
**A Review of the Transfer of the
Marine Patrol and Potential
Transfer of the Division
of Conservation and
Resources Enforcement**

A Report to the
Governor
and the
Legislature of
the State of
Hawaii

Report No. 92-28
December 1992

THE AUDITOR
STATE OF HAWAII

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Submitted by

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Foreword

Two enforcement arms in two separate departments are responsible for protecting Hawaii's ocean recreation and natural resources—the marine patrol at the Department of Public Safety and the Division of Conservation and Resources Enforcement at the Department of Land and Natural Resources. This report reviews the organizational placement of the two marine and conservation enforcement programs as requested in Act 272, 1991.

We examined the impact of the 1991 transfer of the state marine patrol from the Department of Transportation to the Department of Public Safety. We also studied whether better coordination would result if the Division of Conservation and Resources Enforcement were transferred from the Department of Land and Natural Resources to the Department of Public Safety and merged with the marine patrol.

We wish to express our appreciation for the cooperation extended to us by staff of the Department of Land and Natural Resources and the Department of Public Safety. We especially wish to acknowledge the cooperation provided by enforcement staff from both departments that assisted us in this review.

Marion M. Higa
State Auditor

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Chapter 1

Introduction

Visitors and residents alike enjoy Hawaii's unique climate, scenic environment, and ocean surroundings. Without protection, the State's marine and natural resources could be easily damaged by growing recreational uses. Responsibility to protect Hawaii's natural resources and users of these resources is shared between enforcement arms within the Department of Land and Natural Resources (DLNR) and the Department of Public Safety (PSD).

In the past several years, the Legislature reorganized ocean recreational and coastal area programs. In Act 211, 1989, it transferred the enforcement arm of the boating program, the marine patrol, to PSD. Under Act 272 in 1991, the Legislature removed the small boating program from the Department of Transportation and transferred it to DLNR (see Figure 1.1). The Legislature also asked the Auditor to study the transfer of DLNR's enforcement arm, its Division of Conservation and Resources Enforcement (DOCARE), to PSD.

In making the transfers, legislators commented in interviews that they wanted to ensure that the marine patrol maintains a conservation perspective. Both in Act 272 and the associated committee reports, the Legislature instructed DLNR and PSD to coordinate resource management, conservation, education, and to share enforcement in land and water matters. In Section 35 of Act 272, the Legislature requested that the State Auditor review the effectiveness of the transfer of the marine patrol to PSD and the potential transfer and merger of DOCARE with the marine patrol in PSD.

Objectives of the Review

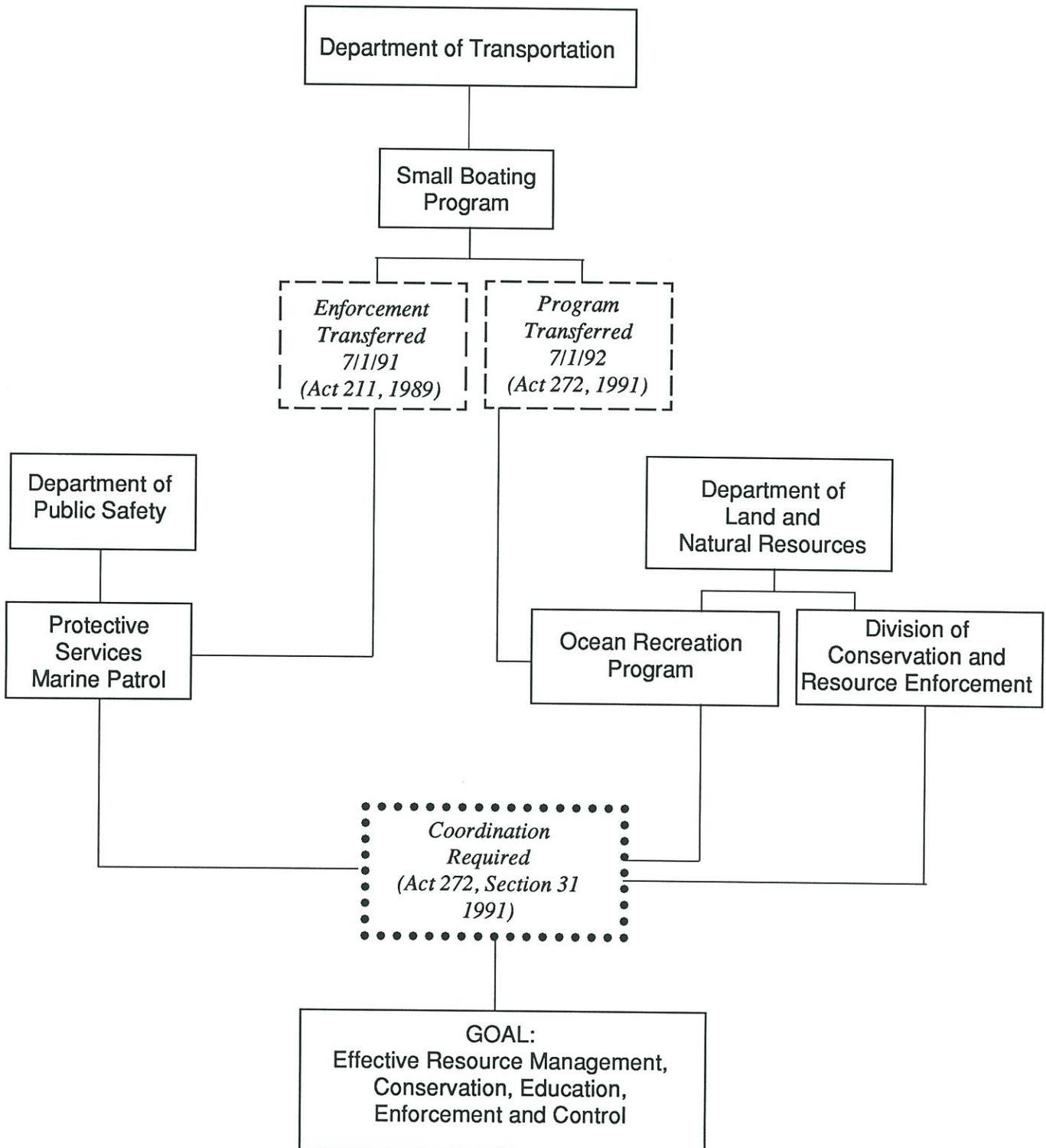
This study sought to:

