



Nudity in Hawaii—Legal or no?

Question: There's a small beach near the Mokuleia polo field where local families have gone for many generations. My father taught me to dive there. But it's being taken over by nudists and people and people who hook up for sex. You never know what you will stumble upon. This has been a problem for years but it's getting worse and worse. ...It used to be a few naked people on the weekends who would cover up to be discreet when we surfaced (from diving) but now it's a whole crowd of people and they are blatant.

They show total disrespect for the local people they are offending. ...This is a public beach! What's going ? ...

Answer: Makaleha Beach Park off Farrington Highway on Oahu's North Shore, also known as Polo Beach, is not an officially designated and regulated nude beach; there are none in Hawaii, confirmed Richard Spacer, Hawaii representative for the Naturist Action Committee, a political activist group with branches throughout the U.S. and its territories. The Group advocates for greater rights for people who like to sunbathe, swim, hike and enjoy other outdoor activities naked.

Spacer's goal is to have the beach officially designated as clothing-optional. Although not there yet, he has prevailed upon Honolulu Department of Parks and Recreation Director Michele K. Nekota to remove a public right-of-way sign that had specifically prohibited nudity at the beach. The sign was removed and replaced in August with one that does not list nudity or soliciting among prohibited activities, city officials confirmed.

Spacer had insisted the sign come down because the Hawaiian Supreme Court in 2000 overturned the convictions of nude sunbathers who had been accused of indecent exposure at that very beach. In *Hawaii v. Kalam*, the court ruled that the men were not guilty under Hawaii Revised statutes 707-734 because they had not intentionally exposed their genitals under circumstances that were likely to cause an affront. Only fellow nude sunbathers (and the arresting officers) were on the beach when citations were issued.

Nekton first heard from Spacer last July and acknowledged to him in a letter in late October that "the sign that included 'No Nudity' has been removed and replaced" with the department's standard sign prohibiting certain activities.

Nekton told Kokua Line via email that the department has been working to make signs uniform throughout Oahu and that the Makaleha sign was changed as part of that process.

The change in signage may have been prompted an uptick in beach traffic, assuming that the previous sign discouraged some beachgoers from disrobing. We also found numerous references to the beach via websites and social media that promote public nudity.

Nekton said state law applies at Makaleha Beach Park “and anyone who feels offended by nudity is asked to call the police.”

The other city and state authorities we consulted also said an offended party should call the police. Per the Supreme Court ruling, a specific complaint must be filed by someone other than the police and it must be backed up by evidence of an intentional affront.

The Naturist Action Committee summarizes potentially relevant statutes at naturistaction.org. On the home page, click on “Laws,” which will take you to an index of states. Click on Hawaii for a list of statutes, including fourth-degree sexual assault, indecent exposure and open lewdness, and the Hawaii Administrative Rule (Title 13-146-38) that prohibits most nudity in state parks.

You also referred to public sexual conduct, which is a separate issue. Several statutes could apply. As with any other alleged crime, you should call the police, city and state officials said.

In researching this question, we also heard from naturists who insist that claims of offensive conduct at Makaleha are overstated. One, RoAnne Gatt, who moved to Oahu from New York in 2014, emailed Kokua Line to say that the nude sunbathers there are peaceful people who are not looking to attract attention, including from the police.

“We are hard-working, taxpaying people who have as much right as ‘clothed’ sunbathers,” she said.

This was taken from “Kokua Line” at Honolulu Star-Advertiser on Thursday 3/3/16.