

No. 12-17808

In The United States Court of Appeals
For The Ninth Circuit

GEORGE K. YOUNG, JR.,

Plaintiff-Appellant,

v.

STATE OF HAWAI'I, et al.,

Defendants-Appellees.

**On Appeal from the United States District Court
for the District of Hawaii, Case No. 1:12-cv-00336-HG-BMK
Honorable United States District Judge Helen Gillmor**

**BRIEF OF AMICUS CURIAE HAWAII FIREARMS COALITION
IN OPPOSITION TO PETITION FOR REHEARING *EN BANC* AND
IN SUPPORT OF APPELLANT AND DENIAL OF REHEARING**

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FRAP Rule 26.1 CORPORATE DISCLOSURE STATEMENT

Pursuant to Rules 26.1 and 29(a) of the Federal Rules of Appellate Procedure, Amicus Curiae Hawaii Firearms Coalition, states that it has no parent corporations, nor has it issued shares or debt securities to the public. The Hawaii Firearms Coalition is a § 501(c)(4) non-profit corporation, and no publicly held corporation holds ten percent or more of its stock.

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I. STATEMENT OF AMICUS CURIAE

Amicus Curiae Hawaii Firearms Coalition (HFC), a non-profit, member driven organization incorporated under the laws of the State of Hawaii with its principal place of business in Honolulu, Hawaii, submits this brief in opposition to the petition for rehearing *en banc* filed on September 14, 2018 (Dkt. No. 155).

HFC has an interest in this case because an erroneous *en banc* reversal of the panel opinion will unconstitutionally deprive Hawaii citizens of the right to adequately defend themselves, their family, and their property. HFC believes that it is widely known in the State of Hawaii and the County of Hawaii, that the State of Hawaii and the County of Hawaii have historically refused to even consider issuing a permit to carry a firearm to an otherwise qualified citizen, except security officers, and that this conduct deprives Hawaii citizens of their right to self-defense pursuant to the Second Amendment.

HFC seeks a rule of law that is uniquely tailored to Hawaii Island's rural circumstances, which are explained below and in the attached declarations of retired Hawaii County Police Lieutenant Don Watson and Retired Hawaii County Police Officer Thomas Fratinardo. *See* HCFAdd-1 and *See* HFCAdd-3, respectively. HFC seeks a rule of law that does not prohibit citizens from defending themselves, and advances legal protections for liberty, free speech, and the bearing of arms. Hawaii Firearms Coalition promotes legislative and legal

action, as well as research, publishing, and advocacy, in support of people's civil liberties. Hawaii Firearms Coalition litigates firearm-regulation cases, and it has consistently advocated for a principled interpretation of the United States Constitution to prevent government from violating the basic civil rights of its citizens.

Members of HFC have provided informed analysis in a variety of firearm-related cases, including *Fisher vs. Louis Kealoha, et al.*, 855 F. 3d 1067 (9th Cir. 2017), *Roberts vs. City and County of Honolulu*, Civ. No. 15-00467 ACK-RLP, and *Roberts vs. Ballard, et al.*, Civ. No. 18-00125. As discussed in the Argument below, the right to armed self-defense and due process are among our basic civil rights.¹

¹ This brief was not authored in whole or in part by any party's counsel. No party, counsel, or other person — other than amicus curiae and its counsel — contributed money intended to fund the preparation or submission of this brief. All parties have consented to the filing of this brief. Fed. R. App. Rule 29, 9th Cir. Rule 29-2.

II. SUMMARY OF ARGUMENT

Hawaii County, Hawaii, is a sprawling, rural, 4,028.4 square mile county²; located in the southeast corner of the Hawaiian Archipelago³, the most remote island chain in the world.⁴ Hawaii County is made up entirely of Hawaii Island, also aptly known as the, “Big Island” or just “Hawaii Island”. Hawaii Island is very unique and unlike anywhere else in the world, boasting 10 of the world’s 14 climate zones.⁵ One would have to travel from Alaska to Costa Rica to find the same number of climatic zones found within Hawaii Island. It is located 214 miles by air from the state capital, Honolulu, approximately 2,400 miles by air from the continental United States, and approximately 4,500 by air from North

² This figure is approximate, Hawaii County is the only county in the United States that continues to grow. Recently, a 6.9 magnitude earthquake precipitated the eruption of Kilauea Volcano on Hawaii Island’s east side. Over several months these vents sent molten lava roaring through villages and destroying more than 700 homes in Leilani Estates, Kapoho, and neighboring communities before dumping into the Pacific Ocean. 850 acres, or 1.36 square miles of new land were created along the southeastern coast.

³ The Hawaiian Island archipelago stretches some 1,500 miles from South Point, on Hawaii Island, northwest to Kure Island, which is located just northwest of the most northwest inhabited Hawaiian Island, Midway Island.

⁴ Western Pacific Regional Fishery Management Council, [wpccouncil.org](http://www.wpcouncil.org/managed-fishery-ecosystems/hawaii-archipelago/), (<http://www.wpcouncil.org/managed-fishery-ecosystems/hawaii-archipelago/>) (accessed 11/17/18).

⁵ D. Paiva, “Hawaii has 10 of the world's 14 climate zones: An explorer's guide to each of them,” [hawaiimagazine.com](http://www.hawaiimagazine.com/content/hawaii-has-10-worlds-14-climate-zones-explorers-guide-each-them), Nov. 10, 2015 (<https://www.hawaiimagazine.com/content/hawaii-has-10-worlds-14-climate-zones-explorers-guide-each-them>) (accessed 11/17/18).

Korea.⁶ Hawaii Island has the world's most active volcano, Kilauea; so barren and unforgiving that NASA chose Hawaii Island volcanoes for training to simulate the surface of the moon and the isolation of Mars.⁷ Hawaii has two snow capped mountains, both over 13,500 feet high, and 266 miles of rugged, remote coastline.

Hawaii County's 4,028 square miles are made up of 9 districts; South Kona, North Kona, South Kohala, North Kohala, Hamakua, North Hilo, South Hilo, Puna, and Ka'u.⁸ With its 922 square miles, Ka'u District alone is more than twice the size of Los Angeles County, but with a population of only 8,500.⁹

Hawaii County has no freeways, and relies almost entirely on two lane highways¹⁰. *See* HFCAdd-4, 6. Roads can become blocked and communities isolated by lava flows. A relatively large segment of the population lives "off grid" in remote, rural, sparsely populated areas with very few police officers available. *See* HFCAdd-4. Some areas lack county water and rely on rain water

⁶ "Hilo to ..." timeanddate.com (<https://www.timeanddate.com/worldclock/distances.html?n=1083>) (accessed 11/17/18).

⁷ AP, "Mars mission isolation simulation on Hawaii volcano ending," cbsnews.com, Sept. 15, 2015 (<https://www.cbsnews.com/news/mars-mission-isolation-simulation-hawaii-volcano-ending/>) (accessed 11/17/18).

⁸ "Big Island of Hawaii Districts, (<https://www.to-hawaii.com/big-island/districts.php>) (accessed 11/17/18).

⁹ "Hawaii County, Hawaii," (https://en.wikipedia.org/wiki/Hawaii_County,_Hawaii#Geography) (accessed 11/17/18).

¹⁰ The highway near the airport area in Kona is being widened.

catchment, some lack electricity and rely on solar energy, and some lack telephone service. *See* HFCAdd-4. Many lack all three utilities. Various populated and unpopulated areas of Hawaii Island, including major highways and recreational areas, have spotty or non-existent cellphone coverage. *See* HFCAdd-4.

Frequently, it is impossible for citizens to contact emergency assistance without traveling several miles or more to get cellphone reception. *See* HFCAdd-4.

Once police are contacted, police response times may take over one hour. *See* HFCAdd-5. Because of the unique, volcanic, rural nature of Hawaii Island, the citizen's of Hawaii Island cannot always rely on police protection and must always be prepared to defend themselves and their families.

Hawaii County is a uniquely rural, outlier jurisdiction. Hawaii County citizen's live in a unique environment. Dangerous situations must be addressed quickly, and because the police department frequently cannot give timely assistance, Hawaii County citizens must defend themselves and their families. We agree with the panel and Mr. Young that HRS §134-9 is not properly tailored to the unique needs of the citizens of Hawaii County and cannot pass any type of scrutiny, including intermediate scrutiny. Rehearing *En Banc* should be denied.

III. ARGUMENT

A. The Big Island is Big and Rural

1. The Big Island is Big

Hawaii Island's 4,028 square miles account for two thirds¹¹ of Hawaii State's 6,422.6¹² square miles. This means that Hawaii Island is almost twice the size of all the other Hawaii islands combined. Hawaii Island is the largest island in the United States, even larger than Kodiak Island, Alaska,¹³ and has five active volcanoes¹⁴.

Rising 13,803 feet above sea level, Mauna Kea is slightly taller than Mauna Loa and is the State's highest point.¹⁵ Mauna Kea is dormant. With its remote, high elevation, dry environment, and stable airflow, Mauna Kea's summit is one of

¹¹ "Big Island of Hawaii Travel Guide," to-hawaii.com, (<https://www.to-hawaii.com/big-island/>) (last accessed 11/17/18).

¹² Hawaii State also includes 4,508 square miles of water, for a total area of 10,931 square miles. The land mass of the islands is 6,423 square miles. See "Hawaii," worldatlas.com, (<https://www.worldatlas.com/webimage/countrys/namerica/usstates/hilandst.htm>) (last accessed 11/17/18).

¹³ https://en.wikipedia.org/wiki/List_of_islands_of_the_United_States_by_area, (last accessed 11/17/18).

¹⁴ Kilauea, Mauna Loa, Hualalai, Mauna Kea and Lo'ihi. Between 1912 and 2018, there have been at least 50 Kilauea eruptions, 12 Mauna Loa eruptions, and one Hualalai intrusion of magma. Mauna Kea most recently erupted only about 4,000 years ago. Lo'ihi, the submarine volcano is located off the south coast of Kilauea, erupted twice between 1950 and 1996.

¹⁵ Mauna Kea Visitor Information Center, "Visiting the Summit", ifa.hawaii.edu, (<http://www.ifa.hawaii.edu/info/vis/visiting-mauna-kea/visiting-the-summit.html>) (accessed 11/17/2018).



13,803 foot snow capped Mauna Kea, from Kona¹⁶



Mauna Kea snow and observatories, Kilauea Volcano erupting in background¹⁷

the best sites in the world for astronomical observation.¹⁸ Mauna Loa and Mauna Kea are frequently snow capped in the winter months.

2. Hawaii Island is 98% Rural

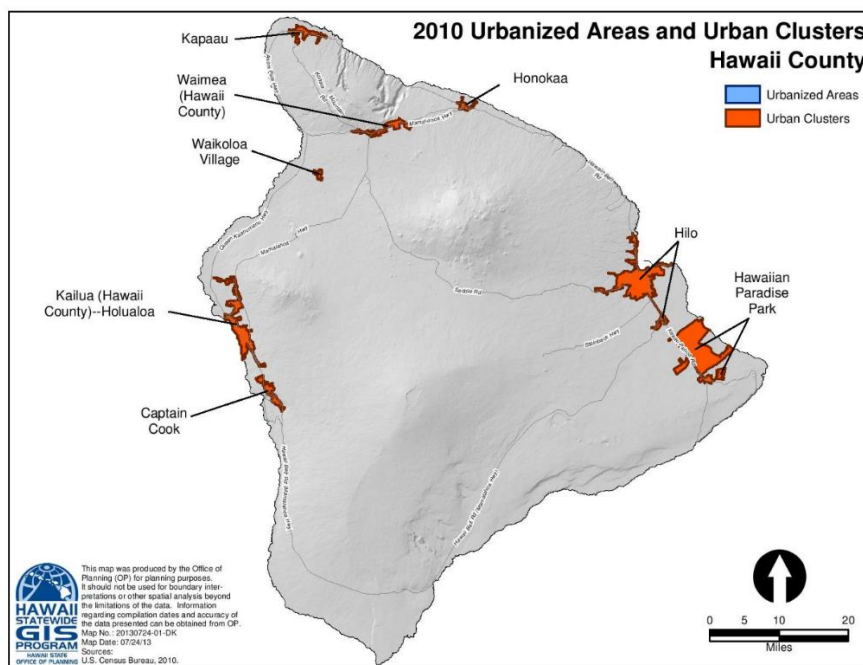
According to the State of Hawaii, Hawaii County has, “3,942 square miles of rural land where 70,300 people reside [with] an average of 18 people ... in every square mile”, and “87 square miles of urban land where 114,800 people reside,

¹⁶ C. Herreria, “Hawaii Had More Snow This Week Than Denver Or Chicago Has Had All Year” huffingtonpost.com, Mar. 4, 2017 (https://www.huffingtonpost.com/entry/hawaii-snow-denver-chicago_us_58bale31e4b05cf0f400c753) (accessed 11/18/18).

¹⁷ D. Rice “Flake news: It's snowing in Hawaii” usatoday.com, Feb. 6, 2018 (<https://www.usatoday.com/story/weather/2018/02/06/snow-hawaii/312741002/>) (accessed 11/18/18).

¹⁸ Mauna Kea Visitor Information Center, “Visiting the Summit”, ifa.hawaii.edu, (<http://www.ifa.hawaii.edu/info/vis/visiting-mauna-kea/visiting-the-summit.html>) (accessed 11/17/2018).

[with] an average of 1,300 people live in every square mile”. See HFCAdd-9, Urban and Rural Areas in the State of Hawaii, by County: 2010, Hawaii State Data Center. Thus, Hawaii County is 98% rural¹⁹. Hawaii County’s rural area has fewer persons per square mile than any state in the 9th Circuit, except Alaska (one person per square mile) and Montana (seven persons per square mile).²⁰ Yet, fifty-nine years after statehood, the State of Hawaii and Hawaii County still refuses to issue permits to carry in Hawaii County.



See HFCAdd-16.

¹⁹ 3,942 square miles divided by 4,028 square miles equals 97.9 %.

