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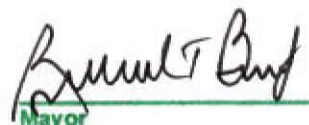
October 24, 2023

Honorable Richard T. Bissen, Jr.
Mayor, County of Maui
200 S. High Street
Wailuku, HI 96793

For Transmittal To:

Tamara Paltin, Chair
Disaster, Resilience, International
Affairs, and Planning Committee
County of Maui
Wailuku, HI, 96793

APPROVED FOR TRANSMITTAL

 10.25.23
Mayor Date

**SUBJECT: BILL 88 (2023), AUTHORIZING THE MAYOR TO
ENTER INTO AN INTERGOVERNMENTAL AGREEMENT
WITH THE U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT
HOMELAND SECURITY INVESTIGATIONS**

Dear Chair Paltin,

This responds to your letter dated on October 16, 2023.

1. Please describe the potential benefits of Bill 88.

Maui Police Department police officers designated as Task Force Officers for Homeland Security Investigations (HSI) will have the authority to investigate criminal offenses under Title 18 and 21 of the United States Code. This includes human trafficking and drug trafficking offenses. On most occasions, federal offenses have harsher penalties which can be used to address the most dangerous criminals in our community. Listed below are a few highlights from the partnership with the Maui Police Department and the Homeland Security Investigations.

Earlier this month, one of our HSI Task Force Officers received information from an HSI Special Agent that an adult male was possibly smuggling Fentanyl into the County of Maui through the Kahului Airport. Maui Police Department police officers do not have the authority to conduct drug interdictions at the Kahului Airport due to State of Hawaii caselaw. Our Maui Police Department police officer designated as HSI Task Force Officers do

have the authority to conduct drug interdictions at the Kahului Airport and responded to investigate.

Subsequent investigation found that the male was in possession of a substantial amount of Fentanyl, crystal methamphetamine and crack cocaine the adult male was arrested and later indicted with federal charges. If not for the partnership with the Maui Police Department and Homeland Security Investigations, these illegal narcotics would have entered the community.

Another highlight for the partnership with Maui Police Department and Homeland Security is the recent federal conviction of Lyle Cummings. Cummings was given a ten-and-a-half-year sentence for Child Enticement and Drug Trafficking charges. During an MPD and HSI investigation, Cummings communicated online for days with a person he believed to be a 13-year-old girl but in reality, was an undercover law enforcement officer. During conversations, Cummings attempted to persuade the minor to engage in sexual activity with him. When Cummings arrived to meet what he believed to be the minor, he was found in possession of cocaine and crack cocaine packaged for sale.

These are only a few highlights of Maui Police Department's partnership with Homeland Security Investigations.

2. *Please describe the potential consequences if Bill 88 is not passed.*

If Bill 88 is not passed, it could negatively affect the way drug trafficking and human trafficking cases are investigated and/or prosecuted.

In addition, the drug overdose deaths in Hawaii are on the rise due to Fentanyl use. The Hawaii Revised Statute does not address drug overdoses that cause serious bodily injury and/or death. There are federal laws that address these crimes. Maui police officers designated as Task Force Officers are able to investigate and prosecute these types of crimes federally.

3. *Please explain the differences between the proposed bill that was submitted to the Council via County Communications 21-413 and Bill 88.*

The Memorandum of Understanding under Bill 88 has the most current and updated information. The point of contact and Chief of Police for the Maui Police Department has been updated.

4. *Can the County enter into a Memorandum of Understanding with a federal agency other than the U.S. Immigration and Customs*

Enforcement (ICE) Homeland Security Investigations (HSI), such as the Federal Bureau of Investigation or Drug Enforcement Administration, and achieve the same outcome?

The Maui Police Department already has Memorandums of Understanding with the Federal Bureau of Investigation (FBI) and Drug Enforcement Administration (DEA). Having Task Force Officers with different federal agencies provides the Maui Police Department with more investigatory resources.

5. ***If the Department has been operating under an existing 2017 agreement that allows Maui police officer to be HSI Task Force Officers, why is Bill 88 needed?***

Since 2017 the Special Agent in Charge (SAC) for Homeland Security Investigations, the Chief of Police for the Maui Police Department and Points of Contact has changed. It is recommended to have a current and updated Memorandum of Understanding for legal purposes.

Bill 88 is required because of Section 2.20.020 of the Maui County Code which states; unless authorized by ordinance, the Mayor shall not enter into an intergovernmental agreement or any amendment thereto which places a financial obligation upon the county or any department or agency thereof.

6. ***Does the federal government provide compensation to Maui police officers training as Task Force officers who perform duties associated with this training? If so, please describe how the compensation is provided.***

The Homeland Security Investigations (HSI) does provide Maui Police Department Task Force Officers compensation for overtime incurred while participating in federal investigations. HSI also provide compensation for confidential funds utilized for illegal narcotics purchases and intelligence for federal investigations.

7. ***If Bill 88 is enacted:
a. How many Maui police officers will be trained as Task Force officers?***

At this time, the Maui Police Department and Homeland Security Investigations are looking to have a total of four Maui Police Department officers trained as Task Force Officers. Two officers from the Vice Narcotics Division and two officers from the Criminal Investigation Division.

b. Will ICE Enforcement and Removal Operations (ERO) be able to enter into an agreement with the Department of Police? Please describe what mechanisms would either allow or prevent such an agreement.

Enforcement and Removal Operations (ERO) and Homeland Security Investigations are two separate entities under United States Immigration and Custom Enforcement. Bill 88 would authorize the Memorandum of Understanding between the Maui Police Department and Homeland Security Investigations (HSI). The bill would not authorize a Memorandum of Understanding between the Maui Police Department and the Enforcement and Removal Operations (ERO).

8. Is HSI authorized to perform the duties of ERO? If not, please describe what mechanisms prevent this from happening.

Special Agents from Homeland Security Investigations do have the authority to conduct Enforcement and Removal Operations; although, that is not be their primary focus. The authority to conduct Enforcement and Removal Operations do not transfer to Homeland Security Investigations Task Force Officers; therefore, Maui Police Department Task Force Officers would not have the authority to conduct Enforcement and Removal Operations.

Sincerely,



JOHN PELLETIER
Chief of Police

DRIP Committee

From: Michelle Santos <Michelle.Santos@co.maui.hi.us>
Sent: Wednesday, October 25, 2023 11:57 AM
To: DRIP Committee
Cc: Cynthia Sasada; Josiah Nishita; Kekuhaupio Akana; Leo Caires; Louise Batoon; Pili Nahooikaika; Angela Andrade; Jenny Y. Nakama; John Pelletier; Mike Crowe; Wade Maeda
Subject: MT#10341 Bill 88 (2023) Authorizing The Mayor to Enter Into An Intergovernmental Agreement With The U.S. Immigration and Customs Enforcement Homeland Security Investigations
Attachments: MT#10341-DRIP Committee.pdf

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Michelle L. Santos

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