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FEASIBILITY STUDY ON THE  
CONSOLIDATION AND PLACEMENT OF STATE POLICE  
FUNCTIONS AND POWERS

by

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## Chapter I

### INTRODUCTION

Senate Resolution 205, adopted by the Senate, Fifth State Legislature, Regular Session of 1969, expresses legislative concern over the many requests from state departments for powers similar to those exercised by police officers for the purpose of executing the policing functions of the departments.<sup>1</sup> Traditionally, the Legislature has granted state departments with such powers to carry out their functions. Because of the many requests for such powers by individual departments, however, the Legislature has requested the Legislative Reference Bureau to conduct a study on the granting of police officer powers to state departments with a view toward possibly:

1. Consolidating the state police functions and placing the centralized police functions within the Office of the Attorney General; and
2. Centralizing the authority to confer police officer powers in the Office of the Attorney General.

Since the main concern of the Legislature, as expressed in the language of Senate Resolution 205, is over the conferral of police officer powers to state departments and the creation of decentralized "departmental police officers", this report will cover only those functional areas in which departmental officers are vested with powers alike those of a "police officer" and not the general enforcement functions exercised by a state department.

The conferral of police officer powers upon state departmental personnel is of great import. Unlike ordinary citizens, even those with special police commissions, a regular police officer has greater powers of arrest and the privilege of carrying firearms. Whereas a citizen or a special police officer may arrest a person only if he has committed a crime in his presence, a

regular police officer may arrest and take into custody, without a warrant, any person on probable cause.<sup>2</sup> The privilege of carrying firearms is restricted primarily to regular policemen and members of the military. Citizens and special police officers are prohibited from carrying firearms in public unless authorized by the Chief of Police and then only under extraordinary circumstances as in the case of a serious threat to a person or his property.<sup>3</sup>

Presently full police officer powers have been authorized for the enforcement personnel of six executive departments of the State, each by separate statute. Their particular law enforcement functions will be discussed before the feasibility of their consolidation is considered.

## Chapter II

### STATE DEPARTMENTAL POLICE FUNCTIONS AND PERSONNEL

There are six state departments authorized by statute to exercise full police powers in the execution of their specific functions. The functions of these departments, including the legal or administrative problems encountered by them in the exercise of their police powers, will be discussed in this chapter.

#### Department of Accounting and General Services

Pursuant to section 107-11, Hawaii Revised Statutes, as amended by Act 118, Session Laws of Hawaii 1969, the Comptroller is responsible for the control of parking on state lands within his jurisdiction, and in this connection is authorized "...to confer the powers of police officers, including the power to serve and execute warrants, arrest offenders and serve notices and orders, to employees of the department of accounting and general services who are engaged as special officers to enforce this section". The duties of the personnel enforcing the state parking rules and regulations, promulgated in accordance with section 107-11, include issuing citations for violations of traffic rules and regulations, investigating and reporting on accidents occurring in state parking areas, and making arrests, if necessary, to maintain peace and order, and protecting property in state parking areas. In addition to the above duties, the supervisor of the parking lot attendants is also responsible for the maintenance of parking lot facilities and the coordination of records of traffic citations with the county Traffic Citations Bureau, and makes recommendations for changes in the state parking

rules and regulations. The particular job requirement for these departmental police officers is work experience with the public.

The department considers police officer powers as necessary and justified by the substantial number of distress calls received by the department for assistance in the removal of disorderly persons from state parking areas or state buildings adjoining state parking areas. Despite the full powers of arrest granted to parking lot attendants, however, actual arrest and deposition are made by county policemen for the following reasons:

1. No personnel have police training except for the present parking lot supervisor, who is an ex-policeman;
2. The classifications and salaries of the positions hinder the employment of better qualified personnel;<sup>1</sup> and
3. The county police department has the operational machinery and facilities for the deposition of those arrested.

#### Department of the Attorney General

The Attorney General is authorized by sections 28-11 and 28-22, Hawaii Revised Statutes, to appoint one or more investigators and a sheriff and deputy sheriffs to assist him in the execution of his duties, and is empowered, pursuant to sections 28-11 and 28-23, to vest them with police officer powers if such powers are necessary to carry out their assigned duties.

Presently, the Department of the Attorney General has one investigator who is primarily responsible for conducting interviews to determine facts and to obtain information for the department's legal case work. In the performance of his duties, the Attorney General has determined that police officer powers are not necessary and has not conferred such powers upon the

investigator. The particular job requirements for this appointive position are knowledge of social sciences, investigation techniques and report writing. These qualifications are similar to those required for civil service investigators.

The sheriff and deputy sheriffs are, in accordance with section 28-23, Hawaii Revised Statutes, charged with peace officer functions and the service of process and other court orders, but in practice they are primarily concerned with the service of process. Persons who are deputized to serve processes must have knowledge of the laws governing serving of process, levying on property and legal terminology, and in this connection the sheriff conducts training programs, which also include police science training for these personnel.

The Attorney General believes that police officer powers are necessary for the sheriff and his deputies because full police powers may be needed for extraordinary situations where a person against whom a writ has been served may resist and for emergencies when the police departments may require additional support, which can be provided by the sheriff and the deputy sheriffs. In addition, the department reports that it has experienced no legal or administrative problems in the exercise of its police powers.