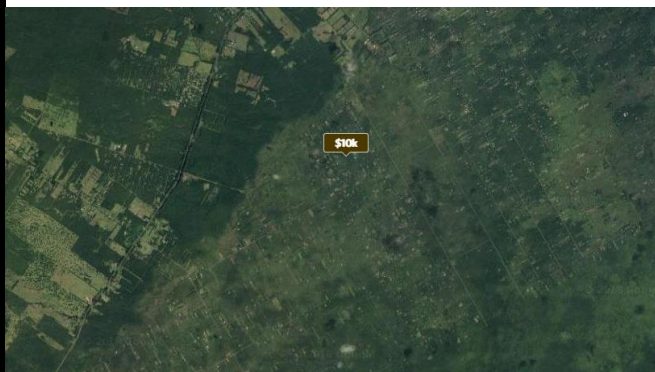
²⁰ “50 States Populations (2010 Census)”, netstate.com, (http://www.netstate.com/states/tables/state_population_2010.htm) (accessed 11/17/18).

Many homes on Hawaii Island are “off grid”. Off grid homes may rely on water catchment, solar electricity, and septic tanks. Some have attachment to the electrical grid, but nothing else. Many have no postal delivery and no telephone service. Cellphone coverage across the entire island can be spotty or non-existent. Homes with no cellphone coverage are completely isolated from the outside world.

A few geographically large neighborhoods consist entirely of poorly maintained dirt or gravel roads narrowly cut through dense ohia²¹ and fern forests, with no street lighting. The rough gravel roads are narrowly cut through dense Ohia and fern forests.



Amakihi Street, Typical Rural Street, Mountain View, Hawaii Island.²²



Satellite view of Amakihi St., with realty sales marker. *See* footnote 17.

²¹ Ohia is a species of flowering evergreen tree in the myrtle family that is endemic to Hawaii. Its height varies, 65 to 80 ft tall in favorable situations, and a much smaller shrub when growing in boggy soils or rocky ground.

²² F. Bertram, HawaiiLife.com

(<https://www.hawaiilife.com/fawnbertram/listings/amakihi-st-mountain-view-hi-96771>) (accessed 11/17/18).

These neighborhoods are sporadically populated with small to medium sized homes, usually on one to twenty acre lots. Most lots in these neighborhoods are unoccupied and have never been cleared or developed and remain in their natural forested state. Others were developed, then abandoned, and are now overgrown with vegetation. Most often, the dense forest has tall, spindly ohia trees that are surrounded by thick, impassable ferns. Many homes are set back in these tropical forests and cannot be seen from the road. The distance between occupied lots may be one half mile or more. There are no mail boxes to mark the location of driveways. Small, unmarked dirt driveways cut into the forest can be very difficult for police officers to find, especially on dark, rainy nights. Citizens living in these neighborhoods and in need of assistance must somehow describe the location of their property to 911 dispatch *See* HFCAdd-4 .

Many recreational areas on Hawaii Island are very remote and accessible only by four-wheel drive. *Id.* These remote areas can be found in the mountains and along the coast. *Id.* It may be impossible for a citizen to obtain police protection in these areas, because there is often no cellphone reception and no means to contact the police. *Id.* Even if there is cellphone coverage, it may take hours for a police officer to get the call, drive to the main station in his District, obtain a four-wheel drive, drive to the general location, find a passable four-wheel

drive road, and then travel slowly on the four-wheel drive road to the location.

Id.

3. Hawaii Island's Active Volcanoes Create Lava Flows That Isolate Communities and Prevent Police Protection

Kilauea Volcano is the world's most active volcano and has been erupting almost continuously since 1983. Kilauea's eruptions and lava flows have physically isolated citizens by surrounding inhabited areas with impassable lava. The 2018 eruption covered 13 square miles of land, destroyed over 700 homes and added 850 acres (1.36 square miles) of new coastal land to the island²³.



²³ J. Magin, "Number of homes destroyed by Kilauea eruption reaches 700, Hawaii County officials say," bizjournals.com, July 9, 2018 (<https://www.bizjournals.com/pacific/news/2018/07/09/number-of-homes-destroyed-by-kilauea-eruption.html>) (accessed 11/17/18); E. Klemmeti, "Kilauea's Summit Collapsed Into Itself" blogs.discovermagazine.com, Oct. 17, 2018 (http://blogs.discovermagazine.com/rockyplanet/2018/10/17/watch-kilaueas-summit-collapse-into-itself/#.W_BfoThKi70) (accessed 11/17/18).

Hawaii Island lava flows are a recurrent problem, blocking roads and isolating communities and residents from emergency assistance. Gas masks can be needed to protect residents from toxic fumes.²⁴

Rising 13,380 feet above sea level, Mauna Loa is the world's largest active volcano.²⁵ By adding another 16,400 feet from the sea bed to sea level²⁶, at 30,085 feet, Mauna Loa is the tallest mountain on earth.²⁷ *Id.* Mauna Loa has erupted 33 times since its first well-documented historical eruption in 1843. *Id.* Mauna Loa produces large, voluminous flows that have reached the ocean eight times since 1868. *Id.* Mauna Loa is certain to erupt again with large, voluminous flows. *Id.* According to media reports, Mauna Loa's 1984 lava flow came within four miles of Hilo, the county seat²⁸.

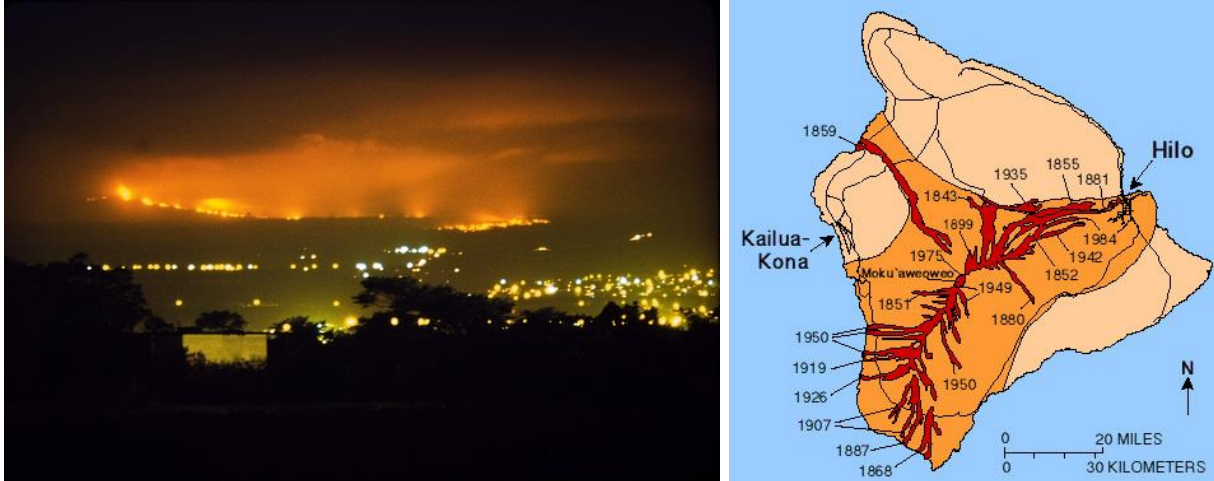
²⁴ CNN, "In pictures: Hawaii's Kilauea volcano erupts," [cnn.com](https://www.cnn.com/interactive/2018/05/us/hawaii-kilauea-volcano-eruption-cnnphotos/), (<https://www.cnn.com/interactive/2018/05/us/hawaii-kilauea-volcano-eruption-cnnphotos/>) (accessed 11/17/18).

²⁵ United States Geological Survey, "Mauna Loa", [volcanoes.usgs.gov](https://volcanoes.usgs.gov/volcanoes/mauna_loa/), (https://volcanoes.usgs.gov/volcanoes/mauna_loa/).

²⁶ The islands rise directly from deep ocean water. The Pacific Ocean is 16,000 feet deep just 16 miles from the area where Kilauea's lava entered the ocean in 2018.

²⁷ Combining the volcano's extensive submarine flanks 16,400 ft to the sea floor and 13,680 ft subaerial height, Mauna Loa rises 30,085 ft from sub marine base to summit, greater than the 29,029 ft elevation of Mount Everest from sea level to its summit. *Id.*

²⁸ J. Burnett, "Recalling 1984, when lava nearly reached Hilo," [westhawaiiitoday.com](http://www.westhawaiiitoday.com), September 18, 2015 (<http://www.westhawaiiitoday.com/2015/09/18/hawaii-news/recalling-1984-when-lava-nearly-reached-hilo/>) (accessed 11/17/18).



1984 Mauna Kea lava flowing toward Hilo²⁹. Simplified map of historical lava flows at Mauna Loa volcano³⁰.

Over the past 50 years, lava flows have cut off roads and isolated communities. According to the Hawaii Volcanoes National Park website,

“... [T]ens of thousands of [] archeological sites have been buried under lava since 1969.

Since 1986, lava has flowed repeatedly over Chain of Craters Road/Highway 130. The Park's acreage has been increased by hundreds of acres and nearly 9 miles (14.5 km) of road have been inundated by the flows. In June 1989, Waha'ula Visitor Center and associated buildings were burnt and covered by lava. The Waha'ula Heiau was surrounded by lava more than once and finally buried entirely in August 1997. The Kamoamoa village site, heiau, campground, picnic area, and black sand beach were covered by lava in November 1992.”

Hawaii Volcanoes National Park, “Drive Chain of Craters Road,” nps.gov, (https://www.nps.gov/havo/planyourvisit/ccr_tour.htm) (accessed 11/17/18).

²⁹ J. Burnett, “Recalling 1984, when lava nearly reached Hilo,” westhawaii.com, September 18, 2015 (<http://www.westhawaii.com/2015/09/18/hawaii-news/recalling-1984-when-lava-nearly-reached-hilo/>) (accessed 11/17/18).

³⁰ Hawaii Center for Volcanology, “General Info,” (<http://www.soest.hawaii.edu/gg/HCV/mloa-eruptions.html>) (accessed 11/17/18).



Caterpillar high sprocket D-10 bull dozers attempting to clear Chain of Craters Road covered by pre-2018 lava flow, to create escape route for Hawaii Island communities isolated by 2018 lava flow. Built in 1965, Chain of Crater Road has had segments blocked by Kilauea lava flows 41 of the past 53 years³¹. Started in May, 2018, the reinvigorated project to clear Chain of Craters Road and create an emergency escape route for Puna residents is not complete.

4. Police Protection Is Insufficiently Responsive

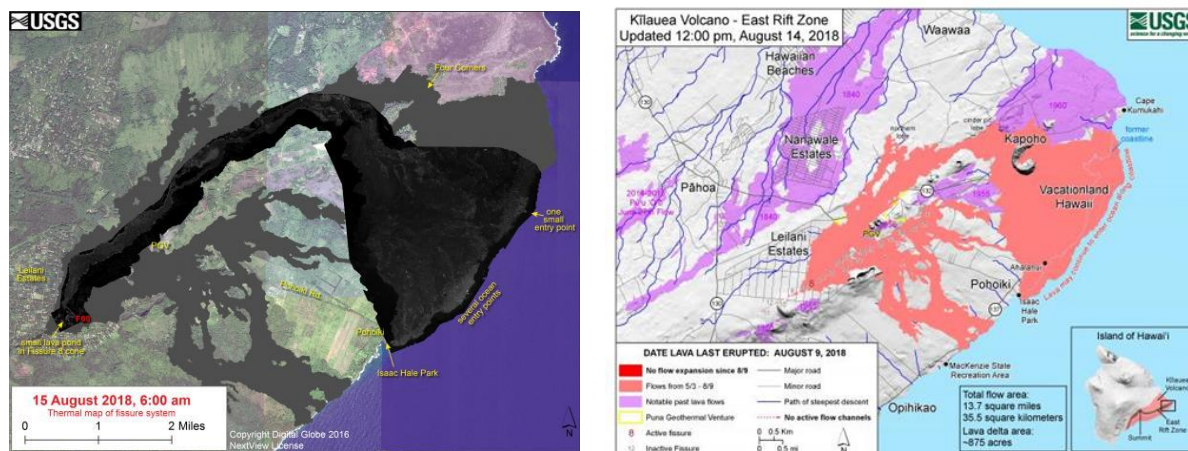
Only 200,381 people live on Hawaii Island's 4,030 square miles, with many in remote, rural areas. The population density is only 46 persons per square mile.³² But, see HFCAdd-10, showing 18 persons per square mile. This compares

³¹ State of Hawaii, Department of Transportation, "WORK BEGINS ON CHAIN OF CRATERS-KALAPANA ROAD EVACUATION ROUTE", [hidot.hawaii.gov](http://hidot.hawaii.gov/blog/2018/05/30/work-begins-on-chain-of-craters-kalapana-road-evacuation-route/), May 30, 2018 (<http://hidot.hawaii.gov/blog/2018/05/30/work-begins-on-chain-of-craters-kalapana-road-evacuation-route/>) (accessed 11/17/18).

³² U.S. Census Bureau QuickFacts: Hawaii County, Hawaii, <https://www.census.gov/quickfacts/hawaiicountyhawaii>.

with 1,586.7 persons per square mile on Oahu³³ and 2,419.9 persons per square mile³⁴ in Los Angeles County. While L.A. is a great big freeway, there are no freeways on Hawaii Island. For the most part, a single two lane highway encircles the island, and a one two lane road bisects the island. See HFCAdd-5, 6.

When a main thoroughfare is blocked by either lava flows, auto accidents, or landslides caused by frequent heavy rains, alternative routes are sometimes not available and police cannot respond to calls for help, leaving citizens unprotected and vulnerable to attack.



Images of Recent Lava Flows on Hawaii Island, showing neighborhoods cutoff by lava 20 feet thick.³⁵

³³ Unites States Census Bureau, “Quick Facts, Honolulu County” (<https://www.census.gov/quickfacts/honolulucountyhawaii>) (accessed 11/18/19).

