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STATE OF HAWAII | KA MOKU'ĀINA 'Ō HAWAI'I
DEPARTMENT OF LAND AND NATURAL RESOURCES
KA 'OIHANA KUMUWAIWAI 'ĀINA

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LAND
STATE PARKS

Testimony of
DAWN N. S. CHANG
Chairperson

Before the House Committee on
JUDICIARY & HAWAIIAN AFFAIRS

Tuesday, February 14, 2023
2:00 PM

State Capitol, Conference Room 325

In consideration of
HOUSE BILL 1200, HOUSE DRAFT 1
RELATING TO THE CONSERVATION AND RESOURCES ENFORCEMENT PROGRAM

House Bill 1200, House Draft 1, proposes to: 1) require the Department of Land and Natural Resources (Department) to establish an unmanned aircraft systems program; 2) authorize Conservation and Resources Enforcement Officers to use unmanned aircraft systems (UAS); and 3) require the Department submit an annual report of the effectiveness of the UAS program to the Legislature. **The Department supports this bill, provided that its passage does not replace or adversely impact priorities indicated in the Executive Budget request, and sufficient additional funds are provided.**

The Department acknowledges the potential for a UAS program to aid its Division of Conservation and Resources Enforcement (DOCARE) in carrying out its mission. Such a program can increase the effectiveness of the Department's limited number of enforcement officers by enabling them to survey, monitor, investigate, and obtain evidence more efficiently, especially in difficult to reach areas.

The Department appreciates the amendment as provided in the current House Draft 1 to extend the deadline to establish a UAS program in DOCARE to June 30, 2025. The Department believes this additional time will assist with successful implementation of a UAS program.

Mahalo for the opportunity to provide testimony in support of this measure.



February 14, 2023

Chairman David Tarnas
House Committee on Judiciary & Hawaiian Affairs

RE: SUPPORT OF HB 1200 HD1

Dear Chairman Tarnas,

As an organization that represents member companies who are participants in the unmanned aircraft systems (UAS) industry in Hawaii, we are reaching out again today to express our support for HB 1200 HD1. This bill requires the Department of Land and Natural Resources to establish an UAS program and provides for an appropriation. State drone programs such as these are crucial in the advancement of the autonomous industry, and continued support of these programs will foster the growth of this emerging technology.

The Association for Uncrewed Vehicle Systems International (AUVSI) is the world's largest nonprofit organization dedicated to the advancement of uncrewed systems and robotics, representing corporations and professionals from more than sixty countries involved in industry, government, and academia.

The use of UAS by state agencies is a notable application that provides immense public benefit. Drones allow for an expansion of and improvement in the responsibilities and efficacy of state agencies and environmental conservation. Additionally, in providing for funding for this program, the State is ensuring that it will be a success. The funding for uncrewed systems programs such as this one is crucial for the advancement of the industry, and continued state investment into these programs will allow for public and private collaboration that will foster growth and innovation.

With this measure, Hawaii is facilitating UAS growth and providing the state with the means to reap technology's public and environmental benefits. We appreciate your consideration of our views and welcome the opportunity to address any questions you may have about implementation, policy, or development regarding drone operations in Hawaii.

Respectfully,

A handwritten signature in black ink, appearing to read "Michael J. Smitsky". The signature is fluid and cursive, with a large, stylized initial "M".

Mike Smitsky, Esq.
Vice President, Government Affairs
m-smitsky@auvsi.org

Denise Antolini
59-463 Alapio Road
Pūpūkea, HI 96712

Re: HB1200 HD1, JHA Hearing Feb. 14, 2023, Conference Room 325, 2:00 pm

Aloha JHA Chair Tarnas, Vice Chair Takayama, and Members of the Committee,

I write in **strong support of HB1200 HD1** – “Drones for DOCARE”!

I greatly appreciate Chair Tarnas introducing this important measure and scheduling it for today’s hearing.

DOCARE has enormous responsibility to oversee the enforcement of the laws that protect our State’s natural and cultural resources -- across **one million** acres of state land and **three million** acres of state ocean waters. An unmanned aircraft system (UAS), or drone, program would add significant capacity to DOCARE, allowing new methods for monitoring, investigating, and evidence gathering with modern, efficient, and cost-effective technology.

