FOIA requests, whistleblowers/insiders, and scholarly works. It does not merely make raw information available to the public, but rather distributes distinct work products, including articles, blog posts, investigative reports, newsletters, and congressional testimony and statements for the record.<sup>14</sup> These distinct works are distributed to the public through various media, including the CoA Institute website, Twitter, and Facebook. CoA Institute also provides news updates to subscribers via e-mail.

The statutory definition of a “representative of the news media” contemplates that organizations such as CoA Institute, which electronically disseminate information and publications via “alternative media[,] shall be considered to be news-media entities.”<sup>15</sup> In light of the foregoing, numerous federal agencies—including the DOJ—have appropriately recognized the Institute’s news media status in connection with its FOIA requests.<sup>16</sup>

### **Record Preservation Requirement**

CoA Institute requests that the disclosure officers responsible for the processing of this request issue an immediate hold on all records responsive, or potentially responsive, to this

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“organized and operated” standard that Congress abrogated when it provided a statutory definition in the OPEN Government Act of 2007. *See Cause of Action*, 799 F.3d at 1125 (“Congress . . . omitted the ‘organized and operated’ language when it enacted the statutory definition in 2007. . . . [Therefore,] there is no basis for adding an ‘organized and operated’ requirement to the statutory definition.”). Under either definition, however, CoA Institute qualifies as a representative of the news media.

<sup>14</sup> *See, e.g., Cause of Action Testifies Before Congress on Questionable White House Detail Program*, CAUSE OF ACTION (May 19, 2015), available at <http://goo.gl/Byditl>; CAUSE OF ACTION, 2015 GRADING THE GOVERNMENT REPORT CARD (Mar. 16, 2015), available at <http://goo.gl/MqObwV>; *Cause of Action Launches Online Resource: ExecutiveBranchEarmarks.com*, CAUSE OF ACTION (Sept. 8, 2014), available at <http://goo.gl/935qAi>; CAUSE OF ACTION, GRADING THE GOVERNMENT: HOW THE WHITE HOUSE TARGETS DOCUMENT REQUESTERS (Mar. 18, 2014), available at <http://goo.gl/BiaEaH>; CAUSE OF ACTION, GREENTECH AUTOMOTIVE: A VENTURE CAPITALIZED BY CRONYISM (Sept. 23, 2013), available at <http://goo.gl/N0xSvs>; CAUSE OF ACTION, POLITICAL PROFITEERING: HOW FOREST CITY ENTERPRISES MAKES PRIVATE PROFITS AT THE EXPENSE OF AMERICAN TAXPAYERS PART I (Aug. 2, 2013), available at <http://goo.gl/GpP1wR>.

<sup>15</sup> 5 U.S.C. § 552(a)(4)(A)(ii)(II).