³⁴ Unites States Census Bureau, “Quick Facts, Los Angeles County” (<https://www.census.gov/quickfacts/fact/table/losangelescountycalifornia/PST045217#PST045217>) (accessed 11/18/19).

³⁵ USGS, “Maps,” Aug. 15, 2018. (https://volcanoes.usgs.gov/volcanoes/kilauea/multimedia_maps.html) (accessed 11/17/18).

5. Wild Animals

a. Wild Pigs

Wild pigs are very common in Hawaii and on Hawaii Island and can weigh more than 250 pounds and boar can have tusks more than five inches long. *See* HFCAdd-5 . *Id.* These boar usually live in the forest, but are commonly seen on the road and in urban areas³⁶. *Id.* They can be very dangerous, and deadly when cornered. *Id.* Wild pigs often come into residential property to forage³⁷.



Wild pig sows and piglets in Hilo³⁸. This boar was taken in Hawaii³⁹.

³⁶ T. Unefuku, “Mililani Mauka residents frustrated over influx of wild pigs,” khon2.com, June 4, 2015 (https://www.khon2.com/news/local-news/mililani-mauka-residents-frustrated-over-influx-of-wild-pigs_20180309114435954/1025678944) (accessed 11/17/18).

³⁷ M. BRESTOVANSKY, “The problem of feral pigs,” HawaiiTribune-Herald.Com, Monday, December 25, 2017 (<https://www.hawaiitribune-herald.com/2017/12/25/hawaii-news/the-problem-of-feral-pigs/>) (accessed 11/17/18).

³⁸ M. BRESTOVANSKY, “The problem of feral pigs,” HawaiiTribune-Herald.Com, Monday, December 25, 2017 (<https://www.hawaiitribune-herald.com/2017/12/25/hawaii-news/the-problem-of-feral-pigs/>) (accessed 11/17/18).

³⁹ J. McAdams, “With feral hog populations exploding all over the United States, there are a lot of great places to hunt hogs,” wideopenspaces.com, January 4, 2018

Pig hunters use dog packs to track and corner the pigs. *Id.* The pigs are killed by stabbing the pig in the heart while the dogs harass the pig and hold it down. *Id.* Almost all pig hunters carry permitted handguns for protection from the pigs. *Id.* Hawaii County residents who are not hunting and not a security guard are not permitted to carry firearms for protection against these wild pigs.

Pig hunters and hikers have access to, and often use the same trails. *Id.* Pig hunters cannot hunt in all areas accessible to hikers, but hikers can usually hike in most areas designated as hunting areas. *Id.* When the dogs chase a pig, the pig will sometimes run to a trail in order to run faster. *Id.* Hikers hiking on these trails are in great danger of being attacked by these wild pigs. *Id.* Workers on Mauna Ranch have been attacked and injured by wild pigs. *Id.*

b. Wild Dogs

During the pig hunt, dogs often get lost and are abandoned. *Id.* These lost dogs become feral and can be very dangerous and can form packs. *Id.* Wild and domestic dogs have been known to attack and kill people, older horses, domestic farm sheep, and livestock. *Id.* In 2016 a man was killed by dogs in Kalihi, on Oahu.⁴⁰ A year later, two hunting dogs attacked and nearly killed two dogs on a

(<https://www.wideopenspaces.com/top-10-states-to-hunt-hogs-in-the-us/>) (accessed 11/17/18).

⁴⁰ B. Namata, "Homeless man killed by dogs owned by Kalihi business," khon2.com, August 2, 2016 (<https://www.khon2.com/news/local-news/medical->

hike with their owner.⁴¹ Just one month before that, a Honolulu Airport security officer shot and killed a dog when the dog broke its chain and came after the guard.⁴² If the security guard had not been armed, he could have been seriously injured, or killed.

B. Hawaii County Has Never Issued an Open Carry Permit

California and Hawaii are the only restrictive “may issue” states in the 9th Circuit. However, “may issue” as applied to Hawaii is a misnomer. In Hawaii, “may issue” actually means “will not and has not issued”. The facts support this.

Carry permits have never been issued in Hawaii County to non-security-guard citizens. Notwithstanding numerous opportunities to do so, neither the State of Hawaii nor the County of Hawaii has offered a declaration or documentation that a carry permit has ever been issued in the County of Hawaii to anyone other than a security guard. As the panel opinion pointed out, “[c]ounsel for the County acknowledged as much at oral argument, stating that, to his knowledge, no

[examiner-says-dog-behind-kalihi-homeless-mans-death/1025878566](#)) (accessed 11/17/18).

⁴¹ M. Miyashima, “Two dogs survive vicious attack by hunting dogs on hiking trail,” kitv.com, August 14, 2017, updated: Saturday, October 27th 2018, (<http://www.kitv.com/story/36135809/two-dogs-survive-vicious-mauling-by-hunting-dogs-on-hiking-trail>) (accessed 11/17/18).

⁴² Fox News, “Hawaii woman's dog shot, killed at Honolulu airport,” foxnews.com, Mar. 31, 2017 (<https://www.foxnews.com/us/hawaii-womans-dog-shot-killed-at-honolulu-airport>) (accessed 11/17/18).

one other than a security guard—or someone similarly employed—had ever been issued an open carry license.” Panel Opinion at 51. See also, Oral Arg. at 13:18-13:29, 16:30-17:28. Hawaii Attorney General’s recently rendered Opinion 18-1 utterly fails to provide any reference to Hawaii County, or any other county, ever actually issuing an open carry permit to a non-security-guard citizen. *See* HFCAdd-19.

With Opinion 18-1 the State of Hawaii and the County of Hawaii, through the State, attempt to convince this Honorable Court that HRS §134-9 and Hawaii County Police Department Rules and Regulations Governing the Issuance of Licenses to Carry Concealed and Unconcealed Weapons currently, and historically, allow the issuance of carry permits to non-security-guard citizens. However, curiously, the State fails to include any reference to open carry permits to non-security-guards that were actually issued over the past 20 years. *See* HFCAdd-19. This secret, undisclosed, undocumented number of open carry permits issued in Hawaii County is apparently zero, or so low that divulgence now would undermine their specious argument that HRS §134-9 is not a total ban on the issuance of carry permits to non-security-guard citizens.

C. Even California Issues Carry Permits in Rural Counties

Even under the California scheme, “may issue” really means “will issue” in most rural counties. California allows its individual counties to draft their own

Montana, Idaho, Arizona and Alaska are rural and do not require a permit to carry. Washington, Oregon and Nevada are predominately rural and are “shall issue” states. As shown above, most rural California counties, pursuant to county policy, are “shall issue” counties. Hawaii County is also rural; yet, Hawaii County has never issued a carry permit to a non-security-guard. Hawaii County is an outlier and rehearing *en banc* should be denied.

III. Conclusion

The Petition for rehearing en banc should be denied.

Respectfully submitted, this the 18th day of November, 2018.

 /s/ Donald L. Wilkerson
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Hilo, Hawaii 96720
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CERTIFICATE OF COMPLIANCE

I hereby certify that:

1. This brief complies with the type-volume limitation of Ninth Circuit Rule 29-2(c)(2) because this brief contains 3,868 words, excluding the parts of the brief exempted by Federal rule of Appellate Procedure 32(f).

2. This brief complies with the typeface requirements of Federal Rule of Appellate Procedure 32(a)(5) and type style requirements of Federal Rule of Appellate Procedure 32(a)(6) because this brief has been prepared in a proportionally spaced typeface using Microsoft Word 2016 in 14-point Times New Roman font.

DATED: Honolulu, Hawaii, November 18, 2018.

/s/ Donald Wilkerson
Donald L. Wilkerson
Attorney for Amicus Curiae

CERTIFICATE OF SERVICE

On this, 18th day of November, 2018, I served the foregoing Brief by electronically filing it with the Court's CM/ECF system, which generated a Notice of Filing and effects service upon counsel for all parties in the case.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this the 18th day of November, 2018.

/s/ Donald Wilkerson
Donald L. Wilkerson
Attorney for Amicus Curiae

I Donald Watson, declare under penalty of perjury:

In July 1981 through July 2003 I was employed as an officer with the Hawaii County Police Department. I retired as a Patrol lieutenant. During 1981 through 1986, I served as an officer in the Vice division; 1986 through 1989 Patrol Sergeant/Detective; 1989 through 2003, Patrol Lieutenant/Acting Captain/District Commander.

I have worked in the North Kohala, South Kohala and Kona districts on the Big Island, and have found all of them very short on manpower. Staffing is determined by **population** – not safety and response time. For example in 2016, Ka'u district, with 700 square miles and approximately 8,500 people, has only 24 sworn officers to staff the Na'alehu station, transport prisoners, draft reports, and patrol the district 24 hours a day. So, the 700 square miles in Ka'u may have only 4 officers on patrol at any one time.

In 1991, I was under consideration for Police Chief for the Island of Hawaii and came out number two behind Chief Wayne Carvalho. One of the first items on my agenda, if selected, was to increase manpower for citizen and officer safety.

Prior to attending the police academy in Hilo, I served almost 7 years 3 months on the Fremont, California police department in Alameda County (July 1973 through October 1980). I attended the Oakland Police Academy in July 1973. Five of the years were served as a patrol officer, and approximately 2 1/4 years as a Vice/Narcotics Detective.

During my time in Fremont, California, I participated as a competition PPC shooter, Grand Master.

In Fremont, I was assigned to patrol felony shift (8 PM to 4 PM) for two years. I investigated many violent crimes involving firearms. In patrol within Fremont City limits the call for service response time was probably around 4 to 6 minutes.

Officers and citizens, under certain circumstances, were allowed to carry a concealed firearm with mandatory qualification. I found most citizens to be responsible and have them properly secured.

There did not appear to be any correlation between citizens having firearms and making it easier for criminals to access these firearms.

After leaving Fremont, I attended the police academy in Hilo. As part of the Hawaii County Police Department, I was assigned to a rural district – North Kohala. As compared to Fremont, California, the number of square miles that two

HFCADD-1

officers had to cover in North Kohala made me very nervous and extremely cautious. I constantly reminded myself that this was a community where many of the public had firearms for hunting pig, goats, mouflon sheep and game birds. As time went on I realized that most citizens were law abiding and did not experience many gun related calls.

During my years on patrol in North Kohala, we often only had two officers on patrol in the entire 123 square mile district and there were many instances that required both officers to respond together. If an incident occurred, and I was near Pololu Valley, and the other officer near Kawaihae, we were almost twenty-eight miles apart. If a citizen or a fellow officer needed immediate cover, it could be disastrous. Officers cannot travel on the roadways between Hawi and Pololu at speeds of 55 miles per hour as the roads are too treacherous. Response time would be well over thirty minutes.

When you are fighting a person hand to hand, or facing a person with a firearm, or your adversary is under the influence of alcohol or drugs, any delay is too long!

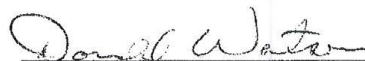
Having been a High School and college athlete, I know that most citizens and officers would be too tired to continue to fight off an aggressor in two minutes or less. I can prove this very easily by placing any two people on a wrestling mat and seeing how long it takes one of them to quit. If an officer or citizen quits, there could be dire consequences.

To allow open carry or CCW to retired officers and citizens who qualify through a rigorous training program, could be very beneficial for all concerned.

It is unconscionable for the public to be maimed and slaughtered when all they have to fight is their two fists or a stick when the threat or use of a firearm when warranted could stop the incident while Officers are responding.

Many of our criminals are high on drugs or alcohol, which makes them unbelievably strong. It takes two to five officers to arrest and secure a person under the influence. What chance does one officer or a citizen have against someone who is psychologically and physically pumped up?

With proper training, open carry **can** be a deterrent to crime.

 11/16/2018

Donald Watson

HFCADD-2

I, Thomas E. Fratinardo, declare under penalty of perjury:

1. I have been a resident of Hawaii Island, County Of Hawaii, State of Hawaii since Aug 20, 1992. I have personal knowledge of, and am competent to testify to the matters set forth below.

2. I served as a Police Officer in the Hawaii County Police Department from August 1992 until March 2005. I Retired from the Hawaii County police department In Good Standing in March 2005. For most of my 14 year career, I served as a patrol officer. I served in the South Kohala District patrol division. I was also a member of the Special Response Team (tactical Response).

3. Since retiring I have stayed active in community volunteer organizations. I have worked for Crime Stoppers International, Paniolo Estates Homeowners Association, cross country coach Kamehameha schools, and County Commissioner for the Hawaii County Salary Commission. I also host a news and religious radio program on 90.3 FM on Hawaii Island.

4. The South Kohala Patrol District encompasses a geographic area of approximately 688 square miles. Bordered on the West by the Pacific ocean along highway 19. Large cattle ranches (Parker ranch and Queen Emma estates) and enormous expanses of lava fields that are impassable by motor vehicles. There are very few shortcuts that patrol officers can take when responding to an emergency call in the District because of these geographic obstacles.

5. There are three watches in the South Kohala Patrol District; A, B and C watches. When I served in South Kohala, each watch had 7 men and a patrol sergeant as supervisor. Each officer works an 8 hour and 45 minute period. Minimum watch strength is four officers at all times. Thus, very often there were only 4 police officers available to patrol the entire South Kohala District.

6. South Kohala Patrol District is enormous. With residential subdivisions located over 20 miles from the main station. There is a substation located 17 miles away along the coast at Mauna Lani Resort. This is just an office and does not have jails cells. Anybody arrested in the area must be transported to Waimea, taking the officer away from his sector, leaving the sector empty. The county jail is located in Hilo, an approximately 1 ½ hour drive. Because of South Kohala's enormous size, and its remoteness from the county jail in Hilo, district manpower can be tied up for hours with officers processing prisoners back and forth from Hilo.

