

THE SENATE
THE TWENTY-FOURTH LEGISLATURE
REGULAR SESSION OF 2008

COMMITTEE ON JUDICIARY AND LABOR

Senator Brian T. Taniguchi, Chair
Senator Clayton Hee, Vice Chair

NOTICE OF INFORMATIONAL BRIEFING

DATE: Friday, January 11, 2008
TIME: 1:30 p.m.
PLACE: Conference Room 016
State Capitol
415 South Beretania Street

A G E N D A

The committee will be receiving information from the following agencies on its second year fiscal biennium requests.

Department of Accounting and General Services

Campaign Spending Commission AGS 871
Office of Elections AGS 879

Department of the Attorney General

Legal Services ATG 100
State Criminal Justice Information and Identification ATG 231
Child Support Enforcement Services ATG 500

Department of Budget and Finance

Office of the Public Defender BUF 151

Department of Human Services

Commission on the Status of Women HMS 888

The Judiciary

Courts of Appeal JUD 101
First Judicial Circuit JUD 310
Second Judicial Circuit JUD 320
Third Judicial Circuit JUD 330
Fifth Judicial Circuit JUD 350
Administration JUD 601

Office of the Lieutenant Governor

Enforcement of Information Practices LTG 105



If you require special assistance or auxiliary aids or services to participate in the public hearing process (i.e., sign or foreign language interpreter, wheelchair accessibility, or parking designated for the disabled) please contact the committee clerk 24 hours prior to the hearing so arrangements can be made.

FOR FURTHER INFORMATION, PLEASE CALL THE COMMITTEE CLERK AT 586-6460

Senator Brian T. Taniguchi
Chair



Senate Committee on Judiciary and Labor
Budget Requests for Supplemental Budget 2008-2009
January 11, 2008

Testimony of the Department of Accounting and General Services
Campaign Spending Commission

Program Structure Number:

11 01 04 01

Program I.D. and Title:

AGS 871/Campaign Spending Commission

Page Reference in the Supplemental Budget Document:

Not available

1. Introduction:

In late 2006, the Campaign Spending Commission began work on the development of a five-year strategic plan. It was completed in the summer of 2007. The new program objectives are in alignment with this five-year plan.

a. Summary of program objectives.

The Hawaii Campaign Spending Commission is dedicated to the integrity and transparency of the campaign finance process. The program objectives that follow carry out the Commission's mission statement.

b. Description of program objectives.

1. To simplify and clarify campaign spending laws in order to improve implementation and compliance.
2. To increase public education, awareness and access.
3. Increase the technological capacity to improve access, reduce paperwork, and increase compliance.
4. Upgrade the training for and ability of the committees to comply with the campaign spending laws.
5. Encourage compliance.

6. Increase and stabilize the Campaign Spending Commission's institutional capacity to carry out its mission.
- c. Explain how your program intends to meet its objectives in the upcoming supplemental year.
1. To simplify and clarify campaign spending laws in order to improve implementation and compliance.
 - (i) Complete recodification draft of Hawaii Revised Statute in 2008 with Blue Ribbon Advisory Committee, for submission to the 2009 Legislature.
 - (ii) Use process to stimulate the awareness of committees and the general public.
 2. To increase public education, awareness and access.
 - (i) Develop a simple, multi-year public education plan for the purposes of creating broad-based public knowledge of the most important campaign contribution and expenditure parameters.
 - (ii) Hold periodic public seminars to highlight important issues.
 - (iii) Improve web-based information.
 - (iv) Develop capacity for regular public information releases during the electoral season on contributions and expenditures.
 - (v) Establish procedures between campaign spending, elections and ethics offices to formalize coordination efforts.
 - (vi) Establish procedures between the campaign spending office and the procurement office to formalize coordination efforts.
 3. Increase the technological capacity to improve access, reduce paperwork, and increase compliance.
 - (i) Develop front-end system so all committees can file on-line, and access additional information and assistance on-line.
 - (ii) Develop user diagnostics to serve as an early warning system for committees on potential violations.

- (iii) Increase the analyses capability for the Campaign Spending Commission.
 - (iv) Keep the system updated, and current.
- 4. Upgrade the training for and ability of the committees to comply with campaign spending laws.
 - (i) Develop a comprehensive curriculum, with training modules on most asked, most problematic, and new provisions.
 - (ii) Establish a goal for minimum competency of each committee through testing and/or training.
 - (iii) Create new methods for training and disseminating information, including virtual training (i.e. web-based, DVD).
 - (iv) Hold periodic public discussions to highlight important Issues.
- 5. Encourage compliance.
 - (i) Develop system for automatic on-line, email, and postal notifications.
 - (ii) Develop escalating penalties for repeat and gross Violations.
 - (iii) Simplify, expedite disposition of offenses.
 - (iv) Automate tracking and follow up communications.
- 6. Increase and stabilize the Campaign Spending Commission's institutional capacity to carry out its mission.
 - (i) In anticipation of continued annual reductions in the tax check-off, develop proposals to stabilize funding, including a general fund appropriation to be made into the trust fund at 4 to 6 year intervals.
 - (ii) Articulate the philosophy of fines as fines, not as a dependable or primary funding source for the Campaign Spending Commission's operations.
 - (iii) Plan for potential staff transitions (beyond 2012).

- (iv) Continue Commissioner development through periodic discussions, and updating the Commissioner handbook.
- (v) Document procedures.
- (vi) Evaluate space needs for possible staff expansion due to potential for increased statutory responsibilities.
- (vii) Develop contingency plans for public funding scenarios.

2. Program Performance Results:

- a. Discuss the performance results achieved by each program in FY07.

The performance results are based on the previous year's goals and objectives. We are currently transitioning to align our performance results with the new five-year strategic plan.

- 1. Goal #1 - Develop a five-year Strategic Plan for the Commission involving stakeholders.

FY 07 Accomplishment:

- (i) The five-year strategic plan was completed and is implemented.

- 2. Goal #2 - Assure the timely and accurate reporting of campaign contributions and expenditures by all candidate and noncandidate committees that are required to register and report to the Commission.

FY 07 Accomplishments:

- (i) Review of the three year backlog of reports was completed. The majority of corrections were made and fines paid. The Commission collected \$29,920 in late filing penalties for FY 07 which was deposited into the Hawaii Election Campaign Fund.
- (ii) The web-based Candidate Filing System went live in January, 2007. Many compliments were received on the new user-friendly system.
- (iii) The commission held 12 training classes in the new system since January, 2007. The system was so easy to learn, that many candidates chose to learn the system with the on-line manual, calling the

Commission with help questions.

- (iv) The Commission researched, drafted and approved 12 Advisory Opinions.
3. Goal #3 - Educate and disseminate information to candidate and noncandidate committees regarding their respective reporting requirements.

FY 07 Accomplishments:

- (i) Conducted 4 training sessions for candidates, Candidate committees, noncandidate committees, and public financing including sessions on Maui, Kaua'i and the Big Island.
- (ii) Regarding the Supplemental disclosure report due on January 30, 2007, 174 of 221 candidates filed electronically on the new Candidate Filing System (79%). Regarding the Supplemental disclosure report due on July 31, 2007, 186 of 218 candidates filed electronically on the new Candidate Filing System (85%).
- (iii) The Commission's website was utilized for educating and disseminating information regarding reporting requirements. The Commission's website, between January 1, 2007 and August 31, 2007, averaged 45,800 "hits" per month, which is outstanding for a non-election year. The average "hits" per month for January, 2006 through December, 2006, minus the month of May (which showed "37" hits, an error), an election year, was 38,782 per month.
- (iv) The Commission updated the Candidate Committee and Noncandidate Committee manuals with Act 200 amendments, and updated the layout and language. The Commission completed drafting scripts and creating powerpoints for training to be posted on the website for Candidate Committees, Noncandidate Committees and Public Financing.
- (v) The Campaign Spending Commission Bulletin was researched, drafted, published and mailed to over 1,000 candidates, chairpersons, treasurers and noncandidate committees, in January and in July, 2007.

4. Goal #4 - Administer the Hawaii election campaign trust fund to insure its viability for the Commission and to provide funding for publicly funded candidates.

FY 07 Accomplishments:

- (i) Public Funding totaling \$122,649.04 was distributed to 21 candidates for the 2006 elections. Nine of the 21 candidates won their respective elections.
 - (ii) Administrative fines for FY 07, totaling \$272,049.25, have been paid to the Hawaii Election Campaign Fund.
 - (iii) Revenue from the \$2 tax check-off, for FY 2007, totaling \$220,406.00 was deposited into the Hawaii Election Campaign Fund. Interest totaling \$237,291.65, copy charges totaling \$119.35, excess contributions totaling \$13,475.00, anonymous contributions totaling \$836.02 and surplus/residual funds totaling \$10,611.93 were other notable receipts into the Hawaii Election Campaign Fund.
 - (iv) Review of public funding applications will be expedited by the inclusion of 3 of the screening criteria into the web-based Candidate Filing System program.
5. Goal #5 - Administer and enforce the provisions of the campaign spending law.

FY 07 Accomplishment:

- (i) The Commission assessed 27 organizations and individuals administrative fines totaling \$11,901 for making excess contributions, failing to deposit campaign funds, failure to report expenditures, and other violations. (The difference between this figure and the figure in Goal #4, Administrative fines, is the prior figure is fines previously assessed, including fines paid on a monthly schedule.) In addition, \$29,920 in penalties (i.e. late reports, defective reports) was assessed.
6. Goal #6 - Promote informed voters.

FY 07 Accomplishments:

- (i) Achieved passage of legislation for mandatory electronic filing of reports for noncandidate committees effective with the report due September 10, 2008, making Hawaii one of the

leading states in the nation for campaign finance transparency.

- (ii) On two dates in July, 2006, ran informational advertisements for registration requirements and contributions in newspapers on Oahu, Maui, Kauai and the Big Island. Also in late June, 2006, ran informational advertisements regarding contribution limits and election periods for each office, on two dates in the newspapers listed above.
- (iii) Utilized the State of Hawaii paystub for encouraging all employees to view campaign contributions and expenditures on the Commission's website.

7. Goal #7 - Recodify the Hawaii Revised Statutes Chapter 11, Subpart B.

FY 07 Accomplishments:

- (i) Invited several attorneys to join a Blue Ribbon Recodification Committee, of which 18 accepted.
- (ii) Researched and drafted the first proposed draft of the recodification of the campaign finance subpart of the Hawaii Revised Statutes. Numerous, lengthy meetings were held with staff members to discuss changes, justifications, and the history of each section of the applicable Hawaii Revised Statutes.

8. Goal #8- Increase and stabilize the Commission's institutional capacity to carry out its mission.

FY 07 Accomplishments:

- (i) Developed this new goal during the Strategic Planning process.
- (ii) Researched, drafted and finalized a Campaign Spending Commissioner Handbook, and distributed to the current Commissioners.

b. Explain how these results relate to the program's objectives and department's mission.

These results provide transparency for the electorate and assist in maintaining the integrity of the campaign finance process.

- 1. The Strategic Plan assures the Commission is focused on achieving its objectives.

2. The Candidate Filing System provides an easy way for the public to review contributions and expenditures, and for candidates to file reports.
 3. The timely review of disclosure reports ensures integrity of the process because candidates will take more time to make sure reports are accurate, and will become more aware of the laws and rules.
 4. Enforcement assists in maintaining the integrity of the process.
 5. We have provided more educational opportunities, both in classes and on the the web, that help candidates stay in compliance, and that informs the public about what's available on our website.
- c. Explain how the effectiveness of the program is measured (i.e.: outcomes, measures of effectiveness, benchmarks, etc.) and discuss the performance results achieved during the past two years.
1. The benchmark for measuring the effectiveness of the electronic filing program is the amount of public access to the commission website. In FY 07, a non-election year, the Commission website averaged about 40,749 "hits" per month. This number of "hits" is quite high, considering there was an average of 48,000 "hits" in an election year, 2006.
 2. The benchmark for timely review of all reports for compliance is the number of reports reviewed. Between April, 2006 and June, 2007, approximately 2,295 backlogged disclosure reports were reviewed by our contract investigator. Between April, 2006 and March, 2007, 234 discrepancy letters were sent out.
 3. The measure for education is the number of classes held, though website "hits" are also a big factor in education, as well as phone call inquiries. Eighteen classes were held in FY 07 (committees, public financing, web-based filing).
 4. In FY 2007, about \$301,969.25 was collected in fines and penalties. In 2006, approximately \$435,709 was collected. The decrease is due to fines that were imposed over the last five years, and paid off in increments, being fully paid. This source of income may continue to decline as old fines are paid in full and compliance rises.

- d. Discuss actions taken by each program to improve its performance results.
 - 1. An aggressive program was instituted to remove a three-year backlog in the review of campaign disclosure reports.
 - 2. Passage of mandatory electronic filing legislation for Board of Education candidates, and removing electronic filing exemptions, provides the public with instant access to all candidate reports, and allows us to shift some clerical time from accepting manually filed reports, to doing an initial review of reports.
 - 3. Passage of mandatory electronic filing for noncandidate committees will provide instant transparency for the public in September, 2008, making Hawaii one of the most transparent states in the nation.
 - 4. Work on a web-based noncandidate committee filing system provides increased efficiencies both for candidates and the commission staff.
- e. Please identify all modifications to your program's performance measures and discuss the rationale for these modifications.

In a nutshell, a five-year Strategic Plan was developed in 2007, which causes a modification of all program objectives and performance measures. We are going through a transition period, aligning our work with the new Strategic Plan.

3. Problems and Issues:

- a. Discussion of problems and issues encountered, if any.

Late filed disclosure reports take a large amount of staff time for drafting letters, tracking responses, writing additional letters, placing newspaper ads, etc. This time is sorely needed to conduct a timely review of disclosure reports when submitted.
- b. Program change recommendations to remedy problems.

Legislation will be submitted to increase fines for late reports to encourage compliance. Many times, the late filers are the same ones for each report.
- c. Identify any program issues or problems that have affected or will affect the implementation of the program, and the corrective

measures or remedies established or planned.

None.

4. Expenditures for Fiscal Year 2008:

	Appropriation Budget Act FY 2007-08	Collective Bargaining	Transfer In Transfer (Out)	Restrictions	Available Resources	Estimated Expenditures
(Pos. Count)	(5.00)				(5.00)	(5.00)
Personal Services	593,963	11,701			605,664	605,664
Current Expenses	248,163				248,163	248,163
Financing	0					0
Agreements						
Equipment	0					0
Motor Vehicles						
Total	842,126	11,701			853,827	853,827
Less: (Pos. Count)	(5.00)				(5.00)	(5.00)
Other-Trust	842,126	11,701			853,827	853,827
(Pos. Count)	(0.00)				(0.00)	(0.00)
General Fund	0				0	0

a. Explain all transfers within the Program I.D. and the impact on the program.

None

b. Explain all transfers between Program I.D.s and the impact on the program.

None

c. Explain any restrictions and the impacts on the program.

None

5. Supplemental Budget Requests for Fiscal Year 2009:

	<u>Act 213/07</u> <u>FY 2009</u>	<u>Budget</u> <u>Adjustment</u> <u>FY 2009</u>	<u>Supplemental</u> <u>Budget</u> <u>FY 2009</u>
(Pos. Count)	(5.00)		(5.00)
Personnel Services	593,963		596,963
Current Expense	4,076,851		4,076,851
Financing Agreements			0
Equipment			0
Motor Vehicles	_____	_____	_____
	—		
Total	4,670,814		4,670,814
(Pos. Count)	(5.00)		(5.00)
Trust Fund	4,670,814		4,670,814

a. Workload or program request:

- i. A description of the request, the reasons for the request, and the desired outcomes or the objectives to be accomplished by the proposed program.

None

- ii. A listing/description of the positions requested, and funding requirements by cost category and source of funding.

None

- iii. For all lump sum requests, please provide a breakout indicating specific purposes for all planned expenditures.

None

- b. For all position count reductions, please specify whether the positions were filled or vacant.

None

6. Program Restrictions:

a. A description of the reduction, the reasons for the reduction, and the impacts to the objectives to be accomplished by the program.

None

b. A listing/description of the positions cut including source of funding; please specify whether the positions were filled or vacant.

None

7. Capital Improvement Program (CIP) Requests for Fiscal Year 2009:

None

8. Proposed Lapses of CIP projects:

None

THE HAWAII ELECTION CAMPAIGN FUND

The Hawaii Election Campaign fund was established in 1979, as a result of a 1978 Constitutional Convention provision in the State Constitution to establish a program of partial public financing of campaigns. The legislature is mandated to establish a limit on the campaign spending of publicly financed candidates. The principal intent of the partial public funding program is to provide a neutral source of funds to candidates to minimize the need for participating candidates to accept contributions from corporations, unions, and other special interests. Public funding provided by the Hawaii Election Campaign fund also provides new and underfunded candidates an opportunity to compete against more established candidates with a ready source of funds.

The primary source of funding for the Hawaii Election Campaign fund is from the optional check-off that taxpayers may select to designate that two dollars from their tax liability be assigned to the fund for that year. This check-off has steadily declined over the last sixteen years, even though the amount designated does not reduce nor increase the amount of taxes to be paid or refunded. There has also been an increase in the number of check-offs on the State tax form for various other causes for the taxpayer to select from.

Previous Hawaii Election Campaign Fund reports have used calendar year numbers. We will be converting this report from a calendar year report to a fiscal year report to align it with budget reporting. Thus receipts and expenditures will refer to the calendar year, and the actual Hawaii Election Campaign Fund report will refer to the fiscal year '07.

RECEIPTS

Receipts for the calendar year were down from \$947,618.44 in 2006 to \$596,195.72 in 2007. \$52,670 of the 2006 total came from an early payment for the July to December, 2006 tax revenue on 12-26-06, when it is usually paid in January, 2007 and accrues to the 2007 total. Additionally, the receipt total is for January – October, 2007, and does not include the tax revenue payment for July to December, 2007 which is usually around \$50,000. Also, there is a significant decline in fines and penalties, as long term payments over the last five years have been paid in full. The tax check-off receipts for January to July, 2007 increased ten percent, however we await the payment for July to December, 2007 to determine if there was an increase or decrease for 2007 overall. With more compliance, we expect a decline in fines and penalties. Interest from investments increased slightly, but not enough to offset the decline in other revenues.

EXPENDITURES

Expenditures increased from \$695,230.49 in FY 06 to \$809,381.68 FY 07.

An election year FY 07 generally has a higher rate of expenditures for several reasons, the most significant of which is the provision of public financing

for campaigns, which was about \$122,649.04. Expenditures include a contract investigator to review reports because the Commission was three years behind in review of Disclosure reports. The contract investigator completed the review of 2,295 reports to date, with 234 discrepancy letters drafted and mailed. Additionally, contracts were executed for a strategic planner to guide the Commission through the planning process and for a computer trainer to assist in training users of the new Candidate Filing System.

BALANCE

The balance of the Hawaii Election Campaign Fund increased slightly over a year ago. The primary source of the fund is the individual income tax check-off. Though through the years, the number of taxpayers checking off on tax returns has declined steadily, providing an income base currently of about \$200,000 annually, we await payment for the last half of 2007 to determine if this downward trend continues. Fines and penalties will most likely decrease as compliance increases. The Hawaii Election Campaign Fund should not be dependent on fines and penalties to maintain operational expenses and to provide public financing. Interest income which has provided a source of funds in the past will continue only if there is a strong base. The market interest rate in the last two years has been very low. Any projection of the interest rate will depend on the base. However, assuming that the interest rates stay at the current rates of around 3%, the projected annual interest income will be around \$200,000 for the fund. This means that total projected receipts is approximately \$650,000 for 2007. Current administrative costs, paid from the fund, will be around \$650,000 per year due to increased salaries, projected use of contract investigators, increased advertising on the \$2 tax check-off and to increase awareness and use of the Commission's website through advertisements.

While the fund is healthy today, in the not too distant future, additional funds will be needed to supplement the current tax check-off. The future will be closer if there is any increased demand for public financing or if the legislature decides to provide full public financing. A projection of potential needs for increased funds can be made generally by looking briefly at Arizona, Connecticut and Maine's public funding programs.

Arizona has a budget of \$40 million for public funding of candidates for legislative and statewide offices. The program was passed by initiative in 1998. Connecticut Citizens Election program receives \$15 million per year, adjusted for inflation, to publicly fund candidates for statewide and legislative offices. Because of an increase in candidates, they have increased their staff from 7 to 27, and have an operating budget of \$2.3 million. They project budget needs of \$30 million for 2007 and \$45 million in 2008. Their last election had about 400 candidates (we had about 300). Finally, Maine provides public funding for the legislature and Governor only. In 2006, Maine spent \$6.8 million. Maine projects the Governor's race, alone, will cost \$5.6 million in 2010.

**HAWAII ELECTION CAMPAIGN FUND STATUS
FISCAL YEAR '07**

Beginning Balance as of July 1, 2006	\$5,647,002.95
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Receipts:

Tax Revenue		
Jul – Dec 2006	52,670.00	
Jan – June 2007	167,736.00	
Interest	237,291.65	
Copies	119.35	
Reimburse Prior Period	186.40	
Fines & Penalties	301,969.25	
Excess, Surplus & Anon Contributions	24,922.95	
Return of Public Funds	<u>378.77</u>	
Total Receipts		785,274.37

Expenditures:

Administration	160,937.02	
Payroll	527,026.62	
Public Funds	<u>121,418.04</u>	
Total Expenditures		<u>-809,381.68</u>

Balance as of June 30, 2007	5,622,895.64
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**TESTIMONY OF THE DEPARTMENT OF THE ATTORNEY GENERAL
BUDGET BRIEFING PRESENTED TO
HOUSE COMMITTEE ON JUDICIARY
SENATE COMMITTEE ON JUDICIARY AND LABOR**

January 2008

- Department-Wide Budget Summary Information
- Program ID ATG-100 – Legal Services
- Program ID ATG-231 – State Criminal Justice Information and Identification
- Program ID ATG-500 – Child Support Enforcement Services

**TESTIMONY OF THE DEPARTMENT OF THE ATTORNEY GENERAL
BUDGET BRIEFING PRESENTED TO
HOUSE COMMITTEE ON JUDICIARY
SENATE COMMITTEE ON JUDICIARY AND LABOR**

January 2008

Department-Wide Budget Summary Information

**TESTIMONY OF THE DEPARTMENT OF THE ATTORNEY GENERAL
BUDGET BRIEFING PRESENTED TO
HOUSE COMMITTEE ON JUDICIARY
SENATE COMMITTEE ON JUDICIARY AND LABOR**

January 2008

DEPARTMENT-WIDE BUDGET SUMMARY INFORMATION

1. Totals for department FY08 budget with restrictions (where applicable) and emergency requests and FY09 proposed operating budget adjustments by means of financing.

See Attachment 1.

2. Identify any emergency requests (by title and amount) that your department will be seeking for the current fiscal year.

See Attachment 2.

3. Provide a summary of our FY09 proposed operating budget adjustments by Program ID. This summary should provide the aggregate of adjustments by Program ID and by means of financing.

See Attachment 3.

4. Provide a description of all FY09 proposed operating budget adjustments by Program ID.

See Attachment 4.

5. Provide a listing of all proposed FY09 capital improvement program projects.

See Attachment 5.

6. Briefly discuss specific budget adjustments of concern for your agency.

Specific budget adjustments are discussed in the testimony of the corresponding program ID.

7. Provide a summary of your department's request to the Department of Budget and Finance, the funding decisions made by the Department of Budget and Finance, and the funding decisions finalized by the Governor.

See Attachment 6.

8. Explain the process used to identify priorities (requests for additional operating and capital improvements program funding) for your department including which category the requests for additional funding fall into: a. program initiatives of the Governor, b. certain unavoidable fixed costs and entitlements, or c. on-going critical programs which lack continuing funding.

Priorities were identified through consultation with each division. All requests fall into category c., "on-going critical programs which lack continuing funding."

9. Discuss how requests for additional operating and capital improvements program funding were prioritized and discuss the manner in which community, departmental, and legislative input was gathered and utilized to determine priorities.

Requests for additional operating funding were prioritized through consultation with each division. The department has no requests for capital improvements program funding.

10. Briefly discuss which actions your department has taken or is planning to take to reduce operating costs, and how those actions will translate into savings that may be reduced from your budget.

See Attachment 7.

11. Identify all positions that are vacant as of December 1, 2007. For each of these positions please indicate if authority for your department to hire was or was not granted.

See Attachment 8.

12. Provide a listing of all instances of your department's expenditures exceeding the federal fund ceiling for FY07 and FY08.

See Attachment 9.

13. Provide a listing of all budget appropriations transferred to another program ID and/or another department in FY07 and FY08.

See Attachment 10.

14. Provide a listing of all deployed positions.

See attachment 11.

Attachment 1
Department-Wide Summary Information
Totals for Proposed Department Budget Adjustments (by Method of Funding)

MOF	FY08			Total FY08 (a)+(b)+(c)
	Act 213/07 Appropriation (a)	Restriction (b)	Emergency Request (c)	
General	30,703,685			30,703,685
Special	1,893,738			1,893,738
Federal	26,251,259			26,251,259
Trust	6,176,937			6,176,937
Interdepartmental	8,049,467			8,049,467
Revolving	5,739,353			5,739,353
Dept. Totals	78,814,439			78,814,439

MOF	FY09			Total FY09 (d)+(e)+(f)
	Act 213/07 Appropriation (d)	Reduction (e)	Addition (f)	
General	29,690,945		551,411	30,242,356
Special	1,889,738			1,889,738
Federal	25,703,229	(29,173)		25,674,056
Trust	6,067,383			6,067,383
Interdepartmental	8,060,717		644	8,061,361
Revolving	5,746,603		133,673	5,880,276
Dept. Totals	77,158,615	(29,173)	685,728	77,815,170

Attachment 2
Department-Wide Summary Information
Fiscal Year 08 Proposed Emergency Requests

<u>Program ID</u>	<u>MOF</u>	<u>Title of Emergency Requests</u>	<u>FTE</u>	<u>\$ Amount</u>
		NONE		
Dept. Totals by MOF			-	-

Attachment 3
Department-Wide Summary Information
Fiscal Year 09 Proposed Budget Adjustments

Program ID	MOF	Program ID Title	FTE	\$ Amount
ATG100	GENERAL	LEGAL SERVICES	2.50	141,875
ATG100	REVOLVING	LEGAL SERVICES	1.00	26,985
ATG100	REVOLVING	LEGAL SERVICES	-	80,000
ATG100	GENERAL	LEGAL SERVICES	2.00	(1,160)
ATG100	GENERAL	LEGAL SERVICES	2.00	-
ATG100	INTERDEPART'L	LEGAL SERVICES	1.00	-
ATG100	INTERDEPART'L	LEGAL SERVICES	0.50	644
ATG100	FEDERAL	LEGAL SERVICES	-	91,015
ATG100	GENERAL	LEGAL SERVICES	5.28	259,765
ATG100	FEDERAL	LEGAL SERVICES	-	(150,381)
ATG100	GENERAL	LEGAL SERVICES	4.00	-
ATG100	GENERAL	LEGAL SERVICES	-	-
		TOTAL LEGAL SERVICES	18.28	448,743
ATG231	REVOLVING	CIVIL IDENTIFICATION	1.00	-
ATG231	REVOLVING	CIVIL IDENTIFICATION	-	-
ATG231	GENERAL	CRIMINAL JUSTICE INFO. & ID	2.00	60,000
ATG231	FEDERAL	CRIM. JUSTICE DATA CENTER	(1.00)	(26,688)
ATG231	REVOLVING	CRIM. JUSTICE DATA CENTER	1.00	26,688
ATG231	GENERAL	CRIMINAL JUSTICE INFO. & ID	-	70,000
		TOTAL HI CRIM JUSTICE DATA CTR.	3.00	130,000
ATG500	GENERAL	CHILD SUPPORT ENFOR. AGENCY	-	-
ATG500	FEDERAL	CHILD SUPPORT ENFOR. AGENCY	-	-
ATG500	GENERAL	CHILD SUPPORT ENFOR. AGENCY	0.68	20,931
ATG500	FEDERAL	CHILD SUPPORT ENFOR. AGENCY	1.32	56,881
		TOTAL CSEA	2.00	77,812
Dept. totals	GENERAL		18.46	551,411
	FEDERAL		0.32	(29,173)
	INTERDEPART'L		1.50	644
	REVOLVING		3.00	133,673
Dept. Totals by MOF	TOTAL		23.28	656,555

**Attachment 4
Fiscal Year 09 Proposed Budget Adjustments**

Program I.D.	Description of Adjustment	FTE	\$ Amount	MOF
ATG100AA	Continued funding of the Drug Nuisance Abatement Unit from Act 180/07.	2.50	141,875	A
ATG100AA	CED - Add Clerk Typist for Notary	1.00	26,985	W
ATG100AA	CED - Digitize old Notary records (one-time cost).		80,000	W
ATG100AA	Criminal Justice Division (CJD) - Reauthorize Deputy Attorney General and Legal Assistant positions.	2.00	(1,160)	A
ATG100AA	ASO - Reauthorize positions for Personnel Management Specialist & Personnel Clerk.	2.00	-	A
ATG100AA	Public Safety, Hawaiian Home Lands, and Housing Division (PSHHD) - Authorize two Deputy Attorneys General	1.00	-	A
ATG100AA	Health and Human Services Division (HHSD) - Convert a permanent .5 Deputy to Legal Assist III.	0.50	644	U
ATG100AC	Crime Prevention and Justice Assistance Division (CPJA) -Increase Federal fund ceiling for Coverdell grant		91,015	N
ATG100AI	Funding to support the sex offender registration program and implementation of the Adam Walsh Act.	5.28	259,765	A
			(150,381)	N
ATG100CU	Civil Recoveries Division (CRD) - convert temporary positions to permanent.	4.00		A
	TOTAL ATG100	18.28	448,743	
ATG231BB	Hawaii Criminal Justice Data Center (HCJDC) - convert DPUST position from temporary to permanent.	1.00		W
ATG231BC	Funding to support the sex offender registration program and implementation of the Adam Walsh Act.	2.00	60,000	A
ATG231BC	HCJDC - Convert Clerk IV from Federal to Revolving funds		(26,688)	N
			26,688	W
ATG231BC	HCJDC - Add funding for Geocode sex offender registry		70,000	A
	TOTAL ATG231	3.00	130,000	
ATG500GA	Child Support Enforcement Agency (CSEA) -Transfer Family Support Unit funding from other current expense to personal services.		-	A
			-	N
ATG500GA	CSEA - Add two Legal Assistant III to Administrative Processing Branch	0.68	20,931	A
		1.32	56,881	N
	TOTAL ATG500	2.00	77,812	

**Attachment 5
FY09 Capital Improvements Program Summary**

<u>Priority</u>	<u>Project Title</u>	<u>FY09 \$ Amount</u>	<u>MOE</u>
1	NONE		
2			
3			
4			

**Attachment 6
FY09 Request Decisions**

Department Priority	Program ID	Description	MOF	Department			Budget and Finance			Governor's Final Decision			
				Perm. FTE	Temp. FTE	\$ Amount	Perm. FTE	Temp. FTE	\$ Amount	Perm. FTE	Temp. FTE	\$ Amount	
	ATG100AA	Continued funding of the Drug Nuisance Abatement Unit from Act 180/07.	A	2.50		141,875				2.50		141,875	
	ATG100AA	Deputy AG salary adjustment to allow for pay raise July 1 instead of Oct 1, 2008.	A			102,725						-	
B					4,025							-	
N					9,625								-
U					58,625								-
	ATG100AA	CED - Add Clerk Typist for Notary	W	1.00		26,985				1.00		26,985	
	ATG100AA	CED - Digitize old Notary records	W			80,000						80,000	
	ATG100AA	Criminal Justice Division (CJD) - Reauthorize Deputy Attorney General and Legal Assistant positions.	A	2.00	(2.00)	(1,160)				2.00	(2.00)	(1,160)	
	ATG100AA	ASO - Reauthorize positions for Personnel Management Specialist & Personnel Clerk.	A	2.00	(2.00)	-				2.00	(2.00)	-	
	ATG100AA	Family Law Division (FLD) - Add two Legal Clerks and one Legal	A	2.34		56,072				-		-	
N			0.66		15,728						-		-
	ATG100AA	Public Safety, Hawaiian Home Lands, and Housing Division (PSHHD) -	A			15,000						-	
U			1.00	(1.00)	(15,000)				1.00	(1.00)		-	
	ATG100AA	Health and Human Services Division (HHSD) - Convert a permanent .5 Deputy to Legal Assist III.	U	0.50		644				0.50		644	
	ATG100AC	Crime Prevention and Justice Assistance Division (CPJA) -Increase Federal fund ceiling for Coverdell grant	N			91,015						91,015	
	ATG100AC	CPJA - Technical training for Next Generation Juvenile Justice Information System (JJIS).	A			112,292						-	
	ATG100AI	Funding to support the sex offender registration program and	A	5.28		259,765				5.28		259,765	
N				(2.28)	(150,381)					(2.28)	(150,381)		
	ATG100CU	Civil Recoveries Division (CRD) - convert temporary positions to permanent.	A	4.00	(4.00)					4.00	(4.00)		

**Attachment 6
FY09 Request Decisions**

ATG231BB	Hawaii Criminal Justice Data Center (HCJDC) - convert DPUST position from temporary to permanent.	W	1.00	(1.00)				1.00	(1.00)	
ATG231BC	Funding to support the sex offender registration program and implementation of the Adam Walsh Act.	A	2.00		60,000			2.00		60,000
ATG231BC	HCJDC - Convert Clerk IV from Federal to Revolving funds	N			(26,688)			(1.00)		(26,688)
		W			26,688			1.00		26,688
ATG231BC	HCJDC - Add funding for Geocode sex offender registry	A			70,000					70,000
ATG231BC	HCJDC - Establish HIJIS Project Manager Position	A		1.00	62,000				-	-
ATG500GA	Child Support Enforcement Agency (CSEA) -Transfer Family Support	A			-					-
		N			-					-
ATG500GA	CSEA - Add two Legal Assistant III to Administrative Processing Branch	A	0.68		20,931			0.68		20,931
		N	1.32		56,881			1.32		56,881
ATG500GA	CSEA - Replace rent paid to DAGS, previously paid with Trust funds that	A			70,512					-
		T			(70,512)					-
ATG500GA	CSEA - Maintenance for Decision Support system	A			20,400					-
		N			39,600					-
ATG500GA	CSEA - Increase staff to expand Case Based Management Strategy	A	4.08		213,175			-		-
		N	7.92		521,113			-		-
ATG500GA	CSEA - Computer hardware & software leasing	A			76,500					-
		N			148,500					-
ATG500GA	CSEA - Reimburse Trust Fund shortages	A			802,215					-
ATG500GA	CSEA - Modular furniture (not a recurring expenditure)	A			238,000					-
		N			462,000					-
ATG500GA	CSEA - Recoupment of TANF fees.	A			11,220					-
		N			21,780					-
ATG500GB	Office of Child Support Hearings (OCSH) - Increase Other Current	A			7,117					-
		N			13,814					-

TOTAL REQUEST:

38.28	(11.28)	3,653,081
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23.28	(12.28)	656,555
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**** No B&F recommendation was provided

**Attachment 7
Actions to Realize Savings**

<u>Program ID</u>	<u>MOF</u>	<u>Description of Action to Realize Savings</u>	<u>\$ Amount of Actual FY07 Savings</u>	<u>\$ Amount of Projected FY08 Savings</u>
ATG100	A	Personal Services - Savings due to staff turnover and be delaying the filling of vacant positions	264,673	None
ATG100	A	Witness Security Fund - Savings realized due to Honolulu Police Department having lower activity for witness security	109,063	None
ATG500	A	Personal Services - savings due to vacancies related to the delay in Call Center start up.	189,898	None