<sup>16</sup> *See, e.g.,* FOIA Request 145-FOI-13785, Dep’t of Justice (Jun. 16, 2015); *see also* FOIA Request CFPB-2016-222-F, Consumer Fin. Prot. Bureau (Apr. 20, 2016); FOIA Request CFPB-2016-207-F, Consumer Fin. Prot. Bureau (Apr. 14, 2016); FOIA Request 796939, Dep’t of Labor (Mar. 7, 2016); FOIA Request 2015-HQFO-00691, Dep’t of Homeland Sec. (Sept. 22, 2015); FOIA Request F-2015-12930, Dept. of State (Sept. 2, 2015); FOIA Request 14-401-F, Dep’t of Educ. (Aug. 13, 2015); FOIA Request HQ-2015-01689-F, Dep’t of Energy (Aug. 7, 2015); FOIA Request 2015-OSEC-04996-F, Dep’t of Agric. (Aug. 6, 2015); FOIA Request OS-2015-00419, Dep’t of Interior (Aug. 3, 2015); FOIA Request 780831, Dep’t of Labor (Jul 23, 2015); FOIA Request 15-05002, Sec. & Exch. Comm’n (July 23, 2015); FOIA Request 15-00326-F, Dep’t of Educ. (Apr. 08, 2015); FOIA Request 2015-26, Fed. Energy Regulatory Comm’n (Feb. 13, 2015); FOIA Request HQ-2015-00248, Dep’t of Energy (Nat’l Headquarters) (Dec. 15, 2014); FOIA Request F-2015-106, Fed. Comm’n Comm’n (Dec. 12, 2014); FOIA Request HQ-2015-00245-F, Dep’t of Energy (Dec. 4, 2014); FOIA Request F-2014-21360, Dep’t of State, (Dec. 3, 2014); FOIA Request LR-2015-0115, Nat’l Labor Relations Bd. (Dec. 1, 2014); FOIA Request 201500009F, Exp.-Imp. Bank (Nov. 21, 2014); FOIA Request 2015-OSEC-00771-F, Dep’t of Agric. (OCIO) (Nov. 21, 2014); FOIA Request OS-2015-00068, Dep’t of Interior (Office of Sec’y) (Nov. 20, 2014); FOIA Request CFPB-2015-049-F, Consumer Fin. Prot. Bureau (Nov. 19, 2014); FOIA Request GO-14-307, Dep’t of Energy (Nat’l Renewable Energy Lab.) (Aug. 28, 2014); FOIA Request HQ-2014-01580-F, Dep’t of Energy (Nat’l Headquarters) (Aug. 14, 2014); FOIA Request LR-20140441, Nat’l Labor Relations Bd. (June 4, 2014); FOIA Request 14-01095, Sec. & Exch. Comm’n (May 7, 2014); FOIA Request 2014-4QFO-00236, Dep’t of Homeland Sec. (Jan. 8, 2014); FOIA Request DOC-OS-2014-000304, Dep’t of Commerce (Dec. 30, 2013); FOIA Request 14F-036, Health Res. & Serv. Admin. (Dec. 6, 2013); FOIA Request 2013-073, Dep’t of Homeland Sec. (Apr. 5, 2013); FOIA Request 2012-RMA-02563F, Dep’t of Agric. (May 3, 2012); FOIA Request 2012-00270, Dep’t of Interior (Feb. 17, 2012); FOIA Request 12-00455-F, Dep’t of Educ. (Jan. 20, 2012).

July 7, 2016

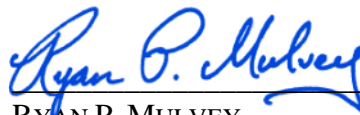
Page 5

request, so as to prevent their disposal until such time as a final determination has been issued on the request and any administrative remedies for appeal have been exhausted. It is unlawful for an agency to destroy or dispose of any record subject to a FOIA request.<sup>17</sup>

### **Record Production and Contact Information**

In an effort to facilitate document review, please provide the responsive documents in electronic form in lieu of a paper production. If a certain portion of responsive records can be produced more readily, CoA Institute requests that those records be produced first and the remaining records be produced on a rolling basis as circumstances permit.

If you have any questions about this request, please contact me by telephone at (202) 499-4232 or by e-mail at [ryan.mulvey@causeofaction.org](mailto:ryan.mulvey@causeofaction.org). Thank you for your attention to this matter.



RYAN P. MULVEY  
COUNSEL

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<sup>17</sup> See, e.g., 36 C.F.R. § 1230.3(b) (“Unlawful or accidental destruction (also called unauthorized destruction) means . . . disposal of a record subject to a FOIA request, litigation hold, or any other hold requirement to retain the records.”); *Chambers v. Dep’t of the Interior*, 568 F.3d 998, 1004–05 (D.C. Cir. 2009) (“[A]n agency is not shielded from liability if it intentionally transfers or destroys a document after it has been requested under the FOIA or the Privacy Act.”); *Judicial Watch, Inc. v. Dep’t of Commerce*, 34 F. Supp. 2d 28, 41–44 (D.D.C. 1998).

# EXHIBIT

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# A BILL FOR AN ACT

RELATING TO FIREARMS.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that criminal background  
2 checks on firearms applicants are critical to ensure the safety  
3 of the community.

4           The rap back system is a service of the Federal Bureau of  
5 Investigation that provides continuous criminal record  
6 monitoring for authorized government agencies, including law  
7 enforcement agencies, and notifies them when an individual  
8 subject to a criminal history record check is arrested for a  
9 criminal offense anywhere in the country. This notification  
10 will allow county police departments in Hawaii to evaluate if  
11 the owner of a firearm may continue to legally possess and own  
12 firearms.