HFCADD-3

7. Additionally, many officers live outside of their district, some officers live 100 miles away. Thus, it might be impossible to call in off duty officers for assistance. Much of Parker Ranch, the largest privately owned cattle ranch in the U.S. is located in South Kohala. There are also many smaller ranches in the District. While working I investigated several cattle rustling cases. While dealing with the ranchers it was revealed to me that many of these ranchers carried long guns to protect their livestock from rustlers.

8. Adjacent to South Kohala District is the Hamakua District. Hamakua is 40 miles long and manned by only four officers. Hamakua District has a smaller population but has very challenging rugged, mountainous topography, which is difficult to navigate. The officers don't just respond to calls on the highway. They have to respond to very rural and mountainous locations, taking large amounts of time.

9. There are no freeways on Hawaii Island. One two lane highway encircles the island, with many areas many miles from the nearest highway.

10. Cellphone coverage on Hawaii Island is spotty or non-existent. Often, citizens in need of police protection are unable to contact the police when help is needed.

11. In several Districts, many homes are "off grid". They rely on water catchment, solar electricity, and septic tanks. Many have no postal delivery and no telephone service. Some very large neighborhoods consist of poorly maintained dirt or gravel roads with no street lighting. Some have no cellphone coverage and are totally isolated from the outside world. These neighborhoods are sporadically populated with small to medium homes on several acre lots. Most lots in these neighborhoods are unoccupied and have never been cleared or developed. They remain in their natural forested state. The forest is made up tall, spindly ohia trees surrounded by thick, dense, impassable ferns. Many homes are set back in these tropical forests and cannot be seen from the road. Small dirt driveways are cut into the forest and can be very difficult to find. There are no mail boxes to mark the location of the driveway. There may be one half mile or more between occupied lots. Citizens in need of assistance must somehow describe the location of their property to 911 dispatch. Sometimes, if the victim was physically able, they would meet me on the dirt road, waving their arms in the middle of a dark,

rainy night. Under these conditions, homes can be very difficult to find and it may take more than an hour to locate a victim.

12. Wild pigs on Hawaii Island can weigh more than 250 pounds and boar can have tusks more than five inches long. These boar live in the forest, but are commonly seen on the road. They can be very dangerous, and deadly when cornered.

13. Pig hunters use dog packs to track and corner the pigs. The pigs are killed by stabbing the pig in the heart while the dogs harass the pig and hold him down. Almost all pig hunters carry permitted handguns for protection from the pigs.

14. Pig hunters and hikers have access and often use the same trails. Pig hunters cannot hunt in all areas accessible to hunters, but hikers can usually hike in most areas designated as a hunting areas. When the dogs chase a pig, the pig will sometimes run to a trail in order to run faster. Hikers hiking on these trails are in great danger on being attacked by these wild pigs. Workers on Mauna Ranch have been attacked and injured by wild pigs.

15. During the hunt, dogs often get lost and are abandoned. These lost dogs become feral and can be very dangerous and can form packs. These dog packs have been known to attack and kill older horses, domestic farm sheep, and livestock.

16. Some recreational areas on Hawaii Island are very remote and accessible only by four wheel drive. These remote areas can be found in the mountains and along the coast. It may be impossible for a citizen to obtain police protection in one of these areas, because there is often no cellphone reception in these area and no means to contact the police. Even if there is cellphone coverage, it may take hours for a police officer to get the call, drive to the main station in his District, obtain a four wheel drive, drive to the general location, find a passable four wheel drive road, and then travel slowly to the location.


17. As a police retiree, I have stayed in touch with police Officers island wide. Recently we have suffered natural disasters, and were not prepared for them. These disasters caused immense damage to our infrastructure. Volcanic eruptions created lava flows that destroyed over 700 homes and completely isolated one area with flows on each side. This area had no police protection. Although Hurricane Lane recently caused massive landslides and flooding on the East side of Hawaii Island, East Hawaii Island is one of the wettest spots in the state, and the main

highway along the Hamakua coast is frequently blocked by landslides. These landslides cause interruptions of travel and can block police access. Because we only have a two lane highway, if the highway is blocked, there is no other access to the area.

18. Speaking to current officers on Hawaii Police Department, I am told the police staffing has not increased since I started working in 1992.

19. In sum, I believe citizens of Hawaii Island sometimes require protection not only from other citizens, but also from wild animals. The Hawaii Police Department is often not available to provide protection and the citizens of Hawaii County should not be prevented from protecting themselves and qualified citizens should be permitted to carry unconcealed firearms to provide protection to themselves, their families, and their property.

20. I declare under penalty of perjury that the foregoing is true and correct. Executed on November 14, 2018, in Laupahoehoe, Hawaii.



Thomas Fratinardo

HSDC 2013-2

Urban and Rural Areas in the State of Hawaii, by County: 2010



September 2013

Hawaii State Data Center
Research and Economic Analysis Division
Department of Business, Economic Development & Tourism
State of Hawaii

HFCADD-7

URBAN AND RURAL AREAS IN THE STATE OF HAWAII,
BY COUNTY: 2010

Do you live in an urban or a rural area? It is probably urban if you reside in the State of Hawaii where 9 out of every 10 people are part of the urban population. This fact and more are found in the U.S. Census Bureau's 2010 Census urban and rural area data. Information in this report is based on the new urban definitions and areas released by the Bureau in March 2012.

STATE FACTS

The U.S. Census Bureau defines urban areas as "densely developed residential, commercial, and other non-residential areas"¹. Approximately 393 square miles comprising 6.1% of Hawaii's total land area are classified as this type of land area. About 1.25 million people representing 91.9% of the state's population reside in these areas. Within these urban areas, an average of 3,181 people live in every square mile. Comparatively, 80.7% of the nation's population are located in urban areas. Hawaii ranked 6th among all states and the District of Columbia in percent of population living in urban areas.

Rural areas, by the U.S. Census Bureau's definition, are areas not included within an urban area. Rural areas cover approximately 6,000 square miles and make up 93.9% of Hawaii's total land area. There are about 110,000 people representing 8.1% of the state's population residing in rural areas. Within these rural areas, an average of 18 people live in every square mile. In contrast, 19.3% of the nation's population live in rural areas.

COUNTY FACTS

Honolulu County has the highest density in urban areas among all Hawaii counties with 4,300 persons per square mile while Hawaii County had the lowest average number of people per square mile with 1,300 people.

For rural areas, Honolulu County again came on top with an average of 22 people per square mile. Kauai County emerged as the county with the lowest average with 15 people per square mile.

¹ U.S. Census Bureau, Urban and Rural Classification. For the 2010 Census, an urban area will comprise a densely settled core of census tracts and/or census blocks that meet minimum population density requirements, along with adjacent territory containing non-residential urban land uses as well as territory with low population density included to link outlying densely settled territory with the densely settled core. To qualify as an urban area, the territory identified according to criteria must encompass at least 2,500 people, at least 1,500 of which reside outside institutional group quarters.

Honolulu County

*219 square miles of urban land where 945,000 people reside
An average of 4,300 people live in every square mile*

*382 square miles of rural land where 8,200 people reside
An average of 22 people live in every square mile*

Hawaii County

*87 square miles of urban land where 114,800 people reside
An average of 1,300 people live in every square mile*

*3,942 square miles of rural land where 70,300 people reside
An average of 18 people live in every square mile*

Kauai County

*36 square miles of urban land where 58,500 people reside
An average of 1,600 people live in every square mile*

*584 square miles of rural land where 8,600 people reside
An average of 15 people live in every square mile*

Maui County (includes Kalawao County)

*52 square miles of urban land where 132,300 people reside
An average of 2,500 people live in every square mile*

*1,122 square miles of rural land where 22,600 people reside
An average of 20 people live in every square mile*

**Table 1-- URBAN AND RURAL LAND AREAS FOR THE
STATE OF HAWAII, BY COUNTY: 2010**

Geography and subject	State total	Honolulu County	Hawaii County	Kauai County	Maui County
Total land area					
Square kilometers	16,634.5	1,555.9	10,433.6	1,605.7	3,039.4
Square miles	6,422.6	600.7	4,028.4	620.0	1,173.5
Urban					
Square kilometers	1,018.2	566.1	224.7	92.7	134.7
Square miles	393.1	218.6	86.7	35.8	52.0
Percent ^{1/}	6.1	36.4	2.2	5.8	4.5
Urbanized area					
Square kilometers	585.0	541.8	-	-	43.2
Square miles	225.9	209.2	-	-	16.7
Percent ^{1/}	3.5	34.8	0.0	0.0	1.4
Urban cluster					
Square kilometers	433.2	24.3	224.7	92.7	91.5
Square miles	167.3	9.4	86.7	35.8	35.3
Percent ^{1/}	2.6	1.6	2.2	5.8	3.0
Rural					
Square kilometers	15,616.3	989.8	10,208.9	1,513.0	2,904.7
Square miles	6,029.5	382.2	3,941.7	584.2	1,121.5
Percent ^{1/}	93.9	63.6	97.9	94.2	95.6

^{1/} Percent of the state or each county's total land area.

Source: U.S. Census Bureau, 2010 Census Urban and Rural Classification and Urban Area Criteria.

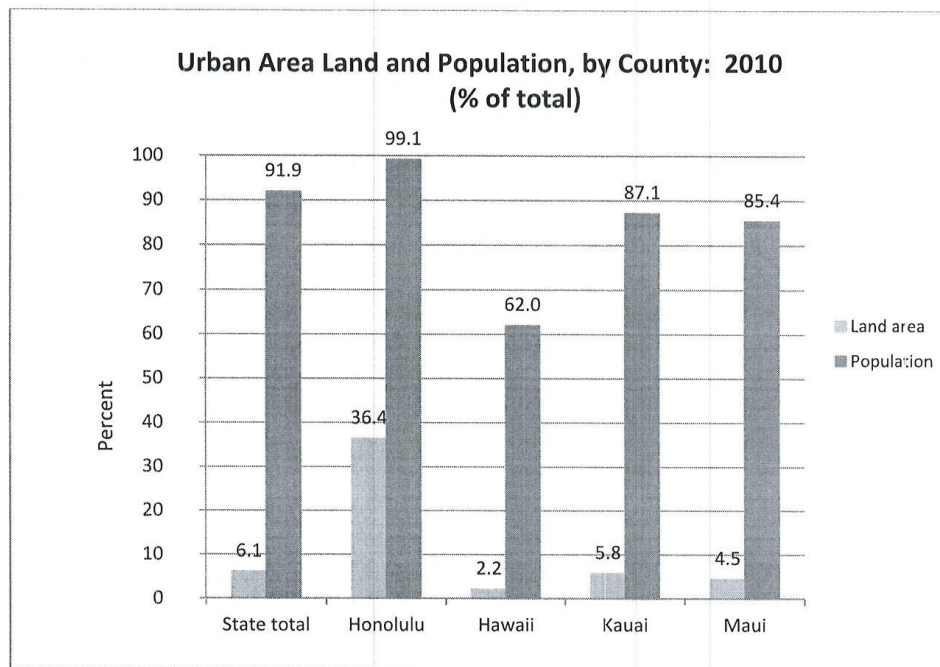
**TABLE 2-- URBAN AND RURAL RESIDENT POPULATIONS
FOR THE STATE OF HAWAII, BY COUNTY: 2010**

Geography and subject	State total	Honolulu County	Hawaii County	Kauai County	Maui County
Total resident population	1,360,301	953,207	185,079	67,091	154,924
Density/sq. mi.	211.8	1,586.7	45.9	108.2	132.0
Urban	1,250,489	944,982	114,766	58,463	132,278
Percent ^{1/}	91.9	99.1	62.0	87.1	85.4
Density/sq. mi.	3,180.8	4,323.3	1,323.1	1,633.1	2,543.0
Urbanized area	972,075	916,141	-	-	55,934
Percent ^{1/}	71.5	96.1	0.0	0.0	36.1
Density/sq. mi.	4,303.4	4,379.1	(X)	(X)	3,353.9
Urban cluster	278,414	28,841	114,766	58,463	76,344
Percent ^{1/}	20.5	3.0	62.0	87.1	49.3
Density/sq. mi.	1,664.7	3,076.7	1,323.1	1,633.1	2,160.3
Rural	109,812	8,225	70,313	8,628	22,646
Percent ^{1/}	8.1	0.9	38.0	12.9	14.6
Density/sq. mi.	18.2	21.5	17.8	14.8	20.2

X Not applicable.

^{1/} Percent of the state or each county's total land area.

Source: U.S. Census Bureau, 2010 Census Urban and Rural Classification and Urban Area Criteria.



URBANIZED AREAS AND URBAN CLUSTERS

There are two types of urban areas, according to the U.S. Census Bureau's classification system.

"Urbanized areas" are urban areas with 50,000 or more people.

Hawaii has 3 urbanized areas. Honolulu County has 2 of them and the remaining urbanized area is in Maui County. About 226 square miles comprising 3.5% of Hawaii's total land area are classified as this type of land area. Approximately 972,100 people representing 71.5% of the state's population live in places known as urbanized areas.

"Urban clusters" are urban areas with at least 2,500 and less than 50,000 people.

There are a total of 20 urban clusters in the State of Hawaii. Hawaii County has the largest number of urban clusters with 8, followed by 6 in Kauai County, 4 in Maui County and, lastly, 2 in the Honolulu County. About 167 square miles comprising 2.6% of Hawaii's total land area are classified as this type of land area. There are over 278,400 people representing 20.5% of the state's population who live in areas known as urban clusters.

Table 3-- Urbanized Areas in the State of Hawaii, by County: 2010

Area	Population	Housing unit	Land area (sq km.)	Land area (sq mi.)	Population density ^{1/}
Honolulu County					
Kailua (Honolulu County)--					
Kaneohe	113,682	36,414	101.1	39.0	2,912.3
Urban Honolulu	802,459	288,351	440.7	170.2	4,715.6
<i>Honolulu County subtotal</i>	<i>916,141</i>	<i>324,765</i>	<i>541.8</i>	<i>209.2</i>	<i>4,379.1</i>
Maui County					
Kahului	55,934	18,458	43.2	16.7	3,353.9
<i>Maui County subtotal</i>	<i>55,934</i>	<i>18,458</i>	<i>43.2</i>	<i>16.7</i>	<i>3,353.9</i>
Urbanized area total	972,075	343,223	585.0	225.9	4,303.4

^{1/} Population density is population per land area square miles.