**Attachment 8
All Positions Vacant As of 12/1/07**

Date of Vacancy	Program I.D.	PositionTitle	Position Number	Exempt (Y/N)	Budgeted Amount	Actual Salary Last Employee Paid	MOF	Authority to Hire (Y/N)
09/02/03	ATG100AA	Investigator V	00006477	N	49,344.00	49,344.00	General	Y
01/02/07	ATG100AA	Chief Special Investigator	00006479	N	76,056.00	81,195.12	General	Y
07/07/07	ATG100AA	Legal Clerk	00008580	N	31,176.00	32,460.00	General	Y
07/10/07	ATG100AA	Legal Clerk	00010596	N	31,176.00	33,732.00	Inter-dept	Y
06/01/07	ATG231BB	Fingerprint Classification Clerk II	00014821	N	28,884.00	41,064.00	Revolving	Y
07/01/05	ATG500GA	Support Payments Officer	00015973	N	32,460.00	34,068.00	N+66%, A=34%	Y
04/02/07	ATG100AA	Auditor V	00016013	N	49,344.00	55,500.00	General	Y
10/16/07	ATG231BA	Criminal ID Technician I	00017368	N	26,688.00	35,112.00	General	Y
12/31/06	ATG500GA	Child Support Enfc Spclt V	00025935	N	49,344.00	67,536.00	N+66%, A=34%	Y
08/01/06	ATG500GA	Child Support Enfc Spclt IV	00025953	N	43,824.00	57,996.00	N+66%, A=34%	Y
03/08/05	ATG500GA	Support Payments Officer	00026166	N	32,460.00	41,256.00	N+66%, A=34%	Y
07/01/06	ATG100AA	Legal Clerk	00026219	N	31,176.00	33,912.00	General	Y
09/26/07	ATG500GA	Clerical Supervisor I	00027287	N	26,688.00	31,176.00	N+66%, A=34%	Y
02/06/07	ATG500GA	Support Payments Officer	00027289	N	32,460.00	42,696.00	N+66%, A=34%	Y
06/16/06	ATG500GA	Cashier II	00028291	N	28,884.00	36,492.00	N=66%,A=34%	Y
12/19/05	ATG500GA	Clerk Typist III	00029534	N	26,688.00	26,832.00	N=66%,A=34%	Y
10/03/05	ATG100AB	Clerk Stenographer II	00029623	N	25,668.00	30,156.00	Federal	Y
06/15/06	ATG100AB	Legal Assistant III	00030098	N	40,512.00	40,032.00	B=25%,N=75%	Y
12/31/06	ATG500GA	Investigator III	00030920	N	40,512.00	49,332.00	N=66%,A=34%	Y
02/05/01	ATG500GA	Administrative Services Asst	00031193	N	43,824.00	43,824.00	N=66%,A=34%	Y
07/17/07	ATG500GA	Child Support Enfc Spclt IV	00031195	N	43,824.00	47,436.00	N=66%,A=34%	Y
12/27/07	ATG500GA	Clerk Typist III	00031231	N	26,688.00	32,424.00	N=66%,A=34%	Y
12/27/07	ATG500GA	Clerk Typist III	00031233	N	26,688.00	26,832.00	N=66%,A=34%	Y
03/13/07	ATG100AB	Investigator V	00031525	N	49,344.00	37,464.00	B=25%,N=75%	Y
10/03/05	ATG100AA	Legal Clerk	00032406	N	31,176.00	31,332.00	Inter-dept	Y
09/30/05	ATG100AB	Investigator V	0033220	N	49,344.00	56,040.00	Special	Y
11/01/03	ATG100AA	Investigator V	00033404	N	49,344.00	53,376.00	General	Y
11/16/07	ATG100AB	Investigator V	00034764	N	49,344.00	51,300.00	B=25%,N=75%	Y
03/17/06	ATG500GA	Clerk Typist III	00037340	N	26,688.00	28,968.00	N=66%,A=34%	Y
05/29/07	ATG500GA	Clerk Typist III	00037341	N	26,688.00	28,860.00	N=66%,A=34%	Y
10/11/01	ATG500GA	Accountant III	00037407	N	40,512.00	34,320.00	N=66%,A=34%	Y

Attachment 8
All Positions Vacant As of 12/1/07

10/08/05	ATG500GA	Cashier II	00037459	N	28,884.00	28,968.00	N=66%,A=34%	Y
07/18/05	ATG100AA	Legal Clerk	00037607	N	31,176.00	30,300.00	General	Y
12/01/06	ATG100AA	Clerk II	00037659	N	22,776.00	24,684.00	General	Y
01/01/07	ATG100AA	Clerk Typist II	00038324	N	24,684.00	29,976.00	General	Y
09/11/07	ATG500GA	Clerk Typist II	00038421	N	24,684.00	25,668.00	N=66%,A=34%	Y
10/24/02	ATG100CU	Account Clerk II	00039453	N	24,684.00	21,907.20	Inter-dept	Y
09/01/07	ATG500GA	Child Support Enfc Spclt IV	00039782	N	43,824.00	55,488.00	N=66%,A=34%	Y
06/15/06	ATG500GC	Legal Assistant III	00039884	N	40,512.00	37,632.00	N=66%,A=34%	Y
02/01/07	ATG500GA	Social Service Assistant IV	00040023	N	27,732.00	29,976.00	N=66%,A=34%	Y
08/24/02	ATG500GC	Clerk Typist II	00040049	N	24,684.00	24,684.00	N=66%,A=34%	Y
03/01/05	ATG500GA	Information Specialist IV	00040358	N	43,824.00	44,292.00	N=66%,A=34%	Y
07/01/07	ATG100AA	Legal Assistant III	00040553	N	40,512.00	40,512.00	General	Y
06/28/07	ATG100AA	Legal Assistant III	00040554	N	40,512.00	42,144.00	General	Y
08/01/07	ATG500GA	Legal Assistant III	00040706	N	40,512.00	51,300.00	N=66%,A=34%	Y
08/01/06	ATG100CU	Clerk Typist II	00040716	N	24,684.00	25,764.00	Inter-dept	Y
04/26/07	ATG500GA	Clerk Typist II	00040799	N	24,684.00	26,664.00	N=66%,A=34%	Y
09/01/04	ATG100AA	Investigator IV	00040975	N	49,344.00	43,860.00	General	Y
07/07/07	ATG100AA	Legal Clerk	00041406	N	31,176.00	35,112.00	General	Y
07/18/05	ATG500GC	Clerk Typist II	00041802	N	24,684.00	24,888.00	N=66%,A=34%	Y
04/16/07	ATG100AA	Clerk II	00041851	N	22,776.00	21,900.00	General	Y
06/05/07	ATG500GA	Clerk Typist II	00042393	N	24,684.00	23,736.00	N=66%,A=34%	Y
06/08/07	ATG500GA	Cashier Clerk	00042394	N	24,684.00	28,884.00	N=66%,A=34%	Y
08/25/06	ATG500GA	Legal Assistant III	00042608	N	40,512.00	42,348.00	N=66%,A=34%	Y
05/09/07	ATG100CU	Clerk Typist II	00043215	N	24,684.00	23,736.00	Inter-dept	Y
11/01/07	ATG100AA	Legal Clerk	00043884	N	31,176.00	44,400.00	General	Y
05/24/07	ATG500GA	Account Clerk III	00045674	N	28,884.00	27,768.00	N=66%,A=34%	Y
01/09/07	ATG500GA	Account Clerk IV	00045678	N	30,012.00	33,756.00	N=66%,A=34%	Y
06/15/07	ATG231BC	Clerk Typist II	00047657	N	24,684.00	28,860.00	General	Y
04/24/06	ATG231BC	Clerk Typist III	00048593	N	26,688.00	32,616.00	General	Y
08/01/05	ATG500GA	Personnel Mgmt Specialist III	00049320	N	40,512.00	36,360.00	N=66%,A=34%	Y
09/16/03	ATG100AA	Investigator IV	00049324	N	43,824.00	38,976.00	General	Y
11/15/07	ATG100AA	Legal Assistant III	00049337	N	40,512.00	49,344.00	Inter-dept	Y

Attachment 8
All Positions Vacant As of 12/1/07

09/16/97	ATG100AA	Investigator V	00049338	N	49,344.00	35,597.00	General	Y
05/16/05	ATG100AA	Investigator V	00050195	N	49,344.00	47,892.00	General	Y
02/10/07	ATG100AA	Clerk Typist III	00052798	N	26,688.00	28,860.00	General	Y
08/01/07	ATG100AA	Deputy Attorney General	00100112	Y	88,008.00	92,508.00	General	Y
12/18/06	ATG100AA	Deputy Attorney General	00100981	Y	62,004.00	62,004.00	General	Y
04/18/06	ATG100AB	Deputy Attorney General	00101057	Y	67,000.00	68,004.00	Federal	Y
04/01/05	ATG100CU	Deputy Attorney General	00101221	Y	66,000.00	66,000.00	Inter-dept	Y
02/23/07	ATG100AA	Deputy Attorney General	00101235	Y	69,504.00	69,504.00	Inter-dept	Y
05/04/06	ATG100AA	Deputy Attorney General	00101387	Y	58,004.00	58,008.00	General	Y
10/01/07	ATG100CU	Deputy Attorney General	00101730	Y	74,004.00	78,504.00	Inter-dept	Y
05/15/07	ATG100AA	Deputy Attorney General	00101817	Y	50,004.00	50,004.00	A=63%,U=37%	Y
06/30/07	ATG500GC	Deputy Attorney General	00101862	Y	58,008.00	58,008.00	N=66%,A=34%	Y
11/01/07	ATG100AA	Sec'y to the Spec. Asst to AG	00102069	Y	49,752.00	49,752.00	General	Y
04/06/06	ATG100AA	Deputy Attorney General	00102612	Y	77,004.00	81,012.00	General	Y
06/01/05	ATG100CU	Clerk Typist II	00110220	N	24,684.00	23,952.00	General	Y
04/01/05	ATG100CU	Clerk Typist II	00110221	N	24,684.00	23,952.00	General	Y
07/30/05	ATG500GA	Clerk Typist III	00110292	N	26,688.00	27,984.00	N=66%,A=34%	Y
10/13/06	ATG500GA	Clerk Typist II	00110478	N	24,684.00	26,664.00	N=66%,A=34%	Y
07/01/07	ATG100AA	Clerk Typist II	00110697	N	24,684.00	23,844.00	Inter-dept	Y
07/01/03	ATG100AE	Investigator V	00111544	N	49,344.00	47,448.00	General	Y
07/06/07	ATG100AA	Deputy Attorney General	00111570	Y	49,344.00	67,008.00	Inter-dept	Y
07/01/06	ATG100AA	Investigator V	00111761	N	49,344.00	57,996.00	Federal	Y
11/01/06	ATG100AA	Investigator V	00111854	N	49,344.00	49,332.00	General	Y
07/01/03	ATG100AE	Investigator V	00111855	N	49,344.00	47,448.00	General	Y
11/19/07	ATG500GA	Information Technol Spclt IV	00112591	N	43,824.00	47,832.00	N=66%,A=34%	Y
08/09/07	ATG231BB	ID Service Rep	00112598	Y	30,012.00	30,012.00	Revolving	Y
05/01/02	ATG100AA	Investigator V	00112836	N	49,344.00	47,448.00	Inter-dept	Y
05/01/02	ATG100AA	Investigator V	00112837	N	49,344.00	47,448.00	Inter-dept	Y
05/01/02	AGT100AA	Investigator V	00112838	N	49,344.00	47,448.00	Inter-dept	Y
07/01/02	ATG100AA	Investigator V	00112931	N	49,344.00	38,937.60	General	Y
11/29/05	ATG100AE	Auditor V	00113202	N	49,344.00	49,572.00	Special	Y
08/16/07	ATG100AA	Clerk Typist II	00113217	N	24,684.00	26,688.00	General	Y
06/19/03	ATG100AA	Investigator V	00116407	N	49,344.00	47,448.00	Inter-dept	Y

Attachment 8
All Positions Vacant As of 12/1/07

06/19/03	ATG100AA	Investigator V	00116408	N	49,344.00	47,448.00	Inter-dept	Y
07/28/03	ATG100AA	Investigator V	00116441	N	49,344.00	47,448.00	Inter-dept	Y
11/01/04	ATG100AA	Investigator V	00116465	N	49,344.00	47,448.00	Inter-dept	Y
08/22/03	ATG100AA	Investigator V	00116466	N	49,344.00	47,448.00	Inter-dept	Y
09/02/03	ATG100AA	Investigator V	00116482	N	49,344.00	47,448.00	Inter-dept	Y
10/22/07	ATG100AA	Deputy Attorney Genreal	00116640	Y	57,000.00	57,000.00	Inter-dept	Y
01/27/04	ATG100AA	Investigator V	00116698	N	49,344.00	47,448.00	Inter-dept	Y
05/09/07	ATG100AA	Investigator V	00116785	N	49,344.00	53,352.00	Inter-dept	Y
03/01/04	ATG100AA	Investigator V	00116786	N	49,344.00	47,448.00	Inter-dept	Y
08/24/05	ATG100AA	Administrative Services Manager	00116788	Y	88,000.00	75,000.00	General	Y
08/10/07	ATG231BB	Data Processing User Supp Tech	00116906	N	32,460.00	32,460.00	General	Y
10/01/04	ATG100AA	Investigator V	00117188	N	49,344.00	47,448.00	Federal	Y
10/01/04	ATG100AA	Investigator V	00117189	N	49,344.00	47,448.00	Federal	Y
04/01/05	ATG100AA	Investigator V	00117351	N	49,344.00	47,448.00	General	Y
06/16/05	ATG100AA	Investigator V	00117420	N	49,344.00	45,840.00	Federal	Y
10/16/07	ATG231BC	Clerk Typist III	00117520	N	26,688.00	27,732.00	Revolving	Y
07/14/05	ATG100AA	Deputy Attorney General	00117521	Y	66,000.00	66,000.00	Inter-dept	Y
08/10/05	ATG100AA	Investigator V	00117552	N	49,344.00	47,448.00	Federal	Y
08/10/05	ATG100AA	Investigator V	00117553	N	49,344.00	47,448.00	General	Y
01/03/07	ATG100AA	JJIS Project Manager	00117635	Y	51,816.00	53,629.56	Federal	Y
10/12/05	ATG100AE	Investigator V	00117668	N	49,344.00	47,448.00	Special	Y
11/07/05	ATG100AA	Accountant III	00117709	N	40,512.00	New Position	General	Y
07/01/06	ATG100AA	Investigator V	00117825	N	49,344.00	47,448.00	Federal	Y
07/01/06	ATG100AA	Investigator V	00117837	N	49,344.00	47,448.00	General	Y
02/10/06	ATG100AA	Investigator V	00117838	N	49,344.00	47,448.00	Federal	Y
03/15/06	ATG500GA	Social Service Assistant IV	00117865	N	27,732.00	New Position	N=66%,A=34%	Y
07/20/07	ATG500GA	Social Service Assistant IV	00117869	N	27,732.00	25,668.00	N=66%,A=34%	Y
03/15/06	ATG500GA	Social Service Assistant IV	00117871	N	27,732.00	New Position	N=66%,A=34%	Y
06/06/07	ATG500GA	Social Service Assistant IV	00117872	N	27,732.00	Synder, Alan	N=66%,A=34%	Y
03/15/06	ATG500GA	Social Service Assistant IV	00117874	N	27,732.00	New Position	N=66%,A=34%	Y
03/15/06	ATG500GA	Social Service Assistant IV	00117875	N	27,732.00	New Position	N=66%,A=34%	Y
12/01/06	ATG100AA	Investigator V	00117946	N	49,344.00	43,795.20	Federal	Y
05/12/06	ATG231BC	Clerk Typist III	00117967	N	26,688.00	New Position	Federal	Y
07/20/06	ATG100AA	Investigator V	00118089	N	49,344.00	New Position	General	Y

Attachment 8
All Positions Vacant As of 12/1/07

07/20/06	ATG100AA	Investigator V	00118091	N	49,344.00	New Position	General	Y
07/20/06	ATG100AA	Investigator V	00118092	N	49,344.00	New Position	General	Y
07/20/06	ATG100AA	Investigator V	00118093	N	49,344.00	New Position	General	Y
08/01/06	ATG100AI	Investigator V	00118101	N	49,344.00	New Position	Federal	Y
11/15/06	ATG100AA	Clerk Typist III	00118262	N	26,688.00	New Position	Special	Y
02/21/07	ATG231	Clerk IV	00118331	N	26,688.00	New Position	Federal	Y
02/21/07	ATG100AA	Investigator V	00118369	N	49,344.00	New Position	General	Y
02/21/07	ATG100AI	Investigator V	00118374	N	49,344.00	New Position	Federal	Y
09/14/07	ATG100AA	Supervising Legal Clerk	00118484	N	36,504.00	New Position	General	Y
09/14/07	ATG500GA	Legal Clerk	00118485	N	31,176.00	New Position	N=66%,A=34%	Y
09/14/07	ATG500GA	Clerk Typist III	00118488	N	26,688.00	New Position	N=66%,A=34%	Y
09/14/07	ATG500GA	Clerk Typist III	00118489	N	26,688.00	New Position	N=66%,A=34%	Y
07/31/07	ATG100AA	Legal Assistant III	00118514	N	40,512.00	New Position	General	Y
08/21/07	ATG500GA	CSE Policy Administrator	00118599	Y	16,030.00	New Position	N=66%,A=34%	Y
09/14/07	ATG500GA	Investigator III	00118600	N	38,952.00	New Position	N=66%,A=34%	Y
09/14/07	ATG500GA	Investigator III	00118601	N	38,952.00	New Position	N=66%,A=34%	Y
11/16/07	ATG100AC	ICIS Research Analyst	00118619	Y	47,892.00	43,824.00	General	Y
09/17/07	ATG500GA	Deputy Attorney General	00118623	Y	46,200.00	New Position	N=66%,A=34%	Y
09/10/07	ATG231BC	Clerical Supervisor IV	00118631	N	33,720.00	New Position	Revolving	Y
09/26/07	ATG100AA	Legal Assistant III	00118745	N	40,512.00	New Position	Special	Y
10/02/07	ATG100AA	Personnel Clerk V	00118762	N	30,012.00	New Position	General	Y
10/02/07	ATG100AA	Program Budget Analyst IV	00118763	N	43,824.00	New Position	General	Y
10/02/07	ATG100AA	Clerk IV	00118764	N	43,824.00	New Position	General	Y
10/02/07	ATG100AA	Data Processing User Supp Tech	00118765	N	32,460.00	New Position	General	Y
10/08/07	ATG231BC	Information Technology Specialist	00118770	N	49,344.00	New Position	Revolving	Y
11/16/07	ATG100AA	Investigator V	00118774	N	49,344.00	New Position	General	Y
11/16/07	ATG100AA	Investigator V (FTE 50%)	00118775	N	49,344.00	New Position	General	Y
10/12/07	ATG100AA	Clerk Typist III	00118776	N	26,688.00	New Position	General	Y
11/30/07	ATG100AA	Deputy Attorney General	00118835	Y	67,500.00	New Position	General	Y

Attachment 9

Listing of Expenditures Exceeding Federal Fund Ceiling for FY07 and FY08

<u>Program ID</u>	<u>FY07 Ceiling</u>	<u>FY07 Expenditures</u>	<u>FY08 Ceiling</u>	<u>FY08 Expenditures</u>	<u>Reason for Exceeding Ceiling</u>	<u>Recurring (Y/N)</u>
NONE						

Attachment 10
Listing of Transfers for FY07 and FY08

<u>Program ID</u>	<u>FY07 Ceiling</u>	<u>FY07 Amount Transferred</u>	<u>FY08 Ceiling</u>	<u>FY08 Amount Transferred</u>	<u>Reason for Transfer</u>	<u>Recurring (Y/N)</u>
NONE						

**Attachment 11
Department Listing of Deployed Positions**

Position #	Position Title/Description	Program ID Originally Assigned to	Program ID Transferred to	Narrative Discussion on Why Position was Moved	Specific Reasons Deployment Will Result in More Efficient Functioning of Department	Impact to Program Originally Assigned to	Date Deployment Began	Expected End Date of Deployment
NONE								

**TESTIMONY OF THE DEPARTMENT OF THE ATTORNEY GENERAL
BUDGET BRIEFING PRESENTED TO
HOUSE COMMITTEE ON JUDICIARY
SENATE COMMITTEE ON JUDICIARY AND LABOR**

January 2008

ATG-100

Legal Services

**TESTIMONY OF THE DEPARTMENT OF THE ATTORNEY GENERAL
BUDGET BRIEFING PRESENTED TO
HOUSE COMMITTEE ON JUDICIARY
SENATE COMMITTEE ON JUDICIARY AND LABOR**

January 2008

**PROGRAM I.D. AND TITLE:
*ATG 100, LEGAL SERVICES***

I. INTRODUCTION:

A. SUMMARY OF PROGRAM OBJECTIVES

1. To safeguard the rights and interests of the people of the State of Hawaii, by being the defender of and advocate for the people, and undertaking appropriate legal and other actions on their behalf.
2. To protect the State's interest in all legal matters by providing excellent and timely legal advice and representation to the executive, legislative, and judicial branches.
3. To preserve, protect, and defend the constitutions and laws of the State of Hawaii and the United States, to enforce the State's Constitution and laws, and to facilitate the enforcement of federal law.
4. To assist and coordinate statewide programs and activities that improve the criminal justice system and law enforcement.

B. DESCRIPTION OF PROGRAM OBJECTIVES

1. People's Representative: Safeguard the rights and interests of the people of the State of Hawaii by taking appropriate legal action on their behalf.
2. Litigation: Represent the State, its agencies, and its officers in civil proceedings in state and federal courts.
3. Administrative Hearings: Represent the State, its agencies, and its officers in state and federal administrative proceedings.
4. Criminal Prosecutions: Prosecute public corruption, bribery, and fraud, and any other criminal offenses when necessary and appropriate.
5. Legal Opinions and Advice: Provide legal opinions and advice to the Governor, the Legislature, judges, and state agencies and employees.
6. Rules and Legislation: Assist state agencies and officials in reviewing rules and legislation.
7. Transactions: Draft, review, and approve as to form contracts, real property and other legal documents.
8. Law Enforcement: Enforce federal, state, and local laws, rules, and regulations; and monitor the operations of the Hawaii Career Criminal Program, the Witness Security and Protection Program, and the Victim-Witness Program.
9. Investigations: Investigate criminal and civil matters as appropriate.

10. Federal Funds for Crime Prevention Programs: Seek, apply for, and administer federal funds and other resources to enhance and expand the capabilities of the criminal and juvenile justice programs.
11. Policy Development for Criminal Justice Programs: Coordinate and assess information on a statewide basis for the development of policies to improve the criminal justice and juvenile justice systems and programs.

C. EXPLAIN HOW YOUR PROGRAM INTENDS TO MEET ITS OBJECTIVES IN THE UPCOMING SUPPLEMENTAL YEAR

The primary factors that will influence the timely delivery of quality legal services and the achievement of success in all areas are: the number of people providing the services; the training of the people delivering the services; the level of information technology supporting the service delivery; and the management oversight of the service delivery. These factors will be addressed in the following manner:

Staffing Levels: Using time sheet analysis and other means of evaluation, divisions will determine the number of attorneys and staff needed to deliver excellent legal and public services in a timely manner.

Training: A training committee was created in 2003 to make the most effective use of the department's extremely limited training resources. The committee will continue to focus on developing both a basic training program for new deputy attorneys general and a long-range continuing legal education program for more experienced deputies.

Information Technology: A comprehensive and coordinated IT environment is critical to efficient and effective departmental operations. The department will continue to develop and enhance the case management system (ProLaw) and document management system (iManage). We will seek to establish a perpetual program to replace outdated personal computers as the equipment becomes obsolete and/or only marginally functional.

Management Oversight: The department will continuously review organization and communications flow to ensure a structure that enhances productivity.

II. PROGRAM PERFORMANCE RESULTS:

A. DISCUSS THE PERFORMANCE RESULTS ACHIEVED BY EACH PROGRAM IN FY07.

The legal services program has achieved a high measure of success in meeting its program objectives. Following are examples of recent achievements.

- The major legal challenge to laws and programs benefiting Native/native Hawaiians has been the federal court lawsuit, *Arakaki v. Lingle*. This lawsuit, filed in 2002, explicitly challenges as unconstitutional the Hawaiian Homes Program and OHA, and by

implication every law and program that provides benefits to Native/native Hawaiians because they are Native/native Hawaiians. The importance of this lawsuit cannot be overstated--our State Constitution establishes OHA and our Admissions Act requires the State to administer the Hawaiian Homes program. Were these programs declared unconstitutional or otherwise illegal, the impact on Hawaii would be devastating. The department made it a priority to defend this lawsuit with all possible resources and vigor.

The Attorney General appeared personally in this case, and we convinced federal judge Susan Mollway to dismiss the lawsuit. The Ninth Circuit Court of Appeals, while upholding much of the dismissal, allowed some of the lawsuit to proceed. We believed the Ninth Circuit decision was incorrect, and we asked the Supreme Court of the United States to reverse that decision and, in essence, to order the lawsuit dismissed. The Supreme Court did so, and remanded the case to the Ninth Circuit, which found in favor of the State on every issue presented to it. At an April 16, 2007 hearing, Judge Mollway entered a written order stating that no issues remain in the case. While victory in this one action will not end the legal challenges, the victory is a significant one.

- The department conducted extensive negotiations with the United States Department of Justice (DOJ) to avoid entering into a consent decree and putting the Hawaii Youth Correctional Facility (HYCF) essentially under the supervision of the federal court. Instead, the department entered into a written agreement with DOJ with no consent decree or ongoing federal court supervision. The agreement is working well, and HYCF is making significant progress.
- The department assisted in the successful federal prosecution of four Honolulu Airport employees for conspiracy to commit mail fraud. A deputy attorney general served as one of two lead prosecutors. The jury returned guilty verdicts against all defendants on all counts. The defendants received jail sentences ranging from 60 to 108 months and were ordered to pay restitution totaling \$4.6 million.
- In an effort to help stem soaring drug prices and recover inflated prices paid by the State and Medicare consumers, the department filed a lawsuit against 44 pharmaceutical companies. The lawsuit filed in the First Circuit Court alleges that, for more than a decade, the drug makers published inflated prices for prescription drugs, causing Hawaii's Medicaid program and Medicare consumers to overpay millions of dollars in drug costs. The State will seek tens of millions of dollars in the lawsuit. The complaint seeks to have actual damages trebled, and attorney fees and costs awarded to the State and Medicare participants who paid co-payments for drugs. The State in 2007 has settled with one drug manufacturer for \$1.15 million.
- In August 2006, the DNA Registry Unit was created to provide enforcement for the newly amended HRS Chapter 844D, which provides for a statewide DNA database for all convicted felons. The department is responsible for locating convicted murderers and sex offenders who are not on parole or probation and obtaining DNA samples from them. There are approximately 30,000 such unsupervised felons.

All DNA Registry Unit Special Agents received training in the buccal swabbing method for collecting DNA samples and are able to provide training to other agencies. The unit has trained officers of the Hawaii Paroling Authority in the buccal swab collection method.

- The Cold Case unit was established in 2004 through a federal grant to increase the investigation and prosecution of unsolved murders throughout the state, and to develop a statewide, cooperative approach to cold case homicide investigations. This unit has been staffed with highly qualified investigators, and has started the active review of unsolved murder cases received from county police departments. In partnership with the Naval Criminal Investigative Service, the unit carried out the inaugural Cold Case Homicide Investigations Methodology and Protocol Training Seminar.
- On December 7, 2005, the Cold Case unit helped to obtain a murder indictment against Jenaro Torres, a former Pearl Harbor police officer, for the 1992 murder of a base cashier, Ruben Gallegos. This was the first case to be prosecuted by the department's Cold Case Unit, and was prosecuted without the body of the victim. The jury took less than two hours to return a guilty verdict for the offense of Murder in the Second Degree, as charged. Torres was sentenced to life imprisonment with a mandatory 15-year minimum term of imprisonment for using a firearm in the commission of the murder. The prosecution was based on a multi-agency effort between NCIS, the FBI and the Cold Case Unit.
- On December 14, 2006, the Cold Case unit's work led to the indictment of Melvin Kumukau and Aaron Meyer for the murder of a store owner in Moiliili 29 years ago.
- In *Slingluff v. State of Hawaii*, where a pro se inmate alleged a civil rights claim under 42 U.S.C. §1983 along with medical malpractice and negligence claims, the department was successful in getting the federal claim dismissed based on the failure to exhaust administrative remedies.
- The department's motion to dismiss was granted by the federal district court in *Canosa v. Condon, et al.*, where an inmate filed a civil rights complaint alleging the violation of his due process rights with respect to a prison adjustment hearing.
- In *Resep v. Sakai, et al.*, an inmate alleged that he received inadequate medical care in violation of the Eighth Amendment. After the State filed a motion for summary judgment arguing that the facts showed no deliberate indifference by the medical staff, the plaintiff voluntarily dismissed his lawsuit.
- The department was successful in getting motions for summary judgment granted in civil rights lawsuits filed by prisoners in *Samonte v. Maglinti* and *Grindling v. Nouchi, et al.*

- An inmate filed multiple lawsuits against the State. The inmate variously alleged inadequate access to the law library and legal materials, retaliation, and deficient medical treatment. The department was successful in getting all of his lawsuits dismissed on motions for summary judgment. The department was also successful in a case that the inmate appealed to the Intermediate Court of Appeals (ICA) after the State's motion for summary judgment was granted. The ICA affirmed the lower court's granting of summary judgment in favor of the State.
- In *Osmund Lee v. State*, a petition for post-conviction relief under Rule 40 of the Hawaii Rules of Penal Procedure was transferred to the civil court when it was deemed to allege a civil rights claim for denial of access to the courts. The department filed a motion to dismiss, which was granted.
- The department prevailed at arbitration in *Caroseli v. State of Hawaii*, where an inmate slipped and fell in the shower of a correctional facility.
- The department prevailed in a federal court bench trial in *Kealoha v. Department of Public Safety*. The plaintiff alleged that his civil rights were violated when he was assaulted by members of a gang with which he was formerly affiliated. Ruling in favor of the State, the Court found that the plaintiff was not credible and failed to prove any of his claims by a preponderance of evidence.
- The department was successful in a state court bench trial in *Kenney v. State of Hawaii*. Plaintiff alleged medical negligence by medical staff at various correctional facilities. The judge found that much of plaintiff's experts' and plaintiff's own testimony was not credible and entered judgment in favor of the State.
- *Armstrong v. Ginlack, et al.* involved an action brought by parents of a mentally disabled minor child. They alleged violations of the minor's rights under the Fourth, Fifth, Eighth and Fourteenth Amendments, section 504 of the Rehabilitation Act, and the Individuals with Disabilities Education Act (IDEA). The federal district court granted the State's motion for summary judgment and dismissed the entire case.
- In *Dearing v. State of Hawaii*, plaintiff alleged that the Department of Education violated 42 U.S.C. §2000d (Title VI) by retaliating against him for complaining about racial discrimination in a State high school's football program. The federal district court granted the State's motion for judgment on the pleadings.
- In *Alan H. v. State of Hawaii*, the department prevailed on Plaintiffs' attempt to obtain a declaratory judgment that the Department of Education violated the Supremacy Clause of the United States Constitution, failed to comply with its own notice requirements under the Hawaii Administrative Rules, and violated the stay-put provisions under the IDEA.
- In 2007, the department has seen a continued trend of an increase in the number of lawsuits and claims filed, with more trials in the past year than in previous years.

Nevertheless, the department has been successful in resolving a substantial number of its cases by dismissal through the filing of dispositive motions. Several cases have been voluntarily dismissed against the State without any money being paid by the State. Recent examples include *Evangelista v. Hayashi, et al.*, *Pang v. State of Hawaii, et al.*, and *Yoon v. Director of Transportation etc., et al.*

- In *Kobashikawa v. State of Hawaii*, plaintiffs were ordered to pay the State \$5,000 in order to have the case dismissed when it became clear that there was no basis for liability against the State and the lawsuit should not have been filed in the first place. The department has prevailed on liability in many of its arbitration hearings and settled cases for substantially less than actual value.
- Cases where the department prevailed on liability in arbitration include *Todd Weeks v. State of Hawaii*, *Stephen Wessing v. State of Hawaii*, *Daniel Caroseli v. State of Hawaii*, *Michael Lancaster v. State of Hawaii*, *Mitchell Quarles v. State of Hawaii*, and *Miguel Cabrerra v. State of Hawaii*.
- In *Cho v. State of Hawaii*, a lawsuit potentially worth millions of dollars, plaintiffs alleged that they had sustained injuries or illnesses caused by long-term exposure to lead, mercury, and arsenic during their ten-year occupancy of a government leased cottage on the grounds of a public intermediate school. The department prevailed at trial, and the ICA affirmed the trial court's finding in favor of the department. The plaintiffs then filed a writ of certiorari to the Hawaii Supreme Court. The Hawaii Supreme Court affirmed the ICA's judgment on appeal in favor of the State.
- The department has entered information regarding more than 2,600 sex offenders onto the state sex offender registry and more than 1717 sex offenders on the department's public access website. The cumulative number of hits on the website exceeds 9 million.
- The department has actively enforced compliance with the sex offender registration law and prosecuted non-compliant sex offenders. In fiscal year 2007, 33 offenders were charged in court with non-compliance, of which 13 had been convicted, 18 were awaiting service of bench warrants, and 2 were pending trial at the time of this report.
- In fiscal year 2007, the department collected \$16,164,594 owed to various departments of the State, including \$3,200,971 in Hawaii Health Systems Corporation's delinquent accounts; \$1,276,958 in child support obligations for the Child Support Enforcement Agency; \$3,200,971 for the Department of Transportation for delinquent lease rents, salary overpayments, and property damage claims; \$7,645,851 for the Department of Human Services; \$65,102 for party workers' compensation reimbursements; and \$672,416 for delinquent taxes.
- In fiscal year 2007, the department closed 440 tax related matters, 388 charitable solicitation matters, 386 trust or nonprofit related matters, and collected \$8,537,767.

- As of July 26, 2007, the department collected \$64,950 in registration fees for the Solicitation of Funds for Charitable Purposes Special Fund, \$6,810.00 of which were fines imposed on solicitors or professional fundraising counsels for violations of the law.
- In fiscal year 2007, in civil and administrative actions involving the Departments of Health or Human Services, the department collected \$1,141,693 for the State.
- The department completed the review of 594 separate contracts for the Department of Health and the Department of Human Services.
- Following the settlement in 2006 of the ACLU action against HYCF and state employees that alleged discrimination against wards at the youth correctional facility on the basis of gender identity, the department assisted HYCF to develop appropriate policies regarding lesbian, gay, bisexual, and transgendered youth who are held at the facility. With the assistance of a consultant retained pursuant to the agreement, training for the HYCF staff has been ongoing on the policies and most of the staff has completed training. The department assisted HYCF to create an implementation plan under the settlement agreement and provides regular reports to plaintiffs on the status of the implementation, with the last report due in October 2008.
- The department assisted the Department of Health in achieving dismissal of the United States Department of Justice case concerning the State's system for the delivery of adult mental health services, *United States v. State of Hawaii*.
- The department defended and settled several actions concerning appropriate residential placements for clients of the Departments of Health and Human Services with complex needs.
- The department obtained court orders for involuntary treatment of approximately 44 residents of the Hawaii State Hospital who required medication for their own safety or that of others but refused to take it.
- On behalf of the Department of Health, the department negotiated with the Environmental Protection Agency an interim settlement with the City and County of Honolulu of injunctive relief for the highest-priority force main problems in the City and County's sewage collection system. The interim settlement has been submitted to the United States District Court for approval. Remaining claims in the EPA/DOH action against the City and County based on its sewage system will be resolved separately; negotiations began in October 2007.
- The department trained the Hawaii State Committee of Blind Vendors on the Sunshine Law and Uniform Information Practices Act.