#### Department of Defense

Pursuant to Act 249, Session Laws of Hawaii 1969, the Adjutant General is authorized to confer police officer powers upon Defense Department employees who are engaged as security guards. These security guards, however, are restricted in their exercise of police power to the time and place of duty, which has been interpreted by the department to mean Washington Place and the State Capitol Building.<sup>2</sup>

The security guards are responsible for patrolling assigned areas of the State Capitol Building and Washington Place, guarding state property against theft, vandalism and fire, enforcing all laws and rules and regulations for the protection of persons and property, and in the execution of these responsibilities, may make arrests and use firearms. Knowledge of law enforcement techniques is required of all security guards.

The Department of Defense believes that full police powers are necessary for its security function. Although security guards rely on the county police for most arrests because the police department has the operational organization to handle the custody and deposition of arrested persons, the Department of Defense contends that police officer powers are necessary for emergency situations where there is no time to call upon the police.

Lack of police training is not a problem since the department has, as a precaution, established a requirement that security guards receive approximately 120 hours of police training before being vested with police officer powers.

#### Department of Health

Chapters 328 and 329, Hawaii Revised Statutes, charge the Department of Health with the responsibility for the control of drug abuse and narcotics, and authorize the Director of Health to confer, pursuant to sections 328-87 and 329-27, police officer powers on departmental employees who enforce the drug abuse and narcotics control laws.



The enforcement personnel, called drug control program specialists, are given the broad duties of detecting and preventing drug addiction. In actual practice, however, the drug control program specialists are primarily involved in the inspection of private and public drug suppliers, hospitals, physicians' and dental offices, and drug stores for compliance with drug security rules and regulations, and in the investigation of violations of statutes and rules and regulations governing the manufacture, sale, possession, and dispensing of dangerous and narcotic drugs. Drug control program specialists are required to have knowledge of narcotic and drug abuse control laws, the uses and effects of dangerous drugs, investigative techniques, rules of evidence, and methods of preserving evidence.

The Department of Health has indicated that it requires full police powers to support its narcotic and drug abuse control functions and enforcement personnel who may be required, in the course of their work, to apprehend and arrest offenders and seize illicit drugs.

#### Department of Land and Natural Resources

The Department of Land and Natural Resources exercises police powers in three functional areas--forestry and land fire protection, state parks, and fish and game. Section 183-3, Hawaii Revised Statutes, vests forest rangers with police officer powers for the enforcement of statutes and rules and regulations relating to forestry and forest reservations. Section 184-5 authorizes the department to confer police officer powers upon the Director of State Parks or other employees of the parks division for the enforcement of all laws relating to state parks, parkways, and forest reserves. For the enforcement of laws relating to the protection and preservation of fish and game within the State and waters subject to its jurisdiction,

the department's enforcement personnel, the fish and game wardens, are vested with police officer powers pursuant to section 187-8, Hawaii Revised Statutes. The fish and game wardens may, in addition, enforce statutes relating to firearms and ammunition in accordance with section 187-15.

Forest rangers are responsible for patrolling forest areas and enforcing conservation rules and regulations such as game limits and theft of plants and trees in forest reserves. In addition, they aid in forestry research and management, maintaining special bird projects, and nursery propagation. Forest rangers are required to have experience in forest maintenance and knowledge of diversified agriculture and nursery work.

Fish and game wardens patrol and inspect fish and game hunting areas for illegal activities and in this connection, may seize and take catches and hunting and fishing equipment. Fish and game wardens also assist in the collection and forwarding of fish and game data and specimens to the division's central laboratory. The special job requirements for fish and game wardens are knowledge of sea and wildlife of the State and investigation techniques.

There are no personnel with police officer powers in the Parks Division since the department has not conferred such powers upon the employees of this division. The forest rangers, fish and game wardens, or local police authorities assist the park caretakers in the enforcement of statutes and rules and regulations relating to parks and parkways.

Only the Forestry Division has experienced legal difficulties in the exercise of its police powers, primarily in the area of arrests. The division, however, believes that these problems can be solved by police training programs for the forest rangers. While the Fish and Game Division has the most effective law

enforcement program of the three divisions, it has had administrative problems in maintaining an effective patrol operation in state fish and game areas. The division has solved the patrol problem by obtaining from the legislature, the power to issue summonses or citations for violations of fish and game laws and rules and regulations.<sup>3</sup> This system of apprehending violators eliminates the need for fish and game wardens to physically arrest and transport violators to the police station for booking and deposition, and thus increases the patrol time of the wardens.

Presently, the department is studying ways to further improve the administration of its law enforcement programs and police functions and is considering the consolidation of its police functions and personnel into one division of conservation law enforcement. The department has indicated that this action, which can only be effectuated by amendatory legislation, would:

1. Increase savings in policing equipment, such as communications equipment and patrol vehicles; and
2. Avoid duplication of efforts since all three law enforcement areas under the department are similar in nature and purpose--that is, to preserve and protect plant and animal resources of the State.

Furthermore, because the department is implementing the multiple use concept of forest and other reserve areas by opening these areas for recreational use by the public, the policing activities can be handled more effectively by a "division of conservation law enforcement". Finally, the department believes that police powers are necessary for the effective support of their line functions, the protection and conservation of the State's natural resources.

## Department of Transportation

The Department of Transportation is charged with the enforcement of the statutes and rules and regulations relating to aeronautics, the operation and management of the state airports system and air navigational facilities; the operation and management of the state harbors system and facilities; and shores, shorewaters and navigable streams, and boating. The Director of Transportation, pursuant to sections 261-17, 266-24, and section 267-6, Hawaii Revised Statutes, as amended by Act 266, Session Laws of Hawaii 1969, may vest the employees of the Transportation Department with police officer powers for the enforcement of all laws in these functional areas.

