

PUBLIC DEFENDER

ASSISTANT PUBLIC DEFENDER

DEFENDER COUNCIL
1130 NORTH NIMITZ HIGHWAY
SUITE A-254
HONOLULU, HAWAII 96817

HONOLULU OFFICE
1130 NORTH NIMITZ HIGHWAY
SUITE A-254
HONOLULU, HAWAII 96817

APPELLATE DIVISION
TEL. No. (808) 586-2080

DISTRICT COURT DIVISION
TEL. No. (808) 586-2100

FAMILY COURT DIVISION
TEL. No. (808) 586-2300

FELONY DIVISION
TEL. No. (808) 586-2200

FACSIMILE
(808) 586-2222



STATE OF HAWAII
OFFICE OF THE PUBLIC DEFENDER

February 5, 2025

HILO OFFICE
275 PONAHAHAWI STREET
SUITE 201
HILO, HAWAII 96720
TEL. No. (808) 974-4571
FAX No. (808) 974-4574

KONA OFFICE
75-1000 HENRY STREET
SUITE #209
KAILUA-KONA HI 96740
TEL. No. (808) 327-4650
FAX No. (808) 327-4651

KAUAI OFFICE
3060 EIIWA STREET
SUITE 206
LIHUE, HAWAII 96766
TEL. No. (808) 241-7128
FAX No. (808) 274-3422

MAUI OFFICE
81 N. MARKET STREET
WAILUKU, HAWAII 96793
TEL. No. (808) 984-5018
FAX No. (808) 984-5022

HB550: RELATING TO FIREWORKS

Chair Tarnas, Vice Chair Poepoe and Members of the Committee on Judiciary & Hawaiian Affairs

The Office of the Public Defender (OPD) **opposes HB550**. This bill amends HRS § 132D-20 to make video recordings from a drone de facto probable cause for an arrest as long as the drone is above public property and the act being surveilled occurs on public property.

Section 1 of the bill is unconstitutional.

HRS § 132D-20(b)(1) already confirms that video recordings from a drone may be one of the facts and circumstances to establish probable cause for arrest. Therefore, on its face the amendment proposed by the bill is unnecessary to the extent that it authorizes the use of drone surveillance footage as probable cause for an arrest. However, the bill crosses the line and becomes unconstitutional by stating that drone surveillance footage recorded over a public property of an act committed on public property is de facto probable cause for arrest.

First, the propriety of the use of the drone to conduct such a warrantless search is always at issue and subject to judicial review of the constitutionality of the search.¹

Second, the determination of whether probable cause to arrest was properly established is subject to judicial review to determine the legality and constitutionality of

¹ In *State v. Quiday*, 141 Hawai'i 116, 405 P.3d 552 (2017), the Hawai'i Supreme Court confirmed that article I, section 7 of the Hawai'i Constitution protects the right of the people to be free from unreasonable searches, seizures and invasions of privacy, including aerial surveillance.

the arrest/seizure.² The fourth amendment to the U.S. Constitution and article I, section 7 of the Hawai'i Constitution protect the rights of citizens to be free from unreasonable searches and seizures. Article I, Section 7 states:

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.

HRS § 803-1 states that “No arrest of any person shall be made without first obtaining a warrant or other process therefor from some magistrate, except in the cases provided in this chapter or otherwise provided by law.”

HRS § 803-5, “[arrests] by police officer without warrant,” states:

- (a) A police officer or other officer of justice, may, without warrant, arrest and detain for examination any person when the officer has probable cause to believe that such person has committed any offense, whether in the officer's presence or otherwise.
- (b) For purposes of this section, a police officer has probable cause to make an arrest when the facts and circumstances within the officer's knowledge and of which the officer has reasonably trustworthy information are sufficient in themselves to warrant a person of reasonable caution in the belief that a crime has been or is being committed.

“Probable cause exists when the facts and circumstances within one's knowledge and of which one has reasonably trustworthy information are sufficient in themselves to warrant a person of reasonable caution to believe that an offense has been committed. This requires more than a mere suspicion but less than a certainty.” State v. Maganis, 109 Hawai'i 84, 86, 123 P.3d 679, 681 (2005) (citations omitted). “The standard for determining probable cause is a practical and nontechnical concept, which involves a balancing of the citizens' right to be free from unreasonable interference with privacy and

² See e.g. State v. Maganis, 109 Hawai'i 84, 123 P.3d 679 (2005) (defendant filed motion to dismiss in the trial court arguing that the arresting officer did not have probable cause to arrest her for UCPV. On appeal, the ICA and Hawai'i Supreme Court reviewed the trial court's probable cause determination).

from unfounded charges of crime, and the needs of the community to be protected by law enforcement[.]” Id.