1. Determine the effectiveness of the marine patrol transfer to the Department of Public Safety in terms of its responsibilities for enforcing the boating program; and
2. Determine whether more effective coordination for conservation, education, and resource management would be achieved by the transfer and merger of DOCARE with the marine patrol in PSD.

Scope and Methodology

We reviewed the organization and management of the marine patrol and its coordination with the boating program. To compare marine patrol operations before and after its July 1991 transfer to PSD, we focused on marine patrol activities from 1988 to the present.

Figure 1.1
FLOWCHART OF AGENCY RELATIONSHIPS



We reviewed the organization and management of DOCARE and its coordination with other DLNR divisions and with the marine patrol from 1989 to the present.

We observed the operations of the marine patrol, the boating program, and DOCARE on Oahu and the neighbor islands. We interviewed officials at DLNR and PSD, enforcement officers of the marine patrol and DOCARE, managers and staff for the boating program, and others knowledgeable in enforcement. We also interviewed DLNR division managers who depend on DOCARE for enforcement.

We surveyed over 100 marine patrol and DOCARE officers to collect information on coordination, mission, responsibilities, program priorities, functions, and operations. The response rate to our survey was 83 percent for the marine patrol and 76 percent for DOCARE.

We examined enforcement agreements, reports, policies and procedures, and program files as appropriate. We also examined funding sources, budget requests, internal correspondence, and memoranda. In addition, we reviewed selected management controls at the marine patrol and DOCARE and their compliance with applicable laws.

Our work was performed from June 1992 through September 1992 in accordance with generally accepted government auditing standards.

Chapter 2

Ocean and Conservation Enforcement

The Legislature has struggled for some time with ways to improve the State's ocean recreation and conservation resource programs. In this chapter, we examine the impact of transferring the marine patrol to the Department of Public Safety (PSD) and the potential transfer of the Division of Conservation and Resources Enforcement (DOCARE) from the Department of Land and Natural Resources (DLNR) to PSD.

Summary of Findings

1. The transfer of the marine patrol from the Department of Transportation (DOT) to PSD has had some positive results but internal problems persist.
2. The transfer has not improved conservation and enforcement efforts. Specifically, DLNR and PSD have not coordinated enforcement activities, cross-trained their enforcement officers, nor shared information.
3. The mission, role, and duties of the marine patrol have evolved without legislative direction.
4. The transfer of DOCARE to PSD would result in similar problems in coordinating conservation and enforcement programs.

Transfer of Marine Patrol Has Had Some Benefits But Problems Persist

The Legislature passed Act 211 in 1989 to consolidate all law enforcement activities of state government into one department—the Department of Public Safety. Included in the transfer was the marine patrol which was then in the Department of Transportation. The transfer has had some positive results but problems continue.

Background on marine patrol

The marine patrol was never established by law. It originated in the 1970s when the director of transportation, who has the authority under harbor and boating laws to appoint boating enforcement officers, appointed a few security personnel and a marine patrol officer. These employees were part of the small boating program and were used primarily to provide security in the small boat harbors on Oahu. During the 1980s, more marine patrol positions were established and off-shore patrols increased. Today, there are 37 filled marine patrol positions statewide in district offices on Oahu, Hawaii, Maui, and Kauai. The marine patrol budget for 1992-93 is about \$1.2 million from a combination of general and special funds. Federal funds are available after the state allotment is determined.

The marine patrol has jurisdiction over all shore waters between the State's three mile nautical limit and the mean high tide mark on the shore, including beaches, docks, piers, and landings. Its responsibilities include enforcing rules on boating safety, conservation, small boat harbors, and offshore mooring. Officers also enforce rules, conduct underwater investigations, do surveillance, go on search and rescue missions, and participate in boating safety education programs.