- The department assisted the Department of Health to develop emergency rules that allow noncommercial kitchens to feed the homeless without obtaining a food establishment permit. Those rules have now become permanent.
- The department devised a model environmental covenant for use in implementing Hawaii's new Uniform Environmental Covenants Act
- In fiscal year 2007, the department filed 728 petitions for child welfare (more than 99% of these petitions were sustained), 169 truancy petitions (most of which were sustained with the subject children coming under the protective supervision of the Family Court and the Department of Education), 67 adult protective services/guardianship petitions, 205 adoption petitions, and 456 petitions for involuntary hospitalization. In most of the involuntary hospitalization cases, the patient became well enough to be discharged, or well enough for voluntary admission before the scheduled hearing. Of the petitions that went to hearing, nearly all were sustained.
- In fiscal year 2007, the department prevailed in 17 child custody appeals, most of which were brought by parents whose parental rights were terminated.
- In fiscal year 2007, the department defended, on behalf of the Child Support Enforcement Agency, 14 CSEA-related administrative appeals filed throughout the State.
- The department handled appeals in state and federal appellate courts, including:
 - Appeals involving the assertion of the public trust doctrine against the State.
 - Appeals involving the application of the federal ERISA law to the State's Patient Bill of Rights and other Hawaii health care statutes.
 - Appeals involving the absolute and qualified immunity of state employees named as defendants in civil rights cases.
 - Cases involving the sovereign immunity of the State.
 - Cases involving the discretionary function exception to the State Tort Liability Act and cases involving the proper apportionment of liability to the State in joint tortfeasor cases.
 - Cases involving claims of civil rights and other constitutional violations against the State, including claims of employment discrimination and improper conditions of confinement.
 - Class action cases against the Employees' Retirement System for unpaid benefits and for attorneys' fees and costs.

- Appeals from DUI administrative license revocations.
- In fiscal year 2007, the department assisted in the issuance of bonds in the amount of \$571,190,000 as follows:
 - General Obligations Bonds \$350,000,000
 - Special Purpose Revenue Bonds (SPRB) \$270,710,000
- From July 1, 2007 through September 30, 2007, the department assisted in the issuance of bonds in the amount of \$51,645,000 as follows:
 - Harbor System Revenue Bonds \$51,645,000
- The department prevailed in a preliminary injunction lawsuit involving public access channel for cable television.
- The department prevailed in procurement challenges relating to the Judiciary Complex in Kapolei.
- The department successfully defended the Campaign Spending Commission in a campaign spending violation challenge.
- The department defended the Board of Land and Natural Resources in a challenge by a private landowner who was fined for conducting illegal grading activities on Kauai.
- The department issued a formal attorney general opinion relating to the time frame in which the chief justice must act to appoint district court judges. AG Op. 07-01.
- In *Awakuni v. Awana*, the department received a favorable ruling from the Hawaii Supreme Court, validating the decisions of the Hawaii Employer-Union Benefits Trust Fund (EUTF) in determining the health benefits plan for State and county employees. The Court determined that the EUTF is an arm of the State and is entitled to assert the defense of sovereign immunity and that the EUTF did not abuse its discretion in adopting a two-tier structure for its health benefits plan.
- In *Tauese v. Ritz-Carlton Kapalua* (consolidated appeals from a declaratory action and an agency appeal), the Hawaii Supreme Court upheld the constitutionality of HRS § 386-98, the workers' compensation fraud provision. Appellant had alleged the statute was unconstitutional on its face and as applied by the Department of Labor and Industrial Relations; the Court rejected Appellant's arguments. The case was, however, remanded for a determination of fraud using a clear and convincing rather than a preponderance of the evidence standard.
- In *Director v. Si-Nor, Inc.*, the Hawaii Labor Relations Board (HLRB) issued a ruling upholding a citation by the Director of Labor and Industrial Relations for a willful

occupational safety and health violation issued against Si-Nor, Inc. for workplace violence. The department successfully defended HLRB's decision before the Circuit Court, which rejected the employer's appeal. Si-Nor appealed to the ICA but withdrew its appeal.

- *Befitel v. Global Horizons, Inc.* made clear that when the head of a department brings suit on behalf of the State, there is no diversity of citizenship and suit cannot be maintained in the federal court. In this case, the Director of Labor and Industrial Relations initiated a collection action in state district court for unpaid unemployment insurance assessments. Global Horizons, Inc. removed the case to federal district court on diversity grounds. The Court ordered the case remanded to state court after determining that the suit, brought in the name of the Director of Labor pursuant to statute, was a suit on behalf of the State and therefore there was no diversity of citizenship. An appeal from this ruling was dismissed.
- In *Director v. Global Horizons, Inc.*, the Hawaii Occupational Safety and Health Division (HIOSH) inspected various worksites throughout the State where seasonal nonimmigrant workers from foreign countries were employed. During the course of that program, several farms that used seasonal laborers employed by Global Horizons were inspected. Based upon its inspections of the housing sites maintained by Global, HIOSH issued several citations against Global for various temporary labor camp violations and electrical and general duty violations. Five of the cases went to trial, and the Hawaii Labor Relations Board issued final decisions and orders affirming most of the citations, including those pertaining to shelter, toilet facilities, insect and rodent control, electrical, and a general duty clause violation involving a broken window pane.
- *Hawaii Home Infusion Associates v. Befitel* established that when a declaratory ruling as to the validity of a rule is sought pursuant to HRS § 91-7, the action must be maintained in the circuit where the plaintiff resides or has its principal place of business. Plaintiff, which does business on the Island of Kauai, filed a declaratory action in the first circuit court, challenging a workers' compensation rule. On appeal, the Hawaii Supreme Court dismissed the case for lack of jurisdiction because the plaintiff failed to file its complaint in the fifth circuit court where had its principal place of business.
- In *Jou v. National Interstate Insurance Co.*, Jou essentially brought a bad faith action against National Interstate, combined with a HRS § 91-7 declaratory action against the Director of Labor and Industrial Relations. Jou's action against the Director sought to strike unidentified administrative rules. No administrative rules were struck by the circuit court, which dismissed the action against the Director. The Hawaii Supreme Court affirmed the circuit court's decision and denied Jou's request to have any fees and costs assessed against the Director.
- In fiscal year 2007, the department reviewed for legality a total of 379 contracts, 851 other documents, and 21 sets of new or amended administrative rules in addition to issuing 156 legal advice letters for the Departments of Transportation and/or Land and

Natural Resources. The department initiated 4 new court cases, handled 44 new cases filed against State agencies or officials, and closed out 8 eminent domain cases.

- The department continued to work on lawsuits challenging the Department of Transportation's exemption of Hawaii Superferry from the requirement to perform an environmental assessment under chapter 343, Hawaii Revised Statutes.
- The department worked on acquiring 1,104 acres of Pupukea-Paumalu from the Trust for Public Lands. The land will be operated as a state park.
- At the time of this report, the department was working on 22 contested cases pending before the Board of Land and Natural Resources.
- The department acquired a new client, the Legacy Land Conservation Commission, which is established to advise and recommend the acquisition of legacy lands as resources for the State.
- The department worked on three contested cases before the Commission on Water Resource Management concerning water in West Maui streams. Two of the three cases have been resolved, leaving for continuing work the establishment of instream flow standards and the issuance of a water use permit.
- Beginning in 2003, the department brought an enforcement case involving unpermitted activity affecting the conservation district against James Pflueger, Pflueger Properties, and Pila'a 400 LLC because of injury to a beach and coral reef on Kauai caused by a large mud slide generated by unpermitted ground moving work. The BLNR assessed a fine of \$4,032,996.93 for penalties and damage to state land. The fine and penalty were upheld on appeal to the Circuit Court. The case is now on appeal in the ICA.
- *Heffner v. Young* was a federal action in which plaintiff claimed the BLNR members and the Department of Land and Natural Resources committed due process, double jeopardy, racketeering, and Takings Clause violations when they demanded that she allow a public right of way across her property as a condition of receiving a conservation district permit. The Ninth Circuit ruled against Heffner on her assertions that the defendants violated due process and double jeopardy. The court also found the defendants' acts were not extortionate and did not constitute racketeering. The Ninth Circuit said the District Court had correctly abstained from deciding Heffner's takings claim until there is a definite state court ruling on the question of ownership.
- The Hawaii Supreme Court ruled in favor of the State in the case of *Captain Andy's Sailing, Inc. v. Department of Land and Natural Resources*. In Federal District Court Captain Andy won in a decision that ORMA permit fees paid to the State were unconstitutional. The company then sued in state court to recover the fees. The court held that the proper basis for the return of the fees was section HRS § 40-35(a), and that Captain Andy had failed to bring a timely action to recoup the money.

- In *UFO Chuting of Hawaii Inc. v. Young*, the State was sued in Federal District Court in a challenge to a state statute which banned among other things parasailing between December 15 and May 15 of each year on the west and south shores of Maui. One purpose of the ban was to protect whales. The court found that the statute was reasonable and nondiscriminatory and therefore not preempted by the federal system of Coast Guard licensing. However, the court found that the law was preempted by the Marine Mammal Protection Act. Congress then passed a law that said Hawaii could enforce any state law relating to the conservation and management of humpback whales. The district court held that the federal law exempted Hawaii from the relevant section of the Marine Mammal Protection Act and was constitutional. The Ninth Circuit affirmed the decision in all respects.
- In fiscal year 2007, the department's Office of Child Support Hearings (OCSH) processed a total of 5,354 cases (3,685 hearing cases and 1,669 non-hearing cases).
- In 94% of the hearing cases (3,432 out of 3,685), OCSH issued final orders or decisions within 30 days of the hearing.
- In 85% of the non-hearing cases (1,587 out of 1669), OCSH issued final orders within 7 days of receipt of the uncontested case file.
- A total of 14 appeals were filed in FY 2006-2007. The appeal rate remains below 1%.
- Between September 1, 2006 and September 1, 2007, the department successfully prosecuted 14 counts of pollution in 9 separate criminal cases, obtaining guilty or no-contest pleas from 4 companies and 10 individuals, including 5 company owners.
- The department prosecuted major and persistent polluters. Five of the seven criminal cases involved defendants that had been cited or previously warned by the Department of Health for one or more pollution violations.
- The department has succeeded in obtaining meaningful punishment in environmental crime cases, especially those involving company owners. Sentences for company owners and managers ranged from fines of \$2,500 for petty misdemeanor pollution offenses, to significant amounts of community service work in felony pollution cases, e.g., 300 hours in one case, and 500 hours in another.
- The Hawaii Internet and Technology Crimes Unit (HITeC) was established in 2003 as a merger of two federal grants -- the Hawaii High Technology Crimes Unit (HHTCU) and Hawaii Internet Crimes Against Children Task Force (HICACTF) -- to coordinate efforts and resources in developing and implementing innovative approaches to increase the investigation and prosecution of computer crimes and Internet crimes against children in Hawaii. Recent achievements include the following:

- Administering and overseeing a multi-agency task force consisting of 23 state, county, and federal law enforcement agencies which was organized to coordinate investigations and prosecutions as well as maximize sources of technological and investigative expertise, training, education, and forensics in combating these crimes. State, county, and federal law enforcement agencies in Guam will be joining our task force by the end of 2007.
- Maintaining a fully equipped and operational computer forensics lab to assist in the recovery, processing, and examining of digital evidence in criminal cases on all islands of the State of Hawaii. The task force has completed approximately 100 forensic examinations and provided technical support on about 80 occasions in the last year.
- Identifying, importing, and hosting about 35 trainings to increase, develop, and advance task force participants' investigative, forensic, and prosecutorial capabilities.
- Prosecuting a significant number of Electronic Enticement of a Child cases which are subject to a mandatory one year jail with no possibility of a deferral and are subject to repeat offender sentencing. To date, the department is the only agency that conducts, investigates, and prosecutes operations in this area full-time.
- Participating in Project Safe Childhood, FBI Innocent Lost Task Force, Child Sex Abuse Response Task Force, Hawaii Identity Theft and Fraud Task Force, National ICAC Task Force Working Group, and National Association of Attorneys General Multistate Working Group regarding MySpace and other social networking sites.
- Continuing efforts to bring awareness and prevention presentations to the public regarding Internet Safety and Identity Theft. A web site for Internet safety is available at www.hicac.com and a web site for Technology Crimes is available at www.hitechcrimes.com. Approximately 60 presentations are conducted across the state annually.
- The department's Missing Child Center-Hawaii has offered training to law enforcement agencies in improving ways of recovering children. In the past year, MCCH offered seven training opportunities which included DNA related to Missing Persons and Unidentified Remains, Online Enticement, Child Abduction Response Team, Investigating Strategies for Missing and Abducted Children, and Missing and Abducted Children: a Survival Program for First Responders. A total of over 600 law enforcement officers were trained at the various trainings.
- The department's Tobacco Enforcement Unit was formed in 2000 in response to the Attorney General's obligation to enforce the Master Settlement Agreement (MSA); the State's Tobacco Liability Act ; and the cigarette tax stamp requirements and prohibition

against the sale of prohibited export and foreign cigarettes in HRS Chapter 245. In fiscal year 2007, the State received more than \$36.8¹ million in MSA settlement moneys. In total, the State has received \$323,053,662.30 in MSA settlement moneys.

- Due to the department's diligent enforcement, cigarette tax revenues for fiscal year 2007 totaled \$88,771,666, which represents an increase of \$3,069,588 or approximately 3.5% over the comparable period in fiscal year 2006. Moreover, an increase in tax rate coupled with continued vigorous enforcement contributed to a \$48.7 million increase in cigarette tax revenues in fiscal year 2007 over the cigarette tax revenues of \$40,049,539 collected in fiscal year 2000.

Cigarette Tax Revenues by Fiscal Year

FY 1999-2000	\$40,049,539
FY 2000-2001	\$51,739,469
FY 2001-2002	\$62,609,477
FY 2002-2003	\$70,586,392
FY 2003-2004	\$77,541,843
FY 2004-2005	\$83,135,360
FY 2005-2006	\$85,702,483
FY 2006-2007	\$88,771,666

- Following is a summary of Tax Stamp Enforcement Activities in fiscal year 2007:
 - In April 2001, the department began a vigorous campaign to seek out those who were violating the cigarette tax stamping requirements of Chapter 245.
 - Approximately 1,386 known retail establishments sell tobacco products: 1,034 on Oahu, 147 on Hawaii, 111 on Maui, 9 on Lanai, 13 on Molokai, and 72 on Kauai. The department has conducted inspections on Kauai, Oahu, Maui, Molokai, Lanai, and Hawaii. The department has made felony arrests on Oahu, Maui, Hawaii, Molokai, and Kauai.
 - In fiscal year 2007, the department conducted 1,641 retail checks or Chapter 245 compliance inspections statewide. The department made 5 felony arrests for cigarette violations and seized 7,973 sticks. Since April 1, 2001, the department's inspections have resulted in more than 160 felony arrests and the seizure of over 2,235,073 illegal cigarettes.
 - In fiscal year 2007, 2 criminal tobacco prosecutions resulted in \$12,000 in fines. In total, the department has prosecuted 117 tobacco cases, resulting in criminal fines of \$180,000. In addition, in fiscal year 2007, the department successfully prosecuted 17 tax cases, which resulted in criminal fines of \$136,500 and restitution ordered in the amount of \$158,139.

¹ MSA payments totaled \$36,857,166.01 for fiscal year 2007.

- In total, 50 cigarette prosecutions have resulted in court ordered forfeiture of cigarettes as part of a defendant's criminal sanction. In addition, the department has secured 67 civil administrative forfeiture orders or stipulations to the forfeiture of confiscated cigarettes.
- In fiscal year 2007, the department secured 15 administrative forfeiture orders for a variety of administrative forfeiture cases from the neighbor islands.
- Beginning December 1, 2006, every retailer engaged in the retail sale of cigarettes and other tobacco products is required to obtain a retail tobacco permit. In addition, every holder of a retail tobacco permit is required to keep a complete and accurate record of the permit holders' cigarette or tobacco product inventory. This requirement is a tool to ensure that all tobacco products sold at retail are compliant and that all tobacco taxes are paid. In fiscal year 2007, taxes from tobacco products other than cigarettes were \$5,587,849, which represents an increase of \$3,029,716 over the \$2,558,133 collected in fiscal year 2006.

Fiscal Year	Tax from other tobacco products
2001-2002	\$2,898,728
2002-2003	\$1,709,547
2003-2004	\$1,842,697
2005-2006	\$2,558,133
2006-2007	\$5,587,849

- Following is a summary of MSA Enforcement Activities in fiscal year 2007:
 - \$36,857,166.01 was paid to the State under the MSA.
 - Seven Non-Participating Manufacturers (NPM), either directly or through a distributor, retailer, or similar intermediary, sold cigarettes to consumers within the State; six complied with Chapter 675. The department initiated litigation against one NPM for sales in 2006 and prior years. In addition, the department litigation against four other NPMs, who are not on the Hawaii Tobacco Directory for sales in prior years. The five lawsuits are pending at the time of this report. Since its inception, the Tobacco Enforcement Unit has successfully filed 23 actions against tobacco product manufacturers that have not complied with the requirements of Chapter 675.
 - Pursuant to Chapter 675, for 2006 sales, six NPMs placed \$54,602.26 into qualified escrow funds (99.9% compliance rate).
 - Pursuant to Chapter 486P, the department updated the tobacco directory listing compliant tobacco product manufacturers and their brands.

- Pursuant to Chapter 245, only those cigarettes listed in the tobacco directory may be stamped and sold.
- At the end of fiscal year 2007, 31 participating manufacturers were listed in the tobacco directory.
- At the end of fiscal year 2007, 12 NPMs were listed in the tobacco directory.
- The department applied for and received \$4,087,070 in federal funds to carry out programs that address crime and victim issues. State moneys for career criminal, victim assistance, weed and seed, sex assault prevention, and witness protection totaled \$4,146,083. There were a total of 97 subgrants for both federal and state crime funds. At the end of the year, two applications for federal funds, totaling \$399,980, were pending.
- The department's Crime Prevention and Justice Assistance Division sponsored and conducted 25 workshops and seminars in which more than 1,494 individuals participated. Topics included community mobilization, underage drinking, truancy, use of Juvenile Justice Information System, and use of a program assessment tool. There were 71 community events that provided outreach to educate individuals on crime prevention as well as crime and safety issues. Approximately 37,642 persons participated in these community events. Another 63 individuals contacted the Research and Statistics Branch for information on crime, and many others used the division's website to access information.
- The department worked with local television stations that contributed \$10,350 of airtime for McGruff public service announcements.
- The Crime Prevention and Justice Assistance Division produced fifteen reports on topics ranging from hate crimes, the annual state crime statistics, evaluation of the Community Action Seminar, juvenile offenders, and reports related to the use of offender assessment instruments.
- The Crime Prevention and Justice Assistance Division coordinates the efforts of various agencies and topics. In this endeavor, CPJA facilitated 13 groups which had 48 meetings attended by 582 individuals. The groups included the McGruff Truck Coalition, VAWA Advisory Committee, Juvenile Justice Information Committee and Subcommittees, Victim Witness Coordinators, community prosecutors, forensic laboratories, and Visitation Center Network.
- The department worked with the Department of Health in developing a statewide sex assault prevention plan and with the Sex Abuse Treatment Center in developing and implementing standardized forensic protocols in all counties. Both efforts include multi-disciplinary approaches to sex assault.

- In fiscal year 2007, the department held 34 State ID community outreach events, serving more than 2,400 citizens in their local communities, including senior citizen residences and special needs students in schools.
- The department worked on the Livescan project, in which the booking module of the Honolulu Police Department's (HPD) Records Management System was integrated with the electronic booking system (Green Box). This allowed the roll-out of Livescans to all of HPD so that fingerprints of arrestees are now captured and sent to the State's Automated Fingerprint Identification System (AFIS) and the FBI's Integrated AFIS (IAFIS) electronically.
- The department implemented Phase I of the Lights-Out Transaction Controller (LOTC). The LOTC controls the flow of demographic and fingerprint data in order to make a positive identification of the person being fingerprinted, whether as an arrestee or an applicant for whom a background check is being done. The demographic information is searched against CJIS-Hawaii and the fingerprints are searched against the State's AFIS automatically. The LOTC then compares the results to determine whether the person has an existing criminal history record or not, or whether human intervention is necessary to make this determination. Since April, the LOTC has processed over 26,000 transactions. After monitoring the automated identification results along with manual results, all repeat offenders or applicants with criminal histories are now being identified without human intervention in a matter of minutes with no human intervention. This amounts to approximately 65% of the transactions being submitted.

B. EXPLAIN HOW THESE RESULTS RELATE TO THE PROGRAM'S OBJECTIVES AND DEPARTMENT'S MISSION.

The results described above exemplify the department's success in fulfilling its objectives. Additionally, each division within the legal services program has individual goals and objectives that are designed to support the overall organizational goals. (See *State of Hawaii, Department of the Attorney General 2008 Goals and Objectives*, recently submitted to the Legislature).

C. EXPLAIN HOW THE EFFECTIVENESS OF THE PROGRAM IS MEASURED AND DISCUSS THE PERFORMANCE RESULTS ACHIEVED DURING THE PAST TWO YEARS.

For a majority of the legal services divisions, measuring effectiveness depends in great part on direct communication with clients. Direct consultation with clients is used to assess the effectiveness of the legal services we provide, and to determine what other services are needed. Periodic internal reviews of pending matters, and reviews of interaction between attorneys and clients, are also used to assess the effectiveness of each division.

Other aspects of the department's performance can be measured numerically. Examples of numerical performance measures include the number of civil and criminal cases settled or tried, the number of appeals settled or decided, and the number of legal documents reviewed.

Numerical measures of effectiveness for the legal services program are listed in *The Multi-Year Program and Financial Plan and Executive Budget For the Period 2007-2013 (Budget Period: 2007-09), Volume I*.

The department's public support divisions, such as the Grants and Planning Branch of the Crime Prevention and Justice Assistance Division, use external evaluations, desk monitoring (*i.e.*, review of books and records of grant recipients and audit reports), site monitoring, and surveys from program participants to evaluate their performance.

Performance results achieved during the past two years are discussed above in Part II.A., *Discuss the Performance Results Achieved by Each Program in FY07*.

D. DISCUSS THE ACTIONS TAKEN BY EACH PROGRAM TO IMPROVE ITS PERFORMANCE RESULTS.

In 2004, the department conducted an extensive survey, using a newly designed format, of all of its clients regarding the quality of legal services provided. The new format encouraged candid comments on a broad range of measures, including quality and timeliness of communications, legal advice and representation, and problem solving, as well as areas of strength and areas for improvement. The survey form was distributed to the head of every agency subdivision to which the department provides legal services, and hundreds of responses were received. The results of this survey were reviewed carefully and applied in management decisions. We plan to conduct a similar survey in 2008.

The department also conducted an extensive survey in 2004 of the attorneys, legal assistants, support payments officers, and others who had recently appeared in proceedings conducted by the Office of Child Support Hearings. The survey encouraged candid comments on the quality of services provided by the hearings officers. The results of the survey were reviewed carefully and applied in management decisions.

Recognizing the vital importance of training, the department has appointed a training committee to make the most effective use of the department's extremely limited training resources. The committee assesses the department's training needs and resources, and develops and enhances both a basic training program for new deputies and a long-range continuing legal education program for more experienced deputies. During the past year, the department has offered training through workshops, video presentations, and written outlines, on subjects as wide-ranging as sovereign immunity, electronic discovery, procurement, appeals, and legislative procedure.

The department has identified other areas that require assessment and long-term monitoring. A group of highly experienced attorneys serves on a complex litigation committee, which meets every month to review and make recommendations on complex case management and strategy. A committee was appointed to handle questions of ethics and conflicts. This committee meets frequently to review and make recommendations in these areas. A building review committee was created to review and recommend ways to improve the department's general working conditions.

An information technology advisory committee was created to provide oversight of the department's case management system (ProLaw) and document management system (iManage). The committee has expanded the scope of its work to include other information technology initiatives. For example, the department has established a secure, internal website that allows attorneys and support staff to efficiently access and share information such as research, news, directories, and forms. Additionally, an extensive upgrade of the department's public website has made information about the department more easily accessible to the public.

E. PLEASE IDENTIFY ALL MODIFICATIONS TO THE PROGRAM'S PERFORMANCE MEASURES AND DISCUSS THE RATIONALE FOR THESE MODIFICATIONS.

Four modifications were made in 2004 to the numerical measures of effectiveness listed in *The Multi-Year Program and Financial Plan and Executive Budget For the Period 2003-2009 (Budget Period: 2003-05), Volume III*:

- Deleted amount paid in settlements/judgments against the State. The amount of settlements/judgments depends in great part on the facts of each case, which generally depend on events or actions that are beyond the control of this department. This figure, therefore, was determined not to be a useful measure of the department's performance.
- Combined two measures -- the number of contracts reviewed and the number of rules reviewed -- into a single measure that includes both of these numbers. These activities are similar in nature, and combining them into a single measure allowed the addition of a new measure.
- Added the number of legislative bills reviewed. The department reviews every bill introduced during each legislative session. This activity affects our clients in every department and, because many bills become law, this activity has statewide impact on the people of Hawaii. This number, therefore, is a useful measure of the department's performance.
- For the Civil Recoveries Division, added the amount collected over the amount expended in collection efforts. This formula reflects the effectiveness of the division's efforts in collecting money owed to the State, and is a useful measure of the department's performance.

No modifications were made in 2005, 2006, or 2007.

III. PROBLEMS AND ISSUES:

A. DISCUSSION OF PROBLEMS AND ISSUES ENCOUNTERED.

1. REGISTRATION OF CONVICTED SEX OFFENDERS

The department is responsible for maintaining the state sex offender registry and the website that makes information on registered sex offenders accessible to the citizens of the State of Hawaii and the other 49 states. It is essential that the information on this website be as complete and accurate as possible.

Chapter 846E requires covered sex offenders to register with the department and periodically verify their registration information. In 2006, the department established a Sex Offender Compliance Unit to locate and prosecute covered sex offenders who fail to comply with the registration law.

Presently, there are approximately 373 unregistered sex offenders throughout Hawaii who have failed to complete initial registration requirements. Additionally, there are more than 500 non-compliant offenders who have failed to return a periodic verification form. More than 150 of these non-compliant offenders are located on the neighbor islands.

The two full-time investigators and two half-time investigators of the Sex Offender Compliance Unit have initiated 428 cases since the unit was established. Because of the department's limited resources, these cases have been in Honolulu and Hawaii counties only. To expand investigations to Kauai and Maui counties while keeping pace with investigations throughout the state, the unit requires two additional investigators. The unit also requires a legal clerk to cover the routine clerical duties currently handled by investigators, and allow the investigators to dedicate their time to investigations rather than clerical work.

The two additional investigators and legal clerk are necessary to help reduce the number of unregistered and non-compliant sex offenders throughout the state, and to ensure the completeness and accuracy of the sex offender registration information that the people of Hawaii rely on to keep themselves and their children out of harm's way.

2. DRUG HOUSE CLOSURES

The Drug Nuisance Abatement Unit was established by Act 63, SLH 2003, to provide for the effective enforcement and prosecution of the nuisance abatement laws under part V of chapter 712, Hawaii Revised Statutes, relating to offenses that involve the distribution or manufacture of drugs.

Since its creation in July 2003, the unit has assisted communities in closing down drug houses and disrupting the distribution of drugs in our neighborhoods. The unit has filed twelve lawsuits – five on Oahu, six on Maui, and one on the Big Island – which have played a vital role in closing down drug houses. As of September 15, 2007, the unit has received more than 1,565 complaints from the community. The unit has succeeded in closing 1,045 of these cases, but a backlog of 520 complaints remains.

Initially, the unit comprised only one deputy attorney general and 1.5 investigators. In fiscal year 2007-2008, these positions were funded through the General Appropriations Act. Recognizing the importance of the unit in disrupting the distribution of drugs and its high value to communities throughout the state, the Legislature also provided the additional sum of \$150,000 through Act 180, SLH 2007, for an additional 1.5 investigators and one clerk typist – but those funds will lapse on June 30, 2008. To attract and retain experienced law enforcement professionals, the Unit's funding should come from a more stable source

The addition of the 1.5 investigators is helping to decrease the backlog. In addition, the investigators are now able to focus more time on investigations because the clerk typist relieves them of clerical tasks such as reviewing complaints, entering case data in the drug nuisance database, and corresponding with landlords, government officials, and other government agencies.

The unit has proven its worth over the last four years by accomplishing its fundamental mission to close down drug houses. But stable, continued funding for the additional 1.5 investigators and the clerk typist is crucial to the unit's ability to effectively provide this service. Failure to maintain this funding will reduce the unit to its original size and diminish its ability to disrupt the distribution of drugs in neighborhoods throughout Hawaii.

3. PAUL COVERDELL FEDERAL GRANT

The Paul Coverdell grant currently is not referenced in the department's budget, which results in an incomplete picture of the resources available through the department for the criminal justice system.

The Paul Coverdell National Forensic Sciences Improvement Act of 2000, Public Law 106-561; as amended by Public Law 107-273; as amended by the Justice for All Act of 2004, Public Law 108-405 provides grants to improve the quality and timeliness of forensic science and medical examiner services and/or to eliminate backlogs in the analysis of forensic evidence, including controlled substances, firearms examination, forensic pathology, latent prints, questioned documents, toxicology, and trace evidence for criminal justice purposes. On the Federal level, the grant is administered by the National Institute of Justice, Office of Justice Programs, Department of Justice. On the State level, the administrator of the Coverdell grant is the Department of the Attorney General. The State has received a Coverdell grant every year since 2003. Although continued annual funding depends on yearly Congressional appropriations, it appears that this program has long-term support.

The department uses a competitive process to subgrant the funds. Applications are solicited from qualified agencies: the Honolulu Medical Examiners Office, the county police departments, and the Narcotics Enforcement Division of the Department of Public Safety. The grant has assisted the Honolulu Police Department in improving the security

of their lab, expanding their capacity, and meeting standards required for forensic lab accreditation. More recently, the Narcotics Enforcement Division is being supported in implementing a forensic lab for drug analysis, and the Honolulu Medical Examiner's Office in improving the efficiency of processing forensic evidence. Improvements in efficiently analyzing forensic evidence are a key tool in improving the quality of law enforcement investigations to promote public safety.

Using the grant as a springboard, the department has also initiated a forum so that the directors of the forensic laboratories can meet, help update the State forensic sciences plan, discuss issues, and provide support for each other.

The Paul Coverdell grant has no matching requirement.

Raising the federal fund ceiling to include the Coverdell grant presents a more complete picture of the resources available in the operational budget and streamlines the process of applying for and using the grant funds.

4. CIVIL RECOVERY OF MONEY OWED TO THE STATE

The Civil Recoveries Division assists various State agencies in the pursuit, litigation, and recovery of money owed to the State. The division comprises 33 temporary and permanent positions. In fiscal year 2006-2007, the division processed 17,204 recoveries and collected \$16,148,523, with an average of approximately \$938.65 per recovery. The total cost to operate the division during this period was \$1,530,434. The recovery costs for this period were approximately 10¢ per dollar recovered.

To efficiently coordinate and fulfill the mission to recover money owed to the State, the division is organized into teams that specialize in specific types of cases for certain State agencies. We recommend converting four temporary positions to permanent positions. These positions include a deputy attorney general, a legal assistant, a legal secretary, and an account clerk.

The deputy attorney general position represents the State in recovering and collecting moneys owed to the State in complex and contract based cases. This specialized position makes court appearances statewide; drafts memoranda, pleadings, opinions, and correspondence on behalf of the State; negotiates debtor settlements; maintains attorney-client relations; and supervises others.

The legal assistant supports attorneys with case management duties ranging from research to the preparation and filing of complaints, judgments, garnishments, motions, orders, and pleadings in all State and federal courts. The legal assistant also conducts discovery; investigates and locates debtors and debtor assets; assists in negotiating settlements; and sets up payment plans.

The legal secretary provides secretarial and legal support to the division's supervising attorney, and general support to all of the division's attorneys and legal support staff. The secretary is also responsible for supervising clerical and legal clerk functions and providing training resources to the clerical staff. The secretary functions as an office manager and handles administrative and personnel matters for all division employees.

The account clerk is responsible for receiving, tracking and posting approximately 50-80 incoming checks every day. While these payments generally range from \$10,000 - \$35,000, it is not uncommon for payments to exceed \$100,000. Payments received for all accounts, judgments, claims, and cases assigned to the division are sorted by client agency or team assignments, verified, and posted before maintaining and updating of payment records and log sheets. Each payment received is then reconciled with the appropriate team and case. The account clerk also tracks and logs purchase orders; maintains and updates client expense reports; purchases and maintains inventory of supplies, office furniture, and computer equipment; approves, processes, and follows up on invoices for payment; and receives and distributes all incoming division mail.

For 18 years, the division has been composed primarily of temporary positions. Only 6 of the division's 33 positions are permanent. It is very difficult to fill the remaining positions because most candidates are not interested in temporary positions. Employees who accept temporary positions generally do not remain in them for long periods because they prefer to move to permanent positions. The result is a disruption in collection efforts and loss of time and money invested in training new employees. Converting these four positions from temporary to permanent will help to prevent constant turnover and loss of valuable investments in staff – and recruiting the best candidates and retaining seasoned employees will enhance our collection performance.

5. NOTARIES PUBLIC

Currently, a single clerk typist is responsible for administering the entire statewide notary program. This one person administers and grades exams (and flies to neighbor islands once a month to give exams there); processes new applications, renewals, and changes in name, address, or employer; searches for and redacts requested record books; and responds to telephone and written inquiries and complaints.

With the increasing number of applicants (approximately 70 to 80 each month), the likewise increasing number of commissioned notaries (approximately 8,000), and the ensuing complaints, inquiries, and regulatory issues, it is clear that an additional position is necessary to operate the notary program. For several years, the department has struggled to keep pace with this growing program by relying on support from legal clerks, but occupies time that the legal clerks need to carry out their primary responsibilities in supporting the attorneys providing legal services to the State. Moreover, the legal clerks are only able to assist with certain notary tasks, the single clerk typist is the only employee familiar with all aspects of the program's operations. Furthermore, enhanced sensitivity to issues related to identity theft and restrictions on

disclosure of social security numbers have increased the time needed to review and redact information when producing notary records in response to subpoenas and public records requests, and additional time and resources will similarly be needed to implement new administrative rules once they are adopted.

Establishing a second position for the notary program will make it possible to handle all of the program's requirements in a more timely manner. In addition, with a second employee, the program will be able to monitor noncompliance and regulate practicing notaries. Presently, the single employee is barely keeping up with running the program and does not have time to track notaries who do not follow legal requirements. A second employee who can develop expertise in all aspects of the program will also provide important back-up capability. To meet the growing demand to process notary commissions, serve and regulate practicing notaries, and assist consumers throughout the state, a second clerk typist is essential

6. SECURE AND PERMANENT NOTARY RECORDS

There is an urgent need to transfer the information in notary record books from hard copy to a more secure format, such as microfiche or digital images. These record books contain social security numbers, home addresses, and other private information for thousands of people. Notaries often record not only the type of identification, such as a passport or drivers license, but also the identification number, and sometimes attach copies of identification documents or fingerprints to their record books.

These records take up a large amount of space, and security storage is a paramount concern. HRS § 456-16 requires notaries to deposit their record books with the department at the end of every four-year commission or when they resign, but does not specify a period of time after which the records may be destroyed. Thus, the number of notary books that must be retained increases every month. We plan to propose legislation in 2008 to resolve this, but meanwhile, notary records are kept in more than 500 banker boxes in the warehouse where forfeited assets are stored. The warehouse is dusty and must be opened to department personnel and others whenever forfeited assets are added, rearranged, or moved in preparation for an auction. Arrangements must be made with the asset forfeiture manager to open the warehouse whenever notary records are needed and, due to space constraints, the boxes are stacked on high shelves that can only be accessed by forklift. Given the tremendous concern about identity theft and new laws imposing duties on government agencies to safeguard social security numbers and other identifying information, funding to remedy the storage situation is urgently needed.

In addition, these records require careful, time-consuming redaction when they must be produced in response to an informal request or subpoena. The books are typically bound, and each page must be copied individually and all nondisclosable information redacted for every entry produced. Imaging these records to digital or microfiche format will allow for more efficient storage, retrieval, and redaction. This will enable the notary

program to operate more efficiently and will offer more security for the private information contained in notary records.