13           The purpose of this Act is to authorize county police  
14 departments in Hawaii to enroll firearms applicants and  
15 individuals who are registering their firearms into the rap back  
16 system.



1 SECTION 2. Section 134-2, Hawaii Revised Statutes, is  
2 amended as follows:

3 1. By amending subsection (e) to read:

4 "(e) The permit application form shall be signed by the  
5 applicant and by the issuing authority. One copy of the permit  
6 shall be retained by the issuing authority as a permanent  
7 official record. Except for sales to dealers licensed under  
8 section 134-31, or dealers licensed by the United States  
9 Department of Justice, or law enforcement officers, or where a  
10 license is granted under section 134-9, or where any firearm is  
11 registered pursuant to section 134-3(a), no permit shall be  
12 issued to an applicant earlier than fourteen calendar days after  
13 the date of the application; provided that a permit shall be  
14 issued or the application denied before the twentieth day from  
15 the date of application. Permits issued to acquire any pistol  
16 or revolver shall be void unless used within ten days after the  
17 date of issue. Permits to acquire a pistol or revolver shall  
18 require a separate application and permit for each transaction.  
19 Permits issued to acquire any rifle or shotgun shall entitle the  
20 permittee to make subsequent purchases of rifles or shotguns for  
21 a period of one year from the date of issue without a separate





1 application and permit for each acquisition, subject to the  
2 disqualifications under section 134-7 and subject to revocation  
3 under section 134-13; provided that if a permittee is arrested  
4 for committing a felony or any crime of violence or for the  
5 illegal sale of any drug, the permit shall be impounded and  
6 shall be surrendered to the issuing authority. The issuing  
7 authority shall perform an inquiry on an applicant [~~who is a~~  
8 ~~citizen of the United States by using the National Instant~~  
9 ~~Criminal Background Check System]~~ by using the International  
10 Justice and Public Safety Network, including the United States  
11 Immigration and Customs Enforcement query, the National Crime  
12 Information Center, and the National Instant Criminal Background  
13 Check System, pursuant to section 846-2.7 before any  
14 determination to issue a permit or to deny an application is  
15 made. [~~If the applicant is not a citizen of the United States~~  
16 ~~and may be eligible to acquire a firearm under this chapter, the~~  
17 ~~issuing authority shall perform an inquiry on the applicant, by~~  
18 ~~using the National Instant Criminal Background Check System, to~~  
19 ~~include a check of the Immigration and Customs Enforcement~~  
20 ~~databases, before any determination to issue a permit or to deny~~  
21 ~~an application is made.] "~~



1           2. By amending subsection (i) to read:

2           "(i) No fee shall be charged for permits, or applications

3 for permits, under this section, except for a single fee

4 chargeable by and payable to the issuing county, for individuals

5 applying for their first permit, in an amount equal to the fee

6 [actually] charged by the [~~Federal Bureau of Investigation to~~

7 ~~the issuing police department for a fingerprint check in~~

8 ~~connection with that application or permit.] Hawaii criminal~~

9 justice data center pursuant to section 846-2.7. In the case of

10 a joint application, the fee provided for in this section may be

11 charged to each person to whom no previous permit has been

12 issued."

13           SECTION 3. Section 134-3, Hawaii Revised Statutes, is

14 amended as follows:

15           1. By amending subsection (a) to read:

16           "(a) Every person arriving in the State who brings or by

17 any other manner causes to be brought into the State a firearm

18 of any description, whether usable or unusable, serviceable or

19 unserviceable, modern or antique, shall register the firearm

20 within five days after arrival of the person or of the firearm,

21 whichever arrives later, with the chief of police of the county



1 of the person's place of business or, if there is no place of  
2 business, the person's residence or, if there is neither a place  
3 of business nor residence, the person's place of sojourn. A  
4 nonresident alien may bring firearms not otherwise prohibited by  
5 law into the State for a continuous period not to exceed ninety  
6 days; provided that the person meets the registration  
7 requirement of this section and the person possesses:

- 8 (1) A valid Hawaii hunting license procured under chapter  
9 183D, part II, or a commercial or private shooting  
10 preserve permit issued pursuant to section 183D-34;
- 11 (2) A written document indicating the person has been  
12 invited to the State to shoot on private land; or
- 13 (3) Written notification from a firing range or target  
14 shooting business indicating that the person will  
15 actually engage in target shooting.