Improvements in leadership, training, and patrol coverage

In the year since its transfer, the marine patrol has made some improvements. Marine patrol officers responding to our survey noted improvements in program leadership, staff professionalism, and effectiveness in enforcing boating safety.

Training opportunities have also increased. The U.S. Coast Guard and PSD's enforcement academy have offered training. The U.S. National Marine Fisheries Service has offered funding, training, and equipment to officers enforcing federal acts such as that on endangered species. The first orientation course was scheduled for October 1992 in Honolulu.

Reorganization at PSD into district offices has resulted in expanded patrol coverage, especially on Oahu. Previously under DOT, all Oahu officers reported to the Keehi small boat harbor and traveled to assigned areas. In a 1992 report to the Legislature, PSD noted that the new districts will increase services to the public, enable officers to be more knowledgeable about local waters, and expand patrol coverage on the ocean.¹

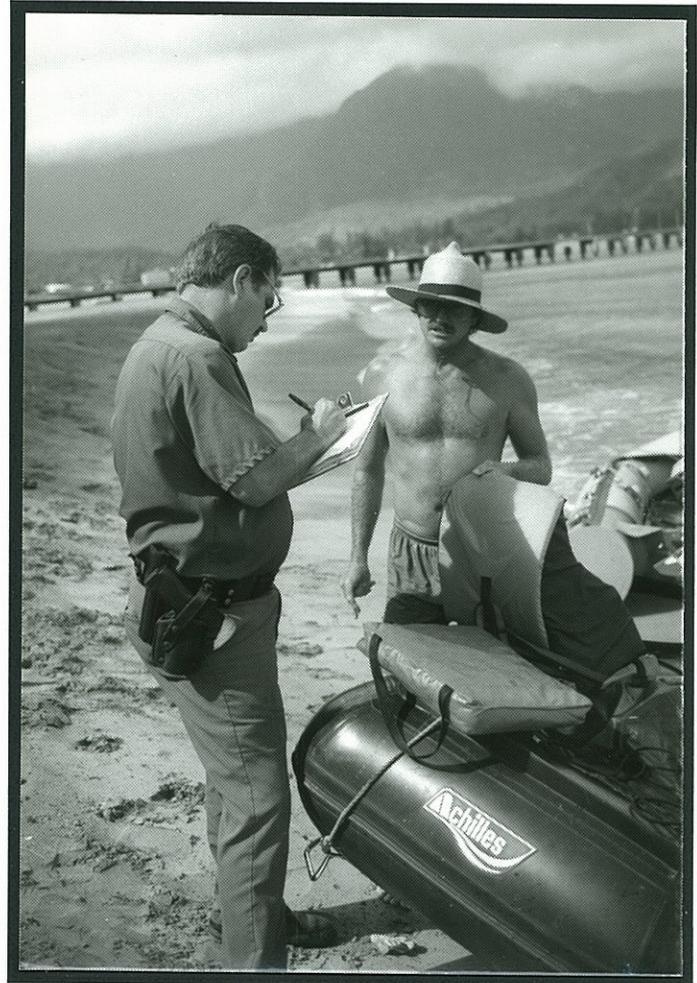
Operating policies have been developed for the first time and submitted for approval. Despite these improvements, however, internal problems persist.

Internal problems persist

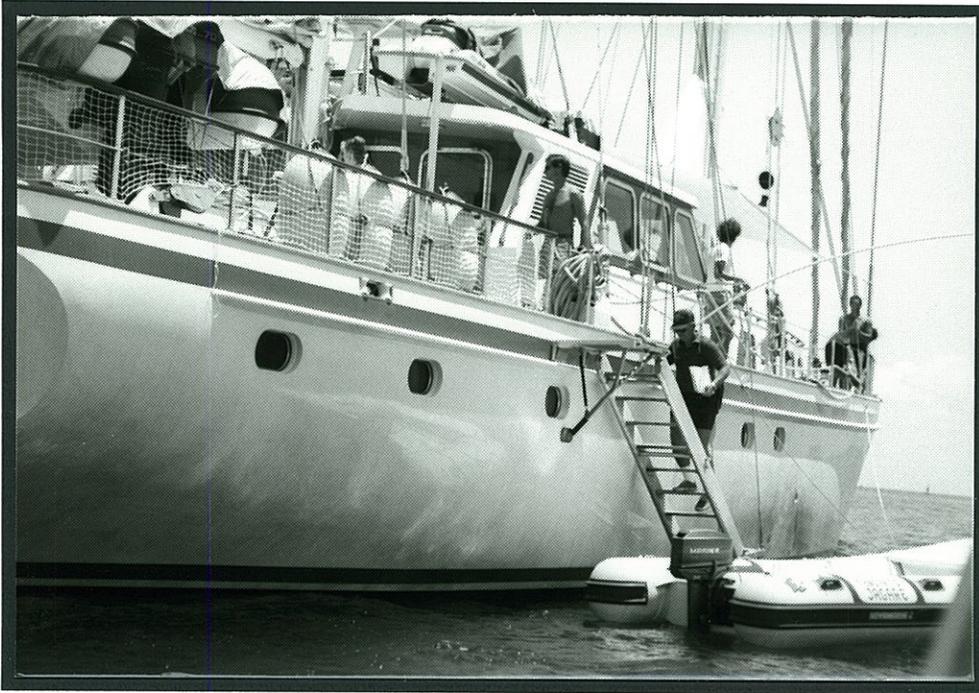
Staff morale and career opportunities have remained the same or declined since the transfer. Most survey respondents said low staff morale and lack of career opportunities continue as problems after the transfer. Furthermore, officers we interviewed said increased boating and conservation responsibilities without additional salary compensation contributed to low morale.