7. CRIMINAL JUSTICE

The Attorney General is the chief law enforcement officer of the State and is statutorily required to “be vigilant and active in detecting offenders against the laws of the State, and shall prosecute with the same diligence.” HRS § 28-2. The Criminal Justice Division serves as the criminal prosecution arm of the department. The division’s responsibilities have expanded tremendously in recent years.

The department is required by statute to have a Drug Nuisance Abatement Unit, which receives complaints on drug activities from the public and uses civil laws to remove suspected drug dealers from the homes where illegal activities take place. The department is also required by statute to have a Surveillance Review Unit, which must reviewing applications for interception of wire, oral, or electronic communications under Chapter 803. The Drug Nuisance Abatement Unit initially received no funding for support staff; later, a clerk was provided through an emergency appropriation for fiscal year 2007-2008 only. The Surveillance Review Unit received no funding for an attorney or support staff.

In addition to these legislatively mandated units, the department’s prosecutorial responsibilities have expanded to include a Cold Case Unit, which investigates unsolved murders; an Environmental Crimes Unit, which prosecutes individuals for harming the environment; and a Sex Offender Compliance Unit, which prosecutes convicted sex offenders who fail to comply with sex offender registration laws. Additionally, the department has become responsible for all conflict prosecutions from all four counties. The Cold Case Unit and the Environmental Crimes Unit have received no additional funding for attorneys or support staff. The Sex Offender Compliance Unit receives federal grant funding for one attorney, but has no funding for support staff. Conflict cases have risen from an average of 5-10 per year to 30-50 per year. No attorneys or support staff have been added to cover this rise in conflict cases.

These additional responsibilities have put a tremendous strain on the limited resources of the Criminal Justice Division. The requested Deputy Attorney General and Legal Clerk positions are currently temporary positions in the Department that are not linked to a specific division. Reauthorizing these positions will help the Criminal Justice Division to cover the increased workload and to effectively investigate and prosecute crimes on behalf of the people of Hawaii.

8. HUMAN RESOURCES

The Department’s personnel office is seriously understaffed – to the point where it is unable to handle all of the personnel requirements of its almost 800 employees. The

existing staff consists of only one Department Personnel Officer, two Specialists, one Technician, and two Clerks.

This staff shortage, along with an increase in delegation of duties, responsibilities, and decision making from DHRD to the department, has caused a backlog in several areas, especially in classification, recruitment, implementing organizational changes, handling of labor relations and grievances, position transactions, and leave record accounting.

The current staff is only able to handle emergency actions, and this is causing significant delays in other important personnel matters, such as recruitments, classifications, and reorganizations. This situation is most apparent in filling positions at the Child Support Enforcement Agency due to delays in recruitment, reclassification, and reorganization. The extra workload related to the 2007 transfer of the Family Support Divisions from Honolulu and Hawaii counties to the department has further increased the backlog.

The department has identified budgeted temporary positions which we request be reauthorized, with no increase to our allocation, to add one Personnel Management Specialist and one Personnel Clerk to begin to handle the backlog that currently exists and to provide the staff and management of the department the services required.

9. PUBLIC SAFETY; HOUSING FINANCE AND DEVELOPMENT

The Department of Public Safety's (PSD) growing legal needs require the addition of a full time deputy attorney general. With the development of mental health services issues currently under scrutiny by the U.S. Department of Justice, the legislative push to house inmates in-state rather than out-of-state premised on the building of such capacity in Hawaii, and the sheer growth of the State's inmate population, there are more legal issues than the current staff of two attorneys can appropriately and realistically handle. Additional legal support is required by the PSD Sheriffs Division to support its capacity to fulfill a growing list of responsibilities to protect and defend the public. Issues include the need to serve the increasing backlog of warrants, the increasing numbers of arrests, changes in judicial procedures requiring changes to the processing of arrestees, formulation or revision of policies and procedures, police powers, and the panoply of rights of detainees and arrestees, as well as operational issues.

Except for tort litigation and most employment issues, PSD's legal needs are currently served by only two deputy attorneys general whose workload cannot reasonably accommodate the full spectrum of legal services that is required of them. In addition to the foregoing areas of responsibility, the two attorneys currently represent PSD in various court proceedings involving inmates and detainees, including habeas corpus/Rule 40 petitions and related appeals, subpoena proceedings, proceedings regarding mental health services, extraditions, and other miscellaneous civil and family court matters that involve inmates or that are instituted by inmates. They also handle a significant amount of claims and advice and counsel on issues involving Americans with Disabilities issues,

contractual issues, construction, procurement, civil rights, federal compliance issues, administrative rules, legislation, among other things.

A third deputy attorney general position is needed to provide an appropriate level of legal services to PSD.

Hawaii Housing Finance and Development:

One full time deputy attorney general is sought for the purpose of servicing the Hawaii Housing Finance and Development Corporation (HHFDC) to appropriately and realistically serve the needs of this new agency supporting a renewed state effort to increase affordable housing opportunities in Hawaii. The establishment of HHFDC has created organizational needs that require legal support (a new administrative structure, including an executive staff, a board of directors). Further, with the growth of housing projects comes the growth of legal issues regarding those projects. The legal work for HHFDC encompasses various programs, such as mortgage loan programs, remediation projects, administration of the many funding mechanisms promoting affordable development (bond financing and tax credit programs), land management, and infrastructure development. Work includes advice and counsel on a variety of issues, leases and other conveyancing documents, development agreements, financing instruments, provider and vendor contracts, administrative rules and legislation. Foreclosure work is anticipated to grow.

This work is highly document intensive and requires a certain level of experience and expertise. Presently, a single attorney position is assigned to serve all of HHFDC's legal needs. The workload, however, requires that various other deputies assist on a regular ongoing basis creating a burdensome overload for all concerned.

10. HAWAII STATE HOSPITAL

Among the functions the department performs for the Hawaii State Hospital (HSH) are obtaining involuntary medication orders for patients who are dangerous to themselves or others and refuse to take medications; obtaining involuntary medication orders for unfit forensic patients who may be restored to fitness and tried if appropriately medicated; and assisting hospital personnel in planning for the discharge of patients who require court approval to move to another setting. We perform similar functions for the 32 patients housed under contract at Kahi Mohala who would reside at HSH if there were sufficient space for them.

Delays in the movement of appropriate patients from hospital treatment to community placement via conditional discharge, or return to fitness for trial, compounds the challenge of managing Hawaii's most clinically intensive and expensive form of public psychiatric care: inpatient acute psychiatric stabilization and longer-term inpatient psychiatric rehabilitation.

The Health and Human Services Division requires a Legal Assistant III position to assist HSH in moving patients through the hospital to discharge or trial in a timely manner, thus helping to keep the census at a more manageable level. This legal assistant will review commitment orders and track the legal status of forensic patients; work with treatment teams to identify steps that must be taken to move a patient through the court process to alternative placement; handle scheduling and transport issues with the courts when HSH patients have court hearings; arrange videoconferencing for certain court appearances; perform factual research and draft documents for motions requesting orders for involuntary treatment; communicate with other offices such as the Prosecutor and Public Defender; research court and HSH records in specific cases as needed; and perform other legal support functions.

B. PROGRAM CHANGE RECOMMENDATIONS TO REMEDY PROBLEMS.

1. REGISTRATION OF CONVICTED SEX OFFENDERS

Recommendation: Establish two Investigator V positions and one Legal Clerk position.

2. DRUG HOUSE CLOSURES

Recommendation: Add 1.5 Investigator IV positions and one Clerk Typist III position to department budget as previously included in Act 180, Session Laws of Hawaii 2007.

3. PAUL COVERDELL FEDERAL GRANT

Recommendation: Raise federal fund ceiling to include Coverdell grant.

4. CIVIL RECOVERY OF MONEY OWED TO THE STATE

Recommendation: Convert Deputy Attorney General, Legal Secretary, Account Clerk II, and Legal Assistant II positions from temporary to permanent.

5. NOTARIES PUBLIC

Recommendation: Establish one Clerk Typist II position.

6. SECURE AND PERMANENT NOTARY RECORDS

Recommendation: Provide funding to transfer information in notary record books to microfiche, electronic form, or other media.

7. CRIMINAL JUSTICE

Recommendation: Reauthorize one Deputy Attorney General position and one Legal Clerk position and convert from temporary to permanent to allow the Criminal Justice Division to properly cover increased workload.

8. HUMAN RESOURCES

Recommendation: Reauthorize Personnel Management Specialist V and Personnel Clerk V positions and convert from temporary to permanent.

9. PUBLIC SAFETY; HOUSING FINANCE AND DEVELOPMENT

Recommendation: Reauthorize two Deputy Attorney General positions and convert from temporary to permanent.

10. HAWAII STATE HOSPITAL

Recommendation: Convert .5 Deputy Attorney General position to Legal Assistant III position to assist Hawaii State Hospital in moving patients through the hospital to discharge or trial in a timely manner, thus helping to keep the census at a more manageable level.

C. IDENTIFY ANY PROGRAM ISSUES OR PROBLEMS THAT HAVE AFFECTED OR WILL AFFECT THE IMPLEMENTATION OF THE PROGRAM, AND THE CORRECTIVE MEASURES OR REMEDIES ESTABLISHED OR PLANNED.

Program issues or problems that have affected or will affect the implementation of the program are discussed above in Part III.A., *Discussion of Programs and Issues Encountered*.

Corrective measure or remedies established or planned are discussed above in Part III.B., *Program Change Recommendations to Remedy Problems*.

IV. EXPENDITURES FOR FY 2008:

	FY 2008	Bargaining	In/Out	Restriction	Resources	Expenditures
Position Count	323.00				323.00	323.00
Personal Services	26,023,676	1,615,691			27,639,367	27,639,367
Current Expenses	24,748,356				24,748,356	17,748,356
Equipment	149,823				149,823	149,823
Motor Vehicles	0				0	0
TOTAL	50,921,855	1,615,691	0	0	52,537,546	45,537,546
Means of Financing:						
	234.15				234.15	234.15
General	25,124,279	963,427			26,087,706	26,087,706
	18.00				18.00	18.00
Special	1,893,738	58,294			1,952,032	1,952,032
	13.00				13.00	13.00
Federal	8,918,519	79,160			8,997,679	6,497,679
	3.00				3.00	3.00
Revolving	3,017,834	18,193			3,036,027	1,036,027
	0.00				0.00	0.00
Trust	3,918,000				3,918,000	1,418,000
	54.85				54.85	54.85
U Funds	8,049,467	496,617			8,546,084	8,546,084
	323.00	0.00	0.00	0.00	323.00	323.00
	50,921,837	1,615,691	0	0	52,537,528	45,537,528

A. EXPLAIN ALL TRANSFERS WITHIN THE PROGRAM I.D. AND THE IMPACT ON THE PROGRAM.

None.

B. EXPLAIN ALL TRANSFERS BETWEEN PROGRAM I.D.S AND THE IMPACT ON THE PROGRAM.

None.

C. EXPLAIN ANY RESTRICTIONS AND THE IMPACTS ON THE PROGRAM.

None.

V. SUPPLEMENTAL BUDGET REQUESTS FOR FY09:

		Budget Request
		FY2009
Position count		18.28
Personal Services		197,828
Current Expenses		231,915
Equipment		19,000
Motor Vehicles		0
TOTAL		448,743
 Means of Financing:		
		15.78
General		400,480
		0.00
Special		0
		0.00
Federal		(59,366)
		1.00
Revolving		106,985
		0.00
Trust		0
		1.50
UFunds		644
		18.28
		448,743

A. WORKLOAD OR PROGRAM REQUEST: GENERAL FUNDS UNLESS OTHERWISE INDICATED

1. **Funding to support the Sex Offender Registration Program.** Establish two Investigator V positions and one Legal Clerk position.

<u>Personal Services</u>	<u>MOF</u>	<u>\$</u>
4.28 – Investigator V	A	188,208
(2.28) – Investigator V (Temporary)	N	(150,381)
1.00 - Legal Clerk	A	<u>24,057</u>
Total Personal Services		61,884

<u>Other Current Expenses</u>		
Travel & mileage	A	13,600
phone & supplies	A	<u>21,900</u>
Total Other Current		35,500
<u>Equipment</u>		
Computers, Desks, & Chairs	A	12,000

2. **Drug Nuisance Abatement.** Add 1.5 Investigator IV positions and one Clerk Typist III position to department budget as previously included in Act 180, Session Laws of Hawaii 2007.

<u>Personal Services</u>		<u>\$</u>
1.50-Investigator IV		74,019
1.00 - Clerk Typist III		27,756
Overtime		<u>17,700</u>
Total Personal Services		119,475

<u>Other Current Expenses</u>		
Travel & mileage		14,000
Phone & supplies		<u>8,400</u>
Total Other Current		22,400

3. **Paul Coverdell Federal Grant.** Raise federal fund ceiling to include Coverdell grant.

<u>Other Current Expenses</u>		<u>\$</u>
Project Funds		91,015

4. **Convert temporary positions to permanent.** Convert Deputy Attorney General, Legal Secretary, Legal Assistant II, and Account Clerk II positions from temporary to permanent.

5. **Add Clerk Typist II.** Establish one Clerk Typist II position.

<u>Personal Services</u>		MOF	<u>\$</u>
1.00 Clerk Typist II		W	19,275
Fringe Benefits		W	<u>7,710</u>
Total Personal Services			26,985

6. **Digitize (imaging) old notary records.**

<u>Other Current Expenses</u>		MOF	<u>\$</u>
Digital Copy services		W	80,000

7. **Reauthorize Deputy Attorney General and Legal Assistant positions.** Reauthorize one Deputy Attorney General position and one Legal Clerk position and convert from temporary to permanent

<u>Personal Services</u>	<u>\$</u>
1.00- Deputy Attorney General	(5,500)
1.00 – Legal Clerk	(5,660)
Total Personal Services	(11,160)
<u>Other Current Expenses</u>	
Phone & supplies	3,000
<u>Equipment</u>	
Computers, Phones	7,000

8. **Reauthorize Personnel management Specialist and Personnel Clerk positions.** Reauthorize Personnel Management Specialist V and Personnel Clerk V positions and convert from temporary to permanent.

<u>Personal Services</u>	<u>\$</u>
1.00 - Pers. Mgmt. Specialist V	36,036
1.00 – Personnel Clerk V	23,409
Clerk Typist II	(26,830)
Legal Clerk	(37,464)
Vacancy savings	(5,151)
Total Personal Services	(10,000)
<u>Equipment</u>	
Computers, Phones	10,000

9. **Reauthorize two Deputy Attorney General positions.** Reauthorize two Deputy Attorney General positions and convert from temporary to permanent.

<u>Personal Services</u>	<u>\$</u>
1.00- Deputy Attorney General	70,000
1.00 – Deputy Attorney General	75,000
(1.00) – Deputy Attorney General	(60,000)
Deputy Attorney General	(63,000)
Delay hire to 10-1-08	(37,000)
Total Personal Services	(15,000)
<u>Other Current Expenses</u>	
Phone & supplies	5,000
<u>Equipment</u>	
Computers, Desks, Phones	10,000

10. **Convert .5 Deputy Attorney General to 1.0 Legal Assistant III.** Convert .5 Deputy Attorney General position to Legal Assistant III position.

<u>Personal Services</u>	<u>\$</u>
1.00 - Legal Assistant III	42,144
(.50) – Deputy Attorney General	<u>(41,500)</u>
Total Personal Services	644

- B. FOR ALL POSITION COUNT REDUCTIONS, PLEASE SPECIFY WHETHER THE POSITIONS WERE FILLED OR VACANT.***

Not applicable.

VI. PROGRAM RESTRICTIONS:

- A. IDENTIFY RESTRICTIONS CARRIED OVER FROM FY08 AS WELL AS ADDITIONAL REDUCTIONS DUE TO DEPARTMENT OF BUDGET AND FINANCE BUDGET CEILINGS FOR FY09.***

None.

VII. CAPITAL IMPROVEMENT PROGRAM (CIP) REQUESTS FOR FY09:

None.

VIII. PROPOSED LAPSES OF CIP PROJECTS:

None.

**TESTIMONY OF THE DEPARTMENT OF THE ATTORNEY GENERAL
BUDGET BRIEFING PRESENTED TO
HOUSE COMMITTEE ON JUDICIARY
SENATE COMMITTEE ON JUDICIARY AND LABOR**

January 2008

ATG-231

Legal Services

**TESTIMONY OF THE DEPARTMENT OF THE ATTORNEY GENERAL
BUDGET BRIEFING PRESENTED TO
HOUSE COMMITTEE ON JUDICIARY
SENATE COMMITTEE ON JUDICIARY AND LABOR**

January 2008

PROGRAM I.D. AND TITLE:

ATG-231 STATE CRIMINAL JUSTICE INFORMATION AND IDENTIFICATION

I. INTRODUCTION:

A. Summary of Program Objectives

The Hawaii Criminal Justice Data Center (HCJDC) is responsible for the statewide criminal justice information system (CJIS-Hawaii), the statewide Automated Fingerprint Identification System (AFIS), and State Identification card. HCJDC's functions are defined and governed by chapter 846, chapter 846E, and section 831-3.2, HRS.

HCJDC's program objectives are as follows:

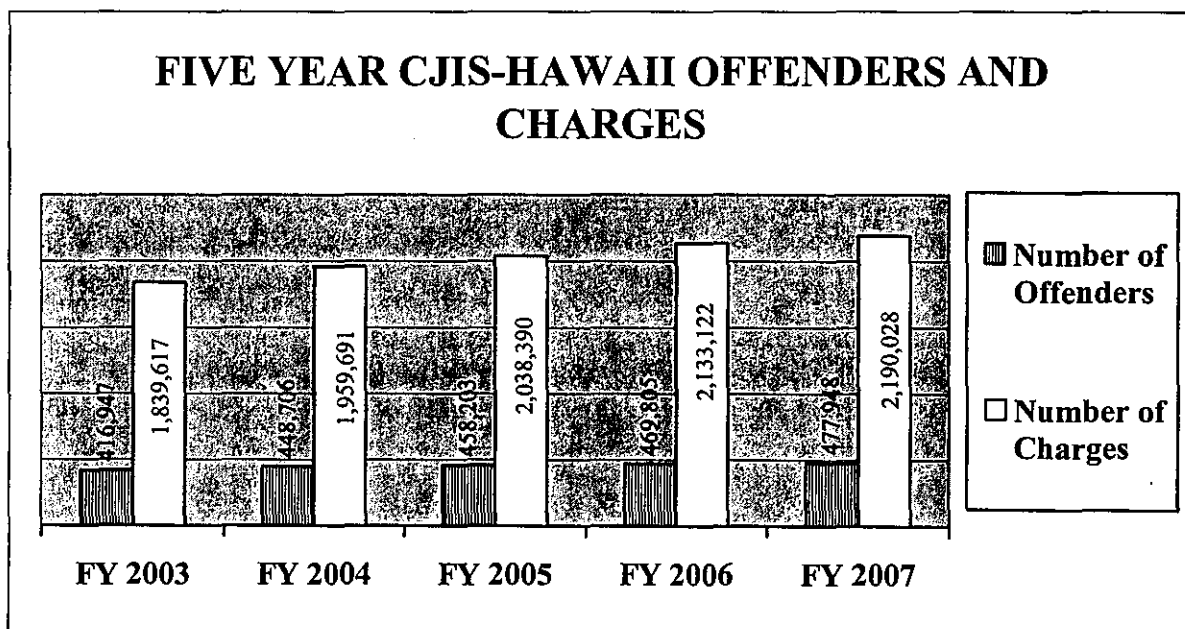
1. To improve the administration of criminal justice through the collection, reporting, and exchange of criminal justice information that is accurate, timely, relevant and complete.
2. To disseminate computerized criminal history information as required by state statute.
3. To accurately maintain the statewide Sex Offender Registration program under chapter 846E, HRS.
4. To provide timely positive identification of arrested offenders through a statewide system of criminal identification based on fingerprints and through the integration of AFIS with CJIS-Hawaii.
5. To process all eligible expungement requests within the statutory limitation of 120 days.
6. To provide quality customer service in the issuance and renewal of fingerprint-based State ID cards to the public.

B. Description of Program Objectives

- CJIS-Hawaii – To improve the administration of criminal justice through the collection, reporting, and exchange of criminal justice information that is accurate, timely, relevant and complete.**

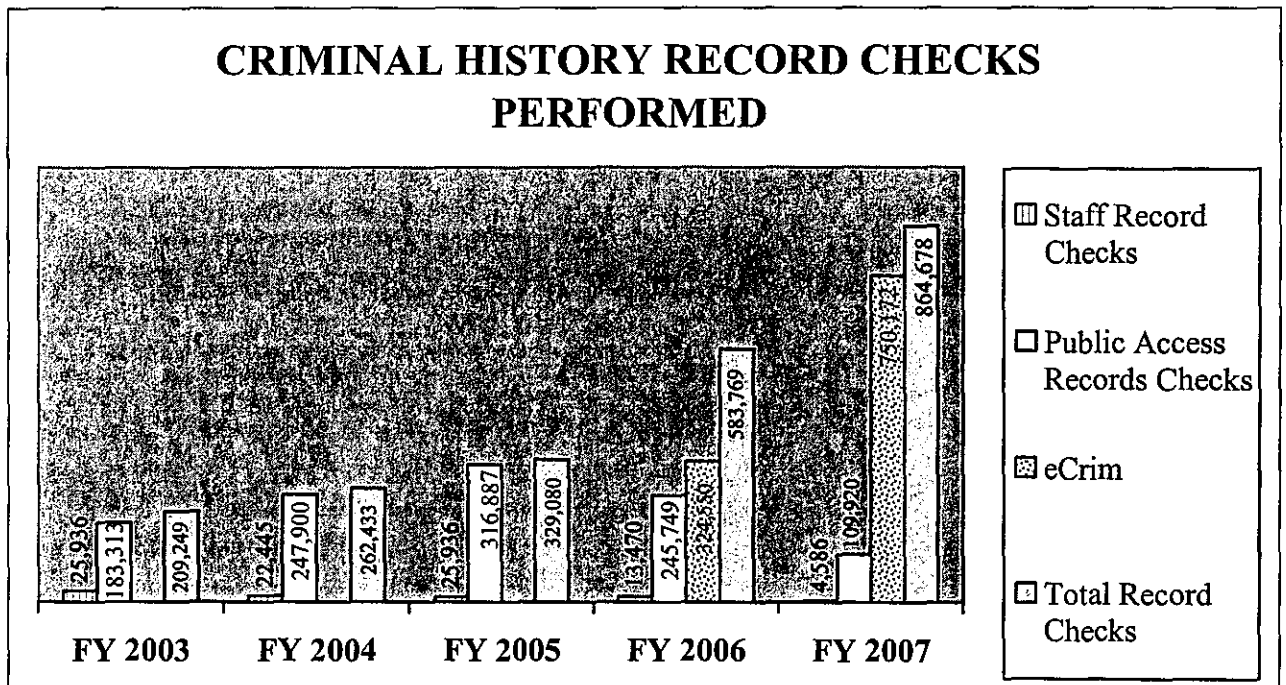
HCJDC manages a centralized automated system designed to maintain a comprehensive adult criminal history of offenders called CJIS-Hawaii, formerly known the Offender-Based Transaction Statistics/Computerized Criminal History (OBTS/CCH). CJIS-Hawaii is the only criminal justice information system on offenders arrested in Hawaii that contains statewide information from police, sheriffs, prosecutors, all levels of courts, intake service centers, community correctional facilities, and probation and parole agencies. Currently, there are almost 480,000 offenders and more than 2 million records in this system.

CJIS-Hawaii is accessed via desktop PCs located in every state and local criminal justice agency in Hawaii, authorized federal agencies, and other authorized non-criminal justice agencies. Currently, more than 3,700 users access CJIS-Hawaii.



2. Criminal Records Clearance – To disseminate Computerized Criminal History information as required by state statute.

CJIS-Hawaii provides access to timely and accurate criminal history record information for all authorized purposes, including public access to conviction-only information, and to conduct criminal history record checks on all individuals subject to such requirements by law. Our Criminal History Record Checks Sub-unit serves a growing list of programs that conduct criminal background checks for child care providers, public and private schools, private guards, county liquor commissions, cooperative housing and condo corporations, and many others. HCJDC serves 52 private agencies and processes almost 600,000 record checks each year. The public can access criminal conviction information via Public Access terminals at the HCJDC office, at all main police stations, and via the Internet. Internet requests now surpass Public Access terminal requests.

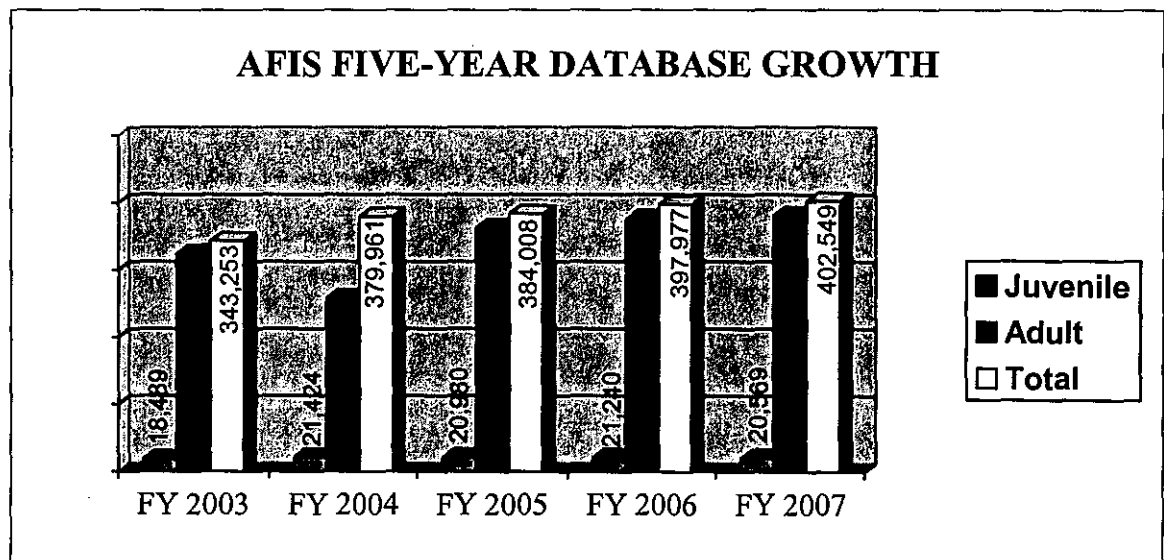


3. Sex Offender Registration – To accurately maintain the statewide Sex Offender Registration program under chapter 846E, HRS.

Chapter 846E sets out the requirements for the registration of convicted sex offenders in Hawaii. Sex offenders are required to verify their registration information every 90 days to ensure that the information is accurate. Currently, approximately 2,400 sex offenders are registered statewide. Since the launch of the new sex offender registry website on May 9, 2005, the site has received almost 10 million hits.

4. Criminal Identification/Automated Fingerprint Identification System (AFIS) – To provide timely positive identification of arrested offenders through a statewide system of criminal identification based on fingerprints and through the integration of AFIS with CJIS-Hawaii.

HCJDC is designated as the State Identification Bureau by the Federal Bureau of Investigation. As such, it operates and coordinates a statewide criminal fingerprint identification system of records on arrested offenders, juvenile law violators, and other records received from contributing law enforcement, custodial, judicial, and other agencies. This includes maintaining all fingerprint images captured by arresting agencies, processing civil applicant fingerprints from such agencies as the Department of Human Services, and processing latent fingerprints to assist criminal investigations.



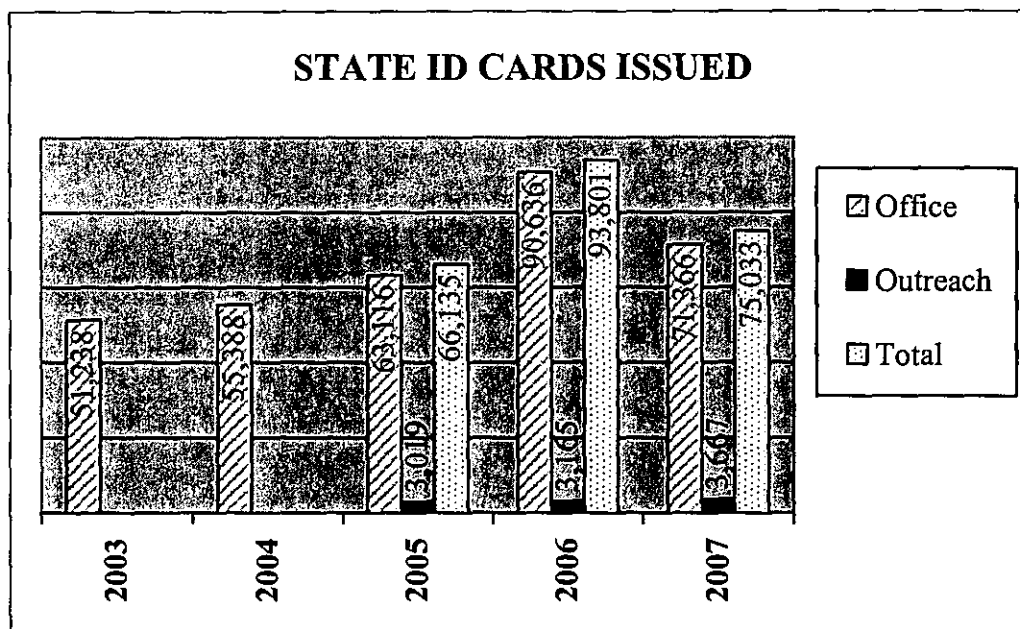
The AFIS system currently maintains over 400,000 automated fingerprint records, and processed approximately 75,000 civil and criminal records in FY 2007.

5. Expungement of Arrest Records - To process all eligible expungement requests within the statutory limitation of 120 days.

This activity consists of researching applicants' criminal history, determining whether records meet the expungement criteria, issuing expungement orders, issuing certificates of expungement, and sealing these records, as detailed in section 831-3.2, HRS. Last year, we processed almost 1,200 applications to expunge arrest records.

6. Civil Identification – To provide quality customer service in the issuance and renewal of fingerprint-based State ID cards to the public.

Under this program, HCJDC is responsible for issuing State ID cards, which provide an alternative photo ID for the public. This is the only civil function for which HCJDC is responsible. Since 2004, HCJDC has held outreach events serving more than 9,000 citizens in their local communities, including senior citizen residences and special needs students in schools. The response from the public has been overwhelmingly positive. In a continuing effort to reach out to the public, our Renewal-by-Mail program has had similar success, with more than 39,000 applicants aged 65 and over renewing by mail.



C. Explain how your program intends to meet its objectives within the upcoming fiscal year

Because HCJDC programs have a direct impact on public safety, we strive to maintain and improve the effectiveness of our programs with the resources available to our agency by seeking ways to further streamline operations and improve our service to our criminal justice users and the public. This is always a challenge due to budgetary constraints, but we explore all options, including federal grant programs and legislative changes. In addition, we look to automation and system integration as technical options and viable alternatives to achieve our objectives.

II. PROGRAM PERFORMANCE RESULTS

A. Discuss the performance results achieved by each Program in FY 2006-2007

Each of the programs maintained by the HCJDC, and the program performance results, are explained in Section I.B. above. We have provided graphic charts where possible to show statistical trends over previous periods.

B. Explain how these results relate to the Program's Objectives and Department's Mission

In general, these results show the continuing demand for information and services that the HCJDC systems and programs provide to the criminal justice community, non-criminal justice agencies, and the public. In particular, there is significant growth in the demand for timely and accurate criminal history record information, State ID cards, and improved accessibility to our programs and services. This is consistent with our objectives, which emphasize the need to provide what our users require on a timely basis.

C. Explain how the Effectiveness of the Program is measured

1. CJIS-Hawaii System

The effectiveness of the CJIS-Hawaii program is measured by tracking the number of computer transactions completed against the database and by monitoring the level of data completeness through missing disposition statistics. The number of inquiries on CJIS-Hawaii increases steadily and our 93% disposition completion rate is one of the highest in the nation. This shows the level of usage and demand for this information, which is directly affected by the quality of the data we provide.

2. Criminal History Records Clearance (CHRC)

The demand for criminal history record checks has grown tremendously over the past few years, as the statistics on the number of checks processed by the CHRC sub-unit show. In 1987, when this program began doing criminal history record checks, fewer than 10,000 requests were processed. By FY 2000 this number had reached 145,000, and in FY 2007 almost 850,000 record checks were processed – an increase of 500% in the past seven years. The availability of criminal conviction information on the Internet has made it possible for more people to conduct criminal history record checks on their own. We also track the sources of these requests, as inquiries are received from all sectors of the community, in-state, nationwide, and internationally.

3. Sex Offender Registration

We continue to monitor the effectiveness of this program, which has been affected by numerous legislative changes, by collecting statistics that reflect the growth of this program's responsibilities, the number of offenders requiring registration, the number of offenders requiring quarterly verification, and our proactive research regarding non-compliant registrants.

4. **Expungement of Arrest Records**

HCJDC monitors the effectiveness of this program by tracking the number of requests and the turnaround time for issuing expungement orders. We have improved the effectiveness through internal efforts to streamline and automate procedures that have resulted in an overall reduction in processing times and improved the quality and accuracy of the information processed.

5. **Criminal Identification/Automated Fingerprint Identification System (AFIS)**

HCJDC tracks the effectiveness of this program by monitoring the time required to complete the ID process for offenders arrested in Hawaii. Timely positive identification is extremely important to the criminal justice community to ensure the accurate and prompt availability of an arrested offender's information. In addition, the AFIS system, through its automated search of latent fingerprints from crime scenes, has been highly successful in identifying offenders who might not otherwise be apprehended and prosecuted. HCJDC also tracks the number of crime scene fingerprints matched with those in the database as a measure of effectiveness.

6. **Civil Identification**

HCJDC monitors the number of State ID cards issued and the number of applicants processed via Renewal By Mail and outreach events to determine the effectiveness of this program. In FY 2007, over 75,000 cards were issued – a decrease of 20% from FY 2006. This decline was expected: Cards issued in FY 2000, when mandatory expiration dates were first imposed, reached their six-year expiration date in FY 2006, which led to a 44% increase in renewals that year. We expect another surge in renewals after the end of the next six-year cycle in FY 2012.

D. Discuss actions taken by each program to improve its performance results

1. **CJIS-Hawaii System** - CJIS-Hawaii continues to be the only statewide system providing key information to decision-makers and operational staff, not only in the criminal justice area but also in the faster growing area of demand: non-criminal justice and applicant criminal history record check processing.
 - **Missing and Delinquent Dispositions:** Data quality on CJIS-Hawaii is a top priority for HCJDC and the entire criminal justice user community. Staff resources are dedicated to continually monitor and research problem cases, agency backlogs, and electronic glitches. New automated interfaces, such as those with the Adult Probation Office (PROBER) and the Honolulu Prosecutor's case management system (HOKU) are being developed to improve the accuracy, timeliness, and posting rates for dispositions. We will also be reviewing the disposition reporting process to determine where improvements can be made to decrease the missing disposition rate. We are currently over 93% complete in terms of charges with final dispositions. **Nationally, Hawaii maintains its Top Ten ranking**, and we continue to strive to improve even further in this area because of the impact that missing dispositions have on society.

- **“Lights Out” Offender Identification:** This is the most significant project now being implemented for CJIS-Hawaii because it integrates the CJIS-Hawaii and AFIS systems to perform positive identification of offenders at the time of booking with no human operator intervention in a projected 85% of cases. With Lights Out capability, law enforcement will be able to identify offenders while they are still in custody because FBI and State identification results will be sent directly to the booking location. Phase I of Lights Out identification was implemented on April 1, 2007, and since then more than 35,000 transactions have been processed. Automated identification was activated in September for repeat offenders, and approximately 65% of all arrests are now identified as known offenders within five minutes for the State AFIS system and fifteen minutes for the FBI IAFIS system. Implementation of a full sex offender workflow, incorporation of juvenile bookings into the system, and a number of usability and performance enhancements are scheduled to be completed by the end of FY 2008.
- **Transfer of NCIC2000 to the State:** The National Crime Information Center (NCIC) 2000 is a nationwide, computerized information system of the FBI that serves all local, state and federal criminal justice agencies around the clock. HCJDC has managed NCIC since October 16, 2007. Before that date, Hawaii was the only state in the nation with a county-based criminal justice agency (Honolulu Police Department) serving as its CJIS Systems Agency.

