

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

JASON WOLFORD, ALISON
WOLFORD, ATOM KASPRZYCKI,
HAWAII FIREARMS COALITION,

Plaintiffs,

vs.

ANNE E. LOPEZ, IN HER OFFICIAL
CAPACITY AS THE ATTORNEY
GENERAL OF THE STATE OF
HAWAII,

Defendant.

CIVIL NO. 23-CV-00265 LEK-WRP

DECLARATION OF LAURA H.
THIELEN

DECLARATION OF LAURA H. THIELEN

I, LAURA H. THIELEN, hereby state and declare as follows:

1. I am the Director of the Department of Parks and Recreation (“DPR”),
City & County of Honolulu.

2. I have personal knowledge of, and am competent to make this
Declaration, concerning the matters set forth below. I note, however, that the
specific statistical information provided herein regarding the numbers of
participants in certain programs, as well as the use of DPR facilities by specific

schools or organizations, was given to me by my subordinate employees based on DPR's regularly kept business records.

3. I was nominated to be Director of DPR in January 2021 – and confirmed as Director in February 2021 – and have served in this capacity since that time. In this role, and as indicated on DPR's website, I oversee approximately 769 DPR employees and an additional 908 contract employees. DPR, "About us" (last updated July 10, 2023), available at

<https://www.honolulu.gov/parks/default/about-us.html>.

4. As indicated on DPR's website, DPR manages 402 parks comprising 4,967 acres within the City & County of Honolulu. This includes 62 beach parks, 156 playgrounds and swings, 221 baseball/softball diamonds, and 585 outdoor play courts. DPR, "About us" (July 10, 2023), available at

<https://www.honolulu.gov/parks/default/about-us.html>.

5. DPR facilities are generally closed from 10:00 p.m. to 5:00 a.m., though this can vary based on community input, with exceptions for New Year's Eve and other special events. A dedicated website indicates these regular park closure hours at <https://www.honolulu.gov/parks/default/park-closure-hours.html>.

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Use of DPR facilities by children and for educational programs

6. DPR's facilities are heavily used by children, both for organized and unorganized activities; DPR also offers educational programming – including classes in the arts, language, culture, and athletics – for children and adults. Just as a few examples:

- a. The State Department of Education frequently uses DPR facilities – particularly the many DOE schools that are adjacent to DPR facilities. For example, during the school year, Hōkūlani Elementary School has reserved the use of the large baseball field at the adjacent Kānewai Park every day during school hours. Castle High School uses Kāneʻohe District Park for athletics practices after school. Private schools, such as Kamehameha Schools Kapālama, use DPR facilities for field trips. Private schools also use DPR facilities for athletics practices; for example, Maryknoll School often holds weekend basketball practices at a DPR gymnasium.
- b. The City's Summer Fun program is a summer day camp for children between six and thirteen years old, with a program for Junior Leaders ages thirteen to seventeen, offered at 53 locations, including forty-seven parks and six DOE schools in 2023.

Summer Fun operates from 8:30 a.m. to 2:00 p.m. weekdays, and several locations have additional programming before 8:30 a.m. and/or after 2:00 p.m. (“Summer Plus After” and “Summer Plus Before & After”). Summer Fun’s registration fee is \$25 (with an additional excursion fee, depending on the particular site, of no more than \$100) for the entire summer – June and July 2023, when most schools are closed – making this an affordable option for Honolulu parents with employment outside the home. Based on staff reports, my understanding is that, in 2023, approximately 7,755 children are participating in Summer Fun, along with approximately 1,300 Junior Leaders. Mililani District Park has approximately 425 child participants this summer, and Mānoa Valley District Park has approximately 350 child participants, meaning there are hundreds of children present in these parks during Summer Fun hours. DPR, “Summer Fun Program” (May 11, 2023), available at <https://www.honolulu.gov/parks/program/summer-fun-program.html>.