Most marine patrol supervisors complained about their lack of administrative and equipment support since neither administrative nor support staff were included in the transfer to PSD. As a result, supervisors do office work and spend little or no time on patrol functions. In addition, the marine patrol no longer has access to DOT mechanics and maintenance facilities at the Harbors Division. Officers must maintain boats and equipment themselves because funds are limited. In some instances, officers report using their own tools and boating safety supplies on the job.

As part of its boating safety program, a Kauai branch marine patrol officer inspects a zodiac craft in Hanalei Bay.



The Kauai Marine Patrol uses a Force 22 boat for waterborne patrols of state waters.



A Maui marine patrol officer disembarks from a foreign vessel which he boarded at the request of U.S. Customs.

A Maui County marine patrol officer collects information from a boater concerned about commercial jet ski operations.



The marine patrol finds its lack of control over funding to be a problem. It is mostly supported by the boating special fund and a federal boating safety grant. These moneys are managed by the boating administrator in DLNR.

Marine patrol supervisors expressed concern that PSD's priority is corrections and not boating safety. One supervisor said the unit is the "step child" of PSD.

Coordination With Boating and Conservation Programs Has Deteriorated

The Legislature has emphasized the importance of coordinating conservation enforcement programs. Act 272 specifically instructed DLNR and PSD to coordinate their programs. In our opinion, it is difficult for the marine patrol to operate effectively as part of PSD, when it is responsible for enforcing boating and conservation programs at DLNR. (The marine patrol was transferred from DOT to PSD in July 1991; the boating program was transferred from DOT to DLNR in July 1992.) The organizational separation creates barriers to coordination that are not easily overcome. We find that coordination is poor between the marine patrol and both the boating program and DOCARE at DLNR.

Poor coordination with boating program

The marine patrol remains the enforcement arm for the State's small boating program. But the separation of the boating program in DLNR from its enforcement arm in PSD has inhibited working relationships.

The boating program is responsible for administering coastal area programs and regulating all ocean recreation activities such as boating, parasailing, and commercial water sports. One of its main functions is to maintain and operate small boat harbors, launching ramps, and other mooring facilities throughout Hawaii. It is responsible for 17 small boat harbors and over 13,500 registered vessels. The program is mostly supported by special funds generated from mooring fees, liveaboard permits, and vessel registrations. The special funds also support marine patrol activities.

We found that the marine patrol and the boating program have a poor working relationship because they don't share priorities or information.

Poor working relationships

Prior to its transfer to PSD, the marine patrol officers reported to DOT's Office of Safety and Enforcement on Oahu and boating district managers on the neighbor islands. Because they were all in DOT, boating officials say enforcement activities and priority setting were accomplished jointly. After the marine patrol transferred to PSD, these same officials (now at DLNR) say that they no longer set enforcement priorities or share information with the marine patrol.

Correspondence between the marine patrol and the boating program reveals that working relationships are often confrontational and disruptive. For example, boating officials accuse the marine patrol of not living up to agreements to report its activities to boating harbor agents. Several marine patrol supervisors say they were mismanaged and misused while at DOT.

Differing priorities

Differing enforcement priorities are a major source of conflict. The marine patrol sees its priorities as boating safety, conservation, search and rescue, and overall protection of persons and property. Marine patrol defines boating safety as waterborne activities. Recent marine patrol policy requires officers to spend 70 percent of their time on the water and 30 percent on administrative and other duties such as land patrols.

Most boating officials see marine patrol's primary responsibilities as land based and supporting the boating program in the harbors. They want the marine patrol to enforce harbor rules, promote boating safety and accident prevention, conduct surveillance for illegal liveaboards, check parking, and conduct night patrols. They contend that marine patrol was established for just these purposes.

Boating officials state that they need a marine patrol presence in the small boat harbors and that the officers would be more effective in the harbors than at sea. Boating harbor agents have no police enforcement powers and must rely on marine patrol to enforce harbor rules. They say that people blatantly violate rules. For example, one boating harbor agent has complained about commercial boats bringing charters into Manele Bay in violation of boating rules. She cannot take action against them. Another boating harbor agent said he sometimes has no way to contact the marine patrol officers.

Boating advisory boards have also complained about the limited enforcement services provided by the marine patrol officers, resulting in unauthorized parking, lack of security, and illegal liveaboards. The boards have requested more patrolling in the harbors. Recently, the marine patrol responded by increasing coverage in the Ala Wai and Keehi small boat harbors. As of early September, five officers were assigned to each harbor.