The growth and expansion of criminal justice systems to include criminal history record information (III), an automated AFIS system (IAFIS), sex offender data (NSOR), and protection order information (PO) significantly changed the requirements for national criminal justice information. HCJDC has completed a massive transition to assume this responsibility in order to improve the effectiveness of the State’s reporting to FBI systems, and to comply with federal mandates and national initiatives that directly affect the State.

- **County-wide Integration:** The Horizontal Integration Pilot project in Hawaii County is designed to demonstrate the technical feasibility and business value of electronically sharing critical information at key decision points in a real-time, secure, and paperless manner. This project is limited in scope, focusing initially on a single jurisdiction sharing arrest information with prosecutors and corrections. Implementation is targeted for January 2008. This pilot project will also demonstrate improvement in the accuracy, timeliness, and quality of information shared between the agencies and posted on CJIS-Hawaii.
- **New Automated Interfaces:** There are already 20 automated interfaces between CJIS-Hawaii and nearly every major criminal justice agency in the State. In the past fiscal year, an interface with the Honolulu Police Department’s mug photo system was implemented to electronically transfer HPD mug photos to CJIS-Hawaii and the Statewide mug photo System. Mug photos for HPD arrests from November 1, 2007 forward are now available to all authorized users of both systems.

- **Firearms Registration**: We are in the process of developing inquiry and maintenance components for firearm registration and permit denials. A standardized firearm registration form and codes have been implemented in the four counties. We are developing interfaces to automatically update CJIS-Hawaii from the county record management systems. Manual registration forms in each county have been scanned into electronic form. Electronic versions of the forms from the Honolulu Police Department will be made available for all counties to use in research of firearms registration through CJIS-Hawaii. When the component is implemented denial information will be submitted to the Federal National Instant Check System.
2. **Criminal History Records Clearance** – This program continues to be the most rapidly expanding area, as the number of requests for criminal history record information reached another all-time high of over 850,000 in FY 2007.
- **Timely Criminal Background Checks**: HCJDC continues to work with a growing number of authorized agencies to implement direct online access to state criminal history records and to use electronic livescan technology for submitting fingerprints electronically to reduce response time for these important checks. This has resulted in a reduction of response time for national fingerprint checks from 4-6 weeks (hard copy submissions) to under 8 hours.
 - **Online Conviction Information Access (“eCrim”)**: Pursuant to 846-9, HRS, conviction information on CJIS-Hawaii is a public record. HCJDC makes this information available via Public Access terminals located at our office and at the main county police stations. Since November 9, 2005, HCJDC also provides this information via “eCrim” as a 24x7 service on the State website, which makes the information conveniently accessible to youth organizations, employers, and the public.
3. **Sex Offender Registration** – This program, which is the most recent one to be added to HCJDC’s responsibilities, continues to require increasing resources for its operational responsibilities. Its rapid growth is most apparent in the increase in the number of registered sex offenders from 522 in 1997 to 2,430 today.
- **Sex Offender Website**: Act 45, SLH 2005 was significant for this program because it replaced the case-by-case court hearing requirement for website dissemination of sex offender information with offense criteria that required manual examination of every convicted sex offender’s record. Information on 1,800 registered sex offenders is available to the public on our website. The site has processed more than 10 million queries since its launch on May 9, 2005. Parents and families now have access to information to protect their children from sex offenders residing in our communities. This is one of the heavily used government websites.

- Non-compliant Offenders: We have continued our efforts to increase compliance by sex offenders with Chapter 846E, HRS, and to prosecute non-compliant sex offenders. To date, 44 sex offenders have been indicted, of which 34 have been found guilty and 7 are awaiting trial. Approximately 2,400 sex offenders are registered statewide, of which 22% non-compliant.
- Sex Offender Administrative Automation: We are developing a Sex Offender Administrative application, which will include a document management system to support scanning and image storage of paper documents as well as creation, update, and retrieval of electronic documents. This application will allow authorized users to view and print registered sex offender histories and documents online without the need for manual intervention by Sex Offender Registration Unit personnel.

4. Criminal Identification/Automated Fingerprint Identification System (AFIS)

- Integrated Arrest/Booking: The “Green Box” pilot project which was so successful in Hawaii County, integrated the front-end arrest/booking process to automate the capture of arrest information, mugshots and fingerprints, and send data to CJIS-Hawaii, the State AFIS, and the FBI IAFIS, all electronically. This process has been expanded to include Kauai Police Department and the Honolulu Sheriff’s office. The Honolulu Police Department is currently submitting all arrests and fingerprints electronically. It is anticipated that Maui County Police Department will be electronically integrated in FY 2008. Completion of this last phase will make this a statewide standard that improves the accuracy and timeliness of arrest information sharing.
- MetaMorpho Implementation: The State’s AFIS system has been upgraded to MetaMorpho technology and has been operational since June 2006. This upgrade is part of the Lights Out project that integrates identification functions between CJIS-Hawaii and AFIS, and allows positive identification of arrested offenders without manual intervention by AFIS operators. Full implementation of Lights Out is targeted for the end of FY 2008.
- Latent Fingerprint Searches: The ability to search against the AFIS database for latent fingerprints found at crime scenes is an important tool for Hawaii’s law enforcement. HCJDC has extended services to other law enforcement agencies, such as those in the military, to assist in processing latent fingerprints. Since July 2006, the State AFIS has the capability to capture, store, and search electronic palm prints, which is another proactive tool in solving crime.

5. **Expungement of Arrest Records** - The technology used in the development of CJIS-Hawaii enabled the modernization of what was previously a primarily manual expungement process with the electronic production of expungement orders and certificates. Expunged records can now be viewed as part of an offender's criminal history by authorized CJIS-Hawaii users.
 - **Streamline Processing**: The Criminal History Record Check Sub-unit continues to work on improvements in streamlining the expungement process, which includes updates and changes to CJIS-Hawaii.

6. **Civil Identification**
 - **Outreach Events**: Phase II of the newly automated State ID system was implemented in 2005 to include fingerprint searching and remote processing. As a result, the technology available to handle community outreach events was vastly improved. This is clearly demonstrated by the almost 60 outreach events held in 2006 and 2007.

III. **PROBLEMS AND ISSUES**

A. **Discussion of Problems and Issues Encountered if Any**

1. **CJIS-Hawaii System**

The multitude of initiatives underway for CJIS-Hawaii clearly impacts the resources available for HCJDC. New programs, such as the program resulting from the transfer of NCIC to the State, bring major ongoing responsibilities, such as training, auditing, data validation, and much more. The existing staff cannot handle these additional functions without setting aside their current duties. Enhancements to CJIS-Hawaii to reach the goal of a fully integrated criminal justice system include statewide firearms registration, statewide wants/warrants, and a Lights Out interface with AFIS. This will enable Hawaii to be an important contributor to the national systems and federal initiatives being supported by the FBI and to eventually become a participant in the National Fingerprint File.

2. **Business Continuity and Disaster Recovery**

Given the high need for availability of the services that HCJDC provides to users in the law enforcement and criminal justice community, it is imperative that plans and systems be in place to provide for business continuity in the event of a natural disaster or terrorist event that impacts our primary operations. Because HCJDC's systems are critical for the State, we are moving forward to secure the systems in the event of an emergency.

3. Sex Offender Registration

The Adam Walsh Child Protection and Safety Act of 2006 will have major implications for Hawaii. More personnel resources will be required to implement and maintain the new mandates, but must be implemented by July 27, 2009.

4. Civil Identification

The Real ID Act in 2005 will have a significant impact on Hawaii's driver's license and State ID Programs. The Real ID Act provides minimum standards for document requirements and the processing and issuance of these forms of identification. It mandates that all state-issued driver's licenses and State ID cards must conform to these new regulations by May 2008, in order for these cards to be recognized by the federal government. Some of the more onerous requirements include reissuance of all IDs after presenting all source documents and verifying those source documents with the issuing agency, wherever that may be; use of social security numbers as a key piece of identifying information; and scanning and storing all documents electronically for seven years. Hawaii is at a disadvantage in complying with the Real ID Act because it is the only state in the nation where drivers licenses and state ID cards are issued by two different agencies. The State asked the Department of Homeland Security (DHS) for an extension of the deadline to comply with the Real ID Act; however, in anticipation of the release of the final rules, DHS has asked states to refile extension requests by February 10, 2008. DHS delivered its final rules to the Office of Management and Budget (OMB) for review on November 27, 2007. OMB must issue its report on the rules within 90 days.

B. Program Change Recommendations to Remedy Problems

1. CJIS-Hawaii System

Nationally, demand for the types of services provided by HCJDC, such as criminal history record checks, fingerprint analysis, civil identification, and sex offender registration, is at an all time high in all states. New federal legislation such as the Adam Walsh Act and the Real ID Act will have a significant impact on these programs, and the timeframe for compliance is tight. New initiatives, at both the state and national level continue to impact the program's priorities and direction, and make imperative efforts to use technology to its fullest extent to streamline HCJDC's growing business functions.

Increasing demands for state-related criminal justice and non-criminal justice services have had a significant impact on HCJDC's programs and priorities and on its ability to respond at the quality level these programs mandate and in the timeframes required. Many of the solutions involve our ability to leverage our IT expertise, as opposed to manpower-driven solutions.

The Hawaii Integrated Justice Information Sharing (HIJIS) program is a significant statewide, cross-jurisdictional initiative, involving the participation of state, county, and federal

criminal justice and non-criminal justice agencies. HIJIS envisions statewide services sharing appropriate information, both locally and nationally, and for justice and non-justice purposes, for improved public safety and homeland security while respecting the privacy of citizens. A strategic plan has been drafted and will be published in January 2008, and will form the foundation for this effort for the next decade. This HIJIS strategic plan is closely aligned with the *National Strategy for Information Sharing*, which outlines a strategy for sharing data with other jurisdictions across the nation.

2. **Business Continuity and Disaster Recovery**

Plans are in development for all HCJDC systems to address business continuity and disaster recovery by providing improved redundancy (e.g. other locations from which to operate, additional hardware, and virtualization), identifying personnel resources required, and searching for alternative methods to deliver critical information to the criminal justice community.

3. **Sex Offender Registration**

With the passage of the Adam Walsh Child Protection and Safety Act, HCJDC's existing staff will face significant challenges in keeping up with the demands of this program's intensive data capture and retention requirements, in addition to tracking non-compliant, delinquent, and unregistered sex offenders. This continues to be an important concern, and HCJDC plans to once again leverage its IT expertise to automate many of the processes to make them more efficient and effective.

4. **Civil Identification**

The Real ID Act will have a significant impact on Hawaii. When the federal rules are issued, Hawaii must move toward compliance.

IV. EXPENDITURES FOR FISCAL YEAR 2008:

	Act 213 SLH 2007 FY 08	Collective Bargaining	Restriction	Net Allocation	Estimated Total Expenditures
(Position Count)	(58.00)			(58.00)	(58.00)
Personal Services	2,061,639	70,768		2,132,407	2,132,407
Current Expenses	4,179,483			4,179,483	4,179,483
Equipment	4,000			4,000	4,000
Motor Vehicles					
Lease Payments					
Total	6,245,122	70,768		6,315,890	6,315,890
Less: Federal	(1.00) 1,784,282	1,271		(1.00) 1,785,553	(1.00) 1,785,553
Revolving	(27.50) 2,721,519	28,135		(27.50) 2,749,654	(27.50) 2,749,654
(Position Count)	(29.50)			(29.50)	(29.50)
General Fund	1,739,321	41,362		1,780,683	1,780,683

A. Explain all Transfers within the Program I.D. and the Impact on the Program.

None.

B. Explain all Transfers Between Program I.D.'s and the Impact on the Program.

None.

C. Explain all Restrictions and the Impact on the Program

None.

V. SUPPLEMENTAL BUDGET REQUESTS FOR FISCAL YEAR 2009:

	Budget Adjustments
(Position Count)	(3.00)
Personal Services	60,779
Current Expenses	61,624
Equipment	15,000
Motor Vehicles	
Lease Payments	0
Total	137,403
Less:	
	(-1.00)
Federal	(26,688)
	(2.00)
Revolving	33,938
(Position Count)	(2.00)
General Fund	130,153

A. Workload or Program Request

1. A brief description of the request, the reasons for the request, and the desired outcomes or the objectives to be accomplished by the proposed program.

- a. Funding to support the sex offender registration program and implementation of the Adam Walsh Child Protection and Safety Act of 2006.

The Sex Offender Registration and Notification Act (SORNA), which is part of the Adam Walsh Child Protection and Safety Act of 2006, provides a new comprehensive set of minimum standards for sex offender registration and notification in the U.S. Actively tracking the registrants, ensuring the information provided is accurate and complete, and actively enforcing the new provisions are essential to the effectiveness of the program and public safety. The existing staff in the Sex Offender Registration Unit is already overwhelmed with maintaining the registry under the current requirements. With the additional requirements

imposed by SORNA, they will be stretched beyond their capacity. Two additional Clerk Typist III positions essential to maintain the accuracy and completeness of the registry and enforce the registry requirements.

In addition to new reporting and registration requirements, SORNA also imposes new mandates on sex offender websites. SORNA requires sex offender websites to allow searches by name, county, and city or town, as well as by zip code and geographic radius. To meet these requirements, it will be necessary to geocode all addresses captured as part of the registration requirements, and to map these addresses accordingly. Funds for consultant services, hardware, and software are crucial to comply with these federal requirements.

b. The following housekeeping items are also being requested:

- Transfer the position count of the temporary Data Processing User Support Technician (DPUST) position to a permanent position. This position is already being funded by ATG-231/BB and is essential to supporting the operational requirements of the State ID System. As such, it is more appropriate for this position to be permanent.
- Transfer funding for the Clerk IV position from MOF:N to MOF:W. Currently, this position is funded by a federal grant, which makes recruitment difficult because the position is contingent on the availability of grant funds. This is a critical position because it will support Hawaii's participation in the FBI's National Crime Information Center (NCIC). This position will be responsible for all validation responsibilities mandated by the FBI when contributing local state data to the national files.

2. A listing/description of the positions requested, and funding requirements by cost category and source of funding.

2.0 (A) Clerk-Typist III	\$56,000
1.0 (W) DPUST	\$0
1.0 (W) Clerk IV	\$26,688

B. For all position count reductions, please specify whether the positions were new, filled or vacant.

None.

**VI. IDENTIFY RESTRICTIONS CARRIED OVER FROM FY 2007 AS WELL AS
ADDITIONAL REDUCTIONS DUE TO THE DEPARTMENT OF BUDGET AND
FINANCE BUDGET CEILING FOR FY 2008 AND FY 2009.**

None.

VII. CAPITAL IMPROVEMENT REQUESTS FOR FISCAL YEARS 2008 and 2009:

None.

VIII. PROPOSED LAPSES OF CAPITAL IMPROVEMENTS PROGRAM PROJECTS:

None.

**TESTIMONY OF THE DEPARTMENT OF THE ATTORNEY GENERAL
BUDGET BRIEFING PRESENTED TO
HOUSE COMMITTEE ON JUDICIARY
SENATE COMMITTEE ON JUDICIARY AND LABOR**

January 2008

ATG-500

Child Support Enforcement Services

TESTIMONY OF THE DEPARTMENT OF THE ATTORNEY GENERAL
BUDGET BRIEFING PRESENTED TO
HOUSE COMMITTEE ON JUDICIARY
SENATE COMMITTEE ON JUDICIARY AND LABOR

January 2008

PROGRAM I.D. AND TITLE:
ATG 500, CHILD SUPPORT ENFORCEMENT SERVICES

I. INTRODUCTION:

A. Summary of Program Objectives:

Established in 1975 as Title IV-D of the Social Security Act, the Child Support Enforcement program is a federal/state/local partnership to collect support from parents who are legally obligated to pay. The major goals of the program are to ensure that children have the financial support of both parents, to foster responsible behavior towards children, and to reduce costs of welfare to the taxpayer.

A main objective of the Child Support Enforcement program is to ensure that child support payments are made timely and in the correct amount. While many non-custodial parents are involved in their children's lives and are willing to pay child support, lapses of payment do occur. When they do, a family's budget can be quickly and seriously threatened, and the anxiety the custodial parent feels can easily disrupt the family's life. The mission of the State of Hawaii Child Support Enforcement Agency (CSEA), then, is to assist children and families in obtaining financial support through locating parents and their assets, establishing paternity and support obligations, and enforcing those obligations. It is the intent of CSEA to provide more timely and efficient child support services while maximizing federal incentive funding to become less dependent on state general funding for operational costs.

For FFY 2006, preliminary data show that CSEA has improved performance on three of the five required performance measures. They include: Paternity Establishment (from 17th to 10th); Current Collections (from 37th to 31st); and Cost Effectiveness Ratio from 34th to 24th in the nation.

B. Description of Program Objectives:

Maximize Federal Incentive Payments of the Hawaii Title IV-D Program

Under the provisions of Section 458A of the Social Security Act, the CSEA is funded via Federal Financial Participation (FFP) and the state general funds at the rate of 66% federal matching funds for its operating costs and requires 34% of these costs to be paid through the State's general funds.

In addition to the federal matching funds, the Agency is eligible to receive child support Incentive Payments via the federal performance-based incentive system effective in federal fiscal year 2000. Incentive payments are made to states each fiscal year based on their collections and their performance levels on five statutory performance measures: paternity establishment; establishment of support orders; collections for current support; case collections for child support arrearage; and cost-effectiveness. Statutorily set percentages based on performance levels must be attained in order to reach the maximum incentive payments.

Continue to Improve on the Quality of Customer Service

CSEA considers customer service to be one of the most important aspects of dealing positively with Agency Case Participants. Customer service, including taking telephone calls, walk-ins, or e-mail/correspondence is provided by employees in all parts of the agency.

Often participant inquiries can be difficult interactions. The agency continues to strive to give staff the tools they require to properly interact with our customers. The agency still receives almost 1,700 calls per day through the Interactive Voice Response (IVR) Unit. Of that number, approximately 540 calls per day are handled directly by staff.

The agency continues to plan for additional staffing in the future to allow more workers to handle cases from start to finish. By doing so, cases will be dealt with more completely, and staff will be able to review cases to ensure that enforcement actions are proper and timely.

Continue to Improve Financial Control of Child Support Payment through Electronic Transfers and Timely Bank Reconciliations

The processing of child support payments electronically is federally mandated by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. Currently, the program at CSEA allows employers of obligors to transmit child support payments electronically. Interstate payments are also a current part of the Hawaii program. Expanding electronic child support payments to be received from individual obligors and disbursed to obligees will provide for a more timely and accurate settlement of child support obligations. Maintaining bank account reconciliations on a month-by-month basis is a necessary process in substantiating the accuracy of all collections and disbursements of child support payments.

Improve Staff Efficiency and Knowledge of the Child Support Enforcement Programs

The agency is currently undergoing reorganization to better improve the delivery of services to our customers. This change primarily implements a Case Management approach so that there is greater case-based accountability.

In addition, formal and recurrent training is vital to the performance levels that must be attained by CSEA and to the service that CSEA provides to its customers, the custodial and non-custodial parents. Policies and procedures are being written to guide staff effort and to improve overall agency performance. Changes in Federal and State law mandate the need for a well-designed training program that is both timely and consistent.

C. Program to Meet Objectives:

Maximize Incentive Payments

To meet this objective, CSEA intends to take the following actions as reported in the Agency Implementation Plan:

- 1) Ensure that the number of Paternities established meets the targeted performance level of 95+% by September 30, 2008.

Current Status: The performance levels achieved by CSEA for paternity establishment are 91% for federal fiscal year 2006 (final) and 99.4% for federal fiscal year 2007 (subject to audit). The 2007 performance surpasses the federal required performance level of 80% as a condition of receiving 100% of the allotment of federal incentive payments for this measure. The minimum performance level by which incentive allotments are received for the establishment of paternity is 50% and CSEA continues to achieve the maximum incentives for this category.

CSEA decided in 2003 that Hawaii would switch to using data regarding (all) children born in Hawaii, as opposed to only children in CSEA's caseload. These data were found to be more reliable than those used by CSEA for previous years. The continued use of statewide paternity data, however, requires emphasis on statewide programs to establish paternity. The least costly method for establishing paternity is through the voluntary establishment process. Parents may voluntarily do this at the birthing hospital or at the Department of Health. CSEA was awarded a federal grant effective August 2005 to further support the voluntary establishment of paternity process through promoting non-adversarial processes for establishing paternity and collecting child support.

- 2) Ensure that the number of Support Orders established increases by 10% or an aggregate performance of 68% (over the performance level achieved in FY 2007) by September 30, 2008.

Current Status: The performance levels achieved for support order establishment were 58.52% for federal fiscal year 2006 (final) and 61.9% for federal fiscal year 2007 (subject to audit), thereby achieving 69% and 68% incentive performances, respectively. The minimum performance level by

which incentive allotments are received for the establishment of support orders is 50% and CSEA continues to exceed this minimum requirement. The performance level to achieve the maximum (100%) allotment of federal incentive payments for this measure is 80%.

To improve these rates, CSEA plans to use privatized locate facilities in addition to using the federal and state mandated programs to help assist in finding current addresses for non-custodial parents. CSEA will need to dedicate resources to clean up old cases as well as to handle the numerous case-load awaiting order establishment actions.

- 3) Increase the amount of collections and distributions of Current Support payments to increase the performance level by 5% or an aggregate performance level of 61.7% (over FY 2007 performance) by September 30, 2008.

Current Status: The performance levels achieved for collection of current support are 56.93% for federal fiscal year 2006 (final) and 58.8% for federal fiscal year 2007 (subject to audit), thereby achieving 61% and 62% incentive performances, respectively. The minimum performance level by which incentive allotments are received for the collection of current support payments is 40% and CSEA continues to exceed this minimum requirement. The performance level to achieve the maximum (100%) allotment of federal incentive payments for this measure is 80%.

To improve this rate, CSEA plans to continue to expand the Electronic Fund Transfer (EFT) program currently available to include the electronic collection of payment from non-custodial parents. The expansion effort will include soliciting payroll processors to participate in the EFT program. CSEA will also need to dedicate resources to actively manage open cases in search of means to make sure that non-custodial parents will fulfill their obligations in full and on time. In addition, CSEA will continue its efforts on handling the processing of Orders of Income Withholding of non-custodial parents who are currently employed and seek to broaden the Financial Institution Data Match (FIDM) Program to be largely an administrative process which will increase efficiency.

- 4) Increase the amount of case collection of arrears to increase performance by 10% or an aggregate performance level of 46% (over FY 2007 performance) by September 30, 2008.

Current Status: The performance levels achieved for case collection of arrears due are 41.01% (final) for federal fiscal year 2006 and 42% for federal fiscal 2007 (subject to audit), thereby achieving 50% and 51% incentive performance, respectively. The minimum performance level by which

incentive allotments are received for collecting on cases with arrears is 40% and CSEA has exceeded this minimum requirement. The performance level to achieve the maximum (100%) allotment for federal incentive payments for this measure is 80%.

To improve this rate, CSEA is implementing the Orders of Income Withholding continuation process which applies after the termination of non-custodial parents' current obligations to further collect on any arrearages owed. CSEA will also continue to process employer withholdings and include such withholdings with additional "tack-on" payments to collect on cases with delinquent balances. CSEA plans to embark on a federally encouraged debt forgiveness program to decrease the amount of cases with assistance arrears balances and increase the amount of current support collected.

- 5) Continue to maintain CSEA's Ratio-of-Cost-Effectiveness to meet the maximum performance level of 5.0 by September 30, 2008.

Current Status: CSEA's Ratios-of-Cost-Effectiveness are \$5 (final) for federal fiscal year 2006 and approximately \$5.40 (subject to audit) for federal fiscal year 2007, thereby exceeding the maximum rate of \$5.00 for 100% incentive performance, respectively. (The ratio-of-cost-effectiveness is translated to mean that for every \$5.00 collected, only \$1.00 is expended.) The minimum performance level by which incentive allotments are received for cost-effectiveness is \$2.00 and CSEA continues to achieve the maximum incentives for this category.

CSEA intends to continue to achieve maximum performance by increasing collections and maintaining efficiency in spending.

Continue to Improve on the Quality of Customer Service

To meet this objective, CSEA intends to implement the following action plan:

- 1) Provide more effective and timely customer services by increasing CSEA's response rate to 95% and by improving Call Center Operations by implementing on-going training sessions to employees who are assigned to customer service duties.
- 2) Implement a document imaging technology to make case files available electronically to all CSEA staff. This will improve the accuracy and response time in dealing with customer inquiries.
- 3) Provide access to forms, documents, and case payment and disbursement information through CSEA's web site.

Continue to Improve Financial Controls through Electronic Funds Transfers and Bank Reconciliations

To meet this objective, the CSEA intends to continue pursuit of the following action plan:

- 1) The direct deposit system for child support (payment) disbursement to participating custodial parents is implemented and the solicitation process will be continued. At present, CSEA receives about 30% of the payments electronically from employers, and about 30% of the custodial parents receive their payments electronically through direct deposit. CSEA will also continue to look at the eOIW technology and system that is being developed in certain mainland states.
- 2) Continue to explore the application of Electronic Benefit Transfer (EBT) to proliferate electronic disbursements and to expedite payments to custodial parents.
- 3) Continue to maintain monthly reconciliation of bank accounts using designated accounting staff and enforcing the existing accounting procedures to effectively audit and verify correct support obligation payments and disbursements by interfacing the child support automated system with bank information.

Improve Staff Efficiency and Knowledge

To meet this objective, CSEA intends to implement the following action plan:

- 1) Recruit an experienced trainer to fill an existing vacancy.
- 2) Create agency wide policies and procedures to guide staff actions. This will create more consistency and result in a higher standard of employee performance.
- 3) Solicit training programs from other state agencies and implement best practices in child support enforcement issued by federal agencies.

II. PROGRAM PERFORMANCE RESULTS:

A. Performance Results Achieved by the Program in FY2006 and FY2007:

1. **Collections of Child Support Payments:** Total collections for state fiscal year 2006 and state fiscal year 2007 were approximately \$110 million and \$114 million, respectively; the numbers have shown an upward trend annually. With the enhanced methods of collections brought about by electronic funds transfers, accessing privatized locate facilities, as well as utilizing enforcement tools implemented over the past four years, it is projected that the collection rate will continue in its upward trend.
2. **Establishing Paternity Using Statewide Data:** The use of data maintained by the Department of Health meant using data regarding

all children born in the State, as opposed to only children with child support cases established. The data were found to be more reliable than those used by CSEA for prior years. Once Hawaii succeeded in satisfying data reliability requirements for federal fiscal year 2003, performance data were then considered valid for use in calculating incentive funding levels for establishing paternity. In fact, Hawaii had a performance level of 91% for the paternity establishment measure for the federal fiscal year 2006. With the 1115 grant project in place and streamlining the collaboration between CSEA and the Department of Health, CSEA is confident that the paternity establishment rate should continue doing well.

B. Results as they Relate to Objectives:

Agency results relate directly to the outcomes that must be performed under federal law. The success of the agency in achieving these objectives better supports children and their families. These results also improve the agency performance compared to other states across the nation.

For FFY 2006, preliminary data show that CSEA has improved performance on three of the five required performance measures. They include: Paternity Establishment (from 17th to 10th); Current Collections (from 37th to 31st); and Cost Effectiveness Ratio from 34th to 24th in the nation.

These improvements in agency performance are just the beginning. As additional resources are acquired and projects are implemented to improve performance, we believe that the Child Support Program will improve significantly.

C. Measures of Effectiveness:

Effectiveness is measured as follows: (1) the proportion of children who have paternity established state-wide compared to the number of children born out-of-wedlock; (2) the proportion of cases which require Orders that have Orders established for the case; (3) the proportion of cases which are up-to-date in current collections; (4) the proportion of cases in which there is collection on arrearages; and (5) the extent to which the Child Support customer feels that they were treated with respect and they received help on their case.

D. Actions to Improve Performance Results:

Actions to improve performance results are focused on three areas. The first area of focus is to increase the number of cases that have financial and medical orders in place as required by law. To accomplish this we are focusing on processing default orders and a new requirement that TANF cases need to be reviewed every three years.

The second area of focus is current collections. Even though the state has improved its performance in current collections, this amounts to about 57% of all current collections.

Finally, the third area of focus is on collection of arrearages. The State is 54th in the nation on this measure and new approaches will be tried to increase collections.

III. PROBLEMS AND ISSUES:

A. Problems and Issues Encountered:

1. Order Processing

The orders processing function within CSEA is in need of additional resources to address a growing caseload that requires orders to be processed. There is currently a backlog of default order cases for establishment, modification, and termination. There simply are not enough staff to process the cases in a timely way.

In addition, beginning October 1, 2007 the State is now required to review TANF cases for modification or termination at least once every three years. This will add thousands of cases to the proposed order process and is expected to result in some delay in order issuance.

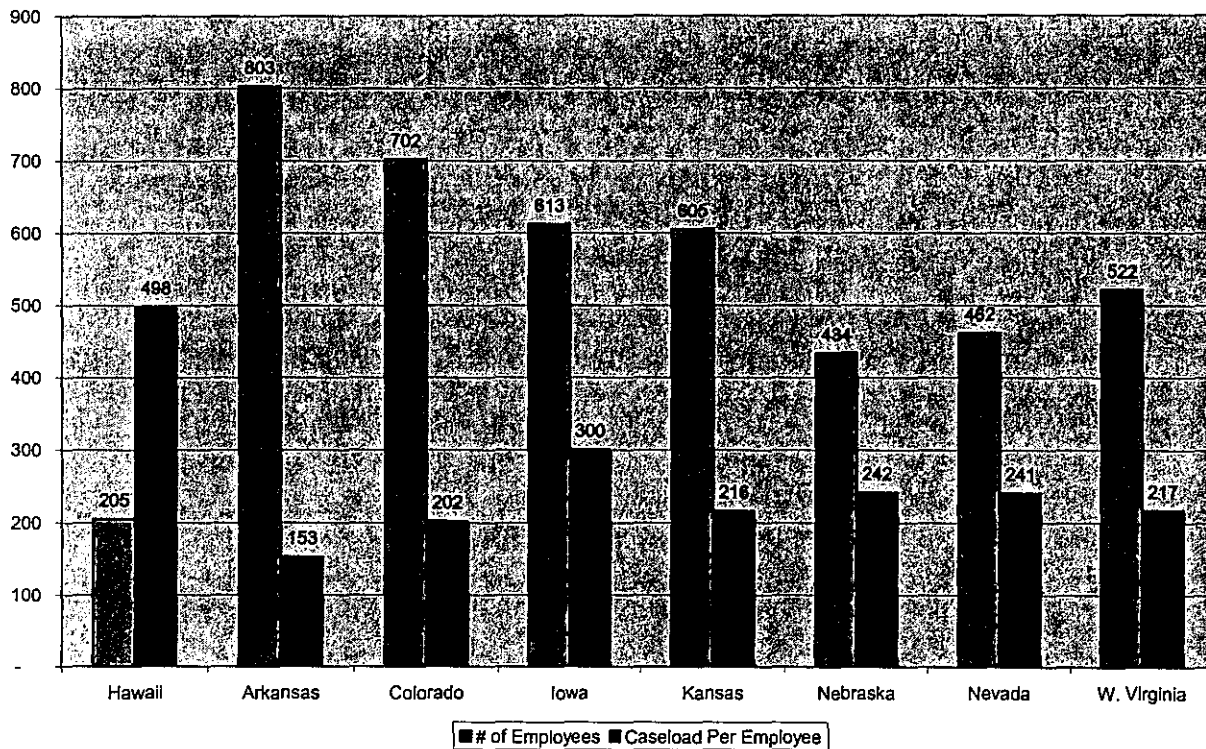
The combination of these two areas presents a major challenge to CSEA. Workloads need to be examined to look for new ways to prioritize and process orders. Without additional resources or new ways of processing orders, it will be difficult to get orders processing under control.

2. **High Caseload to Full Time Equivalent Staff Ratios:**

The Hawaii CSEA has one of the highest child support cases per full time equivalent staff ratios in the nation. Using data filed with the federal government by child support enforcement agencies for federal fiscal year 2006, the CSEA has determined that the national average was 262 child support cases per full time equivalent staff, while CSEA's ratio was approximately 500 cases per full time equivalent staff during that fiscal period.

By lowering this ratio, we can expect to better monitor and follow up with case status at various stages so CSEA can proactively increase the establishment of support orders, and increase collections of current and delinquent support payments, by allocating more resources to locating the non-custodial parents, and to contacting obligors who are delinquent in their child support obligations. Increases in the establishment of child support orders, current support payments, and arrears collections will also increase federal incentive revenues to the State.

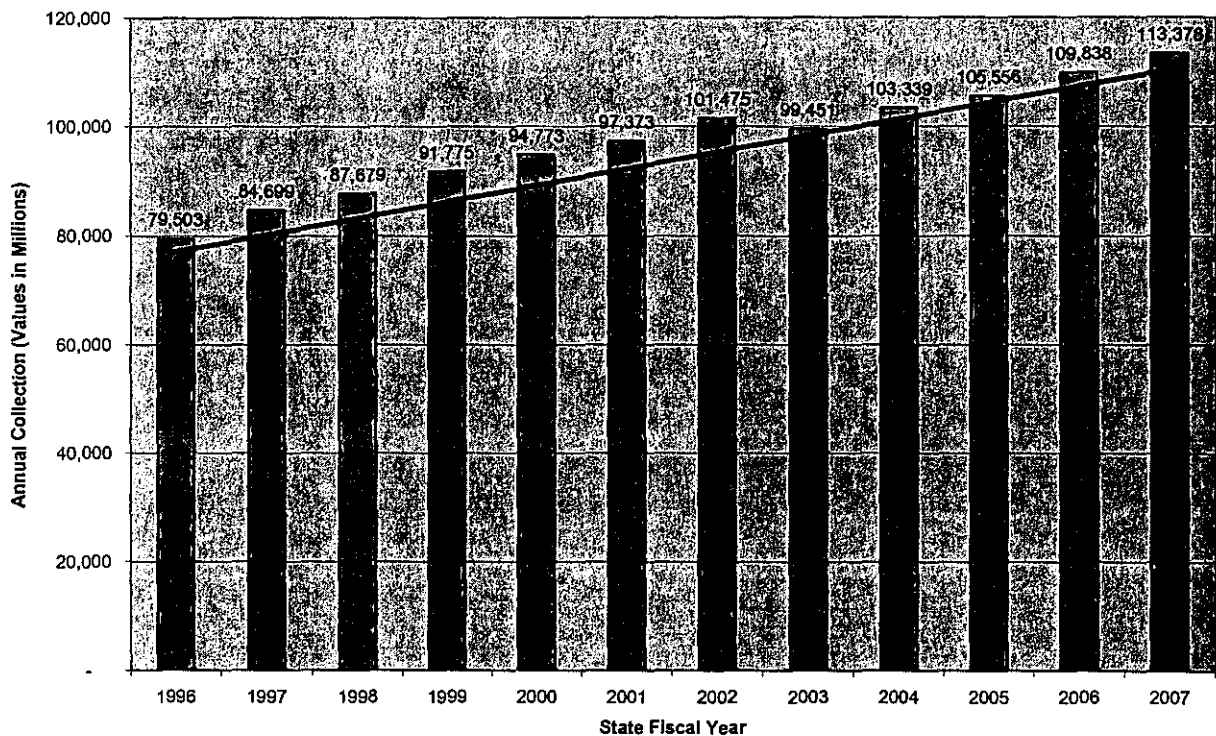
CSEA Caseload Comparison to Similar States



3. **Increases in Child Support Cases and Collections:**

CSEA has experienced an increase in the number of child support cases for the years 1996 through 2007, from 79,503 cases to 113,378 cases. This is an increase of 43% during this 12-year period using 1996 as the base year. Child support collections have also increased from \$79 million to approximately \$113 million during this same period; an increase of over 43%.