16 The nonresident alien shall be limited to a nontransferable  
17 registration of not more than ten firearms for the purpose of  
18 the above activities.

19 Every person registering a firearm under this subsection  
20 shall be fingerprinted and photographed by the police department  
21 of the county of registration; provided that this requirement



1 shall be waived where fingerprints and photographs are already  
2 on file with the police department. The police department shall  
3 perform an inquiry on the person by using the [~~National Instant~~  
4 ~~Criminal Background Check System~~] International Justice and  
5 Public Safety Network, including the United States Immigration  
6 and Customs Enforcement query, the National Crime Information  
7 Center, and the National Instant Criminal Background Check  
8 System, pursuant to section 846-2.7 before any determination to  
9 register a firearm is made."

10 2. By amending subsection (b) to read:

11 "(b) Every person who acquires a firearm pursuant to  
12 section 134-2 shall register the firearm in the manner  
13 prescribed by this section within five days of acquisition. The  
14 registration shall be on forms prescribed by the attorney  
15 general, which shall be uniform throughout the State, and shall  
16 include the following information: name of the manufacturer and  
17 importer; model; type of action; caliber or gauge; serial  
18 number; and source from which receipt was obtained, including  
19 the name and address of the prior registrant. If the firearm  
20 has no serial number, the permit number shall be entered in the  
21 space provided for the serial number, and the permit number



1 shall be engraved upon the receiver portion of the firearm prior  
2 to registration. All registration data that would identify the  
3 individual registering the firearm by name or address shall be  
4 confidential and shall not be disclosed to anyone, except as may  
5 be required [~~fee~~]:

6 (1) For processing the registration [~~or as may be required~~  
7 ~~by~~];

8 (2) For database management by the Hawaii criminal justice  
9 data center;

10 (3) By a law enforcement agency for the lawful performance  
11 of its duties; or [~~as may be required by~~]

12 (4) By order of a court."

13 3. By amending subsection (e) to read:

14 "(e) No fee shall be charged for the registration of a  
15 firearm under this section, except for a fee chargeable by and  
16 payable to the registering county for persons registering a  
17 firearm under subsection (a), in an amount equal to the fee  
18 [actually] charged by the [~~Federal Bureau of Investigation to~~  
19 ~~the registering police department for a fingerprint check in~~  
20 ~~connection with the registration.~~] Hawaii criminal justice data  
21 center pursuant to section 846-2.7. In the case of a joint



1 registration, the fee provided for in this section may be  
2 charged to each person."

3 SECTION 4. Section 846-2.7, Hawaii Revised Statutes, is  
4 amended by amending subsection (b) to read as follows:

5 "(b) Criminal history record checks may be conducted by:

6 (1) The department of health or its designee on operators  
7 of adult foster homes for individuals with  
8 developmental disabilities or developmental  
9 disabilities domiciliary homes and their employees, as  
10 provided by section 321-15.2;

11 (2) The department of health or its designee on  
12 prospective employees, persons seeking to serve as  
13 providers, or subcontractors in positions that place  
14 them in direct contact with clients when providing  
15 non-witnessed direct mental health or health care  
16 services as provided by section 321-171.5;

17 (3) The department of health or its designee on all  
18 applicants for licensure or certification for,  
19 operators for, prospective employees, adult  
20 volunteers, and all adults, except adults in care, at  
21 health care facilities as defined in section 321-15.2;



- 1           (4) The department of education on employees, prospective  
2           employees, and teacher trainees in any public school  
3           in positions that necessitate close proximity to  
4           children as provided by section 302A-601.5;
- 5           (5) The counties on employees and prospective employees  
6           who may be in positions that place them in close  
7           proximity to children in recreation or child care  
8           programs and services;
- 9           (6) The county liquor commissions on applicants for liquor  
10          licenses as provided by section 281-53.5;
- 11          (7) The county liquor commissions on employees and  
12          prospective employees involved in liquor  
13          administration, law enforcement, and liquor control  
14          investigations;
- 15          (8) The department of human services on operators and  
16          employees of child caring institutions, child placing  
17          organizations, and foster boarding homes as provided  
18          by section 346-17;
- 19          (9) The department of human services on prospective  
20          adoptive parents as established under section  
21          346-19.7;