The Airports Division, which is responsible for the enforcement of matters relating to aeronautics, administers its policing program through the combined use of airports division personnel, ramp controlmen, operations and maintenance men, airport attendants or the airport superintendents, and county policemen. On Oahu, primarily at the Honolulu International Airport, the ramp controlmen are responsible for the enforcement of aeronautics rules and regulations pertaining to ramp areas or aircraft operational areas. Their duties include the traffic control of vehicles servicing the airlines, ramp and taxiway safety, public building security within aircraft operational areas, and the assignment of gates and the recordation of landing aircraft. In the public access areas, such as the terminal lobbies and public parking areas, the department has contracted, by verbal agreement, with the county police department to control motor vehicle traffic and parking, patrol for public safety and building security, and to assist in emergency situations involving bomb threats to aircraft and plane crashes. County policemen also assist ramp controlmen when arrests must be made in aircraft operational areas. In the districts of Hawaii,

Kauai and Maui, the airport operations and maintenance men and the airport superintendent perform the duties that the ramp controlmen perform at the Honolulu International Airport. The county police of Hawaii and Kauai perform traffic and parking control, public safety and security functions in the public access areas, and assist the airport personnel as is required. On Maui, however, the county police department has refused to contract out its personnel for airports policing and security because it does not have sufficient personnel for such an assignment. On Maui, therefore, airport attendants are responsible for traffic and parking control, and private security guards are employed for airport facilities security during the non-operational hours. Ramp controlmen, operations and maintenance men and airport attendants are empowered to issue citations for violations of rules and regulations relating to aeronautics, but they need not possess aeronautical knowledge as a minimum job requirement.<sup>4</sup> The airport superintendent is empowered to exercise full police powers in enforcing rules and regulations relating to aeronautics and must possess knowledge of airport management since he is responsible for the operation of the airport under his jurisdiction.

The Harbors Division of the Transportation Department enforces the statutes and rules and regulations relating to harbors and ports, shore and shorewaters, and boating. Enforcement personnel within this division are called harbor attendants and marine patrolmen. Harbor attendants patrol and police harbor facilities for security purposes, inspect and maintain facilities, such as wharves, berths, and landings, and perform other duties as are required by the division. The particular job requirement for harbor attendants is knowledge of the practices, tools, and equipment used for harbor facilities maintenance. The marine

patrolmen are responsible for the field enforcement of boating, shorewater laws and rules and regulations. They patrol off-shore waters, stop, board and inspect vessels, investigate offenses and boating accidents, and may apprehend offenders. The particular job qualification for marine patrolmen is knowledge of the operation and regulations pertaining to small sea-going vessels.

The department reports no legal problems in its exercise of police powers. Administrative problems relating to the maintenance of effective harbor and shorewater patrol have been alleviated by the passage of Act 266, Session Laws of Hawaii 1969, which permits the harbor and marine patrolmen to issue summonses or citations for violations, instead of having to suspend patrol to transport violators to the police station for booking and deposition.

The Department of Transportation is satisfied with its present policing operations. The department considers airport policing by state employees on a statewide basis unnecessary and does not contemplate the establishment of a law enforcement division within the department, as is being considered by the Department of Land and Natural Resources. The department is of the opinion that full police powers are necessary for its departmental police because their law enforcement functions include security maintenance.

#### Other Agencies

Two other departments bear mentioning in this report. One is the Department of Labor and Industrial Relations, which exercises limited police powers, and the other, the University of Hawaii, which maintains a campus security police force.

The Industrial Safety Division of the Department of Labor and Industrial Relations has been conferred the power to issue

summonses or citations for violations of industrial safety statutes and rules and regulations, pursuant to section 376-33, Hawaii Revised Statutes. This power is not a full police power, and thus industrial safety inspectors do not make physical arrests or take violators into custody. If a criminal act is suspected in industrial accidents, the police department is called upon to conduct investigations and make arrests where necessary.

The department believes that the power to issue summonses or citations is sufficient for the enforcement of industrial safety laws and reports that mere warnings will often suffice to bring employees and employers into conformance with the industrial safety laws.

The University of Hawaii maintains a campus police force at its Manoa campus for the maintenance of campus security and safety, pursuant to the university's general powers over the management and control of its affairs.<sup>5</sup> The campus security policemen have been conferred special police commissions by the Chief of Police, and therefore, exercise limited police powers.<sup>6</sup> These powers are used primarily for campus patrol and security of university facilities, and if criminal acts are committed, the local police authorities are called upon to arrest the offenders. The university considers the limited special police powers sufficient for the maintenance of campus security.

### Chapter III

#### CENTRALIZATION AND PLACEMENT OF STATE POLICE POWERS AND FUNCTIONS--AN ANALYSIS

This chapter analyzes the feasibility of consolidating and placing state police functions and personnel, and the investiture of the authority to confer police officer powers in one agency, namely, the Department of the Attorney General, as indicated in Senate Resolution 205. Factors such as the necessity for full police powers, the nature of the law enforcement functions and personnel, and their legal and administrative problems are discussed in this analysis.

#### Total or Complete Consolidation and Placement of State Police Functions and Personnel

At first glance total or complete consolidation appears attractive because of:

1. Centralized control which would allow for better police training programs now lacking for the enforcement personnel of some of the departments covered by this report, and the recruitment of more qualified, professional personnel through the use of employment practices and standards similar to those of the local police departments; and
2. Obvious savings in costs by effective manpower allocation and in the quantity of equipment, such as communications equipment and patrol vehicles.