CSEA 12 Year Collection



4. **Improving Customer Services**

There are currently nine agency representatives dedicated to answering incoming customer calls and one hiring pending. Calls are also answered when caseworkers have completed their primary tasks and are available to be assigned to the telephones. The combination of these two approaches allows CSEA to answer as many calls as possible.

CSEA receives about 33,581 calls per month. Most callers access their information through the Interactive Voice Response system because the information can be accessed easily. However, approximately 10,000 customers or 30% of the callers ask to speak to a Customer Service Representative. While these statistics improve each year, the challenge remains formidable.

Once all 12 Call Center staff is in place, it is expected that customer service will also improve, along with customer satisfaction. Having adequate Call Center staffing, along with Case Managers, will significantly improve agency response time.

Additional improvement on customer service will occur once case files become electronic. Based on observation of the states of Washington and Utah imaging technology, the electronic file conversion proves to provide major benefits such as: (1) the case workers can have access to the case file right at their fingertips; (2) the customer service staff will be able to respond to customer inquiries more expeditiously; (3) the customer service staff will electronically receive all incoming correspondence from outside parties, including customers at their desktops; (4) the chances of misplacing case files or individual documents is greatly reduced; and (5) concerns of wear and tear on physical files will no longer be of concern.

B. Program Change Recommendation to Remedy Problems:

Increased Resources:

CSEA has identified the Orders Establishment area as one of the priorities to improve the performance. Due to the backlog and increased applications, the agency's Administrative Process Branch responsible for establishing and modifying orders needs additional Legal Assistant positions to handle the workload. With this addition, the Agency will be able to more effectively meet the demands of orders processing and improve the downstream management of the child support cases.. Further, higher performance in the establishment of child support orders will generate higher incentive revenues to the State.

C. Problems Affecting Implementation of Program:

Without increases in staffing, CSEA will not be able to effectively meet the increases in child support cases. Although changes and improvements have been made to automate the Agency's workflow, and new processing programs such as direct deposits to custodial parents are currently being developed, increasing CSEA's federal performance measures such as the establishment of paternity and support orders, current child support collections, and collections on cases with delinquencies, will require additional resources. Achieving higher performance standards provides higher earnings of federal incentive revenues to the State.

IV. EXPENDITURES FOR FISCAL YEAR 2008:

	Act 160 FY 2007	Collective Bargaining	Transfers In/Out	Restriction	Available Resources	Estimated Expenditures
Position Count	248				248	
Personal Services	9,836,105	386,097			10,222,202	10,222,202
Current Expenses	11,790,925				11,790,925	11,790,925
Equipment	20,432				20,432	20,432
Motor Vehicles Lease Payments						
Total	21,647,462	386,097			22,033,559	22,033,559
Means of Financing						
	84.32				84.32	84.32
General	3,840,067	91,702			3,931,769	3,931,769
	163.68				163.68	163.68
Federal	15,548,458	269,078			15,817,536	15,817,536
Trust	2,258,937	25,317			2,284,254	2,284,254
	248				248	248
Total	21,647,462	386,097			22,033,559	22,033,559

A. Explain all transfer within the program I.D. and the impact on the program.

Not applicable

B. Explain all transfers between program I.D.s and the impact on the program.

Not applicable

C. Explain all restrictions and the impacts on the program.

Not applicable

V. SUPPLEMENTAL BUDGET REQUEST FOR FISCAL YEAR 2009:

	<u>Budget Request FY 2009</u>
Position Count	2.00
Personal Services	1,162,131
Current Expenses	(1,084,319)
Equipment	0
Motor Vehicles	
Lease Payments	
Total	77,812
Means of Financing	
General	20,931
Special	56,881
Federal	
Trust	0
Interdepartmental	
Revolving	0
	77,812

A. Workload or program request:

1. **Transfer from Other Current Expenses to Personal Services for Family Service Divisions** Instead of reimbursing the personnel costs to ATG-100 for employees at Family Service Divisions located in Hawaii County and Honolulu, CSEA will directly process and disburse their payroll from the ATG-500 appropriations of Personal Services for SFY09. Therefore, there is a movement from Other Current Expenses to Personal Services to account for the change.

<u>Personal Services</u>	<u>MOF</u>	<u>Count</u>	<u>FY09</u> <u>\$</u>
Positions from Honolulu & Hawaii FSDs	A		368,668
	N		715,651
Other Current Expenses	A		(368,668)
	N		(715,651)

Summary:

Total change in General Fund	None
Total change in Special (Fed) Fund	None

2. **Establish two Legal Assistant Positions.** These positions will facilitate CSEA's Administrative Process Branch in the order establishment and modification process, as well as the hearing function.

<u>Personal Services</u>	<u>MOF</u>	<u>Count</u>	<u>\$</u>
Legal assistant	A	.68	20,931
	N	1.32	56,881

- B. For all position count reductions, please specify whether the positions were filled or vacant.

Not applicable

VI. PROGRAM RESTRICTIONS:

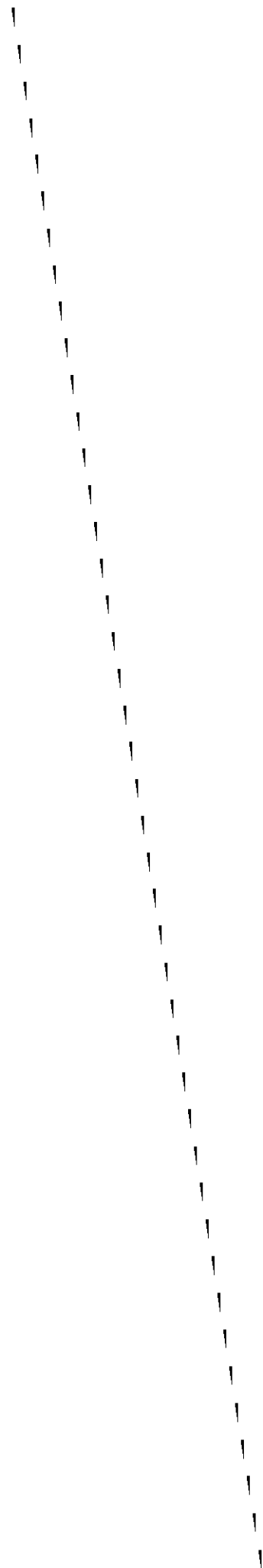
None

VII. CAPITAL IMPROVEMENT PROGRAM (CIP) REQUESTS FOR FY09:

None.

VIII. PROPOSED LAPSES OF CIP PROJECTS:

None.



Testimony of the Office of the Public Defender,
State of Hawaii,
to the Senate Committee on Judiciary and Labor

January 11, 2008

BUF 151: Office of the Public Defender

Chair Taniguchi and Members of the Committee:

I. Introduction

- A. The objective of this program is to safeguard the rights of individuals in need of assistance in criminal, mental commitment and family cases by providing constitutionally and statutorily entitled legal services.
- B. The major activities of this program are predicated on the need to provide comprehensive legal and other necessary services in criminal and related cases. The general scope of services, which must be provided, are directed by the federal and State constitutions, State statutes, judicial rules and decisions and opinions, and the canons of professional ethics.
- C. The program intends to meet its objectives during the upcoming fiscal year by fulfilling its constitutional and statutory mandate to provide legal assistance to indigent accused persons.

II. Program Performance Results

- A. In FY 2006 and FY 2007, the program provided effective legal representation to indigent accused persons.
- B. The performance measures and results are consistent with the goal of the Department to deliver services within fiscal constraints without compromising the fundamental quality and effectiveness of the services.
- C. Planned levels of program effectiveness are measured in percentage of attorney caseloads that exceed national caseload standards for felony,

misdemeanor, family court, and appeal cases. One goal of the program is to efficiently serve the program's clients while avoiding judicial or Disciplinary Counsel determinations of ineffective legal assistance that would reflect a major denial of federal or state constitutional rights. Sufficient legal and support staff are critical to achievement of this goal. While the Office has avoided judicial and Disciplinary Counsel determinations during each of the past three years, operations have been hindered by insufficient staffing levels.

- D. The program has maximized the efficiency and effectiveness of its limited personnel resources by maintaining a high level of internal training of its legal staff.
- E. Program performance measures continue to address appropriate attorney caseloads as a means of ensuring effective client representation.

III. Problems and Issues

Staffing requirements for the Office of the Public Defender is dependent not only upon the sheer volume of cases handled by the Office, but is also directly related to administrative changes implemented by the Judiciary. When the Judiciary expands by the addition of judges or the addition of court days or shifts court caseloads, workload for the Office increases. The Judiciary continues to make organizational changes in its effort to process a greater number of criminal prosecutions in a reduced time period which, in turn, has significantly impacted the Office. In order to address the increase in the Office's workload and caseload and to meet

judicial expansion and reorganization, responsive measures are often required by this Office.

Increasing caseloads and Judiciary changes in the Third Circuit (Big Island) has resulted in a need to increase legal personnel in the Kona office. The Judiciary has given notice that, in FY 2009, it will change the assignment of criminal cases occurring in the South Kohala and Kau districts from the Hilo Court to Kona. The reassignment is the result of excessive caseloads in the Hilo court and the long travel times for victims, witnesses, law enforcement, and attorneys from South Kohala and Kau. An additional public defender is required to provide representation in lower level felony cases allowing the office to meet the challenge of the increased Kona caseload and also thereby permitting higher level public defenders to cover the expected increase in serious felony cases assigned to the Kona office.

Further, enhanced efficiency and effectiveness are achieved by the emphasis on attorney training and proposals to revise court rules to maximize the program's limited resources.

IV. Expenditures for Fiscal Year 2007-2008

	Appropriation FY 08	Collective Bargaining	Transfers In Transfers Out	Restriction	Net Allocation and Estimated Total Expenditure
(Pos. Count)	(81.00)				(81.00)
PERS SERV	8,573,122	291,996	0	0	8,865,118
CURR EXP	689,086	0	0	0	689,086
 TOTAL	 9,262,208	 291,996	 -	 -	 9,554,204
(Pos. Count)	(81.00)				(81.00)
GENERAL FUND	9,262,208	291,996	-	-	9,554,204

- A. There were no transfers made within this program.
- B. There were no transfers made between this program and any other program.
- C. There are no restrictions imposed on this program.

**Testimony for Informational Briefing
Second Year Fiscal Biennium**

COMMITTEE ON JUDICIARY AND LABOR

Senator Brian T. Taniguchi, Chair
Senator Clayton Hee, Vice Chair

**Friday, January 11, 2008, 1:30 p.m.
Conference Room 16, State Capitol**

COMMISSION ON THE STATUS OF WOMEN

Program Structure Number: 10 03 04

Program I.D. and Title: HMS 888 – Commission on the Status of Women

Page References in the Executive Budget Supplemental:

N/A

1. Introduction:

a. Summary of program objectives:

The Hawaii State Commission on the Status of Women (HSCSW) functions as the only statewide governmental and community resource to coordinate policy-making, research and advocacy on behalf of a wide range of issues related to improving the status of women and girls in our communities. The Commission's HMS 888 program is funded with 100% State general funds. **There is no Supplemental Budget request for this program.** The Commission works toward assuring women full and equal coverage under the law by advocating for the enactment and/or revision of relevant laws, public or private policies and procedures. The Commission also addresses the concerns and needs of Hawaii's women and girls by initiating and supporting essential services and projects, and by program development.

1. **Women's Health Month:** Continue to sponsor and coordinate nearly 1,000 statewide events from public and private sectors and publish a "Calendar of Events" to reach over 450,000 people throughout Hawaii. Co-sponsor the annual Hawaii Woman Expo at the Blaisdell Exhibition Hall. The purpose of Women's Health Month is to maximize public awareness of women's health issues, empower women to be their own health advocates, reduce health care

disparities, and promote the physical and emotional well-being of women in Hawaii.

2. Hawaii Women's Coalition: Continue to co-chair and lead the Hawaii Women's Coalition to participate in the Legislative process and advocate on issues and strengthen laws impacting women, children and families on areas such as economic security, employment, housing, health, elder care, voting, and women offenders. The Coalition consists of over 200 private and public organizations, agencies and individuals committed to educating policy makers and the general public on its issues, testifying and mobilizing community and State support for passage of its measures.
3. The HSCSW will implement the *Ready to Run*TM training for Hawaii women. The one-day *Ready to Run*TM Campaign Training presents a unique opportunity for potential women candidates and campaign managers to hear directly from prominent elected and appointed leaders, campaign consultants and party officials about how to get ready to run. *Ready to Run*TM is for women considering seeking public office, running for higher office, or working on a campaign. Its' mission is to promote greater knowledge and understanding about women's participation in politics and government and to enhance women's influence and leadership in public life.
4. The HSCSW has registered a Wage Club. The WAGE (Women are Getting Even) Project has launched a collaborative grassroots program designed to help close the wage gap between women and men at work. As is our work style we will establish a collaborative network to focus on wage inequity in our community. Our goal is to follow the model of other clubs around the country to form collaborations with organizations in our local community.

b. Description of program objectives.

The primary program objective is to ensure equality for women and girls in the State of Hawaii by serving as a central clearinghouse and coordinating body on activities and information relating to the status of women, creating public awareness of those issues and working as an organizing force for entities focused on removing barriers that impede the progress of women and girls.

c. Explain how your program intends to meet its objectives in the upcoming supplemental year.

The HSCSW functions as a coordinating policy-making and advocacy body on behalf of a wide range of issues related to improving the status of women in our communities. Its purpose is to achieve parity for women and girls in educational and employment opportunities, the social, political and legal arenas, and in economics and health care. To achieve these goals, The HSCSW acts as a consultant to State departments and the Legislature on public policy matters, serves as a statewide informational resource and coordinating body, and collaborates in the development of long-range planning and related initiatives that will increase the status of women in Hawaii. As a result of the mission, The HSCSW works to:

1. Assure women full and equal coverage under the law by advocating for the enactment and/or revision of relevant laws, public or private policies and procedures.
2. Address the concerns and needs of Hawaii's women and girls by supporting essential services, programs and projects; by identifying gaps in services; and by developing and advocating for recommendations.
3. Provide the citizens of our State, State departments, and non-governmental agencies and organizations with a clearinghouse of information on the priority issues for women and girls by promoting the centralization of and access to a wide variety of research and other informational materials.
4. Initiate and support public-private partnerships that address the priority issues of women and girls and will achieve sustainable parity in all areas across the State of Hawaii.

2. Program Performance Results:

- a. Discuss the performance results achieved by each program in FY 07.

The program was without staffing in FY 2005-06 and partial staffing during FY 2006-07 and continues with limited funding which has a negative impact on program implementation and data collection. In FY 2007-08 for the first time in years HSCSW will be implementing new programs focused on women's issues.

1. Women's Health Month was initiated in 1994 by the HSCSW and continued each year until 2004 when lack of staffing and funding stopped the coordinating activities of the HSCSW. Once again HSCSW coordinated events around the State of Hawaii. HSCSW worked with partner The Honolulu Advertiser to produce the informational women's health magazine for the State. The purpose

of Women's Health Month is to maximize public awareness of women's health issues, empower women to be their own health advocates, reduce health care disparities, and promote the physical and emotional well-being of women in Hawaii. The goal of Women's Health Month is to widely communicate that women's health is more than the absence of disease: it encompasses physical, mental, emotional and social well-being. The month of events include educational workshops, health fairs, lectures, fitness activities and other special events.

The HSCSW worked with the Department of Health on its Women's Health Check-up Month projects. The HSCSW works as a conduit to disseminate information around the state and be accessible to Hawaii's women.

2. The HSCSW continues to facilitate the work of the Hawaii Women's Coalition (HWC). The HWC consists of private and professional groups, government agencies and individuals interested in Legislative issues, which impact the lives of women and girls in Hawaii. Every year for the past two decades, members have come together to define common themes which required Legislative action. The HSCSW monitors Legislative proposals introduced by other entities, provides tracking reports to the HWC and the community, develops and disseminates testimony. The HSCSW and the HWC work with the bi-partisan Hawaii Women's Legislative Caucus to educate advocate and mobilize community support for legislation that supports women in the community.
 3. The HSCSW presented the Hawaii Women's History Month reception at Washington Place. This year's theme is "***Generations of Women Moving History Forward***". This theme recognizes the wisdom and tenacity of the generations of women who have come before us and those who will follow. As is always the goal Women's History Month we take this opportunity to acknowledge and celebrate the courage, determination and steadfastness of the Women of Hawaii. It is with a sense of great privilege that the Hawaii State Commission on the Status of Women fulfills its mandate to highlight the contributions of women in the state. The celebration will highlight the 35th anniversary of Title IX, trailblazing legislation that opened opportunity for women and girls sports participation across the nation. We will honor one of the pioneers in women and girls sports here in Hawaii, Dr. Donnis Thompson.
- b. Explain how these results relate to the program's objectives and department's mission.

Coordination of multiple events around the state focused on women's wellness including the creation of the women's health magazine for the Honolulu Advertiser. For the first time in years, the Commission sponsored Health and Wellness Fairs in partnership with the YWCA of Oahu. These mini health fairs, throughout the month, provided a venue for service providers to meet the community with information and answers.

There was once again a coordinated women's advocacy effort bringing the different aspects of the community together as a force to impact barriers that affect women, through the legislative process.

In FY 2009, work with the Hawaii Women's Coalition will continue its work as a forum for women's advocacy issues seeking legislative solutions and the goal of bringing these issues to the forefront during the 2009 Legislative Session.

The program will expand Women's Health Month participation to include more provider organizations and widen the circulation of information on women health and wellness.

- c. Explain how the effectiveness of the program is measured (i.e.: outcomes, measures of effectiveness, benchmarks, etc.) and discuss the performance results achieved during the past two years.

The performance measures evaluate the program ability to fulfill the HSCSW mandate as defined in HSR 367, first to act as a clearinghouse and coordination body for governmental and non-governmental community partners. Secondly, create public awareness and understanding of women's issues and needs.

While the program has been able to reestablish some work in programming function and provided activities that begin to meet the objectives, budgetary and staffing limitation contributed to its performance not meeting planned goals.

- d. Discuss actions taken by each program to improve its performance results.

The program continues to seek additional funding as it may become available for increased programs along with outreach to community partners to maximize resources.

- e. Please identify all modifications to your program's performance measures and discuss the rationale for these modifications.

Adjustments to program performance measures have been made to bring a greater focus on women's participation in the political process. This supports the Commission's mandate of encouraging the education of women on their rights and responsibilities in the political process. The new measures include tracking the percentage of women elected to

legislative office, women voter registration statistics and the percentages of women voters in the state.

3. Problems and Issues:

- a. Discussion of problems and issues encountered, if any.

Since its inception in 1964, The HSCSW has operated on a very modest budget. In spite of its small budget and staff, HSCSW has continued to strive to meet the community's expectation of being an important force in the community. It consistently demonstrates its effectiveness through the ongoing activities described above. Utilizing its trust fund, along with received public donations that have assisted its programmatic activities, HSCSW works to continue program activities such as Women's Health Month. Its collaborative efforts with both public and private agencies and organizations has generated and/or pooled program revenues achieving excellent and efficient use of existing resources for a broader impact in our communities.

- b. Program change recommendations to remedy problems.

The recommendation is for expanded programming to target a number of impact areas. The HSCSW has chosen four areas to focus future work starting in FY2007-08:

1. It will continue to focus on women's health issues and concerns. The Women's Health Month events and activities will be re-established. The HSCSW will continue its Women's Health Month mission of maximizing public awareness of women's health issues, empowering women to be their own health advocates, reduce health care disparities and promote the physical and emotional well-being of women in Hawaii.
2. The HSCSW will begin the development of the Hawaii Women's Oral History Collection in support of its mandate to highlight women's societal contributions. The goal of the collection will be to collect Hawaii women's stories in their own voices, enabling them to speak to Hawaii's future generations, sharing their wisdom and knowledge.
3. Educating and encouraging women's participation in the political process is an established mandate of HRS 376 which created the HSCSW in 1964. In support of that mission, the HSCSW will present the Ready to Run™ workshops created by the University of Rutgers' Center for American Women and Politics. These

workshops work to promote greater knowledge and understanding of the political process and encourage women to consider running for political office through training.

4. The final area of focus will be in economic self-sufficiency and will focus on the issue of wage disparage in the State of Hawaii. HSCSW will work to establish Wage Clubs to encourage the process of examining the wage gap between men and women and begin solution formulation.
- c. Identify any program issues or problems that have affected or will affect the implementation of the program, and the corrective measures or remedies established or planned.

Mechanisms for establishing the collection of data specific to women's issues and concerns must be addressed to effectively assess the scope of the problems impacting women's status and to measure programmatic impact over time.

4. Expenditures for Fiscal Year 2007-2008:

	Appropriation FY 08	Collective Bargaining	Transfers In/Out	Restrictions	Available Resources	Estimated Expenditures
(Pos. Count)	1.00				1.00	1.00
Personnel Services	102,236	3,740			105,976	105,976
Other Current Expenses	105,820				105,820	105,820
Equipment	0				0	0
Motor Vehicles	0				0	0
Total Requirements	208,056	3,740	0	0	211,796	211,796
(Pos. Count) General Fund	1.00 208,056	3,740			1.00 211,796	1.00 211,796
(Pos. Count) Special Fund	0.00 0				0.00 0	0.00 0
(Pos. Count) Federal Fund	0.00 0				0.00 0	0.00 0
(Pos. Count) Other Funds	0.00 0				0.00 0	0.00 0

- a. Explain all transfers within the Program I.D. and the impact on the program.

None

- b. Explain all transfers between Program I.D.s and the impact on the program.

None

- b. Explain any restrictions and the impact on the program.

None

5. Supplemental Budget Requests for Fiscal Year 2008-2009:

	Act 213/SLH 2007 FY 09 Appropriation	Budget Request FY 09	Executive Supplemental Budget FY 09
(Pos. Count)	1.00	0.00	1.00
Personal Services	102,259	0	102,259
Other Current Expenses	55,820	0	55,820
Equipment	0	0	0
Motor Vehicles	0	0	0
Total Requirements	158,079	0	158,079
(Pos. Count)	1.00	0.00	1.00
General Funds	158,079	0	158,079
(Pos. Count)	0.00	0.00	0.00
Special Funds	0	0	0
(Pos. Count)	0.00	0.00	0.00
Federal Funds	0	0	0
(Pos. Count)	0.00	0.00	0.00
Other Funds	0	0	0

- a. Workload or program request:

None

6. Program Restrictions

None

7. Capital Improvement Program (CIP) Requests for Supplemental Year 2008-2009:

None

8. Proposed Lapses of CIP Projects:

None



January 2008

The Judiciary
FY 2008-09 Supplemental Budget

MISSION

THE UNIFIED COURT SYSTEM OF HAWAII

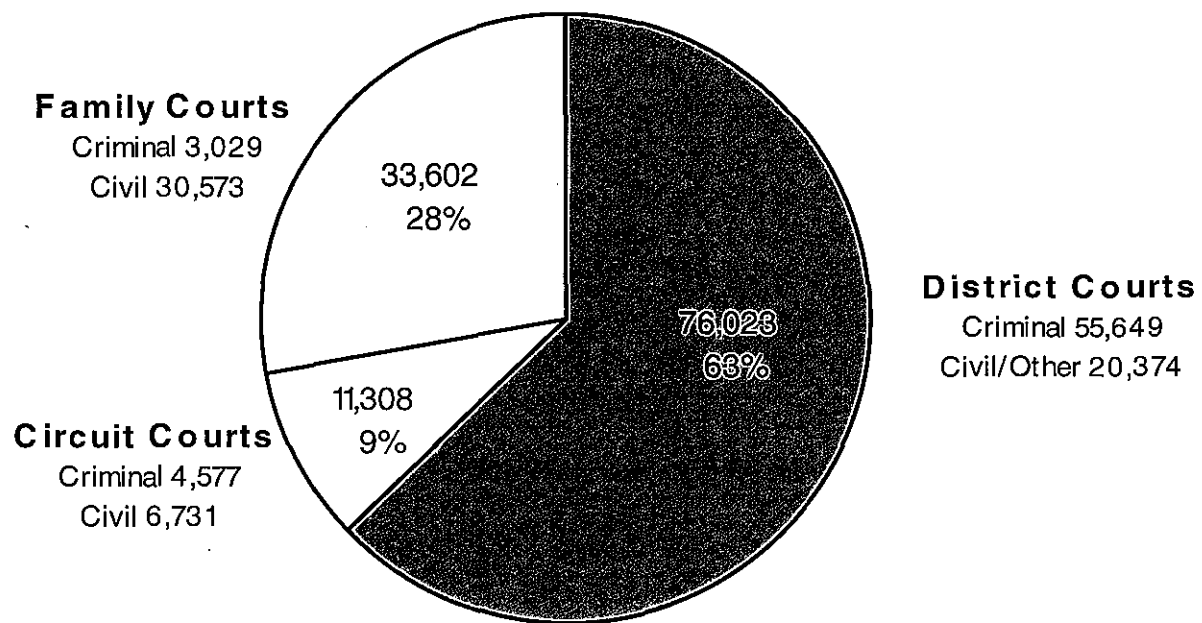
- Appellate Courts
 - Supreme Court
 - Intermediate Court of Appeals
- General Jurisdiction Courts
 - Circuit Courts
 - Family Courts *
- Limited Jurisdiction Courts
 - District Courts

The Judiciary is the third branch of Hawaii's State Government. It is invested by Article VI of the State Constitution with powers coequal to those of the legislative and executive branches. All of Hawaii's courts are contained within an integrated system funded by one source – the State Legislature. A central administrative office, headed by a director appointed by the Chief Justice with the approval of the Supreme Court, assists in supervising operations.

* A division of the Circuit Courts

CASELOAD

**Statewide Filings for FY 2007
(Excluding UIFS and Traffic)**

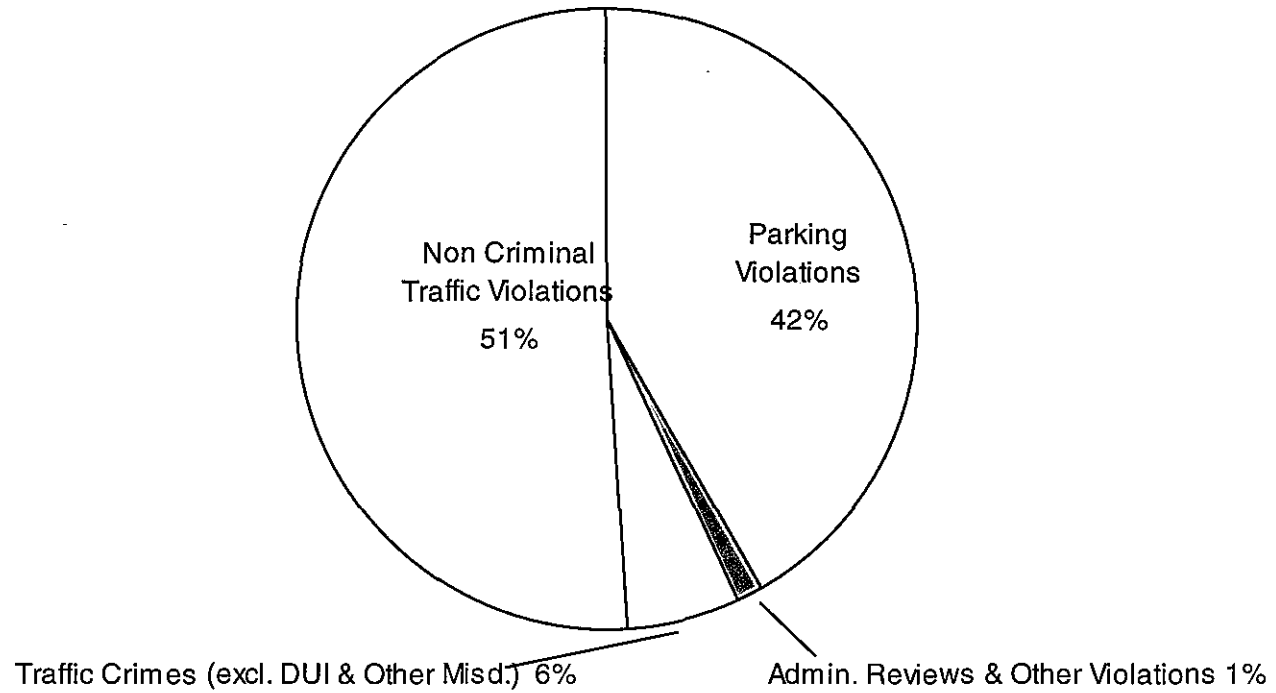


Total: 120,933 Cases Filed

Traffic and Parking Cases * - FY 2007

437,418 New Cases Filed [excl. DUI and Other Misdemeanor categories]

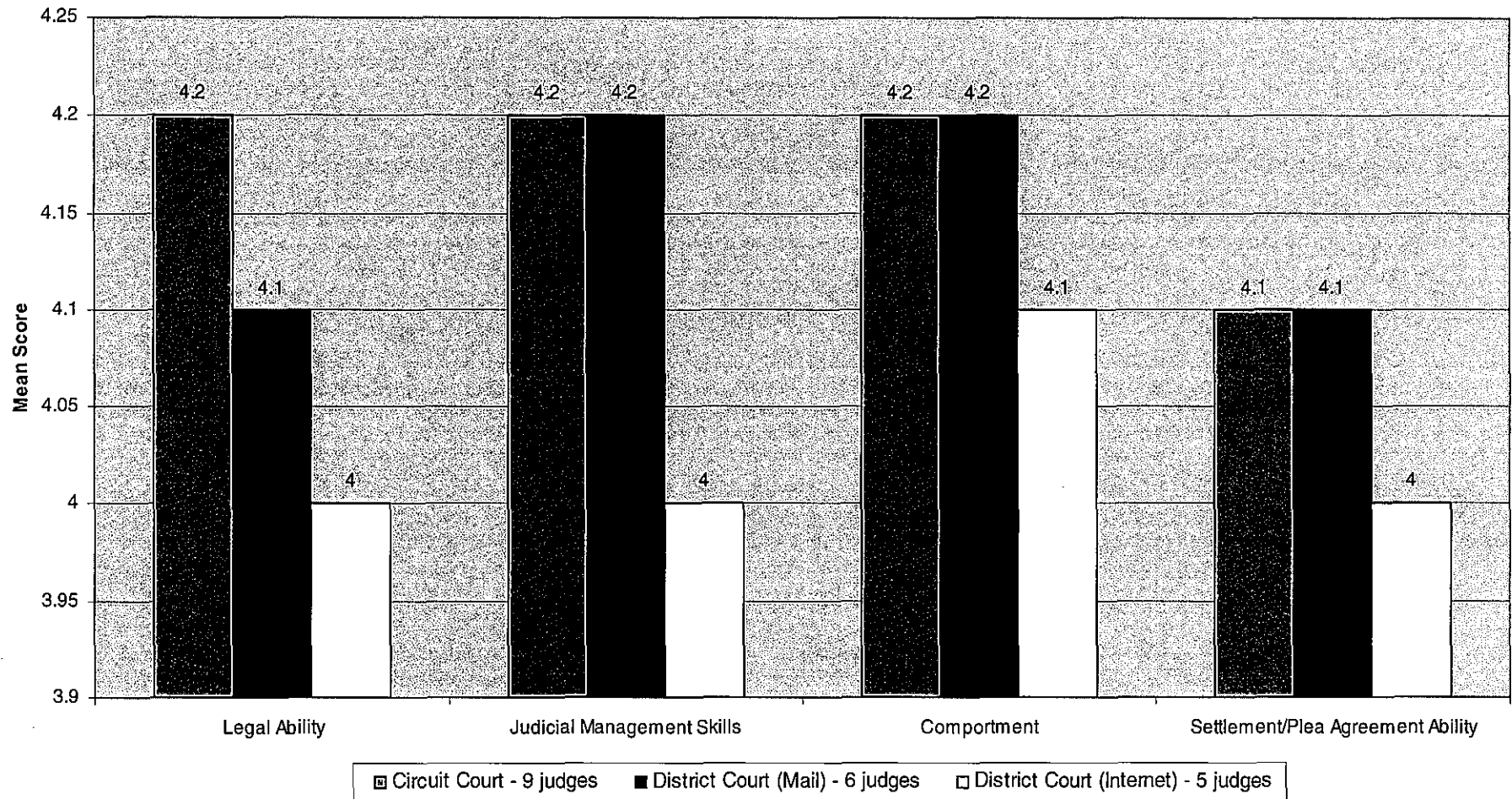
(* See Table 27 of the 2007 Statistical Supplement)



PERFORMANCE MEASURES

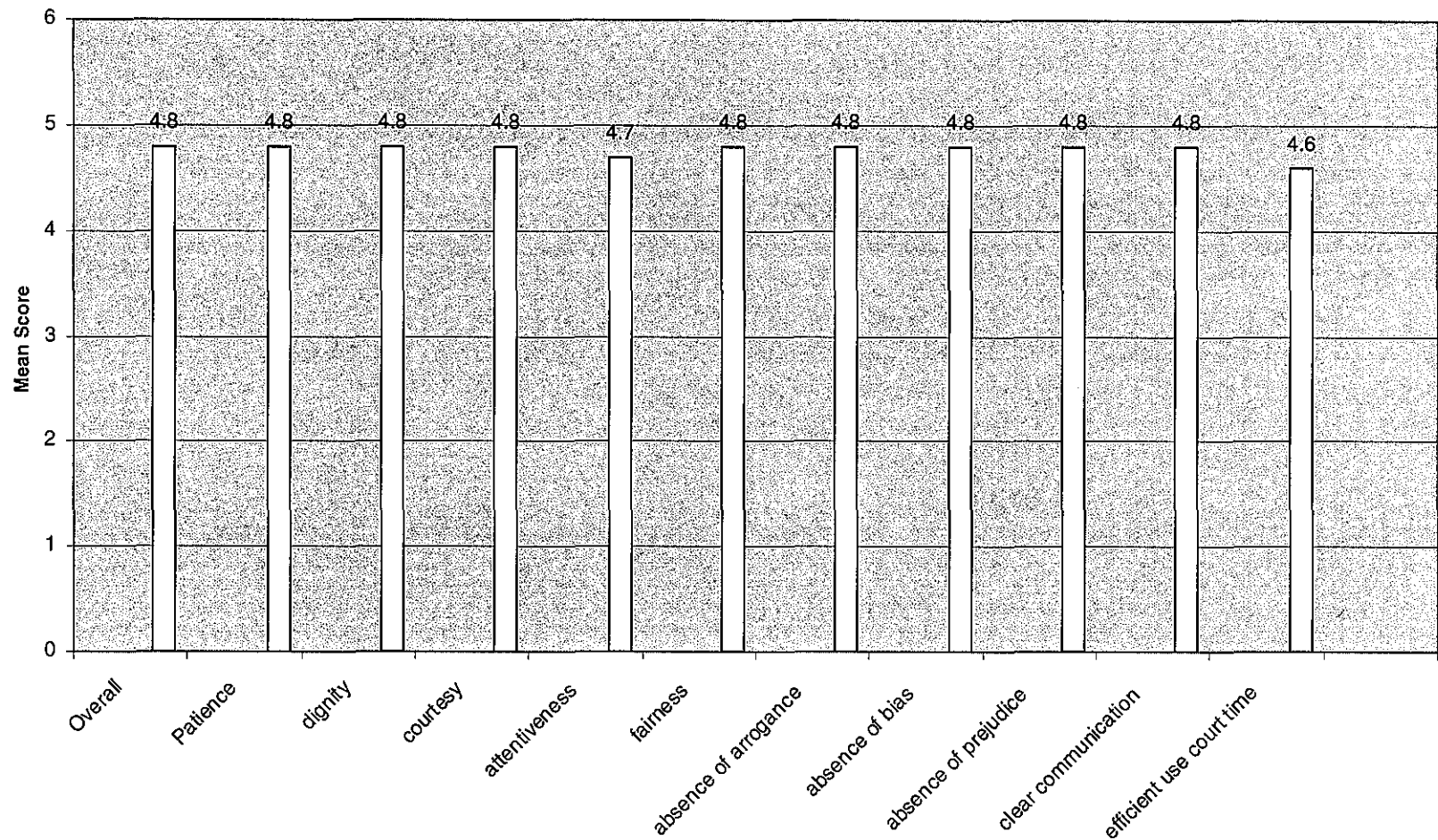
Circuit and District Court Judge Evaluations - Average Score