Little sharing of information

The boating program and marine patrol do not consistently share information. Marine patrol officers do not always provide copies of citations or investigation reports to the boating program. Boating

officials say they need such information to respond knowledgeably when asked about citations and to take action against repeat violators.

In response, a marine patrol administrator says that the boating program has not asked for information on enforcement actions. In some cases, boating officials do not share information with the marine patrol. In several instances boating officials have overturned citations issued by the marine patrol in favor of boaters. But because the boating officials failed to notify the marine patrol, officers have issued second citations.

***Poor coordination
with conservation
enforcement***

We found similar problems in coordination between the marine patrol and DOCARE in conservation enforcement. The two units do not share information about enforcement activities and do little training on how to enforce their rules.

DOCARE is responsible for enforcing all DLNR rules and regulations which include some relating to beaches and ocean waters. To maximize resources and reduce jurisdictional problems, the Legislature, in Act 364 of 1987, gave the marine patrol and DOCARE authority to enforce each other's regulations. The intent was to have DOT and DLNR work cooperatively to enforce shoreline and shore water safety where jurisdictions cross. The Legislature had noted that neither department had sufficient personnel to enforce all the regulations that had been adopted for shoreline and water recreation. It hoped that the legislation would maximize enforcement resources by providing for cooperative enforcement efforts.

With respect to joint enforcement responsibilities, we found that the marine patrol does enforce some conservation rules, but DOCARE does not enforce boating safety rules. The marine patrol has incorporated conservation enforcement as a top priority and is enforcing laws on marine and fish resources. It recently signed an agreement with the U.S. National Marine Fisheries Service to assist in enforcing federal endangered species laws.

DOCARE, on the other hand, does not consider boating safety a priority. DOCARE staff told us that they lack sufficient time and resources to enforce both DLNR's conservation and boating safety regulations. DOCARE has 63 officers who must enforce all DLNR's land and water regulations, which extend to state parks, forests, mountain ranges, and shore water areas. DOCARE officials told us that they are more effective inspecting fish markets and investigating illegal fish catches in open markets.

Little sharing of enforcement and information

The Legislature, in 1991, reaffirmed its interest in coordination between the marine patrol and DOCARE. In Act 272, transferring the small boating program to DLNR, the Legislature stated that DLNR and PSD are to cooperate “to ensure the effective coordination of resource management, conservation, education, enforcement, and control with regard to Chapter 200 [boating safety].” Committee reports on the transfer noted that PSD and DLNR are to cooperate with each other and share enforcement responsibilities in land and water matters.

A few collaborative efforts have taken place on the Neighbor Islands. For example, the Hawaii marine patrol recently assisted DOCARE in apprehending violators suspected of taking green sea turtles at Kiholo Bay. On Kauai, DOCARE gave marine patrol officers an introductory course on conservation enforcement. But at the time of our review, DLNR and PSD had no plans to discuss joint enforcement responsibilities for DOCARE and the marine patrol. Responses to our surveys and interviews with both marine patrol and DOCARE officers revealed that they have had little contact and rarely shared information with each other. Officers from both enforcement arms told us that they did not inform each other of enforcement actions taken.

Inadequate coordination and sharing of information appears to be fostered by perceptions between the marine patrol and DOCARE of different priorities. The marine patrol, as part of PSD, is perceived by DOCARE as a law enforcement unit that gives priority to boating safety and not to natural resources. DOCARE sees its own responsibility as protecting Hawaii’s natural resources. DOCARE survey respondents did not list boating safety as a primary responsibility. Marine patrol respondents in the survey, however, perceive similarities between themselves and DOCARE and list conservation as a primary responsibility.

Inadequate training

To be able to meet the legislative intent of joint enforcement, DOCARE and the marine patrol must first train their respective personnel in all applicable laws and rules. Neither of the two programs has an adequate training program nor do they have much cross training. We found isolated instances in which DOCARE had provided some training to marine patrol officers on the Neighbor Islands. For example, one class consisted of an orientation on the duties of DOCARE, followed by information on fishing and hunting laws. This training is not formally implemented statewide.

DLNR has little formal training on conservation rules and regulations. DOCARE officers and DLNR officials told us that officers are given copies of the rules and receive a brief explanation on them.

Because most DOCARE officers have three or more years of experience, the division relies on them to carry out on-the-job training for new officers. Training is mandatory only for certification requirements, such as firearms or K-9 Patrol (police dogs).

The marine patrol also has no formal training program. Officers told us that they received training on-the-job, with no explanation of the rules. In both interviews and responses to our survey, marine patrol officers reported that they lack adequate training in boating rules.

Currently, PSD is training marine patrol officers on police practices. Several officers attended PSD's academy last year but found that much of the information was on corrections. Boating safety training is being provided on a limited basis by the U.S. Coast Guard. Two officers per year are selected to take the National Boating Safety program sponsored by the U.S. Coast Guard.

The marine patrol recognizes that conservation enforcement is a priority and is seeking training in the area. The U.S. National Marine and Fisheries Service has agreed to train and equip the marine patrol and to share profits of property forfeitures jointly performed with the marine patrol.

Both DLNR and PSD should develop formal training programs for their personnel. Until they have adequate training programs for their respective enforcement programs, they are not in a position to do any cross training.