Given the exponential increase in the use of drones in Hawai’i and across the U.S. (and world) in recent years by individuals, businesses, and governments, it makes sense for the Legislature to support a drone program for our State natural resources law enforcement agency. **Drone can be a very effective fact-gathering tool, used within appropriate policies and legal boundaries.**

For many years, as a law professor devoted to environmental protection and a community member involved in marine stewardship programs, I have worked on various projects to assist DOCARE build capacity and its enforcement toolkit. For example, through my position at the William S. Richardson School of Law, I was the principal investigator for a grant in 2018-19 that assisted DOCARE with designing the new DOCARE Academy, which is now completing training for its second class -- 42 new recruits who will graduate next month. I also worked with DOCARE on the passage of the “ASSET” bill (Act 67, SB2453) in 2016 to expand the enforcement options for sentencing marine resources violators to include community service and an education course. I have also collaborated with the State Judiciary on the biennial trainings for the Hawai’i Environmental Court, established in 2015 by the Legislature. And, for the past ten years, since 2014, I have partnered with DOCARE to place a recent law graduate – a full-time “law fellow” – inside DOCARE to provide legal research and writing capacity particularly related to supporting the enforcement cases in the Environmental Court.

Recently, as a way to further build DOCARE’s capacity, through my position as the volunteer President of Mālama Pūpūkea-Waimea (MPW), I worked with two Richardson law students, Sophia Morgan and Kanani Smull, to analyze the potential for DOCARE to develop a drone program. We reviewed drone programs recently established by law enforcement agencies in Alaska,¹ Florida,² California,³ and Texas,⁴ and also found that the Honolulu Police Department adopted a drone policy in 2021.⁵ These programs provide excellent yet diverse models for a new DOCARE drone program.

In my view, to keep up with modern law enforcement methods, and to match the methods of increasingly clever and elusive violators of our state natural resources laws, a drone program is extremely important for DOCARE. I believe DOCARE *could* legally establish a drone program without a specific legislative authorization but as a matter of good public policy, it is best for DOCARE to have express statutory authority. However, the program must be **funded**, and the program must be **transparent** to ensure public confidence and support.

HB1200 HD1

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Please let me know if I may assist with any questions about this bill. We would be happy to conduct additional research to support the establishment of an effective drone program for DOCARE.

Mahalo nui loa for passing this important bill!

Best regards,



Denise Antolini

¹ Alaska Stat. Ann. § 18.65.902.

² Fla. State. Ann. § 934.50(4).

³ See, e.g., Drone Program, City of Chula Vista Police Department (July 2, 2022), <https://www.chulavistaca.gov/departments/police-department/programs/uas-drone-program>.

⁴ Texas Parks and Wildlife Department, Law Enforcement Division, 2019-2020 Small Unmanned Aircraft Systems Legislative Report (Dec. 31, 2020), <https://tpwd.texas.gov/warden/media/final-2019-2020-uas-report.pdf>.

⁵ Small Unmanned Aircraft System (sUAS) Policy, HPD Policy Number 2.73, 1 (May 19, 2021), <https://www.honolulupd.org/wp-content/uploads/2021/05/HPD-Policy-273-05-19-2021.pdf>.

HB-1200-HD-1

Submitted on: 2/12/2023 8:15:20 PM

Testimony for JHA on 2/14/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Kanani Smull	Individual	Support	Remotely Via Zoom

Comments:

Aloha JHA Chair Tarnas, Vice Chair Takayama, and Members of the Committee,

I strongly support HB1200 HD1.

I am a third-year law student at the William S. Richardson School of Law, and I am studying environmental law. I was a summer 2021 law extern for Mālama Pūpūkea-Waimea. As part of my externship’s projects, I conducted legal research and writing regarding the use of drones for conservation law enforcement.

My research focused on the potential concerns about privacy and admissibility of evidence obtained through a DOCARE drone program. Based on my research, potential violators could not likely succeed on a privacy violation claim because in public spaces, they do not have a reasonable expectation of privacy and activities are “in plain view.”

The use of drones will equip DOCARE officers with the tools they need to properly monitor public spaces where natural resource violations are frequently occurring. The drone program proposed by HB1200 HD1 contemplates drones being used only in public spaces, such as state parks, wilderness areas, and marine life conservation districts (MLCDs).