On closer scrutiny, however, complete consolidation of police functions and personnel presents problems difficult to reconcile. First, the functions being considered for consolidation are diverse and require state police personnel to possess special and distinct knowledge and skills in certain enforcement areas.<sup>1</sup> For example, the fish and game wardens of the



Department of Land and Natural Resources must possess a knowledge of sea and wildlife of the State in order to enforce the rules and regulations relating to the types and size of fish and game catches. The drug control program specialists of the Department of Health must be able to detect and recognize the effects of dangerous and illicit drugs in order to effectively enforce the statutes and rules and regulations in this area.<sup>2</sup> Thus, neither savings in number nor efficiency in the use of police personnel will be attained by their centralization in one agency since the personnel in these positions possess diverse special knowledge and cannot easily be used interchangeably.

The second problem area is in the maintenance of effective support functions and the performance of ministerial duties. Each department cited in this report believes that effective support of line functions and ministerial duties can only be maintained by the retention within the department of police powers and personnel. The several departments contend that effective administration is dependent upon the degree of responsiveness of enforcement to the support of line functions. Retention of enforcement powers and personnel within a department allows for more direct control and supervision of enforcement than if placed within an agency unacquainted or insensitive to the peculiar functions of another department. A case in point is the enforcement of the narcotics and dangerous drugs statutes by the Department of Health and the county police. While both agencies have equal concern and police powers in this area, the local police authorities are not thoroughly acquainted with and unable to deploy sufficient manpower to handle all aspects of narcotics and drug abuse control, which includes the policing of the medical professions and facilities, and pharmacies and prescriptions. Thus, the Department of Health, having general jurisdiction and responsibility for public health, has deemed it

necessary to exercise full enforcement powers in this special area of narcotics and drug abuse control. The departments further contend that their enforcement personnel fulfill a dual purpose, the performance of policing functions as well as administrative duties. For example, the fish and game wardens and the forest rangers of the Department of Land and Natural Resources serve two functions:

1. Policing for conformance to the statutes and rules and regulations administered by the department; and
2. Assisting in the gathering of data for departmental research and managing and maintaining conservation areas.

Lastly, the fact that total consolidation of these diverse functions is, at best, difficult, is illustrated by the law enforcement administration in other states. A survey was made of the state police agencies in the other 49 states. Of the 46 states responding, 15 states reported that their police agencies are highway patrols, primarily responsible for traffic and highway safety law enforcement.<sup>3</sup> The remaining 31 states reported that their police agencies are not primarily responsible for all of the police functions administered by the Hawaii state government.<sup>4</sup> They, however, assist and cooperate with the state agency primarily charged with the responsibility of enforcing particular laws.

Senate Resolution 205 specifically requests that the feasibility of placing the consolidated police functions in the Department of the Attorney General be studied since the departments resort to the attorney general's office for legal counsel in the exercise of their police powers. In interviews with the

departments concerned, however, all report that they resort to the county prosecutors for legal counsel in the exercise of their police powers and, furthermore, that much of their legal problems could be obviated by police science training for their enforcement personnel. On the other hand, the Attorney General is relied upon only for legal opinions and interpretations of the laws which the departments enforce, such legal services being a primary function of his office. Indeed, the Attorney General is of the opinion that the department's primary role is that of legal advisor to the state departments, and except for specific law enforcement responsibilities such as the enforcement of anti-trust and consumer protection laws, it should not become involved in purely police functions.

Noteworthy is the fact that prior to Hawaii's statehood, the Attorney General was responsible for the control and supervision of the territorial police force, consisting of a High Sheriff and his deputies who were primarily process servers rather than police officers. After statehood and upon complete reorganization of the state government, the territorial police was abolished and the titled positions of Sheriff and Deputy Sheriffs were retained primarily for process serving as authorized by Act 85, Session Laws of Hawaii 1963. The House Judiciary Committee, after studying the bill which became Act 85, stated in House Standing Committee Report 653 that:

The purely police functions such as preserving the peace, arresting fugitives from justice, criminals and violators of the law and the appointment of police officers should not be within the province of this Department, with the exception of the power of arrest in those rare instances where a person against whom a writ or other process is directed may resist so as to obstruct justice, and where in great emergency the regular police force is inadequate in size to cope with the problem and the reserve manpower of the Sheriff's Office may be instructed by the Attorney General to assist and complement the police department in such time of emergency.

Because the Attorney General does not believe that his department is responsible for purely police functions, such as security maintenance, and because the departments do not rely on the Attorney General for legal counsel in the exercise of police powers, it appears that the placement of state police functions in the Department of the Attorney General may not be desirable.

#### Partial Consolidation and Placement of State Police Functions and Personnel

The police functions discussed in Chapter II are not so diverse that several of these functions cannot be grouped together. For example, parking control and security maintenance at the State Capitol Building and Washington Place could be considered as essentially state public facilities security maintenance functions. In addition, the job qualifications for these state police personnel do not require highly specialized skills or knowledge. Therefore, the similarity of these functions make consolidation feasible and permits efficient use of personnel through effective manpower allocation and interchangeable enforcement personnel. Centralized control and an integrated and viable classification and salary schedule resulting from the consolidation of state security police functions would be conducive to the recruitment of more qualified and professional security personnel.

