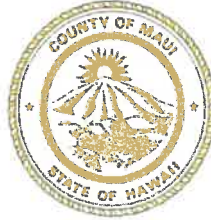


MICHAEL P. VICTORINO  
Mayor

ANDREW H. MARTIN  
Prosecuting Attorney

MICHAEL S. KAGAMI  
First Deputy Prosecuting Attorney



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OFFICE OF THE MAYOR

DEPARTMENT OF THE PROSECUTING ATTORNEY  
COUNTY OF MAUI  
150 SOUTH HIGH STREET  
WAILUKU, MAUI, HAWAII 96793  
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February 18, 2022

Honorable Michael P. Victorino  
Mayor, County of Maui  
200 South High Street  
Wailuku, HI 96793

APPROVED FOR TRANSMITTAL

*Michael P. Victorino* 2-19-22  
Mayor Date

For Transmittal to:

Honorable Michael J. Molina  
Chair, Government Relations, Ethics, and Transparency Committee  
200 South High Street  
Wailuku, HI 96793

Re: Authorizing the Mayor to Enter into an  
Intergovernmental Agreement with the U.S. Immigration  
and Customs Enforcement Homeland Security  
Investigations (GREAT-42)

Dear Chair Molina:

I am writing in reply to your February 4, 2022, request for comments on the "U.S. Constitution, Chapter 1589a, relating to the enforcement authority of customs officers and its impact on sovereign nations in conjunctions with this agreement." As the request is somewhat broad, I will frame my response in the context of questions posed to me at the end of the GREAT Committee hearing held on February 1, 2022, specifically with respect to arrests without a warrant.

Arrests without a warrant by both State and Federal officers are authorized by the United States Constitution, the Constitution of the State of Hawai'i, and the Hawai'i Revised Statutes. Such arrests are authorized if an officer has probable cause to believe that a person has committed a criminal offense, whether in the officer's presence or otherwise. See, H.R.S. §803-5(a); 803-16; and 803-17. Under such circumstances, a law

Honorable Michael P. Victorino  
For Transmittal to: Honorable Michael J. Molina  
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enforcement officer has probable cause to make an arrest without a warrant 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." H.R.S. §803-5(b).

When such arrests are made, the person arrested must be charged or released by law enforcement within forty-eight (48) hours. H.R.S. §803-9. If charged, the person must be brought before a judge for an initial review of the facts and circumstances supporting probable cause for the arrest within that same time period. Id. Failure to do so, requires the individual's release, without delay. Id.

Neither the authority for arrests without a warrant, nor the Memorandum of Understanding under consideration by this Committee, impact an individual's ability to challenge jurisdiction on the basis of sovereignty. My Department will continue to adhere to our mission and core values and treat those individuals who challenge the State Court's jurisdiction with dignity and respect.

I thank you for the opportunity to provide comments on this very important matter. Should the Committee require additional information or clarification, please do not hesitate to contact my Department.

Very truly yours,

A handwritten signature in black ink, appearing to read "Andrew H. Martin", written over the typed name below.

ANDREW H. MARTIN  
Prosecuting Attorney

AHM:gbd