Source: U.S. Census Bureau, 2010 Census Urban and Rural Classification and Urban Area Criteria.

Table 4-- Urban Clusters in the State of Hawaii, by County: 2010

Area	Population	Housing units	Land area (sq km.)	Land area (sq mi.)	Population density ^{1/}
Honolulu County					
Haleiwa--Waialua-- Pupukea	13,770	5,308	14.6	5.6	2,446.9
Laie--Hauula	15,071	3,861	9.7	3.8	4,022.8
<i>Honolulu County subtotal</i>	<i>28,841</i>	<i>9,169</i>	<i>24.3</i>	<i>9.4</i>	<i>3,076.7</i>
Hawaii County					
Captain Cook	4,175	1,640	10.8	4.2	998.6
Hawaiian Paradise Park	20,503	8,062	83.6	32.3	635.1
Hilo	43,925	17,091	63.5	24.5	1,791.0
Honokaa	2,667	972	4.1	1.6	1,698.7
Kailua (Hawaii County)-- Holualoa	28,850	14,269	37.1	14.3	2,012.5
Kapaa	3,597	1,263	10.5	4.1	887.9
Waikoloa Village	4,089	1,838	2.8	1.1	3,799.0
Waimea	6,960	2,545	12.2	4.7	1,475.3
<i>Hawaii County subtotal</i>	<i>114,766</i>	<i>47,680</i>	<i>224.7</i>	<i>86.8</i>	<i>1,323.1</i>
Kauai County					
Kalaheo	14,840	5,865	20.5	7.9	1,872.1
Kapaa	19,063	8,104	35.5	13.7	1,389.2
Kekaha	5,313	1,994	4.7	1.8	2,935.0
Kilauea	2,611	959	6.4	2.5	1,063.2
Lihue	13,983	5,008	19.2	7.4	1,888.5
Princeville	2,653	2,637	6.4	2.5	1,070.1
<i>Kauai County subtotal</i>	<i>58,463</i>	<i>24,567</i>	<i>92.7</i>	<i>35.8</i>	<i>1,633.1</i>
Maui County					
Kihei	25,819	17,072	17.3	6.7	3,857.1
Lahaina	21,331	11,533	16.9	6.5	3,259.6
Lanai City	3,066	1,399	2.8	1.1	2,857.9
Pukalani--Makawao-- Haiku--Pauwela	26,128	10,389	54.5	21.0	1,242.5
<i>Maui County subtotal</i>	<i>76,344</i>	<i>40,393</i>	<i>91.5</i>	<i>35.3</i>	<i>2,160.3</i>
Urban cluster total	278,414	121,809	433.2	167.3	1,664.7

^{1/} Population density is population per land area square miles.

Source: U.S. Census Bureau, 2010 Census Urban and Rural Classification and Urban Area Criteria.

URBAN AND RURAL MAPS

Reference maps of Hawaii's urbanized areas, urban clusters and rural areas are displayed at the end of this report. These maps are also found on DBEDT's Internet site at:

http://files.hawaii.gov/dbedt/op/gis/maps/2010_uac.pdf

One of the first questions that people working on federal rural grants must answer is whether the area they are interested in is located in a rural area. A tool to assist grant writers, planners and others with this query is available on the DBEDT Internet site. You will find your answer by typing in an area address or zip code into DBEDT's interactive urban/rural map found on the website

<http://histategis.maps.arcgis.com/apps/OnePane/basicviewer/index.html?appid=5baf4f5e08d942009656e168bf2548d9>

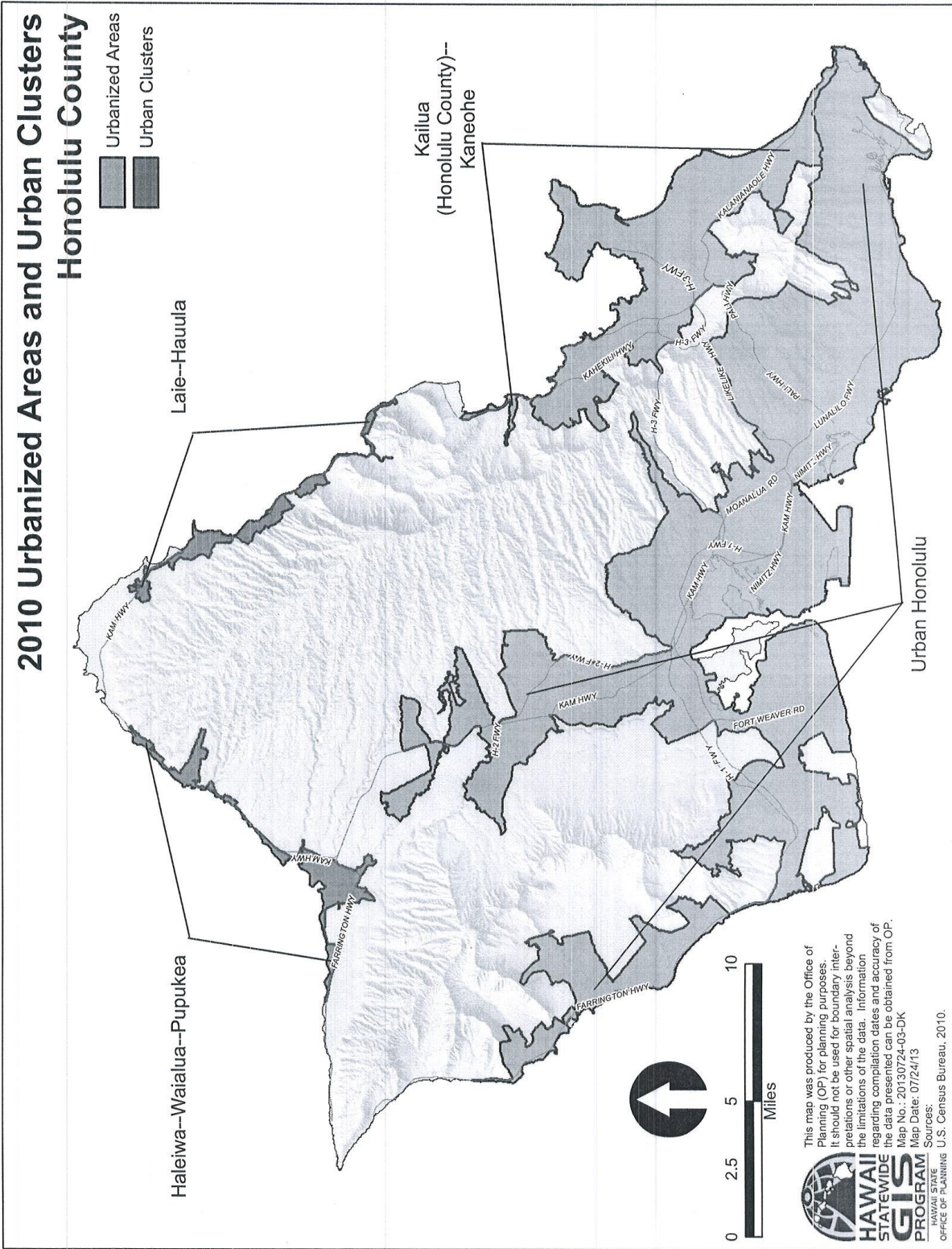
These reference and interactive maps are a joint project of DBEDT's Research and Economic Analysis Division and the Office of Planning Hawaii State GIS Program.

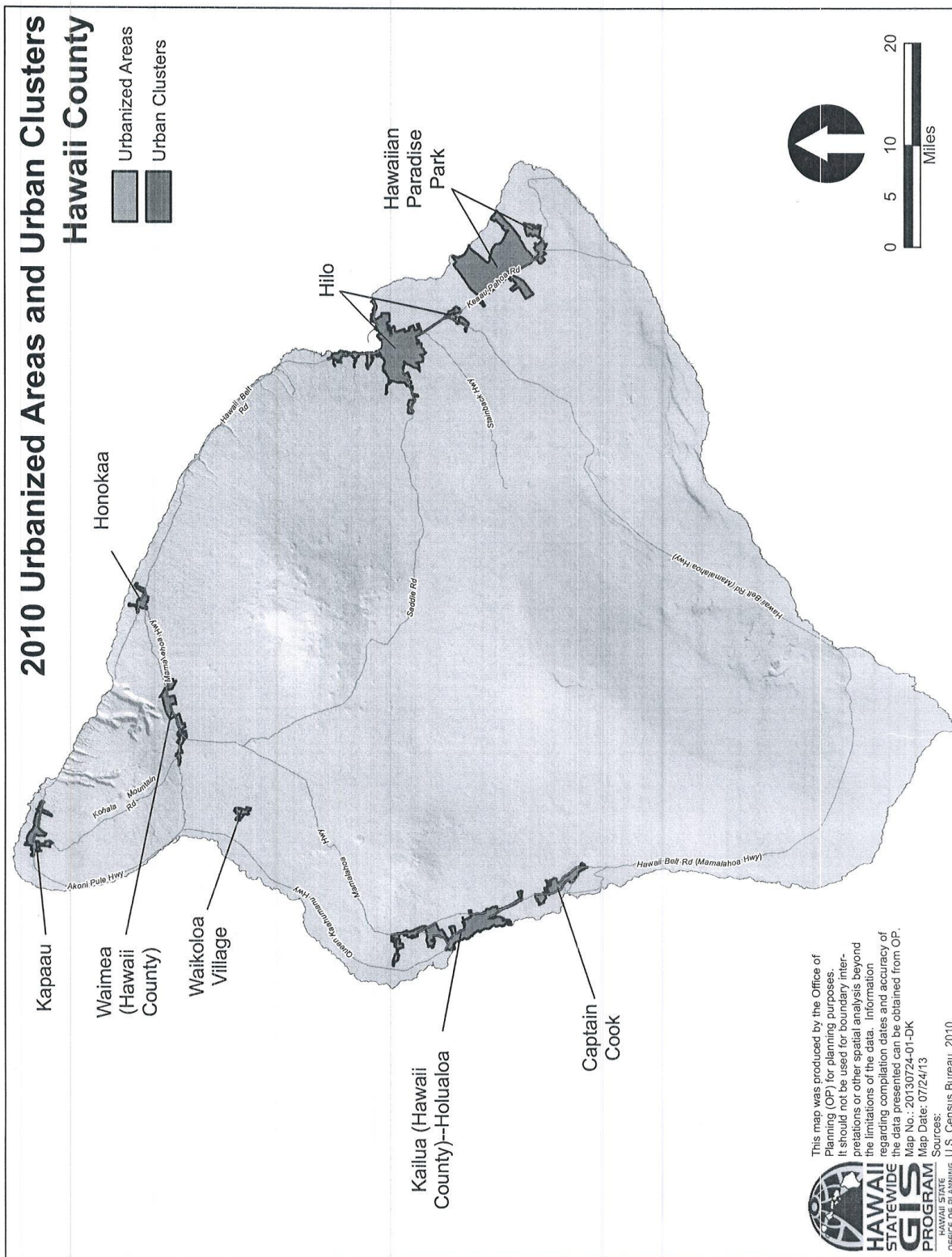
MORE CENSUS URBAN AND RURAL DATA

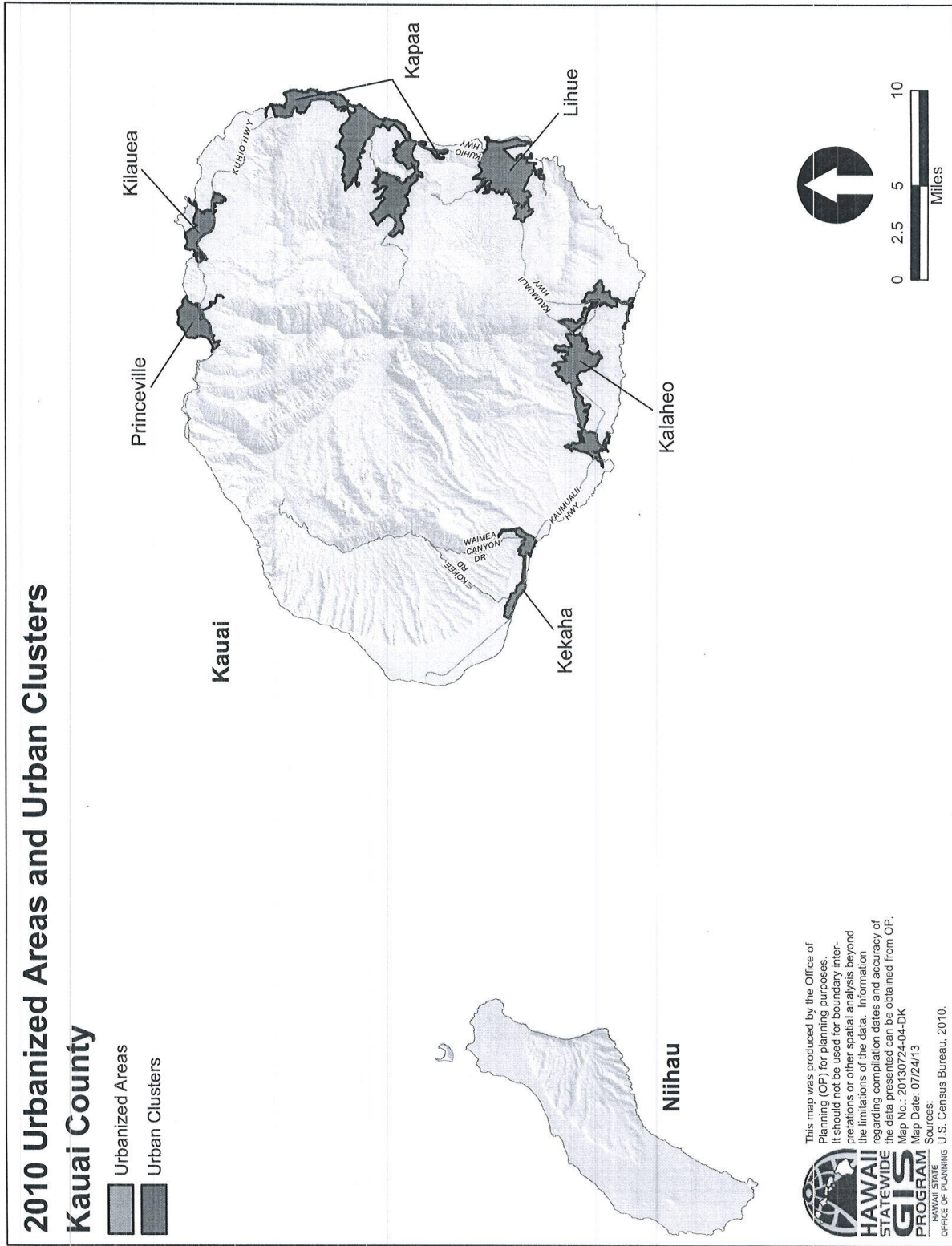
The U.S. Census Bureau has provided critical data to the public relating to urban and rural areas from the 2010 Census data. This will hopefully be useful in making decisions about Hawaii's land and people.