(Poor: 1.0 - 1.5; Less Than Adequate: 1.5 - 2.5; Adequate: 2.5 - 3.5; Good: 3.5 - 4.5; Excellent: 4.5 - 5.0)

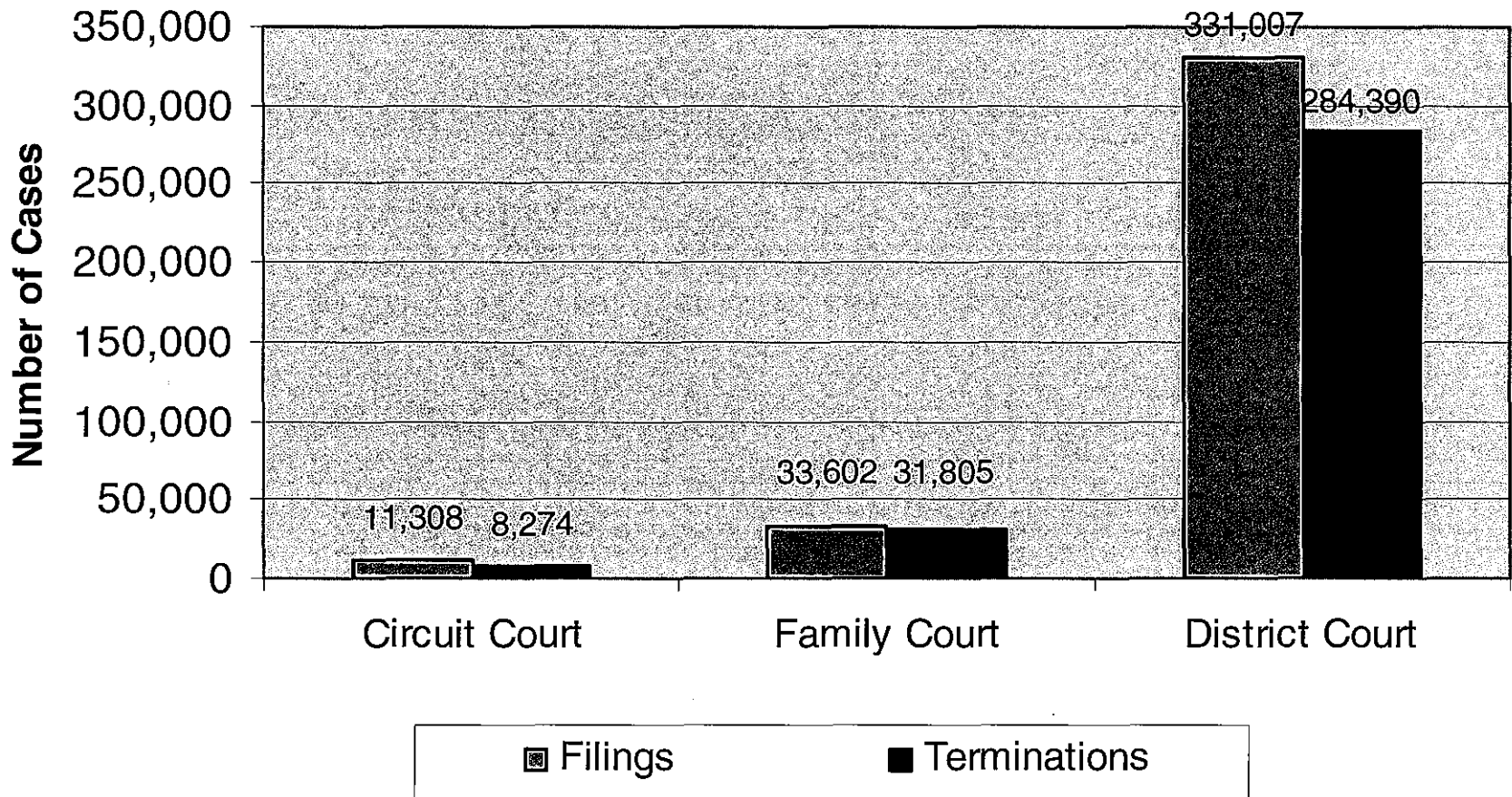


Juror Evaluations for Eight Participating Judges - Average Score

(Poor: 1.0 - 1.5; Less Than Adequate: 1.5 - 2.5; Adequate: 2.5 - 3.5; Good: 3.5 - 4.5; Excellent: 4.5 - 5.0)



Statewide Judicial Performance FY 2007
Overall Clearance Rate of 86.3%
(Excluding UIFS and Parking)



Courts of Appeal¹

Case Type	Fiscal Year	Appeals Filed	Appeals Disposed				Rate of Disposition	Total Pending Appeals	Average Disposition Rate
			Published	Memo ²	Dismissed	Total			
Appeals	97-98	794	126	657	324	1,107	139%	598	
	98-99	852	136	419	303	858	101%	592	
	99-00	818	116	287	264	667	82%	743	
	00-01	766	93	261	247	601	78%	908	
	01-02	757	101	284	271	656	87%	1,009	
	02-03	660	113	296	235	644	98%	1,025	
	03-04	662	125	326	280	731	110%	956	
	04-05	668	132	341	222	695	104%	929	
	05-06	588	142	358	214	714	121%	803	
	06-07	555	121	362	210	693	125%	665	
Total		7,120				7,366			103%

¹ Excludes appeals transferred between appellate courts.

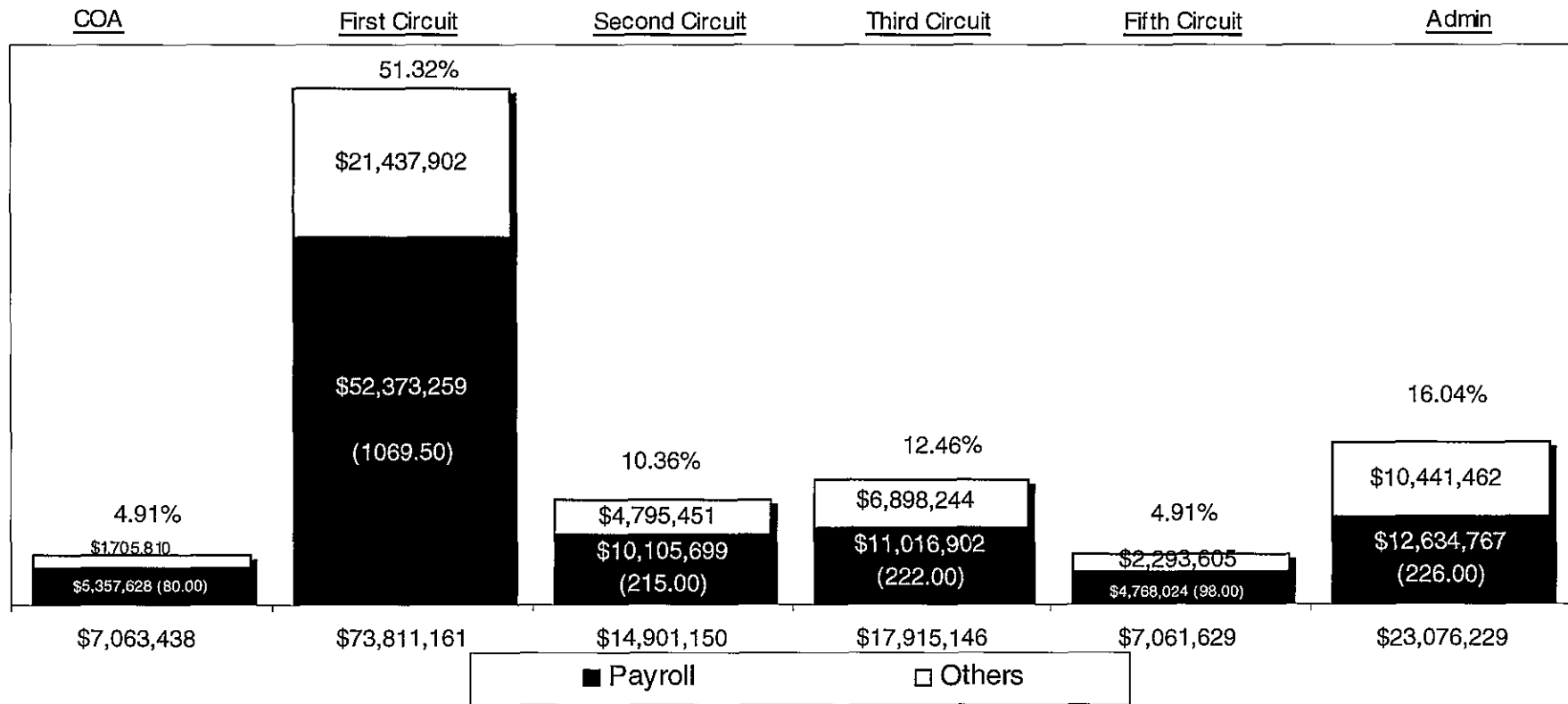
² Includes summary disposition orders.

REVENUES AND RESOURCES

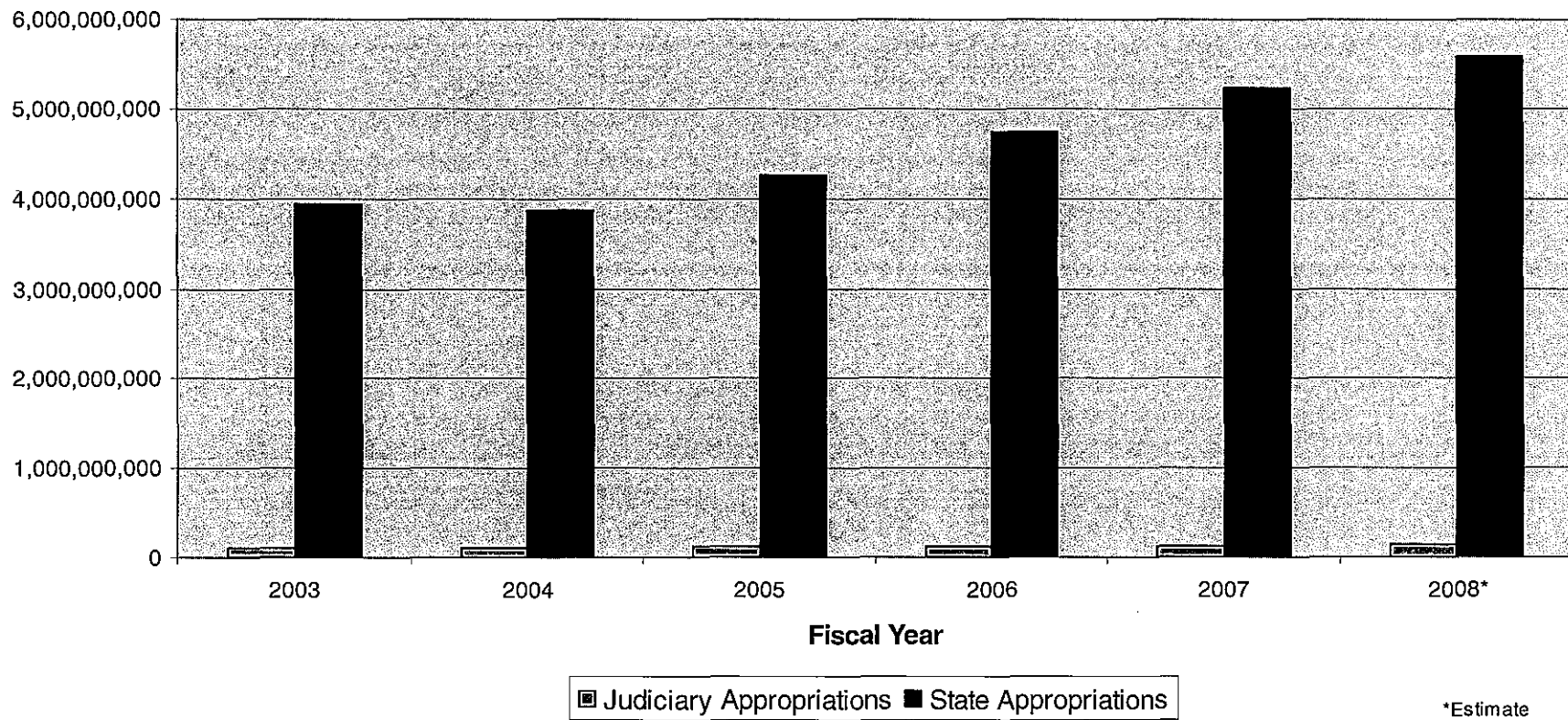
REVENUES

	<u>FY 2007</u>
General Fund	
Courts of Appeal	52,785
First Circuit	21,822,951
Second Circuit	3,882,443
Third Circuit	3,978,301
Fifth Circuit	1,429,516
Administration	<u>47,895</u>
Sub-total	31,213,891
Special Fund	<u>9,842,583</u>
TOTAL	<u><u>41,056,474</u></u>

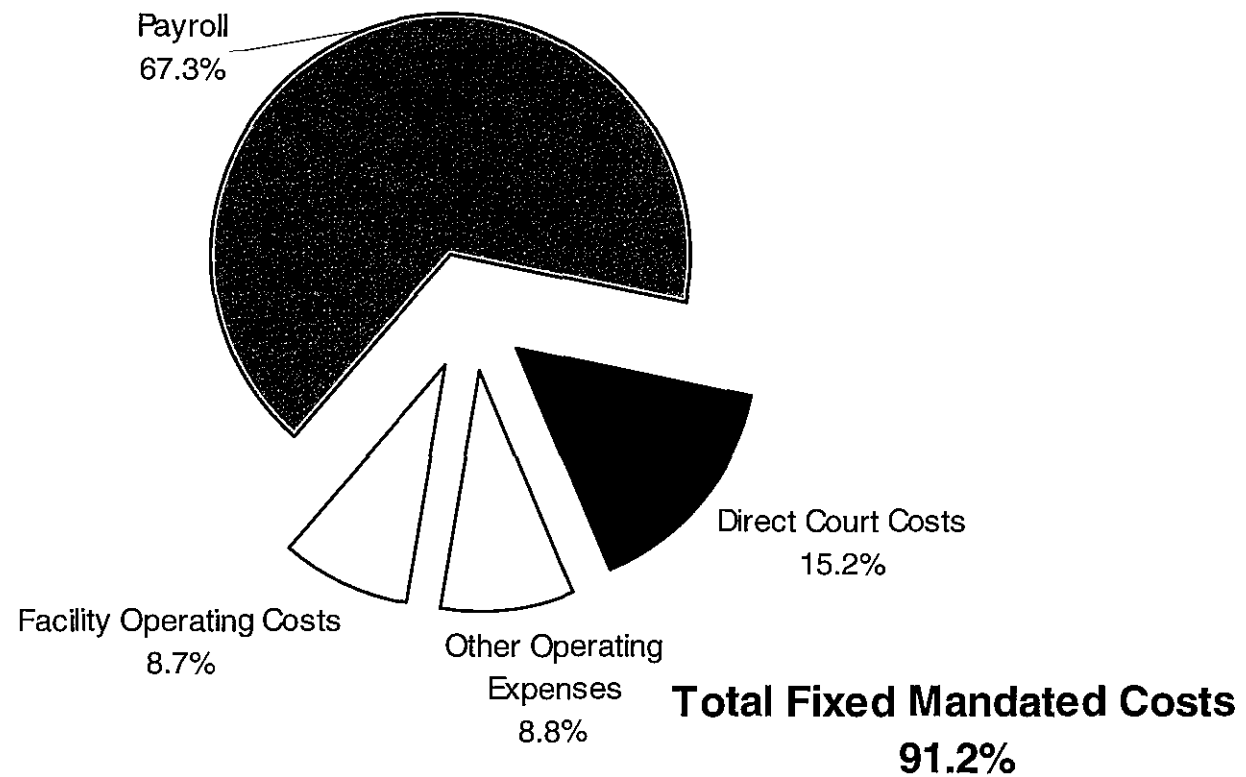
FY 2008
JUDICIARY BUDGET AND STAFFING
GENERAL FUNDS BY PROGRAM \$143,828,753 (1,910.50 FTE)



Judiciary General Fund Appropriations Compared to State General Fund Appropriations



**How the Judiciary's Base Appropriation are Expended
FY 2008 - Total Appropriations: \$142,948,753**



**FY 2009
SUPPLEMENTAL BUDGET REQUESTS**

**FY 2009 SUPPLEMENTAL BUDGET REQUEST
JUDICIARY SUMMARY
GENERAL FUNDS**

JUDICIARY PROGRAM	REQUEST FY 2009	
	POS CT	AMOUNT
Courts of Appeal	0.00	99,884
First Circuit	4.00	3,359,364
Second Circuit	5.00	1,090,820
Third Circuit	10.00	1,615,135
Fifth Circuit	1.00	137,549
Administration	5.00	1,404,433
JUDICIARY TOTAL	25.00	7,707,185

BUDGET HIGHLIGHTS

Unfunded Legislation/Requirements (\$5 Million)

Guardian Ad-Litem/Legal Counsel Services

Judges Pay Raise

Medically Targeted Substance Abuse Treatment Services

Risk Allocation

Forensic Examination Fees

Essential Staffing (\$700K)

Family Court Judge/Staff – South Kohala

Court Interpreter Program – First Circuit

Accountants – Third, Fifth Circuit

Human Resources, History Center, Kona Family Court

Client Services (\$900K)

Maui Drug Court Expansion

Drug Court Evaluation – 5 Year Project

Detention Home Medical Services

Sex Offender Treatment Services – Third Circuit

ADR POS Funding

BUDGET HIGHLIGHTS (CONT'D)

Facilities (\$700K)

Carpeting, Condenser Water Pipes – First Circuit

Workstation Enhancements – First Circuit

Lease/Janitorial Services – Molokai

Security (\$200K)

Metal Detectors/X-ray Machines – First Circuit

Security Services – South Kohala

Other (\$200K)

Judiciary 2020 Plan

Miscellaneous (e.g., Substance Abuse Testing, etc.)

CIRCUIT REQUIREMENTS FOR FY 2009

	<u>First</u>	<u>Second</u>	<u>Third</u>	<u>Fifth</u>
<u>Unfunded Legislation/Requirements</u>				
	2.00	1.00	1.00	
GAL/Counsel Rate Increase	1,715,092	431,542	909,756	29,000
Judges Pay Raise 1]	429,643	84,929	95,137	37,361
Medically Targeted Substance Abuse Treatment	100,000	100,000		
Forensic Examination Fees	250,000	26,000	115,000	25,000
<u>Essential Staffing</u>				
	2.00			
Two Court Operations Specialists - Court Intrepreter Program	94,450			
			4.00	
Family Court Judge/Staff - South Kohala			278,358	
			1.00	
Documents Clerk - Kona Family Court			45,536	
			1.00	1.00
Two Accountant III Positions - Kona, Kauai			45,368	46,188
			3.00	
Convert Three Temporary Positions			0	

1] Funds requested for pay raise for Courts of Appeal Justices/Judges total \$99,884

CIRCUIT REQUIREMENTS FOR FY 2009 (CONT'D)

	<u>First</u>	<u>Second</u>	<u>Third</u>	<u>Fifth</u>
<u>Client Services</u>				
Detention Home Medical Services	28,000			
Maui/Molokai Drug Court Expansion		4.00 386,189		
Sex Offender Treatment Services - POS			55,000	
<u>Facilities</u>				
Replace/Restretch Carpeting - Circuit/District Court Buildings	450,400			
Replace Condensor Water Pipes - District Court	120,560			
Workstation Enhancements	59,740			
Lease, Electricity, Custodial - Molokai		62,160		
<u>Security</u>				
Replace Metal Detectors/X-Ray Machines	111,479			
Security Services - South Kohala			70,980	
	<u>4.00</u>	<u>5.00</u>	<u>10.00</u>	<u>1.00</u>
TOTAL	3,359,364	1,090,820	1,615,135	137,549

ADMINISTRATION REQUIREMENTS FOR FY 2009

	FY 2009
<u>Intergovernmental and Community Relations Department</u>	
Expansion of Court Interpreter Services - OEAC	219,385
Increase POS Funding for ADR	61,000
Replace Computers, Monitors, Software - OPG	25,000
Convert Temporary Staff Attorney to Permanent	1.00 0
Two Half-Time Permanent Positions - History Center	1.00 25,918
<u>Human Resources Department</u>	
Two HR Technician Positions for Admin Services and One Staff Development Specialist	3.00 129,672
Neogov Software License, Maintenance Fee	28,000
Substance Abuse Testing Costs	12,317
<u>Support Services Department</u>	
Risk Management Cost Allocation	442,472
<u>Policy and Planning Department</u>	
NCSC Drug Court Evaluation	360,669
Futures Vision Conference - Developing 2020 Plan	100,000
TOTAL	5.00 1,404,433

JUDICIARY
FB 2009 SUPPLEMENTAL BUDGET

FISCAL YEAR 2009

	New Requests		Supplemental Budget Totals	
	Pos Ct	\$	Pos Ct	\$
Operating				
Courts of Appeal	0.00	99,884	80.00	7,109,582
First Circuit	4.00	3,359,364	1,081.50	73,164,242
Second Circuit	5.00	1,090,820	221.00	15,692,725
Third Circuit	10.00	1,615,135	232.00	19,251,383
Fifth Circuit	1.00	137,549	99.00	7,036,039
Administration	5.00	1,404,433	231.00	21,960,398
General Funds	25.00	7,707,185	1,944.50	144,214,369

CAPITAL IMPROVEMENT PROJECTS (CIP)

FY 2009 CAPITAL IMPROVEMENTS PROGRAM SUMMARY

Project Title	FY 2009 Amount	MOF
Kapolei Judiciary Complex, Oahu	9,225,000	C
Kaahumanu Hale & Kauikeaouli Hale Facility Redevelopment Planning - Oahu	450,000	C
Status Offender Shelter & Juvenile Services Center - Oahu	225,000	C
Kona Judiciary Complex	550,000	C
Keakealani Building Court Facility Improvements - Kona, Hawaii	1,020,000	C
Hoapili Hale Replacement of A/C Chiller Plant - Maui	1,000,000	C
Hoapili Hale Upgrade Elevator Systems - Maui	630,000	C
Lahaina District Court Replacement A/C Unit - Maui	60,000	C
North Kohala District Court - Misc Alterations and Improvements - Hawaii	150,000	C
Lump Sum CIP for Judiciary Facilities Statewide	2,600,000 *	C
Total	15,910,000	

* Includes \$500,000 already appropriated under Act 169/2007



Kapolei development heading on the right track

“It's been a long time coming, literally. Now after decades of planning and a few false starts, the dream of truly making Kapolei a ‘Second City’ is at last taking shape. And fast.”

“We all hope to see a vibrant, livable, sustainable community with people at the heart of it — something more than just buildings and roads. I would like to see a place that people are proud to call home and which gives the next generation hope for their futures.”

JUDICIARY OVERVIEW

I. INTRODUCTION

Mission and Objectives

“The mission of the Judiciary, as an independent branch of government, is to administer justice in an impartial, efficient, and accessible manner in accordance with the law.”

The Judiciary is the third branch of Hawaii’s State Government. It is invested by Article VI of the State Constitution with powers coequal to those of the Legislative and Executive Branches. All of Hawaii’s courts are contained within an integrated system funded by one source – the State Legislature. A central administrative office, headed by a director who is appointed by the Chief Justice with the approval of the Supreme Court, assists in supervising operations.

Individual court and program objectives are addressed within the appropriate sections of the program review portion of the Judiciary’s testimony and thus will not be included in the overview section. However, we believe that it is important that you have a sense of the Judiciary’s performance as an entity, as well as its performance at the program level. Consequently, this overview starts with our progress toward overall objectives, divided into sections that track closely with the information provided at the program level. First, we will provide a summary of our efforts to meet our overall mission and objectives, then move on to our performance results, and, finally, conclude with a discussion of some of the problems and issues that the Judiciary faces.

Meeting the Overall Mission and Objectives of the Judiciary

The major program categories of the Judiciary are court operations and support services. Programs in the court operations category serve to safeguard the rights and interests of persons by assuring an equitable and expeditious judicial process. Programs in the support services category enhance the effectiveness and efficiency of the judicial system by providing the various courts with administrative services such as fiscal control and direction of operations and personnel.

The following is a display of the current program structure approved for the Judiciary:

Program Structure Number	Program Level I II III	Program I.D.
01	The Judicial System	
01 01	Court Operations	
01 01 01	Courts of Appeal	JUD 101
01 01 02	First Circuit (Oahu)	JUD 310
01 01 03	Second Circuit (Maui, Moloka'i, Lāna'i)	JUD 320
01 01 04	Third Circuit (Hawai'i)	JUD 330
01 01 05	Fifth Circuit (Kaua'i)	JUD 350
01 02	Support Services	
01 02 01	Administration	JUD 601

Our senior circuit court judges, circuit court administrators, program directors, and Judiciary staff continually search for better ways to manage caseload and thereby improve the services provided to citizens seeking the courts' assistance. Efforts are ongoing to improve and expand interpreting services to ensure equal access to Hawaii's courts for all linguistic minorities, as required by State law. The Family Courts are committed to addressing child abuse, neglect, and domestic violence issues, as well as to providing various counseling, guidance, detention, mediation, education, treatment, and supervisory programs and services for children and adults. The Adult, Family, and Juvenile Drug Court programs, as well as mediation through the alternative dispute resolution process, reflect the Judiciary's commitment to providing effective alternatives to traditional adjudication. The Judiciary looks forward to discussing these programs, as well as our future plans, with you during the upcoming legislative session.

Despite demand for court services which exceeds available resources, the Judiciary has worked hard to maintain the level of services that Hawaii's citizens expect and deserve. Such efforts have required the identification of innovative methods and cost-cutting strategies to achieve effective adjudication without compromising the principles of justice. However, although the Judiciary remains committed to reducing costs and increasing efficiency, the level of current resources available places unacceptable limitations on the services which can be provided to those seeking the assistance of the courts. To ensure that adequate court services can be provided, the Judiciary's general fund budget request includes additional funding of approximately \$7.7 million in FY 2009, resulting in a total

supplemental general fund budget just under \$152 million. This amount is more than \$2 million under the Judiciary's general fund appropriation ceiling, based on the November 15, 2007 final estimate of state growth for the budget period.

The Judiciary's supplemental budget requests address certain unforeseen developments, inadvertent oversights, and special circumstances which affect all Judiciary budget programs. Specifically: (1) the 2007 Legislature significantly increased guardian ad litem and legal counsel fees but provided no funds to pay for this increase in FY 2009; (2) the Commission on Salaries recommendation to increase the pay of justices and judges was approved by the Legislature last year without any funds for this pay raise; (3) the Judiciary budget bill passed by the 2007 Legislature contained a provision requiring three of the four circuits to expend up to \$100,000 each for medically targeted substance abuse treatment services but again no funds were provided; and (4) a representative from the SCR 117 Task Force established by the 2006 Legislature informed us that the Task Force will be requesting a 100 percent increase in fees for court ordered psychiatric/psychological examinations of forensic patients. In addition, the Department of Budget and Finance notified Judiciary Administration in January 2007 of a significant increase in risk allocation fees for FYs 2008 and 2009, too late to be included in last year's budget request.

Other supplemental budget requests address a number of critical client services, facility, safety, and security needs that require legislative support if the Judiciary is to continue to meet the needs of Hawaii's citizens in an effective and efficient manner. For example, First Circuit (JUD 310) critical needs include funds to replace and re-stretch carpeting in the Ka'ahumanu Hale (Circuit Court) and Kauikeaouli Hale (District Court) Buildings, replace rusted condenser water pipes at the cooling tower in the Kauikeaouli Hale Building, and replace eight metal detectors and two x-ray machines for which a service contract is no longer available and replacement parts are increasingly difficult to find. Other First Circuit critical needs are for additional funds to cover increased costs for medical services at the Detention Home, provide two positions to facilitate operation of the Court Interpreter Program and handle the tremendous increase in interpreter requests, and pay for enhancements to 20 workstations to create a safer and more efficient work environment. In the Second Circuit (JUD 320), staffing and funding are needed to expand Maui/Molokai Drug Court operations and services, and pay for lease, janitorial, and electricity costs to consolidate operations on Molokai into one location. The Third Circuit's (JUD 330) critical needs are funds for a District Family Court Judge position and related staff to address workload requirements in the Hamakua and North/South Kohala area, to provide security services for South Kohala District Court, to cover increased costs and clientele for adult sex offender treatment services, and for two additional positions in the Kona area to improve services. In addition, we are requesting no-cost conversion of three temporary Third Circuit positions to permanent. Fifth Circuit (JUD 350) is requesting funds to establish an additional accountant position to help handle increased workload.

Last but not least are the critical needs of the Administration (JUD 601) program. These include resources to continue to Phase III of the National Center for State Courts Drug Court evaluation, expand court interpreter services to all Judiciary civil and administrative proceedings, provide needed positions for human resource operations and the King Kamehameha V Judiciary History Center, increase the purchase of service funding base for the Center for Alternative Dispute Resolution, and fund a Future Vision Conference for the Judiciary. One other request is for a no-cost conversion of a temporary Staff Attorney position to permanent.

Each of these requests is discussed in detail in the corresponding section of this document.

Capital Improvement Project (CIP) requirements continue to be a major item of concern, especially as our facilities get older and as the population, the needs of our clients, and the services provided by our court system expand. With the move of our First Circuit Family Court and Detention Home to Kapolei in 2010, CIP funds are needed to start the planning process for an administration building in Kapolei; to provide furniture, fixtures, and equipment for our new Kapolei Judiciary Complex; and to redevelop the soon to be vacated Family Court areas in the Ka'ahumanu Hale, Kauikeaouli Hale, and current Detention Home Buildings. In addition, the West Hawai'i community is extremely concerned about safety, security, space, parking, and accessibility conditions at Judiciary facilities in Kona; thus, CIP planning funds are being requested for a new Judiciary Complex, as well as construction funds for improvements to the present court facility in the Keākealani Building. Other CIP funds are needed for critical air conditioning and elevator repairs and upgrades at our over 20 year old court buildings on Maui and for repairs and improvements at other Judiciary facilities, statewide. Each of these projects is discussed in detail in the Administration Section (JUD 601) of this document.

With so many competing and critical requirements within the State to be considered, the Judiciary understands that resource allocation decisions are difficult, especially in light of continuing concern over the size and cost of state government. In keeping with its commitment toward cost reduction and increased efficiency, therefore, the Judiciary has restricted its resource requests to those which provide the greatest opportunity to directly serve those seeking the court's assistance.

II. JUDICIARY PERFORMANCE RESULTS

There are several ways that the Judiciary determines how well it is meeting its mission and objectives. These are summarized in the paragraphs that follow.

For the past several years, the Judiciary has utilized a public satisfaction survey instrument to obtain feedback on how well it is performing. During the last six years, 436 people conducting business with the courts took the time to complete these surveys. Of those who

completed the overall evaluation portion of the survey, 72 percent indicated that the service was either good or outstanding, 14 percent reported that the service was fair to average, and only 14 percent indicated that the service was poor (JUD page 8). We are proud of these results considering that people generally do not take time to complete such surveys unless they have a complaint to register.

To measure how our justices and judges are performing, the Judiciary has had a judicial evaluation program in place for several years. This evaluation of our justices and judges by attorneys who appear before them has consistently found that Hawaii's justices and judges are meeting a high standard (documented in the attached charts).

As in the past, the evaluated judges were interviewed by members of the Judicial Evaluation Review Panel. The eight members of the Review Panel are Robert Alm, Momi Cazimero, Richard Guy, Douglas McNish, Willson Moore, Jr., Herbert Shimabukuro, Betty Vitousek, and Stanley Yamagata, Jr. They are organized into groups of three to counsel judges from the Appellate, Circuit, Family, and District Court phases. Each group consists of one former judge, one non-practicing attorney, and one member of the public knowledgeable in the law.

Panel members assist Chief Justice Ronald T.Y. Moon in the review and evaluation process by providing wisdom from respected persons in the community to help judges improve their performance and thereby promote public trust and confidence in the courts.

The results from the past year's evaluations are published in the 2007 Report on Judicial Performance. This report summarizes the evaluations of 20 judges (nine from the Circuit Courts, six from the District Courts evaluated by standard mail, and five from the District Courts evaluated on-line in a pilot program through the internet), and brings to 270 the number of evaluations completed during the past nine years. A substantial number of judges have received two or more evaluations.

In addition to the above evaluations, the Judiciary received juror evaluations on eight Circuit Court judges during the year.

The results from the judges' evaluations for 2007 are summarized as follows and displayed on JUD pages 9, 11, 13, and 15.

The nine Circuit Court judges had mean scores of 4.2 for Legal Ability, Judicial Management Skills, and Comportment, and 4.1 for Settlement and/or Plea Agreement Ability. The six District Court judges evaluated by standard mail had mean scores of 4.2 for Judicial Management Skills and Comportment, and 4.1 for Legal Ability and Settlement and/or Plea Agreement Ability. The five District Court judges evaluated on-line had mean scores of 4.1 for Comportment and 4.0 for the other three sections. Scores were based on a scale of possible responses ranging from one for Poor to five for Excellent.

In the juror evaluations, the mean scores for the eight Circuit Court judges were 4.8 for Overall Performance, 4.8 for eight of the other 10 items on the evaluation (for example, Patience, Dignity, Fairness), 4.7 for Attentiveness, and 4.6 for Efficient Use of Court Time. Again, the scoring scale ranged from one for Poor to five for Excellent.

The above results are also displayed in the 2007 Report in the form of pictographs. Similar graphs are included in the testimony (JUD pages 10, 12, 14, and 16).

The yearly reports of the Judicial Performance Program are available to the Judicial Selection Commission. Individual scores and attorney comments also are available to the Commission upon request.

Based on the results of our public satisfaction surveys and judicial evaluations, it appears that the Judiciary is achieving key elements of its mission, that is, providing accessible justice to our community, and making sure that our judges are competent in the law and receiving the required training to perform effectively and efficiently on the bench.

Central to the measure of Judiciary performance is a review of caseload and disposition of cases. The graphs and trend analysis that we have included clearly indicate that overall public demands on the Judiciary remain high, although some case types have decreased in recent years (JUD pages 17 through 20). Demand is measured in terms of total cases filed. The trend charts also show that the Judiciary is currently meeting this urgent public need based on its output or total caseload disposition. We have provided information on long-term trends in lieu of looking at the most recent two years because year-to-year variations in both cases filed and cases disposed can be misleading.

The trends presented here are for the overall caseload of the trial courts. As we go through our testimony, each court's specific data also will be presented. On these charts, we have included year-by-year actual caseload data (filings). The trend line in the first chart (JUD page 17) reflects the overall year-to-year variations in filings. For FY 2007, 120,933 cases were filed in the various trial courts (excluding 437,418 traffic violations). Since there is always a special interest in the criminal caseload, these data are broken out separately for your review. You can see at a glance (JUD page 19) that there were 63,255 criminal filings in the Circuit, Family, and District Courts, representing approximately 52.3% of the overall non-traffic caseload for these courts.

JUDICIARY PROBLEMS AND ISSUES

While the total number of filings remains fairly constant, the workload trend appears to be toward more intensified court intervention in the Family Courts and other areas such as the

Drug Court. Thus, the overall workload for the courts is anticipated to remain at a very high level.

Although we are addressing the majority of matters that come before the courts in a timely manner, we continue to have a significant level of pending cases. In the trial courts, judges and staff have tried diligently to keep up with the caseload. The challenge in the trial courts is not one of dramatic increases in particular case types, but rather increases in the complexity of these cases over the years. In the Family and District Courts, we have relied on elevated and temporary (per diem) judges to deal with a substantial portion of the court caseload.