Problems anticipated

Many of these problems were anticipated. In a 1988 report on Kaneohe Bay, the State Auditor cautioned that it would be impractical to expect DOCARE and the marine patrol to learn and enforce some regulations outside their area of direct responsibility.² The study supported the transfer of the boating program to DLNR because it would eliminate jurisdictional overlaps and integrate enforcement officers of the two departments into a single force.

The Hawaii Ocean and Marine Resources Council also expressed concern about the lack of enforcement and training on ocean use laws and regulations. In a policy review of ocean and coastal responsibilities, the council reported that the State needs to strengthen its enforcement system.³ It concluded that ocean use laws were not adequately coordinated among agencies, and recommended cross training, clarification of jurisdictional constraints, and an increase in manpower resources. In a technical supplement, the council also noted that the philosophy of resource enforcement is completely different from the philosophy of penal code enforcement.⁴

We were unable to find any study recommending the transfer of the marine patrol to PSD. In 1991, PSD conducted a review of selected state departments with enforcement functions to identify public safety functions that should transfer to PSD.⁵ The marine patrol was not included in the study. A January 1992 interim report on the transfer of the boating program to DLNR by a consultant noted that there was no report on whether the marine patrol should transfer to PSD. The consultant found that most of the persons they spoke with view the transfer of the marine patrol to PSD as a mistake. Enforcement is jeopardized when it is separated from the administrative body that needs to direct and be satisfied with its services.⁶

Legislative Direction Is Needed

The root of the problem is that no legislation ever established the mission, role, and duties of the marine patrol. The unit merely evolved from authority given to the director of transportation to appoint boating enforcement officers to assist in enforcing harbor and boating laws (Sections 266-24 and 267-6, HRS).

The scope of marine patrol activities has expanded with the growth of ocean programs, recreational activities, and increasing public demands. The marine patrol cites wide-ranging responsibilities for boating safety; waterborne patrols; marine conservation; search and rescue missions; diving and underwater operations; general law enforcement and investigations; and enforcement of commercial harbor rules, shorewater rules, and Waikiki Beach operations. This ambitious list of responsibilities goes beyond the marine patrol's limited resources and its original reasons for being. The absence of legislative direction has led to conflicting ideas of what its mission and priorities should be. It is important that the Legislature clearly delineate the mission and the specific responsibilities of the marine patrol before further damage is done.

Recent initiative confusing

The recent transfer of the marine patrol to PSD only confused its mission. The Legislature created PSD to consolidate law enforcement functions. But in transferring the marine patrol to PSD, a legislator noted that the marine patrol should be resource conscious and not "cops on the water."

Originally the marine patrol was to have been transferred with the boating program to DLNR. The Legislature found that boating and ocean recreational activities and their impact on the marine environment were inseparable. The Legislature wanted the jurisdiction for recreational waterborne activities and protection of marine life to rest in one department. When enacted, however, the boating program transferred to DLNR without the marine patrol.

As a boating and conservation enforcement unit, marine patrol, in our opinion, does not fit well at PSD. Its priorities of boating safety and conservation enforcement are more closely aligned with DLNR's responsibilities over conservation, natural resources, and recreational boating programs. PSD's primary mission is the protection of persons and property with an emphasis on its correctional program. We believe the transfer to PSD has split the boating program into two departments with different missions and priorities.

Inappropriate expansion

PSD recognizes that the marine patrol does not fit easily into its organization. According to PSD officials, the marine patrol's functions are not aligned with those of the Protective Services Division where it is currently housed. The Protective Services Division deals with public safety and criminals. Its activities are land-based. PSD therefore plans to create a new division. At the time of our review, PSD had submitted to the Governor's Office a proposal to incorporate the marine patrol into a Maritime Law Enforcement Division (MLED) under the deputy director for law enforcement.

The proposed mission of the MLED is:

to serve and protect all persons and property within the jurisdictional control of the department; enforce the laws of the State; and preserve the peace by deterring and preventing crime, and apprehending violators of the laws.

This mission reflects that of PSD's law enforcement division which is the prevention of crime and protection of person and property. It does not have a conservation and resource orientation. This division expansion is, in our opinion, contradictory to the intent expressed by legislators that the marine patrol not be "cops on the water."

Before any expansion occurs, the Legislature should enact legislation that clearly delineates the mission and responsibilities of the marine patrol. If the Legislature believes the marine patrol should continue to serve primarily the boating program and the aims of conservation and resource enforcement, then it should consider reuniting marine patrol with these programs at DLNR. If the Legislature believes that the marine patrol should be more actively engaged in criminal enforcement activities, then it should clarify its new role and allow it to remain at PSD. This means that new enforcement resources will have to be established for the boating program at DLNR.

DOCARE Should Remain At DLNR

In response to the Legislature's request, we also examined whether DOCARE should be transferred to PSD and merged with the marine patrol in order to have more effective coordination of resource management, conservation, education, and enforcement. Far from

improving conservation efforts, we believe the transfer would impede protection and management of Hawaii's natural resources. DOCARE's role is conservation based enforcement. To be effective, conservation enforcement must be closely coordinated with conservation programs. PSD's mission as a centralized law enforcement agency does not readily accommodate conservation enforcement goals. The transfer would constrain the training of DOCARE officers by DLNR's divisions, hamper communication between DOCARE and program experts, and shift priorities away from conservation resource enforcement.