- 1       (10) The department of human services on applicants to  
2           operate child care facilities, prospective employees  
3           of the applicant, and new employees of the provider  
4           after registration or licensure as provided by section  
5           346-154;
- 6       (11) The department of human services on persons exempt  
7           pursuant to section 346-152 to be eligible to provide  
8           child care and receive child care subsidies as  
9           provided by section 346-152.5;
- 10      (12) The department of health on operators and employees of  
11           home and community-based case management agencies and  
12           operators and other adults, except for adults in care,  
13           residing in community care foster family homes as  
14           provided by section 321-15.2;
- 15      (13) The department of human services on staff members of  
16           the Hawaii youth correctional facility as provided by  
17           section 352-5.5;
- 18      (14) The department of human services on employees,  
19           prospective employees, and volunteers of contracted  
20           providers and subcontractors in positions that place  
21           them in close proximity to youth when providing





- 1 services on behalf of the office or the Hawaii youth  
2 correctional facility as provided by section 352D-4.3;
- 3 (15) The judiciary on employees and applicants at detention  
4 and shelter facilities as provided by section 571-34;
- 5 (16) The department of public safety on employees and  
6 prospective employees who are directly involved with  
7 the treatment and care of persons committed to a  
8 correctional facility or who possess police powers  
9 including the power of arrest as provided by section  
10 353C-5;
- 11 (17) The board of private detectives and guards on  
12 applicants for private detective or private guard  
13 licensure as provided by section 463-9;
- 14 (18) Private schools and designated organizations on  
15 employees and prospective employees who may be in  
16 positions that necessitate close proximity to  
17 children; provided that private schools and designated  
18 organizations receive only indications of the states  
19 from which the national criminal history record  
20 information was provided pursuant to section 302C-1;



- 1       (19) The public library system on employees and prospective  
2           employees whose positions place them in close  
3           proximity to children as provided by section  
4           302A-601.5;
- 5       (20) The State or any of its branches, political  
6           subdivisions, or agencies on applicants and employees  
7           holding a position that has the same type of contact  
8           with children, vulnerable adults, or persons committed  
9           to a correctional facility as other public employees  
10          who hold positions that are authorized by law to  
11          require criminal history record checks as a condition  
12          of employment as provided by section 78-2.7;
- 13       (21) The department of health on licensed adult day care  
14          center operators, employees, new employees,  
15          subcontracted service providers and their employees,  
16          and adult volunteers as provided by section 321-15.2;
- 17       (22) The department of human services on purchase of  
18          service contracted and subcontracted service providers  
19          and their employees serving clients of the adult  
20          protective and community services branch, as provided  
21          by section 346-97;



- 1       (23) The department of human services on foster grandparent  
2           program, senior companion program, and respite  
3           companion program participants as provided by section  
4           346-97;
- 5       (24) The department of human services on contracted and  
6           subcontracted service providers and their current and  
7           prospective employees that provide home and community-  
8           based services under section 1915(c) of the Social  
9           Security Act, title 42 United States Code section  
10          1396n(c), or under any other applicable section or  
11          sections of the Social Security Act for the purposes  
12          of providing home and community-based services, as  
13          provided by section 346-97;
- 14      (25) The department of commerce and consumer affairs on  
15          proposed directors and executive officers of a bank,  
16          savings bank, savings and loan association, trust  
17          company, and depository financial services loan  
18          company as provided by section 412:3-201;
- 19      (26) The department of commerce and consumer affairs on  
20          proposed directors and executive officers of a