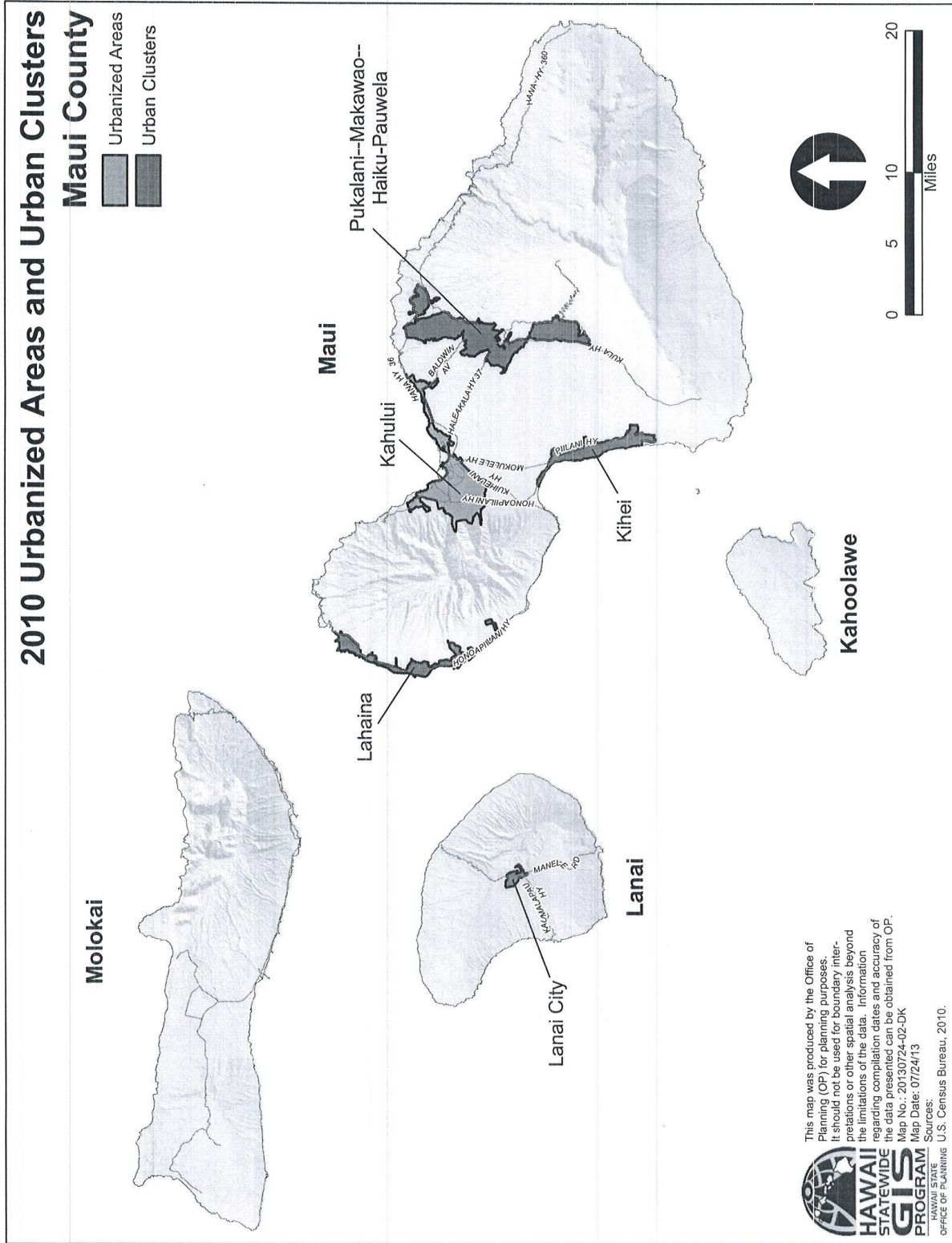
Please keep in mind that these classifications and data are based on the U.S. Census Bureau's definitions and may differ from those presented by other data sources.

Beginning in September 2013, more census data regarding urban and rural areas has become available through the Bureau's 2012 American Community Survey data series.









DAVID Y. IGE
GOVERNOR



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September 11, 2018

The Honorable Douglas S. Chin
Lieutenant Governor
State of Hawai'i
State Capitol, Executive Chambers
415 South Beretania Street
Honolulu, Hawai'i 96813

Dear Lieutenant Governor Chin:

Re: Availability of Unconcealed-Carry Licenses

This letter responds to your request for a formal legal opinion clarifying the authority of chiefs of police to issue licenses permitting the unconcealed carry of firearms.

Your inquiry arises from ongoing litigation challenging the constitutionality of a portion of section 134-9, Hawai'i Revised Statutes (HRS), which provides that "[w]here the urgency or the need has been sufficiently indicated, the respective chief of police" may issue a license authorizing an otherwise-qualified applicant who "is engaged in the protection of life and property" to carry an unconcealed firearm within the county. In *Young v. Hawaii*, a divided panel of the Ninth Circuit construed this provision as "[r]estricting open carry to those whose job entails protecting life or property," such as "security guard[s]." 896 F.3d 1044, 1071 (9th Cir. 2018). The panel held that, so construed, the unconcealed-carry provision violates the Second Amendment. *Id.* Both the County of Hawai'i and the State of Hawai'i have announced that they intend to seek panel rehearing or rehearing en banc of that decision.

For the reasons set forth below, we advise that the *Young* panel's construction of section 134-9, HRS, is overly restrictive. By its plain text, section 134-9 does not limit unconcealed-carry

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licenses to persons whose job entails the protection of life and property, but authorizes the issuance of such licenses to anyone "engaged in the protection of life and property" who demonstrates a sufficient "urgency" or "need" to carry a weapon. Furthermore, without attempting to set forth a comprehensive list of eligible recipients, we advise that a private individual would likely satisfy the statutory criteria for an unconcealed-carry license where he or she identifies a need for protection that significantly exceeds that held by an ordinary law-abiding citizen, and otherwise satisfies the statutory requirements for possessing and carrying a firearm.

I. QUESTIONS PRESENTED AND SHORT ANSWERS.

1. Does section 134-9, HRS, limit the issuance of unconcealed-carry licenses to private security officers and other individuals whose jobs entail protecting life and property?

SHORT ANSWER: No. Section 134-9, HRS, authorizes the issuance of unconcealed-carry licenses to any qualified individual who demonstrates a sufficient "urgency" or "need" to carry a firearm and is "engaged in the protection of life and property."

2. What standards should chiefs of police apply in adjudicating applications for unconcealed-carry licenses?

SHORT ANSWER: An applicant must satisfy four criteria to obtain an unconcealed-carry license: He or she must (1) meet the objective qualifications for possessing and carrying a firearm; (2) demonstrate a sufficient need to carry a firearm for the purpose of protecting life and property; (3) be of good moral character; and (4) present no other reason justifying the discretionary denial of a license. To satisfy these requirements, an applicant must demonstrate, among other things, that he or she has a need for protection that substantially exceeds that held by ordinary law-abiding citizens.

II. BACKGROUND.

Hawai'i has imposed limits on the public carry of firearms for over 150 years. In 1852, the Legislative Council enacted a statute making it a criminal offense for "[a]ny person not authorized by law" to "carry, or be found armed with, any . . . pistol . . . or other deadly weapon . . . unless good cause be shown for having such dangerous weapons." 1852 Haw. Sess. Laws Act of May 25, 1852, § 1 at 19; see *Republic of Hawaii v. Clark*, 10 Haw. 585, 587-88 (1897). In 1927, the territorial legislature enacted a statute, modeled on the Uniform Firearms Act, that required individuals to obtain a license in order to "carry a

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pistol or revolver," and provided that individuals could obtain such a license upon showing "good reason to fear an injury to his person or property" or "other proper reason for carrying" a firearm. 1927 Haw. Sess. Laws Act 206, §§ 5, 7 at 209; see S. Stand. Comm. Rep. No. 322, in 1927 Senate Journal, at 1023. In 1934 and 1961, the Legislature amended the statute to substantially its present form. See 1933 (Special Sess.) Haw. Sess. Laws Act 26, § 8 at 39 (Jan. 9, 1934); 1961 Haw. Sess. Laws Act 163, § 1 at 215 (July 8, 1961).

Today, Hawai'i law provides that, subject to a number of exceptions, "[a]ll firearms shall be confined to the possessor's place of business, residence, or sojourn." HRS §§ 134-23, 134-24, 134-25. It is generally unlawful "for any person on any public highway to carry on the person, or to have in the person's possession, or to carry in a vehicle any firearm loaded with ammunition." HRS § 134-26; see HRS § 134-9(c). Members of the armed forces, mail carriers, and persons employed by the State or its subdivisions are exempt from this limit "while in the performance of their respective duties." HRS § 134-11(a). Individuals may also carry lawfully acquired firearms "while actually engaged in hunting or target shooting." HRS § 134-5(a); see HRS § 134-5(c).

In addition, individuals may lawfully carry a pistol or revolver within a county if they obtain a license from the county's chief of police. HRS § 134-9. Section 134-9, HRS, authorizes police chiefs to issue two types of carry licenses. A chief of police may issue a *concealed*-carry license "[i]n an exceptional case, when an applicant shows reason to fear injury to the applicant's person or property" and satisfies certain age, citizenship, and other statutory requirements. HRS § 134-9(a) (b). A chief of police may also grant a *unconcealed*-carry license to a qualified applicant "[w]here the urgency or the need has been sufficiently indicated," the applicant "is engaged in the protection of life and property," and the applicant is "of good moral character." HRS § 134-9(a).

III. ANALYSIS.

A. **Section 134-9, HRS, Does Not Limit Unconcealed-Carry Licenses To Private Security Officers.**

We advise that section 134-9, HRS, does not limit the issuance of unconcealed-carry licenses to individuals whose jobs entail protecting life and property. The plain text of the statute, the legislative history, and the applicable case law all support this conclusion.

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Our analysis begins with the statute's text. See *Del Monte Fresh Produce (Hawaii), Inc. v. Int'l Longshore & Warehouse Union, Local 142, AFL-CIO*, 112 Hawai'i 489, 499, 146 P.3d 1066, 1076 (2006). As relevant, section 134-9, HRS, imposes two requirements that an otherwise qualified applicant must satisfy in order to obtain an unconcealed-carry license: the applicant must (1) "sufficiently indicate[]" "the urgency or the need" to carry an unconcealed firearm, and (2) be "engaged in the protection of life and property." HRS § 134-9(a).

It is plain that the first of these requirements does not limit unconcealed-carry licenses to private security officers. A private individual, no less than a security guard, may identify an "urgen[t]" or compelling "need" to carry an unconcealed firearm. Indeed, the statute's use of the disjunctive phrase "the urgency or the need" indicates that the Legislature intended to permit the issuance of unconcealed-carry licenses for multiple reasons. Construing the statute to authorize such licenses for one reason only -- that the applicant's job duties require a firearm -- would contravene that textual choice.

Nor does the requirement that an applicant be "engaged in the protection of life and property" limit unconcealed-carry licenses to private security officers. The words "engage in" mean simply "to do or take part in something." Merriam Webster's Dictionary (2018). In ordinary usage, an individual may "take part in" an activity even though his job duties do not require it. See *Sierra Club v. Castle & Cooke Homes Hawai'i, Inc.*, 132 Hawai'i 184, 191-92, 320 P.3d 849, 856-57 (2013) ("Under general principles of statutory construction, courts give words their ordinary meaning unless something in the statute requires a different interpretation." (citation omitted)). And other provisions of the statute use the words "engaged in" to refer to non-professional activities in this way. Section 134-5(c), HRS, authorizes a person to "carry unconcealed and use a lawfully acquired pistol or revolver while actually engaged in hunting game mammals." HRS § 134-5(c) (emphasis added). Likewise, sections 134-3 and 134-5(a), HRS, authorize the use or carrying of firearms while "engage[d] in" hunting or target shooting. HRS §§ 134-3(a)(3), 134-5(a).

Furthermore, when the Legislature wished to limit firearms to individuals engaged in the performance of their professional duties, it expressly said so. Section 134-11(a), HRS, authorizes a variety of officers to carry firearms "while in the performance of their respective duties." HRS § 134-11(a)(2), (4)-(5). Similarly, section 134-31, HRS, requires individuals to obtain a license in order to "engage in the business to sell and manufacture firearms." HRS § 134-31 (emphasis added). The

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Legislature notably did not include similar language in section 134-9, HRS, and it would be improper in our view to read such limits implicitly into the statute's text.