The administrative placement of the consolidated functions of security policing and parking control in the Department of Accounting and General Services would appear to be logical. Security policing appears to be more properly the function of the Department of Accounting and General Services than the Defense Department because the responsibility for state government administrative services, including the management and

security maintenance of state public facilities, is primarily a function of the Department of Accounting and General Services. Furthermore, the Department of Accounting and General Services has assumed security maintenance in state government buildings not policed by the Defense Department's security guards.<sup>5</sup> The consolidated security and parking control policing functions will enable the Department of Accounting and General Services to exercise full police authority in parking and traffic control, as well as security maintenance, in all state parking areas and buildings under the jurisdiction of the comptroller.<sup>6</sup>

The similarity of state security maintenance and parking control functions to the general law enforcement functions of the county police may give support to the practice of contracting for such services with the county police departments, as is presently being done by the Transportation Department for airport security and public safety. This method is, however, only a temporary solution to the question of the centralized administration of state security police functions because:

1. The police personnel are subject to the administration of two agencies, the county police department and the contracting state department, which may possibly lead to confusion in the delineation and assignment of responsibilities of the enforcement personnel;
2. Successful contract negotiation is dependent upon the willingness of county officials to perform state security functions and the availability of county policemen; and
3. The primary responsibility for security maintenance of state public facilities rests with the State.

Partial consolidation of police functions and personnel within a department may also be feasible and conducive to greater efficiency in state law enforcement administration. The Department of Land and Natural Resources, one of two departments

exercising multiple police functions, is subject to this type of partial consolidation. The consolidation of forestry, parks, and fish and game law enforcement functions within the Department of Land and Natural Resources appears favorable because:

1. The nature of the police functions not only involve security maintenance in conservation areas but also involve preservation and protection of animal and plant wildlife. Such police functions are thus supportive of the line functions of the department and could not effectively be executed by an agency unskilled in natural resources management; and
2. As indicated in Chapter II, the department has initiated and supports the consolidation of these conservation law enforcement functions within the department in order to achieve savings and greater efficiency in the use of manpower and equipment, and to provide better and more systematic police training for their police officers.

The other department exercising multiple police functions is the Department of Transportation. The partial consolidation of the police functions and personnel within this department does not appear feasible primarily because the type of activities being regulated, harbor and maritime activities and aeronautical activities, are different. Harbor and marine patrolmen, and airport ramp controlmen or their equivalents, upon being hired, are given training to orient and familiarize themselves with the technology and terminology of their respective law enforcement areas.

While it appears that retaining the present administrative structure for the enforcement of police functions is more efficient and feasible than consolidation, the administration of law enforcement within the Airports Division warrants, perhaps, some improvement and changes. Airport policing of public access and

parking areas by the county policemen should be discontinued. The disadvantages of employing county police personnel are discussed earlier in this chapter. Manpower shortages in county police agencies threaten the continuation or effectiveness of such an arrangement. On Maui, the county police manpower shortage has already forced the Transportation Department to provide its own security policing and parking control personnel. On Oahu, particularly at the Honolulu International Airport, security policing and parking control could become an acute problem if county police personnel are depended upon to fulfill the policing functions of the Airports Division. As the Honolulu International Airport is expanded and improved to handle larger and more aircraft resulting in more air travelers and airport visitors, the need for security policing and parking control will likewise increase.<sup>7</sup> Presently, the Honolulu Police Department is unable to supply enough manpower to fill the authorized positions of the Honolulu International Airport's police detail.<sup>8</sup> A study on airport security and traffic control personnel for the Honolulu International Airport, prepared for the Department of Transportation by Ralph M. Parsons Company, recommends the formulation of a uniformed state airport security police to handle increased security policing and traffic control needs, to augment the police assigned by the county and to lessen the Airports Division's dependence on the Honolulu Police Department.

The findings of this study indicate that a state security force for airports policing, particularly at the Honolulu International Airport, is needed. The state security force for airports should not, however, merely augment the detail of the Honolulu Police Department, as is recommended by the report. The state airport security police, together with the airport ramp controlmen, should be solely responsible for all policing within the

boundaries of the airport, thus freeing the county police personnel for other general law enforcement duties. The county police should, however, patrol outside the perimeter of the airport since such patrols are part of the normal course of work of the county police. In addition, departmental consideration should, perhaps, be given to the use of security guards assigned from the Defense Department, or from the Department of Accounting and General Services if the security functions are transferred in accordance with the recommendations of this chapter. This arrangement appears to be conducive to the standardized training for all state employees involved in security policing and traffic control and to allow for flexibility in the assignment of manpower among the departments or patrol areas, depending on security policing needs.

Centralization of the Authority to Confer Police Officer Powers Upon State Departmental Personnel in the Office of the Attorney General

A possible alternative to a "centralized police function within the office of the attorney general"<sup>9</sup> is to centralize the authority to confer police officer powers upon state personnel in the Attorney General's Office by the enactment of a general self-executing statute. The enactment of such a statute would replace the traditional practice of having the Legislature enact a separate statute each time a department requests, and justifiably requires, police powers for their enforcement personnel.

The Attorney General is, however, opposed to the delegation of this authority to his office for the following reasons:

1. The Attorney General is the chief law enforcement officer only in the broadest definition of the term; and
2. The department's primary function is to render legal advice and assistance, and the department concurs with the findings of House Standing



Committee Report 653 on House Bill 801, Act 85, Session Laws of Hawaii 1963, that purely police functions, such as the appointment of police officers, should not be within the province of the Department of the Attorney General. Further, the departments which have police officer powers rely on the county prosecuting attorneys for legal counsel in the exercise of their police powers and on the Attorney General only for legal interpretations of the laws they enforce.