- c. DPR offers a wide range of clinics and classes. There are classes specifically for children and teenagers, such as Beginner Boxing,

Basketball Skills Clinics, Chess, Gymnastics, Hula, Lifeguard Certification, Soccer, Percussion, Tennis, Ukulele, Volleyball, Water Polo, and various swimming courses. There are also classes specifically for adults, including ceramics, ballroom dancing, English Language, Hawaiian Language, Korean Language and Culture, Meditation, Painting, Ti Leaf lei-making, and seniors club meetings, as well as hundreds of athletics classes and clinics. There are also courses for parents and children to attend jointly. DPR, Activities, available at <https://bit.ly/DPR-Activities-Summer2023> (last accessed July 5, 2023). Approximately 28,000 individuals (including children and adults) participate in these programs each year. In the fall of 2022, there were approximately 615 classes for children and youths at DPR facilities, with approximately 5,789 child/youth participants. In the spring of 2023, there were approximately 598 classes for children and youths at DPR facilities, with approximately 5,579 child/youth participants.

- d. DPR's facilities are used extensively for private youth sports activities. For example:

- i. The American Youth Soccer Organization (“AYSO”) uses DPR’s facilities across O‘ahu for youth soccer leagues, with numerous leagues for children of different ages. More information is available on its website, <https://www.ayso178.org/>.
- ii. i9 Sports uses DPR’s facilities across O‘ahu for youth soccer, baseball, flag football, basketball, and volleyball leagues, with numerous leagues for children of different ages. More information is available on its website, <https://www.i9sports.com/honolulu-youth-sports-leagues>.
- iii. Little League uses DPR’s facilities across O‘ahu for baseball and softball year-round. Little League’s website helps to give some idea of the scale and intensity of Little League’s use of DPR’s facilities: Honolulu Little League’s “Majors” team – eleven- to twelve-year-olds – won the Little League World Series in 2022 and 2018, the Waipi‘o Little League team won the Little League World Series in 2008, and the ‘Ewa Beach team won the Little League World Series in 2005. See Honolulu Little League, “About Us,” available at

<https://honolululittleleague.com/about-us> (last accessed July 5, 2023).

- iv. There are innumerable other youth sports leagues, classes, and clinics at DPR facilities. As just one example, Mānoa Valley District Park has – among other things – its own youth basketball league, its own youth baseball league, and its own youth aquatics league. On many days in 2022, either the Mānoa Youth Baseball Federation or PAC 5 Football had reserved use of one or more fields at the park. Indeed, each of the five districts within DPR has its own youth sports league – usually including basketball and volleyball, and sometimes flag football – with practices and games held on the weekends.
- e. DPR’s facilities are used for other youth-focused events, such as the Annual North Shore Menehune Surfing Championship.
- f. DPR issues thousands of “picnic,” “park use,” and camping permits each year. In Calendar Year 2022, DPR issued 11,753 “picnic” and/or “park use” permits, while also issuing 8,776 camping permits during that same time period. These permits allow individuals to reserve specific areas of a park for things like birthday parties, family picnics, or overnight camping in

designated campgrounds. DPR does not ask permittees to list the type of event they intend to hold at the park site; however, these picnic sites and campgrounds are very commonly used for children's birthday parties.

Beach parks and beaches

7. At DPR's 62 beach parks, the "beach" and the "park" are not two separate things. Instead, the park includes the beach – that is, the beach park includes the sand or rocks constituting the beach, as well as some area that is not sand (such as grass or other plants), as one "park." In most of these parks, there is no clear boundary between the "beach" and the rest of the park, for several reasons. First, the sand shifts depending upon the weather and the season. Second, where there is grass (or soil or other plants) adjacent to sand, there is typically a transition zone in which sand mixes with grass, soil, and/or other plants. For example, at Ala Moana Regional Park – a 119-acre park in urban Honolulu – there is a half-mile long beach. Most of the sand is adjacent to grass, and park users commonly set up pop-up tents in the grassy areas where they sit, leave their belongings, and cook food. Park users will routinely move between the ocean, the sand, the grass, the sidewalk, and parking areas. Going to "the beach" at one of these 62 beach parks necessarily means going to "the park." Additional

information about Ala Moana Regional Park is available at

<https://bit.ly/AlaMoanaPark>.