The legislative history of section 134-9, HRS, reinforces this interpretation. For several decades prior to 1961, section 134-9 only authorized chiefs of police to issue *concealed*-carry licenses. See 1933 (Special Sess.) Haw. Sess. Laws Act 26, §8 at 39. In 1961, the Legislature amended the statute to authorize the issuance of *unconcealed*-carry licenses, as well. 1961 Haw. Sess. Laws Act 163, § 1 at 215. In the committee report accompanying that amendment, the Senate Judiciary Committee explained that this change was "designed to extend the permit provisions to those employed as guards or watchman *and/or to persons engaged in the protection of life and property* and to further authorize such licensees to carry the described firearms unconcealed on their persons." S. Stand. Comm. Rep. No. 558, in 1961 Senate Journal, at 874 (*emphasis added*). This report thus makes clear that the drafters intended to reach not only "those employed as guards or watchman" but, more broadly, any "persons engaged in the protection of life and property." Although "guards" and "watchm[e]n" may have been the principal persons the Legislature had in mind, legislation is not limited to the principal mischief it is designed to address, and that is particularly so where the drafters expressly contemplated it would extend more broadly.

The limited case law discussing section 134-9, HRS, and analogous statutes is also consistent with our understanding. To our knowledge, prior to the Ninth Circuit panel decision in *Young*, no court suggested that section 134-9 limits open-carry licenses to private security officers. To the contrary, in *Baker v. Kealoha*, the District Court for the District of Hawai'i observed that section 134-9 "provides for exceptions in cases where an individual demonstrates an urgency or need for protection in public places." 2012 WL 12886818, at *18 (D. Haw. Apr. 30, 2012), *vacated and remanded on other grounds*, 679 F. App'x 625 (9th Cir. 2017). Moreover, courts and agencies in other states have construed comparable statutes -- which likewise permit issuance of carry licenses upon a showing of adequate "need" or "cause" -- to authorize licenses for private individuals, and not just professional security guards and the like. See, e.g., *Woollard v. Gallagher*, 712 F.3d 865, 870 (4th Cir. 2013) (Maryland); *Drake v. Filko*, 724 F.3d 426, 428 (3d Cir. 2013) (New Jersey); *Kachalsky v. County of Westchester*, 701 F.3d 81, 86-87 (2d Cir. 2012) (New York).

Nor does past practice justify a different conclusion. The *Young* panel placed substantial weight on the premise that, to its knowledge, "no one other than a security guard -- or someone

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similarly employed -- ha[s] ever been issued an open carry license." 896 F.3d at 1070. But even if that premise were correct, a practice of that kind would not justify adopting a reading that the statute's text cannot bear. Moreover, there is little evidence in the court record to back up the panel's assertion. Although the Department of the Attorney General has published statistics on firearm license applications, those reports date back only to the year 2000 -- 39 years after the statute was enacted, and nearly 150 years after the first restriction on public carry was imposed. See Dep't of Attorney Gen., Crime Prevention & Justice Assistance Div., *Research & Statistics Branch*, <http://ag.hawaii.gov/cpja/rs/> (last visited Sept. 10, 2018) (collecting reports). And those reports, starting in 2004, state only the number of private individuals who applied for (and were granted or denied) a *concealed*-carry license; they do not state the number of private individuals who applied for (and were granted or denied) an *unconcealed*-carry license. What is more, out of the handful of instances before 2004 in which the reports state simply that private individuals applied for "carry license[s]," without specifying that the license was for *concealed*- or *unconcealed*-carry, individuals were *granted* such licenses in two cases. See Dep't of Attorney Gen., *Firearm Registrations in Hawaii, 2001*, at 7, <http://ag.hawaii.gov/cpja/files/2013/01/Firearms-Registration-2001.pdf> (last visited Sept. 10, 2018).

In short, the plain text of the statute does not limit *unconcealed*-carry licenses to individuals employed as private security officers. And other indicia of statutory meaning support that straightforward reading. Accordingly, we advise that private individuals as well as security officers are eligible to obtain licenses to carry *unconcealed* firearms under section 134-9, HRS.

B. Standards For Adjudicating Unconcealed-Carry Applications.

You have also asked us to clarify the standards that police chiefs should apply in adjudicating applications for *unconcealed*-carry licenses. By its text, section 134-9, HRS, establishes four basic criteria that an applicant must satisfy to obtain an *unconcealed*-carry license: An applicant must (1) meet the objective qualifications for possessing and carrying a firearm; (2) demonstrate a sufficient need to carry a firearm in order to protect life and property; (3) be of good moral character; and

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(4) present no other reason that justifies the exercise of discretion to deny a license. We consider each of these criteria in turn below.

1. Objective Qualifications.

As an initial matter, section 134-9, HRS, requires every applicant for an unconcealed-carry license to meet three objective qualifications. Every applicant must (1) be "a citizen of the United States," (2) be "of the age of twenty-one years or more," and (3) not be "prohibited under section 134-7 from the ownership or possession of a firearm." HRS § 134-9(a). Section 134-7, HRS, further provides that an individual may not own, possess, or control a firearm if he is barred from possessing a firearm by federal law, is a fugitive from justice, or fails to satisfy the statute's other prerequisites. HRS § 134-7; see 18 U.S.C. § 922(g)(1)-(9), (n) (listing federal requirements).

An application for an unconcealed-carry license must therefore be denied if the applicant fails to satisfy any of these objective criteria. And the statute specifies, in part, the procedures a police chief or his designated representative must follow prior to making that determination. It states that such officials "shall perform an inquiry on [the] applicant by using the National Instant Criminal Background Check System, to include a check of the Immigration and Customs Enforcement databases where the applicant is not a citizen of the United States, before any determination to grant a license is made." HRS § 134-9(a).

2. Sufficient Need To Carry A Firearm.

Section 134-9, HRS, further requires that each applicant must "sufficiently indicate[]" that he or she has an "urgency" or "need" to carry a firearm and is "engaged in the protection of life and property." *Id.* As we have explained, this language does not limit carry licenses to private security officers. See *supra* section III.A. Case law from other states is instructive, however, in discerning what it does require. Courts interpreting virtually identical laws have held that "a simple desire to carry a weapon is not enough" to satisfy their substantive requirements. *Kachalsky*, 701 F.3d at 86-87. "Nor is living or being employed in a 'high crime area[].'" *Id.* at 87. Rather, an applicant typically must demonstrate that he or she has a need to carry a firearm for protection that substantially exceeds the need possessed by ordinary law-abiding citizens. See *Drake*, 724 F.3d at 428 & n.2; *Woollard*, 712 F.3d at 870; *Kachalsky*, 701 F.3d at 86-87.

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In our view, a similar standard is appropriate in interpreting section 134-9, HRS. Section 134-9 requires that an applicant "sufficiently" demonstrate an "urgency" or "need" to carry a firearm -- all words that connote an immediate, pressing, and heightened interest in carrying a firearm. Furthermore, the applicant must be "*engaged in the protection of life and property,*" language that requires that the individual be actively "tak[ing] part in" such protection, not merely exhibit a generalized concern for safety. Particularly given that Hawaii's modern firearm laws were designed to mirror the uniform firearm laws adopted by many other states, see S. Stand. Comm. Rep. No. 322, in 1927 Senate Journal, at 1023, we therefore believe that much the same standard adopted by those states is appropriate in interpreting section 134-9. This provision, we conclude, requires applicants for an unconcealed-carry license to demonstrate that they have a need to carry a firearm for protection that substantially exceeds the need possessed by ordinary law-abiding citizens.

Without attempting to offer an exhaustive list of applicants who could satisfy this standard, we believe that the following illustrative examples could present a sufficient urgency or need for protection under the statute:

- (a) A person who has suffered serious domestic abuse from a former partner who has violated previous protective orders;
- (b) A victim of stalking who has received credible threats of death or serious bodily harm from his or her stalker;
- (c) A political activist who has received credible threats of death or serious bodily harm due to his or her political activity;
- (d) A witness to a crime who has received credible threats, or is testifying against an organization known to use violence to intimidate witnesses;
- (e) A person who faces heightened risk of attack or violence due to his or her profession, such as a private security officer, a psychiatrist or physician with an obsessive or threatening patient, an attorney with a former client or opposing party who has made credible threats of death or serious bodily harm, a business owner with a violent former employee who has made credible threats of death or serious bodily harm,

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an entertainer with an obsessive fan who has made credible threats of death or serious bodily harm and engaged in stalking; or a person who faces a high risk of armed robbery because his or her job requires stocking ATMs or otherwise transporting large quantities of cash.

3. Good Moral Character.

An applicant for an unconcealed-carry license must also be a person "of good moral character." HRS § 134-9. As courts in other jurisdictions have concluded, we think it plain that a person does not demonstrate "good moral character" where there is reliable and credible evidence that, if issued a license, the applicant may create a risk to public safety. See *Caputo v. Kelly*, 117 A.D.3d 644, 644 (N.Y. App. Div. 2014); *Hider v. Chief of Police, City of Portland*, 628 A.2d 158, 161 (Maine 1993). That is, we advise that a chief of police should deny an application when the applicant exhibits specific and articulable indicia that the applicant poses a heightened risk to public safety. Such indicia could include, but are not limited to:

- (a) Recent incidents of alleged domestic violence, even if not leading to charges or the issuance of a protective order;
- (b) Recent incidents of careless handling or storage of a firearm, especially if involving children;
- (c) Recent incidents of alcohol or drug abuse, especially involving violence, even when not leading to criminal charges or mental health treatment;
- (d) Other recent violent conduct, even if not resulting in criminal charges or serious injury.

4. No Other Reasons That Justify The Exercise Of Discretion To Deny A License.

Finally, section 134-9, HRS, provides that where an applicant satisfies the statute's express requirements, "the respective chief of police *may grant*" an unconcealed-carry license. HRS § 134-9(a) (emphasis added). Accordingly, we advise that chiefs of police may exercise reasonable discretion to deny licenses to otherwise-qualified applicants, but that discretion may not be exercised in an arbitrary or capricious manner. Chiefs of police should exercise their discretion to

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deny unconcealed-carry licenses to qualified applicants only where an applicant's characteristics or circumstances render the applicant unsuitable to carry an unconcealed firearm for reasons not captured by the express statutory requirements. Discretion may not be used to effectively nullify the authorization for unconcealed-carry licenses contained in section 134-9. Nor may discretion be used to impose categorical restrictions on unconcealed-carry licenses -- such as limiting them to private security officers -- that the Legislature did not enact. When a chief of police denies a firearm for discretionary reasons, he or she should document the reasons and report them to the Attorney General as provided in section 134-14, HRS.

IV. CONCLUSION.

We advise that section 134-9, HRS, does not limit unconcealed-carry licenses to private security officers. Furthermore, we advise police chiefs to administer the statute's requirements in accordance with the standards set forth in this Opinion.