[T]he long-prevailing standards on probable cause:

... seek to safeguard citizens from rash and unreasonable interferences with privacy and from unfounded charges of crime. They also seek to give fair leeway for enforcing the law in the community's protection. Because many situations which confront officers in the course of executing their duties are more or less ambiguous, room must be allowed for some mistakes on their part. But the mistakes must be those of reasonable men, acting on facts leading sensibly to their conclusions of probability. The rule of probable cause is a practical, nontechnical conception affording the best compromise that has been found for accommodating these often opposing interests. Requiring more would unduly hamper law enforcement. To allow less would be to leave law-abiding citizens at the mercy of the officers' whim or caprice.

Id. at 87-88, 123 P.3d at 682-83 (citations omitted).

It is the duty of the court to determine whether probable cause to arrest exists. The bill would, unconstitutionally and illegally, establish probable cause de facto simply because a drone recording was made over public property of an act committed on public property. This is illegal as the determination of whether probable cause for arrest existed is always subject to judicial review.³

To the extent that the bill may be attempting to confirm that a drone cannot be used to conduct a warrantless search of private property where the owner has a reasonable expectation of privacy, then such an amendment would be unnecessary as this restriction is already established under Hawai'i law. Quiday, supra. Alternatively, the bill could be amended to add language to delete subsection (c) and to amend subsection (b)(2) to state that, absent a search warrant, if unmanned aerial vehicle footage is used to establish probable cause, the unmanned aerial vehicle must be recording directly above a public park, street, sidewalk, easement, or any public property and the act leading to the arrest must have been committed on a public street, sidewalk, or other public property.

³ If the purpose of the bill is to simply confirm that drone footage can be used as one of the facts and circumstances establishing probable cause, then the proposed amendment to HRS § 132D-20 is unnecessary. See HRS § 132D-20(b)(2).

The OPD opposes Section 2 of the bill as to the use of drones in law enforcement.

The OPD generally opposes the use of drones as a tool for law enforcement. While drones can have beneficial uses, such as on search-and-rescue missions, in other contexts they may result in significant invasions of privacy and drone searches are highly susceptible to exceed their permissible scope and become unreasonable.

Drones have many beneficial uses, including in search-and-rescue missions, scientific research, mapping, and more. But deployed without proper regulation, drones equipped with facial recognition software, infrared technology, and speakers capable of monitoring personal conversations would cause unprecedented invasions of our privacy rights. Interconnected drones could enable mass tracking of vehicles and people in wide areas. Tiny drones could go completely unnoticed while peering into the window of a home or place of worship.^[4]

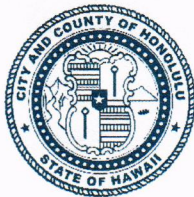
The OPD opposes increasing the funding for the use of drones in law enforcement, without additional legislation which puts in place significant safeguards on the use of the drones as a condition of funding.

Thank you for the opportunity to comment on this measure.

⁴ Domestic Drones, aclu.org (<https://www.aclu.org/issues/privacy-technology/surveillance-technologies/domestic-drones>).

HONOLULU POLICE DEPARTMENT
KA 'OIHANA MĀKA'I O HONOLULU
CITY AND COUNTY OF HONOLULU

801 SOUTH BERETANIA STREET • HONOLULU, HAWAII 96813
TELEPHONE: (808) 529-3111 • WEBSITE: www.honoluluupd.org



RICK BLANGIARDI
MAYOR
MEI A

ARTHUR J. LOGAN
CHIEF
KAHU MĀKA'I

KEITH K. HORIKAWA
RADE K. VANIC
DEPUTY CHIEFS
HOPE LUNA NUI MĀKA'I

OUR REFERENCE JP-HR

February 6, 2025

The Honorable David A. Tarnas, Chair
and Members
Committee on Judiciary and Hawaiian Affairs
House of Representatives
415 South Beretania Street, Room 325
Honolulu, Hawai'i 96813

Dear Chair Tarnas and Members:

SUBJECT: House Bill No. 550, Relating to Fireworks

I am Jerome Pacarro, Captain of the Narcotics/Vice Division of the Honolulu Police Department (HPD), City and County of Honolulu.

The HPD supports House Bill No. 550, Relating to Fireworks.