Also, it does not appear desirable to charge the chiefs of police with the responsibility of conferring regular police officer powers on state department personnel because it would subject state enforcement responsibilities and functions to the discretion of county officers.

There is another possible course of action which the Legislature could consider. This alternative solution involves the issuance of summonses and citations. Our investigations and interviews have indicated that state departmental police personnel, except, perhaps, the security police, are primarily concerned with the enforcement of rules and regulations. Violations of these rules and regulations are administrative violations and, except for violations in the area of narcotics and drug abuse and certain misdemeanors, physical arrest and custody are rarely required.

Indeed, the use of summonses or citations appears to be increasingly employed when a person is charged with a misdemeanor. The President's Commission on Law Enforcement and Administration of Justice reports that "...there has been a great effort to displace arrest in appropriate cases by the greater use of summonses or citations by police in the streets. This procedure, now frequently used for traffic and administrative violations, has been expanded to certain minor offenses that do not call for booking and in-custody investigation."<sup>10</sup>

The delegation of the authority to confer police officer powers to the Attorney General by general statute may not be feasible for the reasons discussed earlier. The Attorney General, however, has no objection to delegating the authority to confer the power to issue summonses or citations to department heads, subject to his approval. If the power to issue summonses or citations is thought of as a limited law enforcement power, which each department rightfully requires to execute its duties, then the suggestion of the Attorney General that department heads, because they are best acquainted with their departmental needs, be permitted by general authorization to bestow their employees with the power to issue summonses or citations, subject to the approval of the Attorney General appears most feasible.

The authority to confer police officer powers should, therefore, be retained by the Legislature and granted only when the power to issue summonses or citations is not sufficient for the effective administration of a department's law enforcement functions. Nearly all of the departments covered in this report have contended that full police powers, in addition to the power to issue summonses or citations, are necessary for those emergency situations when their departmental police personnel meet with hostile persons, or when there is not enough time to call the county police for assistance. Generally, it appears that in the case of state departmental police officers who deal with the general public, the officers' safety and effectiveness are greatly enhanced when full police powers have been conferred. On the other hand, when state enforcement personnel deal with specific segments of the community, such as in the case of the industrial safety inspectors who deal with members of the construction industry, the power to issue summonses or citations appears to be sufficient.

## Summary

It appears that the total consolidation of state police functions and personnel in one department is not feasible because the functions of the various departments are diverse and the police personnel must possess specialized knowledge and skills for their enforcement responsibilities. Total consolidation will not accomplish efficient deployment and use of manpower in all cases since the enforcement positions would be difficult to interchange. Moreover, several departments have contended that the consolidation of their police functions in another agency will cause hardship to them since the enforcement personnel is now used not only for policing functions but also to carry out the department's functions that are nonpolice in nature.

On the other hand, partial consolidation of similar police functions and personnel appears to be more feasible and practical. For example, the police functions of the Departments of Accounting and General Services and Defense can be considered as being essentially security policing and maintenance functions. This similarity is conducive to consolidation and administrative efficiency since the enforcement personnel have similar job requirements and their positions are easily interchangeable. Partial consolidation of similar functions within departments is also feasible, as in the case of the Department of Land and Natural Resources. In addition, the retention of enforcement powers and personnel within this department will support the effective administration of its line functions.

The multiple police functions of the Department of Transportation, however, should not be consolidated within the department because the functions are dissimilar. It is recommended, however, that improvements and changes be made to the administration of security and traffic policing within the Department's

Airports Division by terminating the use of county policemen and utilizing, instead, state personnel for security and traffic policing.

The placement of state police powers and personnel within the Department of the Attorney General is not advisable because this department functions primarily as a legal advisor to the state departments and does not generally deal with purely police functions. The consolidated police functions of the Departments of Accounting and General Services and Defense can justifiably be placed within the administration of the Department of Accounting and General Services since the functions are concerned with security policing and maintenance of state public facilities, and this department is responsible for the management of state public facilities, and state government administrative services.

Furthermore, it appears that full police powers are not necessary for all of the departments discussed in this report. Future departmental requests for full police powers, such as in the case of the Department of Agriculture, should be analyzed to determine whether such powers are needed or whether the power to issue summonses or citations would suffice.<sup>11</sup> Full police powers should, however, be retained for the following functions:

1. Security policing and maintenance because police officer powers are necessary to deal with emergency situations which may involve the commission of serious crimes;
2. Narcotics and drug abuse control since many violations of the statutes and rules and regulations in this area are felonies;
3. Process serving by the sheriff and his deputies for "...those rare instances where a person against whom a writ or other process is directed may resist so as to obstruct justice...."<sup>12</sup>; and
4. Conservation law enforcement because the personnel of the Department of Land and Natural Resources deal with hunters and fishermen armed with guns and spears.

The authority to confer the power to issue summonses or citations may be delegated by a general self-executing statute to the department heads who may grant their employees this limited police power, subject to the approval of the Attorney General.

## FOOTNOTES

### Chapter I

1. See Senate Resolution 205, Regular Session of 1969 in the Appendix of this report.
2. Hawaii Rev. Stat., secs. 708-1 to 708-5.
3. Hawaii Rev. Stat., secs. 134-9 and 134-11; Rule 8, Rules of the Honolulu Police Commission.