Very truly yours,



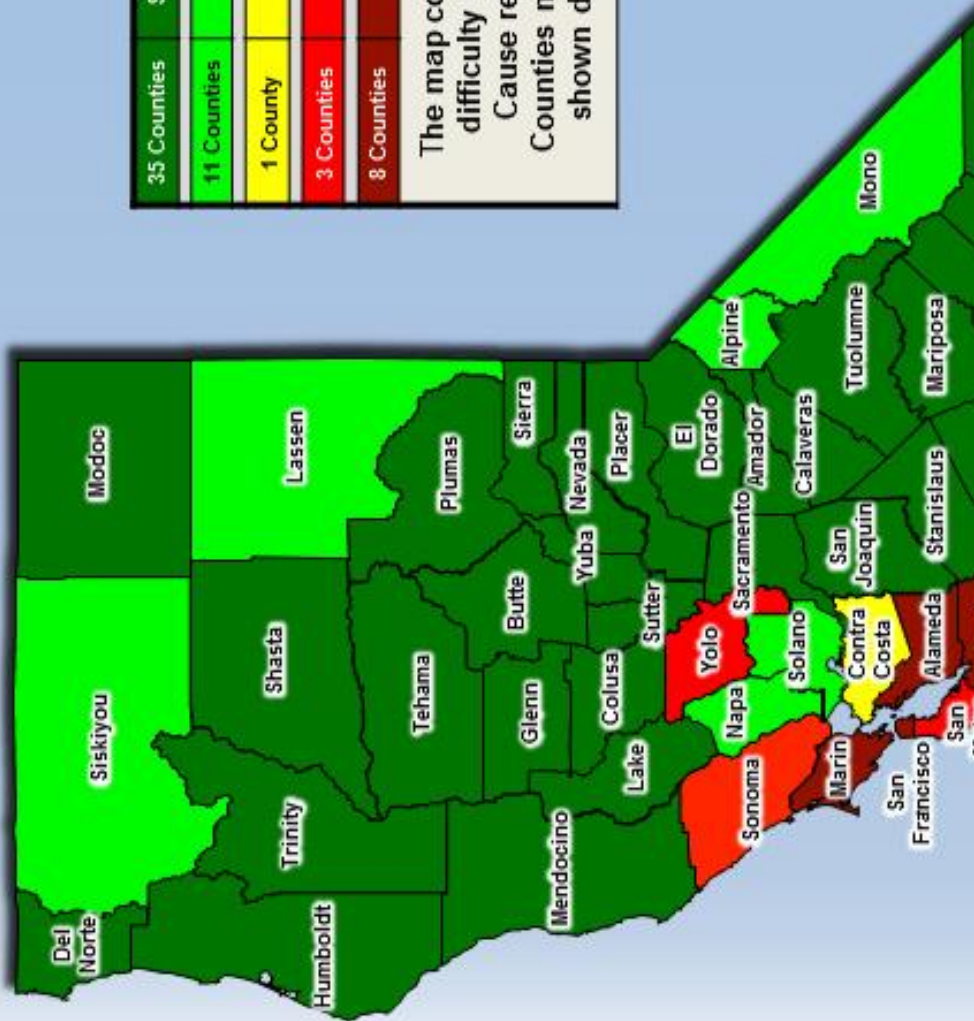
Russell A. Suzuki
Attorney General

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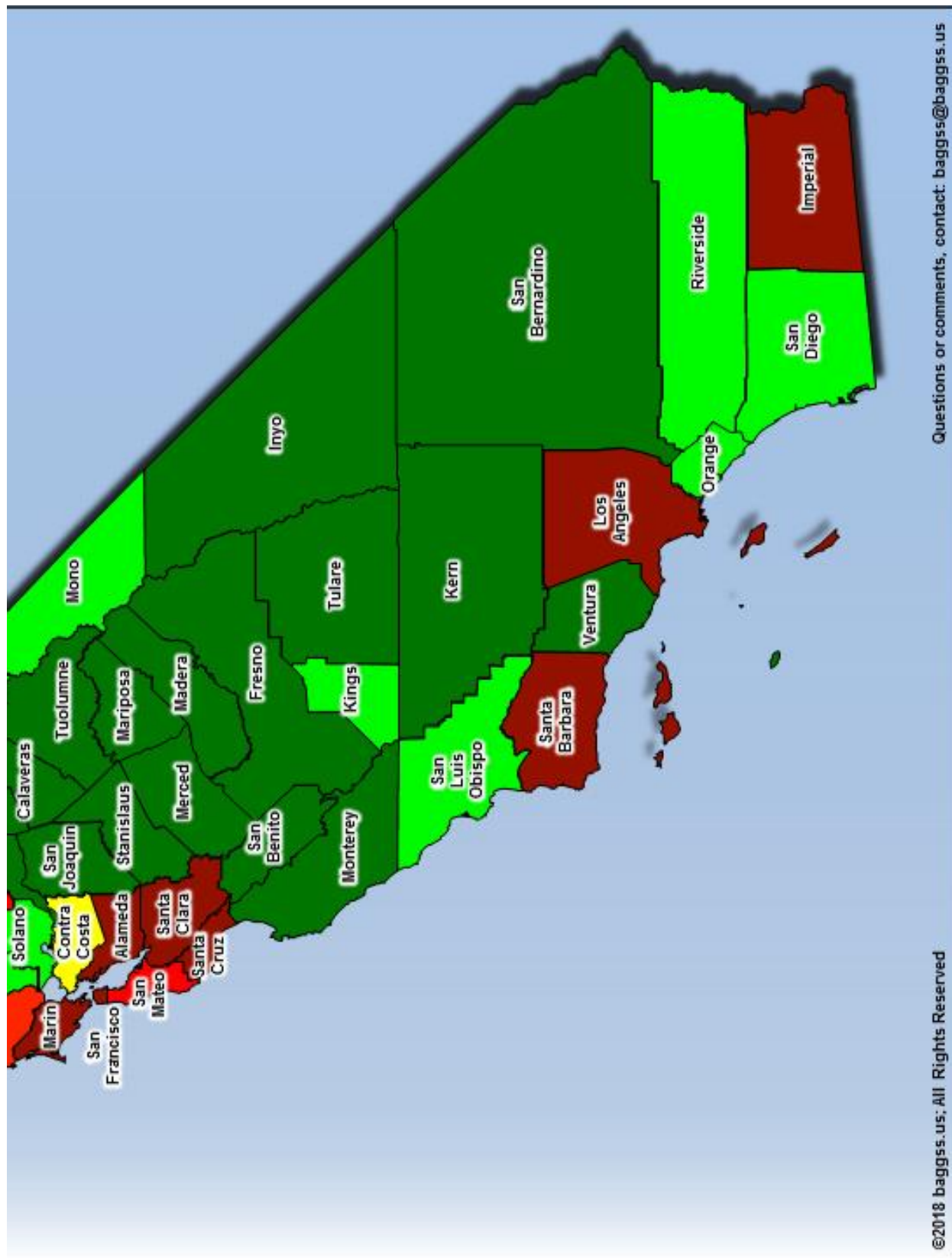
California CCW / LTC "Good Cause" requirement by County

Fall 2018 Rev 1a



35 Counties	Self Defense / Relaxed Good Cause Required
11 Counties	Reasonable Good Cause Required
1 County	Heightened Good Cause Required
3 Counties	Exceptional Good Cause Required
8 Counties	Virtually No Issue

The map colors are an assessment of the difficulty in meeting the Sheriff's Good Cause requirement for each County. Counties may be 1 color off from what is shown depending on current policy.



Questions or comments, contact: baggs@baggs.us

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County/City ^{3/5/6}	Estimated 2016 Population	Est 2016 Adult Population ^{2/4}	Estimated 2014 CCWs	Estimated 2016 CCWs	Estimated 2017 CCWs ¹	% of Adult Population	Area Sq Miles
Alameda	1,647,704	1,202,824	151			1.31358%	825.00
Fremont PD	233,136	170,189					87.61
Pleasanton PD	82,270	60,057					24.28
Alpine	1,071	782	17			2.17459%	727.00
Amador	37,383	27,290	377			1.38148%	601.00
lone PD	7,027	5,130					4.64
Jackson PD	4,678	3,415					3.59
Sutter Creek PD	2,516	1,837					2.62
Butte	226,864	165,611	2,544			1.53613%	1,665.00
Chico PD	91,567	66,844					33.45
Gridley PD	6,704	4,894					2.08
Calaveras	45,171	32,975	1,061			3.21761%	1,036.00
Angels Camp PD	3,786	2,764					3.64
Colusa	21,588	15,759	168			1.06604%	1,156.00
Colusa PD	5,937	4,334					1.83
Williams PD	5,192	3,790					5.44
Contra Costa	1,135,127	828,643	251	317	339	0.04091%	798.00
Antioch PD	110,898	80,956					
Brentwood PD	60,532	44,188					
Clayton PD	10,897	7,955					
Hercules PD	25,360	18,513					
Martinez PD	38,259	27,929					
Moraga PD	17,416	12,714					
Richmond PD	109,813	80,163					
Del Norte	27,540	20,104	197			0.97989%	1,003.00
El Dorado	185,625	135,506	2,525			1.86338%	1,805.00
Fresno	979,915	715,338	7,449	10,000	12,000	1.67753%	5,998.00
Clovis PD	106,583	77,806					
Coalinga PD	16,598	12,117					
Firebaugh PD	8,311	6,067					
Fowler PD	6,348	4,634					
Fresno PD	522,053	381,099					114.70
Kingsburg PD	11,807	8,619					
Sanger PD	25,007	18,255					
Glenn	28,085	20,502	260			1.26817%	1,319.00
Orlan PD	7,587	5,539					
Humboldt	136,646	99,752	869			0.87116%	3,600.00
Imperial	180,883	132,045	164			0.12420%	4,598.00
Inyo	18,144	13,245	444			3.35218%	10,097.00

Kingsbury PD	11,607	18,255							
Sanger PD	25,007	20,502	260					1.26817%	1,319.00
Orlan PD	7,587	5,539							
Humboldt	136,646	99,752	869					0.87116%	3,600.00
Imperial	180,883	132,045	164					0.12420%	4,598.00
Inyo	18,144	13,245	444					3.35218%	10,097.00
Bishop PD	3,782	2,761							
Kern	884,788	645,895	6,162	7,834	8,500			1.31600%	8,170.00
Arvin PD	21,086	15,393							
Bakersfield PD	376,380	274,757							
California City PD	13,707	10,006							
Delano PD	57,707	42,126							
Ridgecrest PD	28,701	20,952							21.53
Shafter PD	18,945	13,830							
Taft PD	9,373	6,842							
Kings	149,785	109,343	838	1,110	1,200			1.09746%	1,436.00
Avenal PD	12,466	9,100							19.42
Corcoran PD	22,626	16,517							12.50
Hanford PD	55,547	40,549							16.80
Lemoore PD	25,785	18,823							8.52
Lake	64,116	46,805	430	422				0.90162%	1,327.00
Lakeport PD	4,772	3,484							
Lassen	30,870	22,535	544					2.41401%	4,690.00
Los Angeles	10,137,915	7,400,678	560	220	226			0.00305%	4,079.00
Arcadia PD	59,523	43,452							
Beverly Hills PD	34,687	25,322							
Burbank PD	104,447	76,246							17.39
Culver City PD	39,364	28,736							
Downey PD	113,267	82,685							
El Monte PD	115,807	84,539							
Gardena PD	60,048	60,038							5.86
Glendale PD	200,831	146,607							
Glendora PD	51,851	37,851							
Long Beach PD	470,130	343,195							51.48
Los Angeles PD	3,976,322	2,902,715							502.76
Manhattan Beach PD	35,741	26,091							
Palose Verde Estates PD	13,586	9,918							
Sanata Monica PD	92,478	67,509							
Torrance PD	147,195	107,452							20.55
Madera	154,697	112,929	1,839					1.62846%	2,147.00
Madera PD	64,444	47,044							15.79
Marin	260,651	190,275	35					0.01839%	588.00

	Gardena PD	60,048	60,038																5.86
	Glendale PD	200,831	146,607																
	Glendora PD	51,851	37,851																
	Long Beach PD	470,130	343,195																51.48
	Los Angeles PD	3,976,322	2,902,715																502.76
	Manhattan Beach PD	35,741	26,091																
	Palouse Verde Estates PD	13,586	9,918																
	Sanata Monica PD	92,478	67,509																
	Torrence PD	147,195	107,452																20.55
Madera	Madera PD	154,697	112,929	64,444	1,839														1.62846%
			47,044																15.79
Marin		260,651	190,275		35														0.01839%
	Novato PD	56,004	40,883																
	San Rafael PD	59,954	43,766																
	Tiburon PD	9,176	6,698																
	Twin Cities PD		0																
Mariposa		17,410	12,709		627														4.93340%
Mendocino		87,628	63,968		1,210														1.75868%
	Ukiah PD	15,882	11,594																
Merced		268,672	196,131		718														0.36608%
	Atwater PD	29,270	21,367																
	Dos Palos PD	5,243	3,827																
	Gustine PD	5,817	4,246																
	Los Banos PD	37,643	27,479																
	Merced PD	82,594	60,294																23.23
Modoc		8,795	6,420		217														3.37988%
	Alturas PD	2,537	1,852																
Mono		13,981	10,206		149														1.45991%
	Mammoth Lakes PD	7,994	5,836																25.31
Monterey		435,232	317,719		330														0.10387%
	Del Rey Oaks PD	1,684	1,229																
	Greenfield PD	17,428	12,722																
	Soledad PD	25,622	18,704																
Napa		142,166	103,781		408														0.45866%
	Napa	80,416	58,704																797.00
	St.Helena	6,154	4,492																18.05
Nevada		99,107	72,348		967														1.94062%
	Grass Valley PD	12,934	9,442																
	Nevada City PD	3,145	2,296																
	Truckee PD	16,391	11,965																
Orange		3,172,532	2,315,948		3,132														0.53067%
	Newport Beach PD	88,688	64,742																785.00

CA CCW / LTC numbers breakdown by County - JAN 2018 (Rev 3)	
County Good Cause Requirement	
9 Counties	Virtually NO Issue
3 Counties	Exceptional Good Cause Required
1 County	Heightened Good Cause Required
10 Counties	Reasonable Good Cause Accepted
35 Counties	Self Defense / Relaxed Good Cause Accepted
<p>The colors are an assessment of the difficulty in meeting the Sheriffs Good Cause requirement for each County. Counties may be 1 color off from what is shown depending on current practice.</p>	
CCW County Summary	
9 Counties	987
3 Counties	620
1 County	476
10 Counties	20,294
35 Counties	72,851
58 Counties	95,228

Sources
CA County size Sq Miles Source: http://www.counties.org/pod/square-mileage-county
2016 Population Source: US Census Buereau
2016 CA City Population Source: Wikipedia
2014 CCW Numbers: Reveal News: https://www.revealnews.org/article/want-to-carry-a-concealed-gun-live-in-sacramento-not-san-francisco/
2015 CCW Numbers: Sacramento Bee: http://www.sacbee.com/news/local/article73538112.html
2016 Sac County CCW numbers: Sac Bee: http://www.sacbee.com/news/local/crime/article121987214.html
2016 Orange County CCW Numbers: http://behindthebadgeoc.com/cities/ocsd/ocsd-takes-steps-meet-exploding-demand-carry-concealed-weapon-permits
2016 Contra Costa County CCW Numbers: http://eastcountytoday.net/sheriffs-office-releases-ccw-permit-holders-names-and-locations-to-abc7/
2016 Kings County CCW Numbers: http://hanfordsentinel.com/news/local/ccw-permits-require-long-process/article_2521f0cc-343d-59d9-8ae8-a072903ad5af.html
2016 Fresno County CCW Numbers: http://www.fresnobee.com/news/local/article53201815.html
2016 LA County CCW Numbers: http://www.dailybulletin.com/social-affairs/20161007/why-dont-la-county-police-chiefs-want-to-handle-concealed-carry-gun-permits
2016 San Diego County CCW Numbers: http://www.760kfm.com/story/32238279/californias-concealed-carry-law
2017 Riverside County Numbers: https://www.facebook.com/sheriffstan.sniff/posts/1467313376640987
2017 SD County CCW Numbers: http://www.sandiegouniontribune.com/news/data-watch/sd-me-gun-data-20171104-story.html
2017 Orange County CCW Numbers: https://www.oregister.com/2017/12/29/sheriff-dept-message-alarms-fast-growing-group-concealed-weapon-holders/
Names of Cities that Issue are based on the CalGuns Foundation report titled: California Carry License Issuance, statewide and by county -2011. Cities listed here were on record as having issued at least 1 CCW to a civilian, cities that were listed as only issuing Reserve PD or Judicial licences are not listed here. Cities with grey color are currently known to not issue to civilians and default to the County Sherriff. Additionally CalGuns user reports of cities that issue are included. The 2011 CalGuns report can be found here: https://www.scribd.com/document/128329814/The-Calguns-Foundation-report-on-California-Carry-License-Issuance-statewide-and-by-county-2011