In this way, the establishment of such an operation will not infringe on the public’s right to privacy.

The program will provide an effective and efficient means by which DOCARE officers may deter natural resource violations and obtain evidence of violations occurring in hard to reach spaces of Hawai‘i’s public beaches and other conservation areas.

The drone footage would be admissible in court under the normal rules of evidence such as relevance, authentication, and chain of custody, similar to the admission of photo evidence.

Thank you for supporting HB1200 HD1.

Sincerely,

Kanani Smull, J.D. Candidate Class of 2023

HB-1200-HD-1

Submitted on: 2/12/2023 9:59:38 PM

Testimony for JHA on 2/14/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Sophia Morgan	Individual	Support	Written Testimony Only

Comments:

Aloha JHA Chair Tarnas, Vice Chair Takayama, and Members of the Committee,

I write in strong support of **HB1200 HD1**.

I am a second-year environmental law student at the University of Hawai‘i at Mānoa William S. Richardson School of Law. I was a 2022 summer law extern for Mālama Pūpūkea-Waimea. As part of my externship project, I conducted legal research regarding the use of drones for natural resource law enforcement.

During my research, I found that several states have successfully implemented UAS programs for law enforcement, including conservation agencies. For example, Texas Parks and Wildlife Department Law Enforcement Division established a UAS program specifically to accomplish their mission of “the conservation of natural resources and protection of human life and property.” Within two years, the UAS program ran over 7,000 missions for law enforcement investigation and surveillance, conservation management, and wildlife damage assessment and survey. Texas Parks and Wildlife Department Law Enforcement Division, *2019-2020 Small Unmanned Aircraft Systems Legislative Report* (Dec. 31, 2020), <https://tpwd.texas.gov/warden/media/final-2019-2020-uas-report.pdf>.

Another example comes from Alaska, where Alaska statute permits law enforcement to gather evidence in criminal investigations and other specific circumstances, as long as the drone use does not violate personal privacy rights and adheres to FAA guidelines. Alaska Stat. Ann. § 18.65.902. For example, Alaska’s Fish and Wildlife Service has implemented use of UASs to help aid in wildlife surveillance and animal recovery efforts. *2018 Alaska Fish and Wildlife Fund Grant Awards*, AFWF (2018), <https://www.nfwf.org/sites/default/files/2020-04/2018-afwf-grant-slate.pdf>.

In Florida, law enforcement agencies are also permitted to use drones to gather evidence under specific circumstances. Fla. State. Ann. § 934.50(4). Florida has the fifth greatest number of public safety agencies implementing drones in the US: most of which consist of law enforcement agencies. For example, the Tuscaloosa County Sheriff’s Office has 30 certified pilot deputies, a fleet of 13 small and 2 large drones, and a mobile drone command unit. Stephen Dethrage, *Sheriff’s Office Donates Its Helicopters to Tuscaloosa Police in Switch to Drone Program*, Tuscaloosa Thread (May 4, 2022), <https://tuscaloosathread.com/sheriffs-office-donates-its-helicopters-to-tuscaloosa-police-in-switch-to-drone-program/>.

In California, many county law enforcement agencies run drone programs. For example, since its first drone operation on October 22, 2018, City of Chula Vista Police Department (CVPD) has responded with drones to 11,375 calls, assisted in 1,324 arrests, been first on scene 6,467 times, and avoided the need to dispatch a patrol unit 2,874 times. *Drone Program*, City of Chula Vista Police Department (July 2, 2022), <https://www.chulavistaca.gov/departments/police-department/programs/uas-drone-program>. CVPD posts information on each flight publicly and provides public forums to involve their community in the program. Id. Chief Roxana Kennedy has called the Drone Program “one of her most important tools in improving situational awareness, de-escalating dangerous situations, and protecting her officers and community.” Id. See also *UAS-Unmanned Aerial Systems*, Placer County Sheriff’s Office (last visited July 1, 2022), <https://www.placer.ca.gov/5822/UASUnmanned-Aerial-System>.

Mahalo nui loa for your time and consideration of my testimony!

Best regards, Sophia Morgan