The HPD supports all legislation that aims to reduce the use of illegal fireworks by strengthening current fireworks laws.

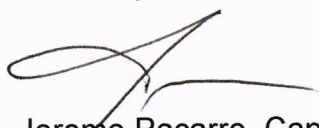
The HPD urges you to support House Bill No. 550, Relating to Fireworks.

Thank you for the opportunity to testify.

APPROVED:

Sincerely,


Arthur J. Logan
Chief of Police


Jerome Pacarro, Captain
Narcotics/Vice Division



Hawaiian Humane Society

People for animals. Animals for people.

Date: Feb. 3, 2025

To: Chair Rep. David Tarnas
Vice Chair Rep. Mahina Poepoe
and Members of the Committee on Judiciary and Hawaiian Affairs

Submitted By: Stephanie Kendrick, Director of Community Engagement
Hawaiian Humane Society, 808-356-2217

RE: Testimony in support of HB 550: Relating to Fireworks
Thursday, Feb. 6, 2025, 2 p.m., Room 325 & Videoconference

On behalf of the Hawaiian Humane Society, thank you for considering our support for House Bill 550, Part I of which allows video recordings made by law enforcement agencies who are using, controlling, or operating an unmanned aerial vehicles to establish probable cause for an arrest under the Fireworks Control Law if the unmanned aerial vehicle is recording directly above a public park, street, sidewalk, easement, or any public property and the act leading to the arrest is committed on a public street, sidewalk, or other public property. Part II appropriates funds to the Department of Law Enforcement for the purchase of unmanned aerial vehicles to monitor the use of illegal fireworks.

This measure allows police to shoot drone footage from airspace above public property and use such footage as evidence of fireworks violations. It also appropriates funds to purchase drones. Hawaiian Humane supports providing law enforcement with the tools needed to keep fireworks out of our residential neighborhoods. Despite tragic deaths and injuries spanning many years - and reaching a new level of horror on O'ahu this year - the crime of using illegal fireworks is rarely punished. This measure attempts to remedy that failure of our legal system.

These bombs increasingly go off without regard to date and terrorize pets and people alike. The unpredictable barrage makes it impossible to prepare and creates sustained stress, which can do lasting damage to emotional, mental and physical health.

Please pass HB550 and support local law enforcement. Mahalo for your consideration.



Hawaii Representatives & Senators:

On behalf of the Libertarian Party of Hawaii, I am writing to express our strong opposition to any prohibitions and enforcement measures targeting fireworks. We believe Hawaiians have the right to pursue and engage in any activities that bring them joy and fulfillment.

Fireworks prohibitions and regulations infringe upon the freedom of our citizens to partake in this time-honored custom, diminishing the spirit of celebration and unity that fireworks bring.

Implementing strict enforcement measures to crack down on fireworks usage would only serve to burden law enforcement resources, and divert needed attention away from more pressing issues. Prohibitions and heavy enforcement will lead to unnecessary conflict between police and citizens, eroding trust and creating an atmosphere of fear and animosity. Causing harm against another person is already illegal, and crimes can already be prosecuted without these new tyrannical enforcement measures.

The Libertarian Party of Hawaii stands firm in our support of individual freedom and opposes any measures that encroach upon our citizens' rights.

In Freedom,

Abbra Green

Executive Secretary, Libertarian Party of Hawaii

lphisecretary@gmail.com

HB-550

Submitted on: 2/3/2025 10:41:03 PM

Testimony for JHA on 2/6/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Gordon B. Lindsey	Individual	Support	Written Testimony Only

Comments:

I strongly support HB550

HB-550

Submitted on: 2/4/2025 8:30:43 AM

Testimony for JHA on 2/6/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Ryan Willis	Individual	Oppose	Written Testimony Only

Comments:

I strontly oppose

HB-550

Submitted on: 2/4/2025 8:34:30 AM

Testimony for JHA on 2/6/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Kanoe Willis	Individual	Oppose	Written Testimony Only

Comments:

I strongly oppose

HB-550

Submitted on: 2/4/2025 11:17:14 AM

Testimony for JHA on 2/6/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Marianne R Bickett	Individual	Support	Written Testimony Only

Comments:

Yes!!! Absolutely we must allow videotapes as evidence against law breakers using illegal fireworks!! This is very important!! They need to know they are being watched and they will face the consequences of their actions. Thank you very much!!! Yes!!!!