8. Here are two photographs, publicly available on the internet, to better illustrate this point. This is a photograph of Ala Moana Beach Park:



Hawaii News Now, “State approves Honolulu plan to add sand to Ala Moana beach,” Feb. 18, 2021, available at <https://bit.ly/HNN-photo-AlaMoanaBeachPark> (photo credit: Associated Press).

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This is a photograph of Kuli‘ou‘ou Beach Park:



Available at <https://bit.ly/Yelp-photo-KuliououBeachPark> (photo credit: user “Vincent L.” on Yelp.com, dated March 1, 2021). Again, there is often no meaningful distinction between “park” and “beach” at DPR facilities.

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First Amendment activities

9. DPR's facilities are heavily used for First Amendment activities.

Here are just a few recent examples of recent and upcoming events, which I have taken from DPR records (which records can be provided to the Court upon request):

6/12/2022	Parade	King Kamehameha Floral Parade	Kapi'olani Park
6/18/2022	Event	Chaplain's Walk	Kapi'olani Park
6/24/2022	March	Roe v. Wade support	Ala Moana Park
6/25/2022	Parade	AIDS Walk	Kapi'olani Park
6/28/2022	Event	Papa Ola Lōkahi Meeting	Kapi'olani Park
7/1/2022	Event	Lei draping and gathering at Gandhi Statue	Kapi'olani Park
7/7/2022	Event	Music Recital	Kapi'olani Park
7/9/2022	Parade	Family Day Parade – God's 'Ohana Day Parade	Atkinson to Kapi'olani Park
7/24/2022	Event	Israeli Folk Dancing	Kapi'olani Park
7/31/2022	Event	Lā Ho'ihō'i Ea – Sovereignty Restoration Day	Thomas Square
8/3/2022	Event	Hula performance	Kapi'olani Park
8/20/2022	Event	Celebration of Life	Kapi'olani Park
9/17/2022	Rally	Freedom Rally	Kapi'olani Park

10/2/2022	Parade	Komen Foundation More than Pink Walk	Kapi‘olani Park
10/15/2022	Parade	Honolulu Pride Parade	Atkinson to Kapi‘olani Park
11/11/2022	Event	Veteran’s Day Ceremony	Kapi‘olani Park
12/17/2022	Parade	Chanukah Car Menorah Parade	King Kalakaua Park
1/16/2023	Parade	Martin Luther King Parade	Ala Moana Park to Kapi‘olani Park
4/1-2/2023	Event	Pow Wow in Paradise	Ala Moana Park
4/23/2023	Protest/ March	Red Hill Walk for Water	Ala Moana Park
4/29/2023	Event	Keiki Community Fair and Drag Story Hour	A‘ala Park
4/29/2023	Protest	Protest of Drag Story Hour	A‘ala Park
5/17/2023	Event	Kamehameha III Birthday Lei Draping	Thomas Square
7/8/2023	Parade	Family Day Parade – God’s ‘Ohana Day Parade	Atkinson to Kapi‘olani Park

Upcoming

7/30/2023	Event	Lā Ho‘iho‘i Ea – Sovereignty Restoration Day	Thomas Square
7/30/2023	Event	La Hoihoi Ea – Sovereignty Restoration Day	Pokai Bay
8/26/2023	Event	Celebration of Ukrainian Independence Day	Ala Moana Park

10. There are innumerable other events across O‘ahu within DPR’s facilities that involve First Amendment protected activity, including:

- a. Church services;
- b. Meetings for groups such as Alcoholics Anonymous;
- c. Art exhibitions;
- d. Concerts, including concerts at the Waikīkī Shell; and
- e. Photography for weddings, engagements, and other events.

11. As indicated above, larger events – for which permits are required – are most typically held at Kapi‘olani Park and Ala Moana Regional Park. However, for other City parks, permits are not required for events of fewer than 50 people. As such, participants may not – and need not – seek a permit from DPR to hold these smaller activities, though they are very common across DPR facilities.

Conclusion

12. In sum, the use of DPR facilities by children, the use of DPR facilities for educational purposes, and the use of DPR facilities for First Amendment activities is extraordinarily common.

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

DATED: Honolulu, Hawai'i, July 13, 2023.



LAURA H. THIELEN