- 1 nondepository financial services loan company as  
2 provided by section 412:3-301;
- 3 (27) The department of commerce and consumer affairs on the  
4 original chartering applicants and proposed executive  
5 officers of a credit union as provided by section  
6 412:10-103;
- 7 (28) The department of commerce and consumer affairs on:  
8 (A) Each principal of every non-corporate applicant  
9 for a money transmitter license; and  
10 (B) The executive officers, key shareholders, and  
11 managers in charge of a money transmitter's  
12 activities of every corporate applicant for a  
13 money transmitter license,  
14 as provided by sections 489D-9 and 489D-15;
- 15 (29) The department of commerce and consumer affairs on  
16 applicants for licensure and persons licensed under  
17 title 24;
- 18 (30) The Hawaii health systems corporation on:  
19 (A) Employees;  
20 (B) Applicants seeking employment;  
21 (C) Current or prospective members of the corporation



1 board or regional system board; or  
2 (D) Current or prospective volunteers, providers, or  
3 contractors,  
4 in any of the corporation's health facilities as  
5 provided by section 323F-5.5;  
6 (31) The department of commerce and consumer affairs on:  
7 (A) An applicant for a mortgage loan originator  
8 license; and  
9 (B) Each control person, executive officer, director,  
10 general partner, and manager of an applicant for  
11 a mortgage loan originator company license,  
12 as provided by chapter 454F;  
13 (32) The state public charter school commission or public  
14 charter schools on employees, teacher trainees,  
15 prospective employees, and prospective teacher  
16 trainees in any public charter school for any position  
17 that places them in close proximity to children, as  
18 provided in section 302D-33;  
19 (33) The counties on prospective employees who work with  
20 children, vulnerable adults, or senior citizens in  
21 community-based programs;



- 1 (34) The counties on prospective employees for fire  
2 department positions which involve contact with  
3 children or vulnerable adults;
- 4 (35) The counties on prospective employees for emergency  
5 medical services positions which involve contact with  
6 children or vulnerable adults;
- 7 (36) The counties on prospective employees for emergency  
8 management positions and community volunteers whose  
9 responsibilities involve planning and executing  
10 homeland security measures including viewing,  
11 handling, and engaging in law enforcement or  
12 classified meetings and assisting vulnerable citizens  
13 during emergencies or crises;
- 14 (37) The State and counties on employees, prospective  
15 employees, volunteers, and contractors whose position  
16 responsibilities require unescorted access to secured  
17 areas and equipment related to a traffic management  
18 center;
- 19 (38) The State and counties on employees and prospective  
20 employees whose positions involve the handling or use  
21 of firearms for other than law enforcement purposes;



- 1       (39) The State and counties on current and prospective  
2           systems analysts and others involved in an agency's  
3           information technology operation whose position  
4           responsibilities provide them with access to  
5           proprietary, confidential, or sensitive information;
- 6       (40) The department of commerce and consumer affairs on  
7           applicants for real estate appraiser licensure or  
8           certification as provided by chapter 466K;
- 9       (41) The department of health or its designee on all  
10          license applicants, licensees, employees, contractors,  
11          and prospective employees of medical marijuana  
12          dispensaries, and individuals permitted to enter and  
13          remain in medical marijuana dispensary facilities as  
14          provided under sections 329D-15(a)(4) and  
15          329D-16(a)(3); [~~and~~]
- 16       (42) The county police departments on applicants for  
17       permits to acquire firearms pursuant to section 134-2  
18       and on individuals registering their firearms pursuant  
19       to section 134-3; and



1        [~~(42)~~] (43) Any other organization, entity, or the State, its  
2                    branches, political subdivisions, or agencies as may  
3                    be authorized by state law."

4        SECTION 5. Statutory material to be repealed is bracketed  
5 and stricken. New statutory material is underscored.

6        SECTION 6. This Act does not affect rights and duties that  
7 matured, penalties that were incurred, and proceedings that were  
8 begun before its effective date.

9        SECTION 7. This Act shall take effect upon its approval.





**Report Title:**

Criminal History Record Checks; Police; Permits to Acquire Firearms; Hawaii Criminal Justice Data Center; Database Management

**Description:**

Authorizes county police departments to enroll firearms applicants and individuals who are registering their firearms into a criminal record monitoring service used to alert police when an owner of a firearm is arrested for a criminal offense anywhere in the country. Authorizes the Hawaii Criminal Justice Data Center to access firearm registration data. (SB2954 HD1)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