***DOCARE's
conservation
enforcement role***

In 1978, through Act 171, the Legislature created a conservation and resources enforcement program in DLNR. DLNR's enforcement officers and functions were consolidated into one division, DOCARE.

DOCARE officers have the authority to enforce all state laws and rules and county ordinances on all state lands, other lands and waters under the jurisdiction of the department and county parks.

There are 63 DOCARE officers deployed statewide in four district offices on Oahu, Hawaii, Maui, and Kauai. The Maui district office includes the islands of Lanai and Molokai. DOCARE's operating budget for 1992-93 is about \$4.4 million.

DOCARE officers have many of the same tasks as general law enforcement officers, but their work is also very specialized. Their primary responsibility is to enforce the laws and rules of DLNR. They enforce laws in areas reserved for specialized use or preservation, such as marine and land conservation districts, forestry reserves and wildlife areas, historic places, lands owned and leased by the State, and state parks. They disseminate public information on hunting and fishing methods, natural area reserves, and other conservation issues. To be effective, DOCARE officers need wide knowledge of conservation issues, close coordination with natural resource specialists, and a strong public education orientation.

***The need for
technical expertise***

DOCARE officers must be familiar with the special environments, species, and habitats within their jurisdiction and the programs and rules which govern their use. To gain this knowledge, officers need frequent and extensive contact with DLNR program specialists. DOCARE's work relies on close and informal interaction with program experts in all DLNR divisions. Interviews with program specialists in DLNR divisions such as state parks, land management, and forestry and wildlife indicate that this type of interaction is close and ongoing. We believe this close interaction serves as the foundation for DLNR's conservation based enforcement.

Although DOCARE provides for some specialized training, such as firearms and rappelling, most officers learn about conservation resource regulations from other DLNR divisions. We found that most DOCARE supervisors call upon the divisions on an “as needed basis” to train their officers. Changes in regulations or boundary areas and species identification are examples of the kinds of training that DLNR divisions provide DOCARE.

DOCARE officers also work closely with many of the divisions to carry out their duties and to plan special projects. For example, DLNR’s Division of State Parks may ask DOCARE for increased enforcement in parks during holiday weekends or special events. The DOCARE supervisor on each island will coordinate with division administrators and any other outside agencies as needed. Special enforcement projects have included marijuana eradication, squatter eviction, and forest fire coordination.

Of the 49 DOCARE officers who responded to our survey, at least 40 officers or 81 percent said they worked with or used DLNR’s divisions as a resource in the course of their duties. Over 90 percent said they responded most frequently to requests from the Divisions of Aquatic Resources, Forestry and Wildlife, Land Management, and State Parks. Coordination for special projects takes place on each island.

DLNR administrators and staff on all islands characterized their relationship with DOCARE as close and informal. All of DLNR’s divisions use DOCARE for enforcement or assistance in enforcing their regulations. In addition, DOCARE inspects and investigates applications for conservation district use permits at the request of the Office of Conservation and Environmental Affairs. Communication between division staff and DOCARE officers is often on a one-to-one basis and occurs daily.

Enforcement and public education

Specialists in managing natural resources have long recognized that an important component of a conservation program is an education program to instruct the public on the need for regulations. They say that enforcement is most valuable when it is directed more toward prevention and less toward detection of violations.⁷ The enforcement officer, who should be well versed in conservation problems, plays an important role in the education program. We find that this conservation based approach to enforcement is possible only when the enforcement officer is able to work with conservation program experts.

Recognizing the central role of education in conservation enforcement, we surveyed all DOCARE officers on their level of participation in public education. Over half of the DOCARE officers who responded said they frequently participate in public education on conservation and

resource management. The branch offices on each of the islands have an education program that is presented in elementary and high schools and in community groups such as the Boy Scouts. The presentation covers the role of DOCARE and conservation issues.

Several DOCARE branch supervisors we interviewed described education as the key to successful conservation enforcement. One official stated that an educated public understands the rationale behind conservation and natural resource protection and becomes self-policing and more supportive of DOCARE's activities. In FY 1990-91, DOCARE gave 82 public information talks to groups statewide.

We observed the conservation enforcement efforts of DOCARE officers on Oahu, Maui, and Hawaii and noted that in their contacts with the public, DOCARE officers combined education with enforcement. They apprised individuals of the rules and explained why the rules were needed.

They patrolled beach areas where cars were abandoned; inspected forestry areas to check on illegal hunting, logging, and marijuana cultivation; inspected coastal areas for illegal opihi harvesting; and patrolled marine conservation areas, bird sanctuaries, and fishing areas.

Negative impacts of transfer

Nearly all DLNR administrators and program specialists we interviewed oppose the transfer of DOCARE to PSD. Since they rely on DOCARE to enforce their rules, most felt the transfer would:

- reduce enforcement in their program's statutes and rules,
- increase the time it takes DOCARE to respond to a complaint,
- decrease DLNR's input into enforcement activities, and
- change DOCARE's enforcement priorities from conservation enforcement to public safety.