HB-550

Submitted on: 2/4/2025 11:18:11 AM

Testimony for JHA on 2/6/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Yvonne Alvarado	Individual	Oppose	Written Testimony Only

Comments:

I, Yvnonne Alvarado Oppose Bill HB550

HB-550

Submitted on: 2/4/2025 11:48:44 AM

Testimony for JHA on 2/6/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
lynne matusow	Individual	Support	Written Testimony Only

Comments:

I am in full support of every bill which will work to stop the lawlessness of illegal fireworks. We need to take a holistic approach to the problem, to make the community safe from the horrific noise, injuries, death of what clearly is not cultural behavior, to save those with PTSD from more trauma, and to spare our pets from this terror. Please support all fireworks bills, throw the book at those using illegal fireworks and increase enforcement.

Using drones is an important tool. They will clearly catch those in the act when law enforcement is not on the scene.

HB-550

Submitted on: 2/4/2025 6:24:39 PM

Testimony for JHA on 2/6/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
JOANNE PARKER	Individual	Support	Written Testimony Only

Comments:

Please, what ever it takes to stop these irresponsible people from using these illegal fireworks, drones would be a good way.

I loved playing with fireworks but this is out of control. These aerials and bombs go off all year long. This is not acceptable!

Please support this bill, make enforcement possible.

Mahalo

HB-550

Submitted on: 2/4/2025 7:14:26 PM

Testimony for JHA on 2/6/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Serena Stefanic-Phillip	Individual	Support	Written Testimony Only

Comments:

I am in support of Bill HB550.

HB-550

Submitted on: 2/4/2025 8:39:37 PM

Testimony for JHA on 2/6/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Beverly Heiser	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Tarnas, Vice Chair Poepoe, and Committee Members,

I SUPPORT HB550 that PART I: Allows video recordings made by law enforcement agencies who are using, controlling, or operating an unmanned aerial vehicles to establish probable cause for an arrest under the Fireworks Control Law if the unmanned aerial vehicle is recording directly above a public park, street, sidewalk, easement, or any public property and the act leading to the arrest is committed on a public street, sidewalk, or other public property. PART II: Appropriates funds to the Department of Law Enforcement for the purchase of unmanned aerial vehicles to monitor the use of illegal fireworks.

The use of illegal fireworks on public property presents a danger to cars, and its' occupants driving by, or trying to make their way down a street. A loud unexpected boom can startle a driver. Hot ambers can cause burn marks on cars. Misfired aerals can break windows or enter a car if the window is down. Pedestrians are in danger of getting injured from fireworks. Public parks and other public places are left with debris that can cause injuries such as sharp pieces of plastics or sticks from aerals. Fireworks leave a mess of tubes, pieces of cardboard, and papers, that scatter everywhere and can be difficult to clean-up if violators leave this mess behind.

Allowing law enforcement agencies to use drones to establish probable cause for arrest may be a good way to solve this problem.

Please pass HB550 to use as another way to crack down on illegal fireworks and places where fireworks should not be used.

Thank you for the opportunity to testify

HB-550

Submitted on: 2/4/2025 8:52:40 PM

Testimony for JHA on 2/6/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Nicholas Zehr	Individual	Oppose	Written Testimony Only

Comments:

Honorable Chair, Vice Chair, and Members of the Committee,

I write in strong OPPOSITION to this bill, which expands government surveillance and enforcement mechanisms against the personal use of fireworks. As a matter of individual liberty, limited government, and fiscal responsibility, this legislation represents an overreach that infringes on constitutional rights and wastes taxpayer dollars on unnecessary enforcement measures.

This bill authorizes law enforcement to use unmanned aerial vehicles (UAVs) to surveil and record individuals for potential fireworks violations. Such measures set a dangerous precedent for government intrusion into citizens' lives, normalizing warrantless surveillance in public spaces. Once these drones are deployed for fireworks enforcement, their use will inevitably expand to other areas, further eroding the privacy rights of Hawaii's residents.

Moreover, allowing drone footage to establish probable cause without direct human witness authentication removes an important safeguard against potential government abuse. This weakens due process protections and opens the door for wrongful accusations based on misinterpreted video footage.

This bill appropriates \$1,000,000 in taxpayer money for the purchase of drones to enforce fireworks laws. At a time when Hawaii faces more pressing issues—including homelessness, cost of living, and infrastructure challenges—spending public funds to surveil residents for victimless offenses is both wasteful and misguided.