### Chapter II

1. The classification and salary of the positions are:
  - a. Parking lot attendant II, SR 7, \$4,500 per year.
  - b. Parking lots supervisor, SR 12, \$5,760 per year.
2. See Senate Standing Committee Reports 194 and 700, and House Standing Committee Report 742 on Act 249, Session Laws of Hawaii 1969.
3. Hawaii Rev. Stat., secs. 187-10 and 187-11.
4. The Department of Transportation has requested the power to issue summonses or citations for violations of airport rules and regulations. See Senate Bill 1477 and House Bill 1596 from the Fifth State Legislature, Regular Session of 1970. Apparently, this power is already being exercised by the police personnel of the Airports Division, but since the statutes, Chapter 261, Hawaii Revised Statutes, are unclear as to whether the division has such authority, specific legislative authorization is being requested by the Transportation Department.
5. Hawaii Rev. Stat., sec. 304-4.
6. Hawaii Rev. Stat., secs. 134-9 and 134-11; Rule 8, Rules of the Honolulu Police Commission.

### Chapter III

1. Diversity on the functions of the state police personnel positions is further reflected in the wide ranging civil

service ratings, Salary Range 7, \$4,500 per year to Salary Range 28, \$12,552 per year.

2. The Department of Agriculture has reported that, if granted police powers, such powers will be conferred upon employees who possess at least two years of education in agricultural and animal sciences. This knowledge is necessary for the enforcement of departmental rules and regulations. The Agriculture Department's request for police powers is contained in the administration bills, Senate Bill 7 and House Bill 317, introduced in the Regular Session of 1969. Neither bill was passed by the Legislature and both will carry over into the 1970 Regular Session in accordance with section 16, Article III, of the Hawaii State Constitution.
3. The states which have state highway patrols are: Delaware, Georgia, Kansas, Minnesota, Mississippi, Montana, Nebraska, Nevada, North Carolina, North Dakota, Ohio, Oklahoma, South Carolina, South Dakota and Wyoming.  
  
The states which have state police agencies with general law enforcement powers are: Alabama, Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Florida, Idaho, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Missouri, New Hampshire, New Jersey, New York, Oregon, Pennsylvania, Rhode Island, Tennessee, Texas, Utah, Vermont, Virginia, Washington and West Virginia.
4. See Table I in the Appendix of this report. While the state police agencies of the 30 states are not primarily responsible for all of the police functions administered by the Hawaii state government, they are solely responsible for some of the police functions discussed in this report.
5. This assumption of security functions, although not unwarranted, appears to be questionable under the strict interpretation of section 107-11, Hawaii Revised Statutes, as amended by Act 118, Session Laws of Hawaii 1969, which authorizes parking control attendants to exercise police powers only in the enforcement of parking rules and regulation on state lands within the jurisdiction of the Department of Accounting and General Services and not in the area of security maintenance for state government buildings.

6. A less compelling justification can be made for the placement of these consolidated police functions or the retention of security policing in the Department of Defense; although it is concerned with the maintenance of security, the Defense Department's security functions are primarily for military and civil defense purposes.
7. According to the Honolulu International Airport: Summary Master Plan Study, 1968, which was prepared for the Department of Transportation by Peat, Marwick, and Livingston and Company, the air passenger volume will reach 8.3 million passengers in 1970 and 18.5 million passengers in 1985. Automobile parking spaces are numbered at approximately 4,000 stalls in 1970 and will number 10,000 stalls in 1985.
8. Presently, 20 patrolmen positions have been allocated to the Honolulu International Airport's police detail, but only 12 policemen have been assigned.
9. See Senate Resolution 205, adopted by the Senate, Fifth State Legislature, Regular Session of 1969.
10. President's Commission on Law Enforcement and Administration of Justice, The Challenge of Crime in a Free Society (Washington: 1967), p. 132.
11. Senate Bill 7 and House Bill 317, introduced during the Regular Session of 1969, request police officer powers for the employees of the Department of Agriculture. It should be noted that in SB 7, SD 1, the amended version of the bill, only the power to issue summonses or citations is granted to the department.
12. House Standing Committee Report 653 on Act 85, Session Laws of Hawaii 1963.



## APPENDIX A

The following table shows the type of state police agency for each state, except the State of Hawaii. There are basically two types of state police agencies:

1. Those with general law enforcement powers similar to the county or municipal police departments; and
2. Highway patrol agencies who are primarily limited to the policing of state highways and motor vehicle registration.

The table also shows (by the "x" notations) which of the Hawaii state police functions are primarily administered by the state police agencies of the other 49 states.

Table 1

POWERS AND FUNCTIONS OF THE STATE POLICE AGENCIES OF  
THE UNITED STATES, EXCLUDING THE STATE OF HAWAII

State	Type of State Police Agency	ADDITIONAL POLICING FUNCTIONS FOR WHICH THE STATE POLICE AGENCIES ARE PRIMARILY RESPONSIBLE								
		State Parking Control	Security of Public Buildings	Airports	Boating	Harbors	Fish and Game	Forestry	Parks	Narcotics and Drug Abuse
ALABAMA	General Law Enforcement Functions									
ALASKA	General Law Enforcement Functions		x		x	x				x
ARIZONA	General Law Enforcement Functions									x
ARKANSAS	General Law Enforcement Functions									
CALIFORNIA	General Law Enforcement Functions	x	x							
COLORADO	General Law Enforcement Functions									
CONNECTICUT	General Law Enforcement Functions									
DELAWARE	Highway Patrol Functions									
FLORIDA	General Law Enforcement Functions									
GEORGIA	Highway Patrol Functions									