In addition, DOCARE has functions that would have to be absorbed by others at DLNR should it transfer. As an adjunct to its enforcement role, DOCARE is responsible for issuing many types of licenses and permits, such as licenses for freshwater fishing, hunting, game bird farms, and aquarium fish. In FY 1990-91, DOCARE issued over 20,000 licenses statewide. DOCARE's transfer would leave a gap in DLNR's service to the public. The department would need to find additional resources and personnel to fill this function.

A Hawaii County DOCARE officer responds to a complaint about illegal dumping on state lands.



A Hawaii County DOCARE officer explains the fishing zone regulations to a young crabbing enthusiast.



A Maui County DOCARE officer secures a gate to limit vehicular access to a forest reserve.



A DOCARE officer confers with private operators of Hanauma Bay on management of the underwater state park.

PSD against transfer

Officials in PSD also were not eager to see a transfer. One PSD official projected that DOCARE's priorities would shift away from conservation enforcement were it transferred to PSD. PSD expressed similar concerns about DOCARE's enforcement goals in a 1991 study that recommended which state public safety functions should transfer to PSD. The study concluded that DOCARE should not transfer because it did not match the law enforcement profile to "provide for the safety of people from crimes against persons and property."

Unlike DLNR's conservation mission, the mission of PSD is public safety. With the exception of the harbor and marine patrol, units at PSD, such as sheriffs, narcotics officers, and security guards, focus on the safety and welfare of the general public or penal code regulatory enforcement. The department's mission focuses on the security of public facilities, preserving the public peace, preventing and detecting crimes, and apprehending offenders.

Conclusion

Many of the issues and concerns raised by DLNR's staff became a reality for the small boating program when its enforcement arm, the marine patrol, transferred to PSD. Due to that separation, communication between the boating program and the marine patrol is poor and enforcement priorities are often in conflict. Given the similarities between the transfer of the marine patrol and the potential transfer of DOCARE, we believe that conservation enforcement would not be served by transferring DOCARE to PSD.

Recommendations

1. The Legislature should enact legislation clarifying the mission of the marine patrol and its role in enforcing boating safety and conservation resources.
2. For more effective coordination and enforcement of Hawaii's ocean recreation and conservation resources, the Legislature should consider transferring the marine patrol to the Department of Land and Natural Resources.
3. If the marine patrol remains with the Department of Public Safety, the Legislature should require both the Department of Public Safety and the Department of Land and Natural Resources to develop formal training programs, coordinate enforcement programs, agree on priorities, provide cross training, and share information on their activities.
4. The Division of Conservation and Resources Enforcement should remain within the Department of Land and Natural Resources.

Notes

Chapter 2

1. Hawaii, Department of Public Safety, *A Report on the Marine Patrol Transfer from the Department of Transportation*, Honolulu, January 1992, p. 2.
2. Hawaii, Office of the Legislative Auditor, *A Study on the Feasibility of Establishing a Kaneohe Bay Authority*, Report No. 88-4, Honolulu, January 1988, p. 22 and 54.
3. Hawaii Ocean and Marine Resources Council, *Report on Hawaii Ocean Resources Management Plan*, January 1991, p. 6.
4. Hawaii Ocean and Marine Resources Council, *Technical Supplement*, January 1991, p. 20.
5. Hawaii, Department of Public Safety, *A Report Relating to the Study of Law Enforcement and Security Functions of State Departments*, February 1991.
6. Sam Carl & Associates, *Interim Progress Report on the Transfer of the Boating and Coastal Areas Program to DLNR*, Honolulu, January 1992, p. 2.
7. R.W. Eschmeyer, "Fish Conservation Fundamentals," *Sport Fishing Bulletin*, January 1955, no. 38, p. 8.

Responses of the Affected Agencies

Comments on Agency Responses

We transmitted drafts of this report to the Department of Land and Natural Resources and the Department of Public Safety on November 25, 1992. A copy of the transmittal letter to the Department of Land and Natural Resources is included as Attachment 1. A similar letter was sent to the Department of Public Safety. Neither department responded to our draft report.



November 25, 1992

The Honorable William W. Paty
Chairman of the Board of Land
and Natural Resources
1151 Punchbowl Street
Honolulu, HI 96813

Dear Mr. Paty:

Enclosed are three copies, numbered 9 through 11, of our draft report, *A Review of the Transfer of the Marine Patrol and Potential Transfer of the Division of Conservation and Resources Enforcement*. We ask that you telephone us by Tuesday, December 1, 1992, on whether you intend to comment on our recommendations. If you wish your comments to be included in the report, please submit them no later than Monday, December 7, 1992.

The Director of Public Safety and the Governor and presiding officers of the two houses of the Legislature have also been provided copies of this draft report.

Since this report is not in final form and changes may be made to it, access to the report should be restricted to those assisting you in preparing your response. Public release of the report will be made solely by our office and only after the report is published in its final form.

Sincerely,

Marion M. Higa
State Auditor

Enclosures