The enforcement of fireworks regulations does not justify such an investment in surveillance technology. There are already sufficient laws on the books to address illegal fireworks without resorting to invasive and costly new measures. Expanding law enforcement's budget for this purpose is an unnecessary escalation of government power at the expense of taxpayers.

Fireworks have long been a part of local cultural celebrations in Hawaii, particularly during New Year's and other traditional festivities. The broad criminalization and increased enforcement measures fail to respect the personal liberties of responsible individuals who engage in these practices. Instead of focusing on punitive measures, a more liberty-respecting approach would involve deregulation, allowing for legal and safe consumer use rather than forcing such activities underground.

This bill represents an expansion of government surveillance, an unnecessary expenditure of taxpayer funds, and an infringement on individual freedoms. The use of drones for minor enforcement matters like fireworks sets a troubling precedent for civil liberties in Hawaii. I urge the legislature to reject this bill and instead focus on policies that respect personal freedoms, protect privacy rights, and prioritize fiscal responsibility.

Thank you for your consideration.

Sincerely,
Nicholas Zehr

HB-550

Submitted on: 2/4/2025 8:57:49 PM

Testimony for JHA on 2/6/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Marian Hussenbux	Individual	Support	Written Testimony Only

Comments:

HB550 Relating to Fireworks allows police to shoot drone footage from airspace above public property and use such footage as evidence of fireworks violations. It also appropriates funds to purchase drones.

Again, we support this Bill - we must use all the means at our disposal to combat serious nuisance which fireworks can cause - affecting vulnerable adults, children and animals of all species.

HB-550

Submitted on: 2/4/2025 9:15:22 PM

Testimony for JHA on 2/6/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Stephanie McLaughlin	Individual	Support	Written Testimony Only

Comments:

Please pass this important bill that will help Hawaii's animals.

HB-550

Submitted on: 2/5/2025 1:03:14 AM

Testimony for JHA on 2/6/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Taurie Kinoshita	Individual	Support	Written Testimony Only

Comments:

To the Honorable Committee,

I am writing in support of HB550.

Every New Year's Eve, there are fires, accidents, and injuries.

There needs to be better enforcement against fireworks infractions in order to stop this senseless suffering.

Police should be allowed to shoot drone footage from airspace above public property and use such footage as evidence of fireworks violations.

As long as the footage is only for this purpose.

Thank you for your cosnideration.

Sincerely,

Taurie Kinoshita

lifelong voter and resident!

HB-550

Submitted on: 2/5/2025 1:10:29 AM

Testimony for JHA on 2/6/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Jennifer Chiwa	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Representative Tarnas, Vice Chair Representative Poepoe and Members of the Committee on Judiciary and Hawaiian Affairs.

Please vote for HB 550, which I strongly support, to allow police to take drone footage above public property and use this footage as evidence of fireworks violations.

Mahalo.

Jennifer Chiwa

Makiki and life long resident of Oahu

HB-550

Submitted on: 2/5/2025 12:00:29 PM

Testimony for JHA on 2/6/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Bill Dixon	Individual	Support	Written Testimony Only

Comments:

My name is Bill Dixon, and I live with my wife in Kaneohe. We believe it's time to demilitarize our neighborhoods, eliminate deadly impacts on children and families, and protect our islands from fires by banning most fireworks and increasing penalties for the use of illegal fireworks.

HB550 Relating to Fireworks will clamp down on illegal fireworks by allowing police to shoot drone footage from airspace above public property and use that footage as evidence of fireworks violations. The measure also will provide funds to buy the drones.

This bill gives law enforcement a much-needed tool to spot and prosecute fireworks users who put the people and environment of our communities at risk. I urge the committee to endorse and advance the bill.

HB-550

Submitted on: 2/5/2025 12:07:42 PM

Testimony for JHA on 2/6/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Natalie Graham-Wood	Individual	Support	Written Testimony Only

Comments:

I support HB550. My name is Natalie Graham-Wood and I reside at Sunset Beach, Oahu.

HB-550

Submitted on: 2/5/2025 8:17:26 PM

Testimony for JHA on 2/6/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Lynn Murakami Akatsuka	Individual	Support	Written Testimony Only

Comments:

I strongly support the passage of HB 550 "Relating to Fireworks." It allows the law enforcement agencies to record and monitor the use of illegal fireworks in our communities. These provide the enforcement tools that are necessary to establish cause for an arrest under the Fireworks Control Law.

Long term disability and death of our residents are not acceptable for using illegal fireworks without bearing the consequences of those actions.

Thank you for the opportunity to provide written testimony in strong support of HB 550.