ADDITIONAL POLICING FUNCTIONS FOR WHICH THE STATE  
POLICE AGENCIES ARE PRIMARILY RESPONSIBLE

State	Type of State Police Agency	State Parking Control	Security of Public Buildings	Airports	Boating	Harbors	Fish and Game	Forestry	Parks	Narcotics and Drug Abuse
IDAHO	General Law Enforcement Functions									
ILLINOIS	General Law Enforcement Functions									x
INDIANA	General Law Enforcement Functions									x
IOWA	General Law Enforcement Functions									
KANSAS	Highway Patrol Functions									
KENTUCKY	General Law Enforcement Functions				x	x				x
LOUISIANA	General Law Enforcement Functions									x
MAINE	General Law Enforcement Functions									x
MARYLAND	General Law Enforcement Functions		x							x
MASSACHUSETTS	General Law Enforcement Functions			x	x	x				x
MICHIGAN	NO RESPONSE									

ADDITIONAL POLICING FUNCTIONS FOR WHICH THE STATE  
POLICE AGENCIES ARE PRIMARILY RESPONSIBLE

State	Type of State Police Agency	State Parking Control	Security of Public Buildings	Airports	Boating	Harbors	Fish and Game	Forestry	Parks	Narcotics and Drug Abuse
MINNESOTA	Highway Patrol Functions									
MISSISSIPPI	Highway Patrol Functions	x	x							x
MISSOURI	General Law Enforcement Functions									x
MONTANA	Highway Patrol Functions									
NEBRASKA	Highway Patrol Functions									x
NEVADA	Highway Patrol Functions									
NEW HAMPSHIRE	General Law Enforcement Functions									x
NEW JERSEY	General Law Enforcement Functions		x							x
NEW MEXICO	NO RESPONSE									
NEW YORK	General Law Enforcement Functions									
NORTH CAROLINA	Highway Patrol Functions									
NORTH DAKOTA	Highway Patrol Functions									

ADDITIONAL POLICING FUNCTIONS FOR WHICH THE STATE  
POLICE AGENCIES ARE PRIMARILY RESPONSIBLE

State	Type of State Police Agency	State Parking Control	Security of Public Buildings	Airports	Boating	Harbors	Fish and Game	Forestry	Parks	Narcotics and Drug Abuse
OHIO	Highway Patrol Functions									
OKLAHOMA	Highway Patrol Functions									
OREGON	General Law Enforcement Functions	x	x		x	x	x	x	x	
PENNSYLVANIA	NO RESPONSE									
RHODE ISLAND	General Law Enforcement Functions									
SOUTH CAROLINA	Highway Patrol Functions									
SOUTH DAKOTA	Highway Patrol Functions		x							
TENNESSEE	General Law Enforcement Functions									x
TEXAS	General Law Enforcement Functions									x
UTAH	General Law Enforcement Functions									
VERMONT	General Law Enforcement Functions		x	x	x	x		x	x	x
VIRGINIA	General Law Enforcement Functions									
WASHINGTON	General Law Enforcement Functions									

ADDITIONAL POLICING FUNCTIONS FOR WHICH THE STATE POLICE AGENCIES ARE PRIMARILY RESPONSIBLE										
State	Type of State Police Agency	State Parking Control	Security of Public Buildings	Airports	Boating	Harbors	Fish and Game	Forestry	Parks	Narcotics and Drug Abuse
WEST VIRGINIA	General Law Enforcement Functions									
WISCONSIN	NO RESPONSE									
WYOMING	Highway Patrol Functions									

Source: Legislative Reference Bureau Questionnaire on State  
Police Functions, September 30, 1969.

(To be made one and eight copies)

FIFTH LEGISLATURE, 1969  
STATE OF HAWAII

S.R. NO. 205

C

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P

Y

SENATE RESOLUTION

REQUESTING A STUDY BY THE LEGISLATIVE REFERENCE BUREAU OF THE STATE  
POLICE FUNCTIONS AND THE POSSIBLE CONSOLIDATION OF  
SAID POWERS IN THE OFFICE OF THE ATTORNEY GENERAL.

1 WHEREAS, many of the departments of the state government  
2 have requested legislation for powers alike that of a "police  
3 officer" in the enforcement of its rules and regulations; and  
4

5 WHEREAS, the State of Hawaii is without a centralized  
6 state police force; and  
7

8 WHEREAS, the state has many functions which require  
9 policing powers and heretofore have looked to the various counties  
10 for assistance in carrying out such powers; and  
11

12 WHEREAS, the present practice is to have legislation  
13 enabling those departments of the state government which require  
14 enforcement officers to be vested with authority alike that of  
15 "police officers" thus creating many decentralized departmental  
16 "police officers"; and  
17

18 WHEREAS, the delegation and exercise of police powers  
19 often require legal counsel and expertise for which the various  
20 department heads now resort to the Attorney General's office of  
21 the State of Hawaii; now, therefore,  
22

23 BE IT RESOLVED by the Senate of the Fifth State Legis-  
24 lature of the State of Hawaii, Regular Session of 1969, that the  
25 Legislative Reference Bureau be requested to conduct a study on  
26 the possible consolidation of the police functions and that they  
27 further study the feasibility of creating a centralized police  
28 function within the office of the attorney general; and  
29

30 BE IT FURTHER RESOLVED that the Legislative Reference  
31 Bureau report its findings and recommendations to the Senate of  
32 the State of Hawaii twenty days before the convening of the 1970  
33 regular session; and  
34

35 BE IT FURTHER RESOLVED that a duly certified copy of  
36 this Resolution be forwarded to the director of the Legislative  
37 Reference Bureau.  
38