In the Circuit Courts, we continue to experience a large number of filings in our criminal cases. We estimate that our inventory of pending civil and criminal cases in the Circuit Courts represents approximately one to two years' workload.

For the Family Courts, the number of overall filings also remains high. Overall, pending cases represent approximately one-half of a year's workload.

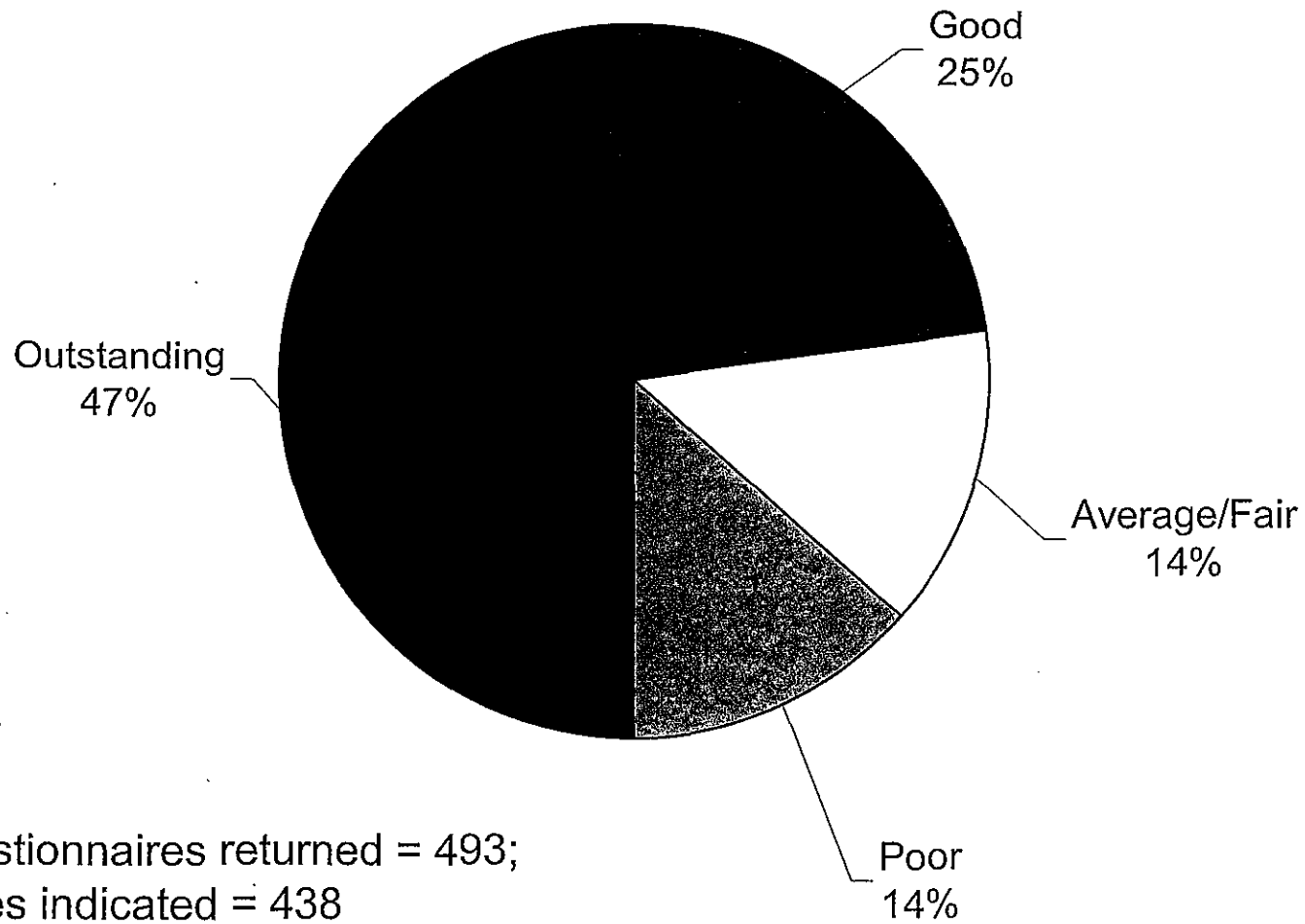
The District Courts' total filings have increased over the last three years, primarily as a result of an increase in traffic violation filings and despite a decrease in civil and criminal filings. Based on caseload data for FY 2007, we estimate that the pending caseload is equivalent to a year's workload.

Many of the problems and issues faced by the Judiciary are related to a shortage of resources. Resource shortages are reflected in our need for additional staffing and funding for our courts, court programs, and technology. Also, many of our facilities which serve the public and the employees of the Judiciary are becoming old and need attention to assure a safe, secure, healthy, and barrier-free environment.

The Judiciary, like other government agencies, continues to experience increasing demands on available resources in its effort to better serve the citizens of Hawai'i. In order to provide these necessary services, we must continue to move forward with the programs designed to assist those needing the courts' assistance. We have made a commitment to the citizens of Hawai'i to provide necessary services within a framework which allows for the efficient utilization of all resources and which guarantees equal access for all.

This concludes the overview section of our testimony, and we will now move on to the major program areas. It should be noted that the eight attachments requested by the December 14, 2007 Instructions for Briefings on the Supplemental Budget (2008-2009) follow our written testimony.

Public Satisfaction Survey Calendar Years 2002 - 2007



Total questionnaires returned = 493;
Responses indicated = 438

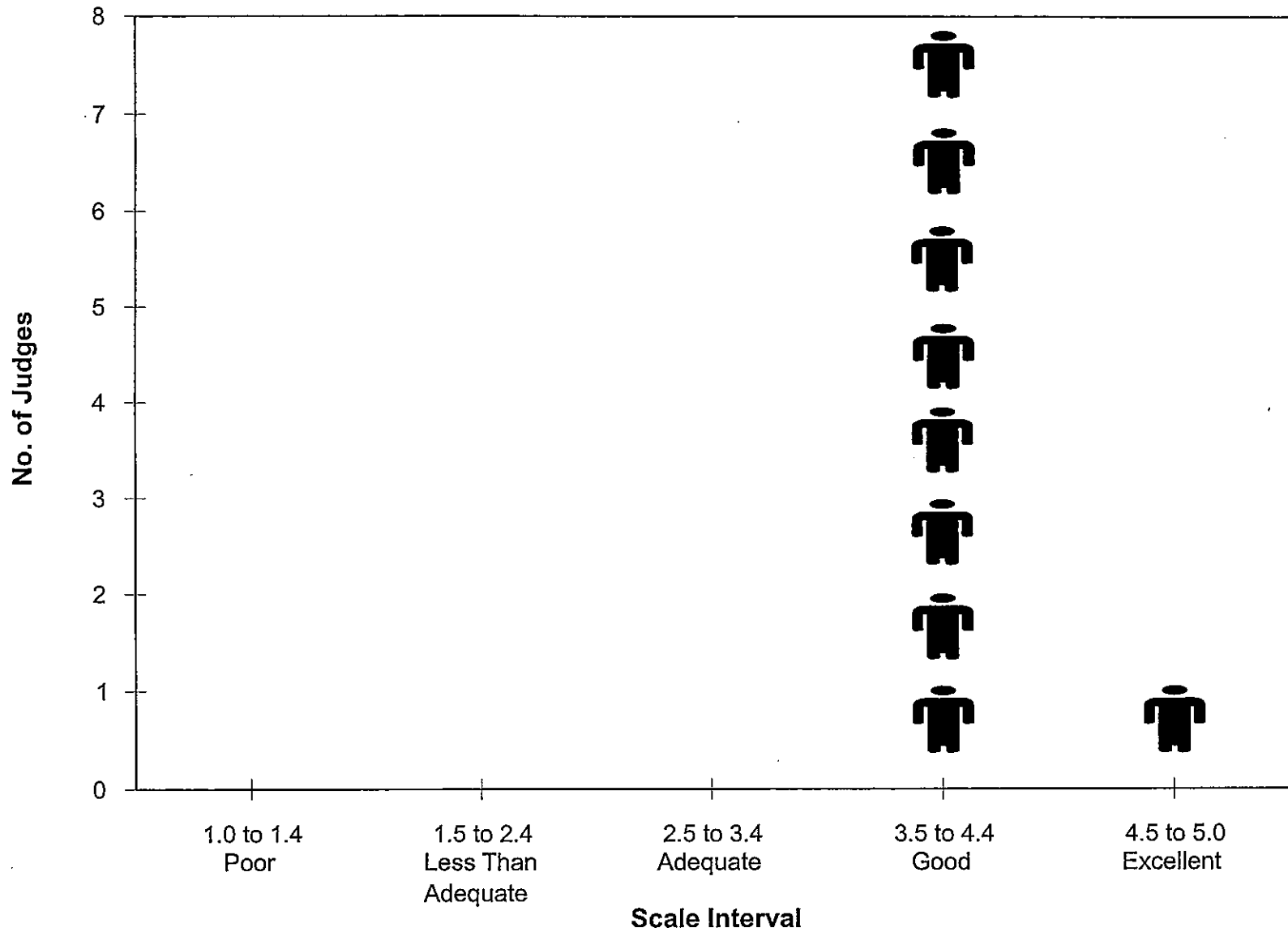
**JUDICIAL PERFORMANCE PROGRAM - CIRCUIT COURT
EVALUATION RESULTS FOR THE NINE PARTICIPATING JUDGES
JULY 31, 2007 - SEPTEMBER 4, 2007**

<u>QUESTIONNAIRE SECTION</u>	<u>N</u>	<u>Mean Score</u>	<u>S.D.</u>
<u>LEGAL ABILITY SECTION</u>			
1. Knowledge of Relevant Substantive Law	9	4.3	0.2
2. Knowledge of Rules of Procedure	9	4.4	0.2
3. Knowledge of Rules of Evidence	9	4.3	0.2
4. Ability to Identify and Analyze Relevant Issues	9	4.3	0.2
5. Judgement in Application of Relevant Laws and Rules	9	4.1	0.2
6. Giving Reasons for Rulings when Needed	9	4.1	0.3
7. Clarity of Explanation of Rulings	9	4.1	0.3
8. Adequacy of Findings of Fact	9	4.1	0.2
9. Clarity of Judge's Decision(s) (oral/written)	9	4.1	0.2
10. Completeness of Judge's Decision(s) (oral/written)	9	4.1	0.2
11. Judge's Charge to the Jury/Juries	8	4.4	0.2
Average Score for the Legal Ability Section	9	4.2	0.2
<u>JUDICIAL MANAGEMENT SKILLS SECTION</u>			
1. Moving the Proceeding(s) in an Appropriately Expeditious Manner	9	4.1	0.2
2. Maintaining Proper Control over the Proceeding(s)	9	4.3	0.2
3. Doing the Necessary Homework on the Case(s)	9	4.3	0.2
4. Rendering Rulings and Decisions w/o Unnecessary Delay	9	4.2	0.1
5. Allowing Adequate Time for Presentation of the Case(s)	9	4.2	0.2
6. Resourcefulness and Common Sense in Resolving Problems	9	4.1	0.3
7. Skills in Effecting Compromise	9	3.9	0.2
8. Industriousness	9	4.3	0.3
Average Score for the Judicial Management Skills Section	9	4.2	0.2
<u>COMPORTEMNT SECTION</u>			
1. Attentiveness	9	4.5	0.3
2. Courtesy to Participants	9	4.2	0.6
3. Compassion	9	4.2	0.4
4. Patience	9	4.1	0.6
5. Absence of Arrogance	9	4.1	0.6
6. Absence of Bias and Prejudice	9	4.4	0.3
7. Evenhanded Treatment of Litigants	9	4.2	0.4
8. Evenhanded Treatment of Attorneys	9	4.1	0.4
Average Score for the Comportment Section	9	4.2	0.4
<u>SETTLEMENT AND/OR PLEA AGREEMENT ABILITY SECTION</u>			
1. Knowing the Case(s) and/or the Law	9	4.3	0.1
2. Reasonableness of Opinions	9	4.1	0.2
3. Ability to Enhance the Settlement Process	9	3.9	0.3
4. Impartiality	9	4.1	0.2
5. Absence of Coercion or Threat	9	4.2	0.3
6. Effectiveness in Narrowing the Issues	9	4.1	0.2
7. Appropriateness of Judge's Initiatives	9	4.0	0.3
8. Facilitation in Development of Options	9	4.0	0.3
Average Score for the Settlement and/or Plea Agreement Ability Section	9	4.1	0.2

N = Number of Judges with More Than Five Responses for the Item
Legend for Mean Score: 5 = Excellent | 4 = Good | 3 = Adequate | 2 = Less Than Adequate | 1 = Poor
S.D. = Standard Deviation

Circuit Court Frequency of Judges' Ratings*

*Mean of Legal Ability, Judicial Management Skills, Comportment, and Settlement/Plea Agreement Ability.



**STANDARD MAIL EVALUATION
 JUDICIAL PERFORMANCE PROGRAM - DISTRICT COURT
 EVALUATION RESULTS FOR THE SIX PARTICIPATING JUDGES
 JULY 31, 2007 - SEPTEMBER 4, 2007**

QUESTIONNAIRE SECTION	N	Mean Score	S.D.
LEGAL ABILITY SECTION			
1. Knowledge of Relevant Substantive Law	6	4.1	0.3
2. Knowledge of Rules of Procedure	6	4.2	0.3
3. Knowledge of Rules of Evidence	6	4.1	0.3
4. Ability to Identify and Analyze Relevant Issues	6	4.1	0.3
5. Judgement in Application of Relevant Laws and Rules	6	4.1	0.3
6. Giving Reasons for Rulings when Needed	6	4.0	0.3
7. Clarity of Explanation of Rulings	6	4.0	0.3
8. Adequacy of Findings of Fact	6	4.0	0.3
9. Clarity of Judge's Decision(s) (oral/written)	6	4.0	0.3
10. Completeness of Judge's Decision(s) (oral/written)	6	4.0	0.3
Average Score for the Legal Ability Section	6	4.1	0.3
JUDICIAL MANAGEMENT SKILLS SECTION			
1. Moving the Proceeding(s) in an Appropriately Expeditious Manner	6	4.3	0.2
2. Maintaining Proper Control over the Proceeding(s)	6	4.3	0.2
3. Doing the Necessary Homework on the Case(s)	6	4.0	0.3
4. Rendering Rulings and Decisions w/o Unnecessary Delay	6	4.3	0.2
5. Allowing Adequate Time for Presentation of the Case(s)	6	4.2	0.4
6. Resourcefulness and Common Sense in Resolving Problems	6	4.2	0.3
7. Skills in Effecting Compromise	6	4.1	0.4
8. Industriousness	6	4.2	0.3
Average Score for the Judicial Management Skills Section	6	4.2	0.3
COMPORMENT SECTION			
1. Attentiveness	6	4.4	0.3
2. Courtesy to Participants	6	4.3	0.7
3. Compassion	6	4.1	0.5
4. Patience	6	4.1	0.6
5. Absence of Arrogance	6	4.1	0.7
6. Absence of Bias and Prejudice	6	4.3	0.3
7. Evenhanded Treatment of Litigants	6	4.2	0.4
8. Evenhanded Treatment of Attorneys	6	4.2	0.5
Average Score for the Compartment Section	6	4.2	0.5
SETTLEMENT AND/OR PLEA AGREEMENT ABILITY SECTION			
1. Knowing the Case(s) and/or the Law	6	4.2	0.2
2. Reasonableness of Opinions	6	4.1	0.3
3. Ability to Enhance the Settlement Process	6	4.0	0.4
4. Impartiality	6	4.1	0.4
5. Absence of Coercion or Threat	6	4.3	0.4
6. Effectiveness in Narrowing the Issues	6	4.1	0.3
7. Appropriateness of Judge's Initiatives	6	4.1	0.3
8. Facilitation in Development of Options	6	4.1	0.4
Average Score for the Settlement and/or Plea Agreement Ability Section	6	4.1	0.3

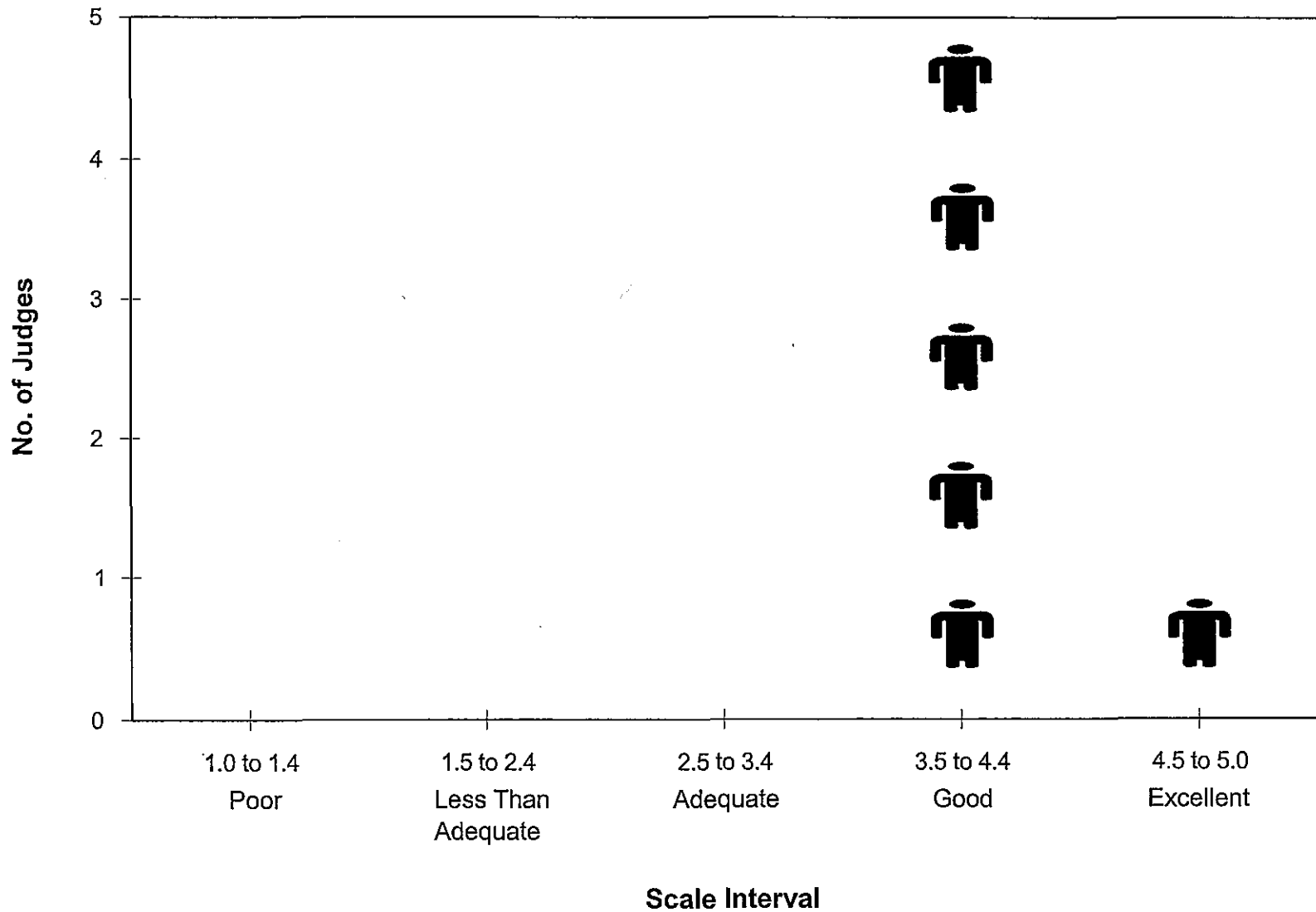
N = Number of Judges with More Than Five Responses for the Item

Legend for Mean Score: 5 = Excellent | 4 = Good | 3 = Adequate | 2 = Less Than Adequate | 1 = Poor

S.D. = Standard Deviation

District Court Standard Mail Frequency of Judges' Ratings*

*Mean of Legal Ability, Judicial Management Skills, Comportment, and Settlement/Plea Agreement Ability.



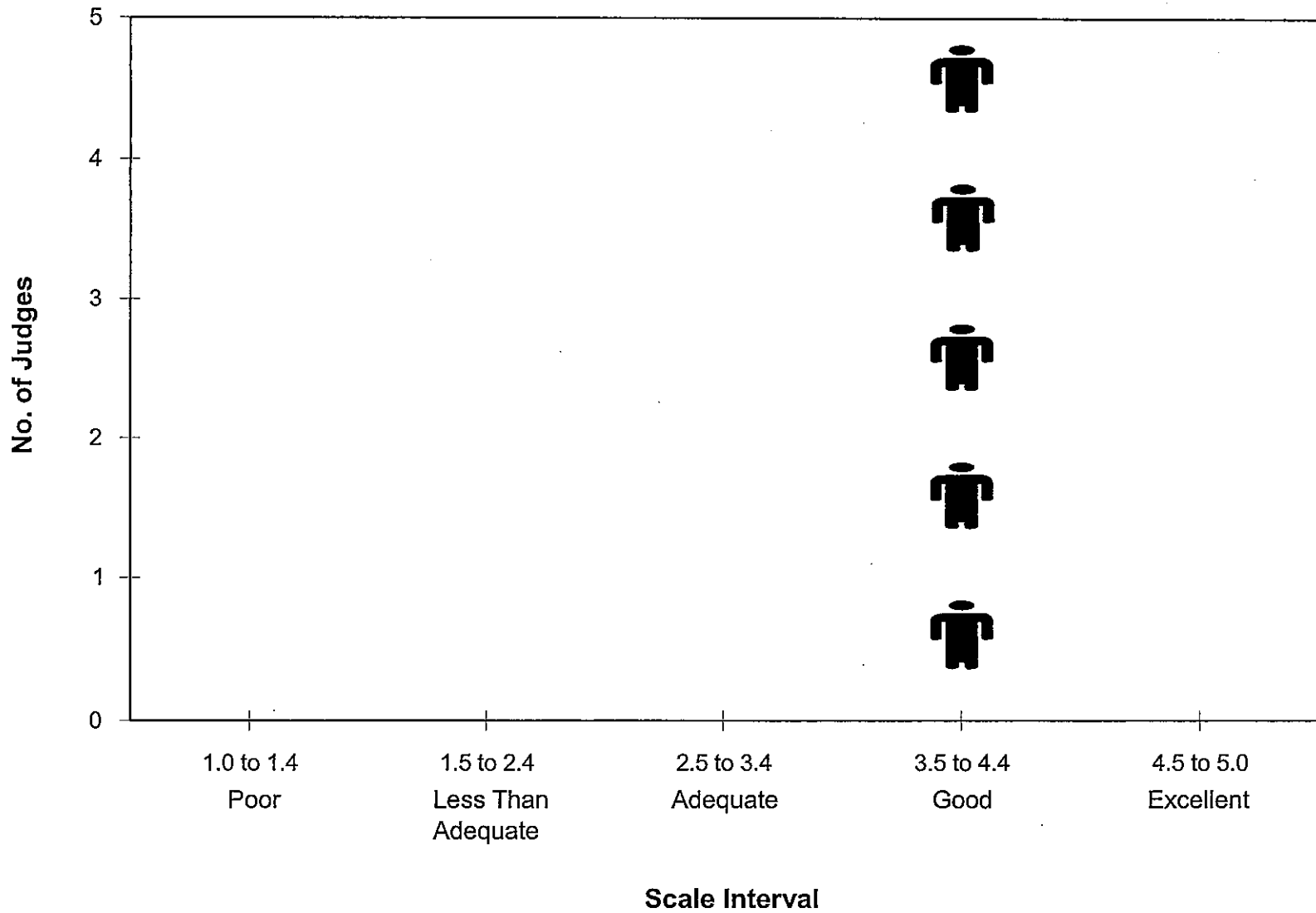
**INTERNET EVALUATION
JUDICIAL PERFORMANCE PROGRAM - DISTRICT COURT
EVALUATION RESULTS FOR THE FIVE PARTICIPATING JUDGES
JULY 31, 2007 - AUGUST 31, 2007**

<u>QUESTIONNAIRE SECTION</u>	<u>N</u>	<u>Mean Score</u>	<u>S.D.</u>
<u>LEGAL ABILITY SECTION</u>			
1. Knowledge of Relevant Substantive Law	5	4.0	0.2
2. Knowledge of Rules of Procedure	5	4.0	0.3
3. Knowledge of Rules of Evidence	5	4.0	0.3
4. Ability to Identify and Analyze Relevant Issues	5	4.0	0.3
5. Judgement in Application of Relevant Laws and Rules	5	4.0	0.3
6. Giving Reasons for Rulings when Needed	5	3.9	0.3
7. Clarity of Explanation of Rulings	5	3.9	0.3
8. Adequacy of Findings of Fact	5	3.8	0.3
9. Clarity of Judge's Decision(s) (oral/written)	5	4.0	0.4
10. Completeness of Judge's Decision(s) (oral/written)	5	3.9	0.4
Average Score for the Legal Ability Section	5	4.0	0.3
<u>JUDICIAL MANAGEMENT SKILLS SECTION</u>			
1. Moving the Proceeding(s) in an Appropriately Expeditious Manner	5	4.1	0.3
2. Maintaining Proper Control over the Proceeding(s)	5	4.1	0.3
3. Doing the Necessary Homework on the Case(s)	5	4.0	0.3
4. Rendering Rulings and Decisions w/o Unnecessary Delay	5	4.2	0.2
5. Allowing Adequate Time for Presentation of the Case(s)	5	4.0	0.4
6. Resourcefulness and Common Sense in Resolving Problems	5	4.0	0.3
7. Skills in Effecting Compromise	5	3.8	0.4
8. Industriousness	5	4.0	0.4
Average Score for the Judicial Management Skills Section	5	4.0	0.3
<u>COMPORTEMNT SECTION</u>			
1. Attentiveness	5	4.2	0.3
2. Courtesy to Participants	5	4.1	0.5
3. Compassion	5	3.9	0.4
4. Patience	5	4.0	0.5
5. Absence of Arrogance	5	4.0	0.5
6. Absence of Bias and Prejudice	5	4.2	0.3
7. Evenhanded Treatment of Litigants	5	4.1	0.4
8. Evenhanded Treatment of Attorneys	5	4.1	0.4
Average Score for the Comportment Section	5	4.1	0.4
<u>SETTLEMENT AND/OR PLEA AGREEMENT ABILITY SECTION</u>			
1. Knowing the Case(s) and/or the Law	5	4.0	0.3
2. Reasonableness of Opinions	5	4.0	0.3
3. Ability to Enhance the Settlement Process	5	3.9	0.3
4. Impartiality	5	4.0	0.3
5. Absence of Coercion or Threat	5	4.1	0.4
6. Effectiveness in Narrowing the Issues	5	4.0	0.3
7. Appropriateness of Judge's Initiatives	5	4.0	0.3
8. Facilitation in Development of Options	5	4.0	0.3
Average Score for the Settlement and/or Plea Agreement Ability Section	5	4.0	0.3

<p>N = Number of Judges with More Than Five Responses for the Item Legend for Mean Score: 5 = Excellent 4 = Good 3 = Adequate 2 = Less Than Adequate 1 = Poor S.D. = Standard Deviation</p>

District Court Internet Frequency of Judges' Ratings*

*Mean of Legal Ability, Judicial Management Skills, Comportment, and Settlement/Plea Agreement Ability.



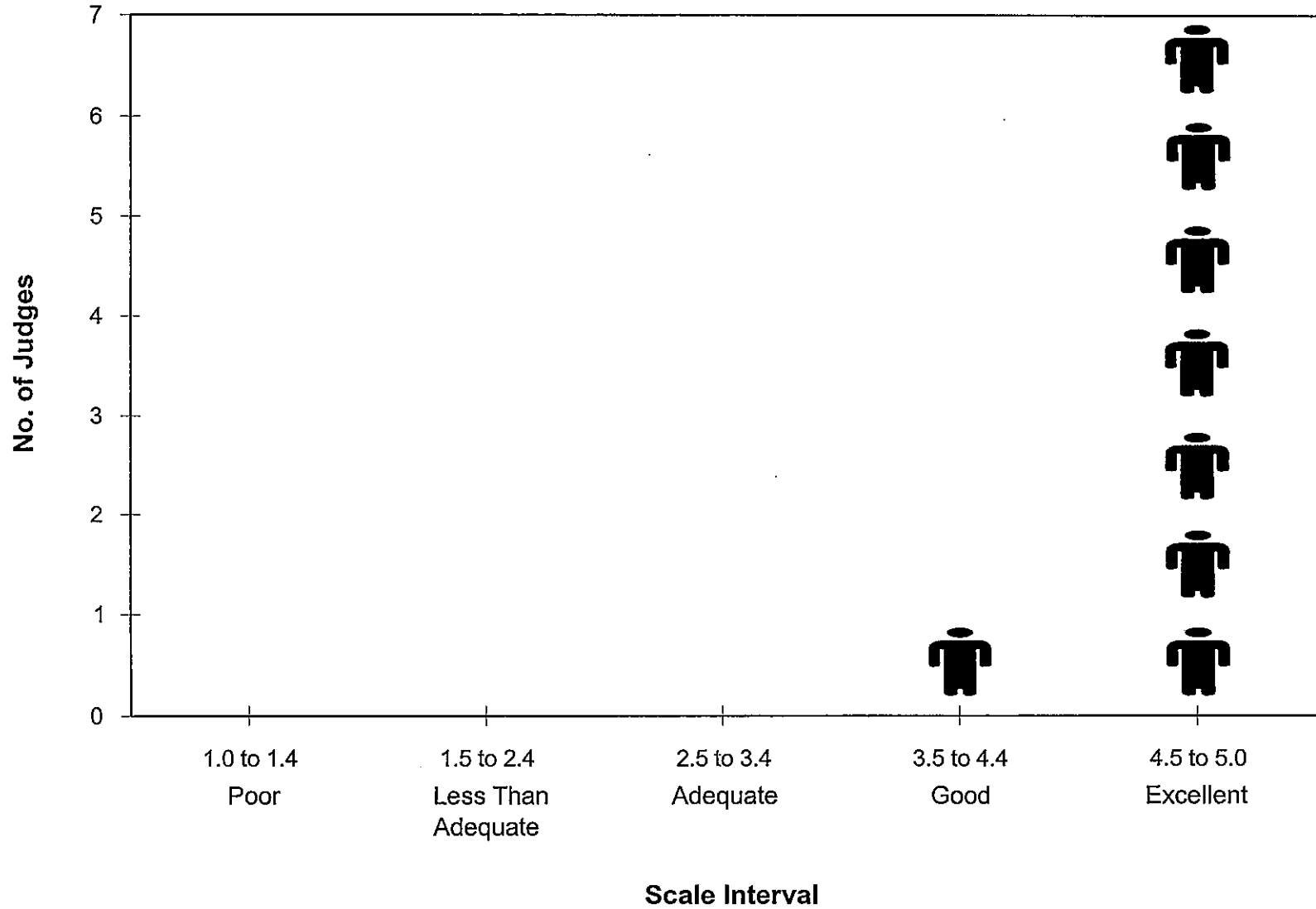
**JUDICIAL PERFORMANCE PROGRAM - JUROR EVALUATION
EVALUATION RESULTS FOR THE EIGHT PARTICIPATING JUDGES
JANUARY 23, 2007 - FEBRUARY 26, 2007**

	<u>N</u>	<u>Mean Score</u>	<u>S.D.</u>
Please indicate your assessment of this judge's Overall Performance.	8	4.8	0.2
<u>Please indicate your assessment of this judge's performance as to all parties with respect to the following:</u>			
1. Patience	8	4.8	0.2
2. Dignity	8	4.8	0.1
3. Courtesy	8	4.8	0.2
4. Attentiveness	8	4.7	0.2
5. Fairness	8	4.8	0.2
6. Absence of arrogance	8	4.8	0.2
7. Absence of bias	8	4.8	0.2
8. Absence of prejudice	8	4.8	0.2
9. Clear communication of court procedures	8	4.8	0.2
10. Efficient use of court time	8	4.6	0.2
Average Score for Items 1 through 10	8	4.8	0.2

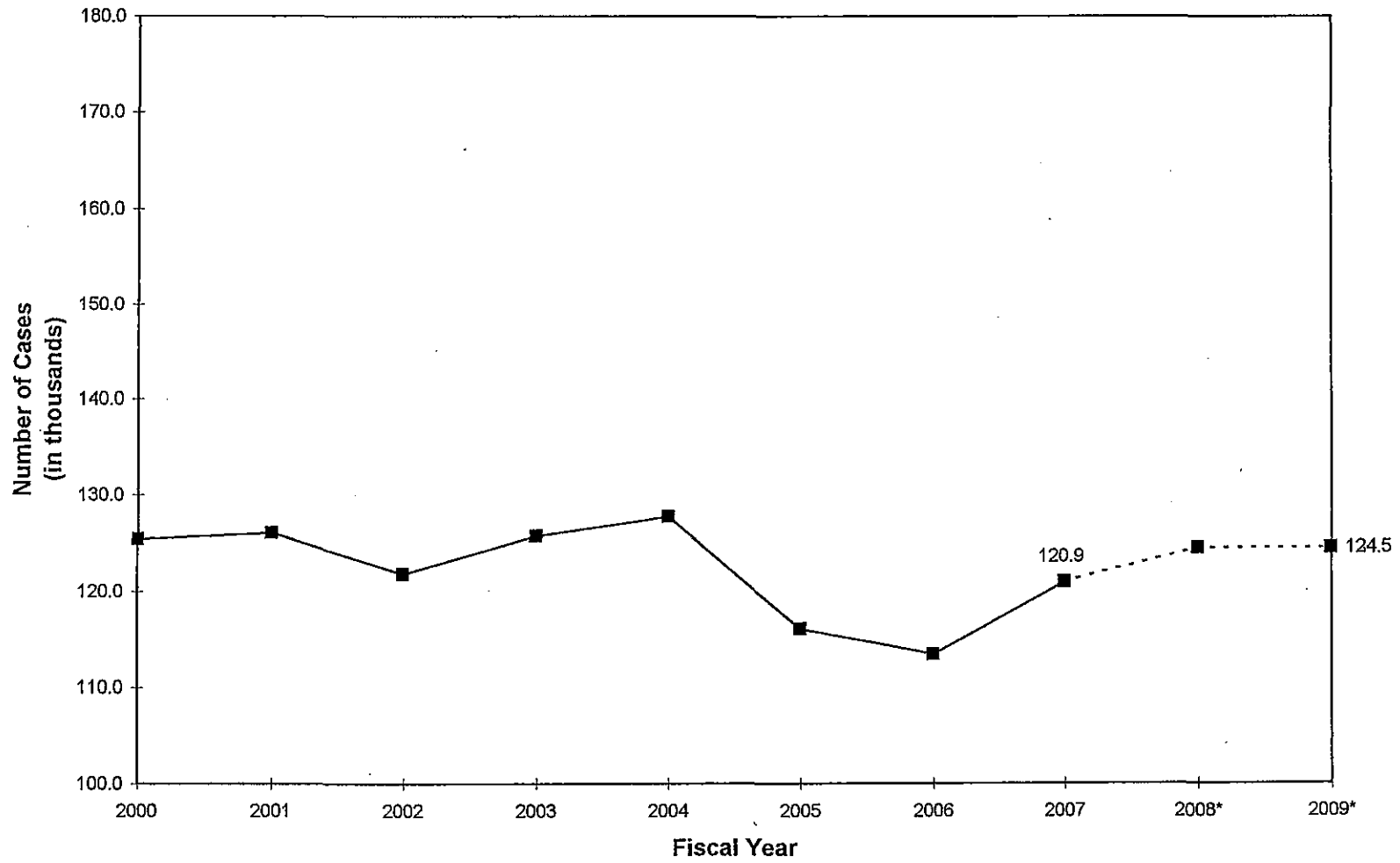
<p>N = Number of Judges with More Than Five Responses for the Item</p> <p>Legend for Mean Score: 5 = Excellent 4 = Good 3 = Adequate 2 = Less Than Adequate 1 = Poor</p> <p>S.D. = Standard Deviation</p>

Juror Evaluation Frequency of Judges' Ratings*

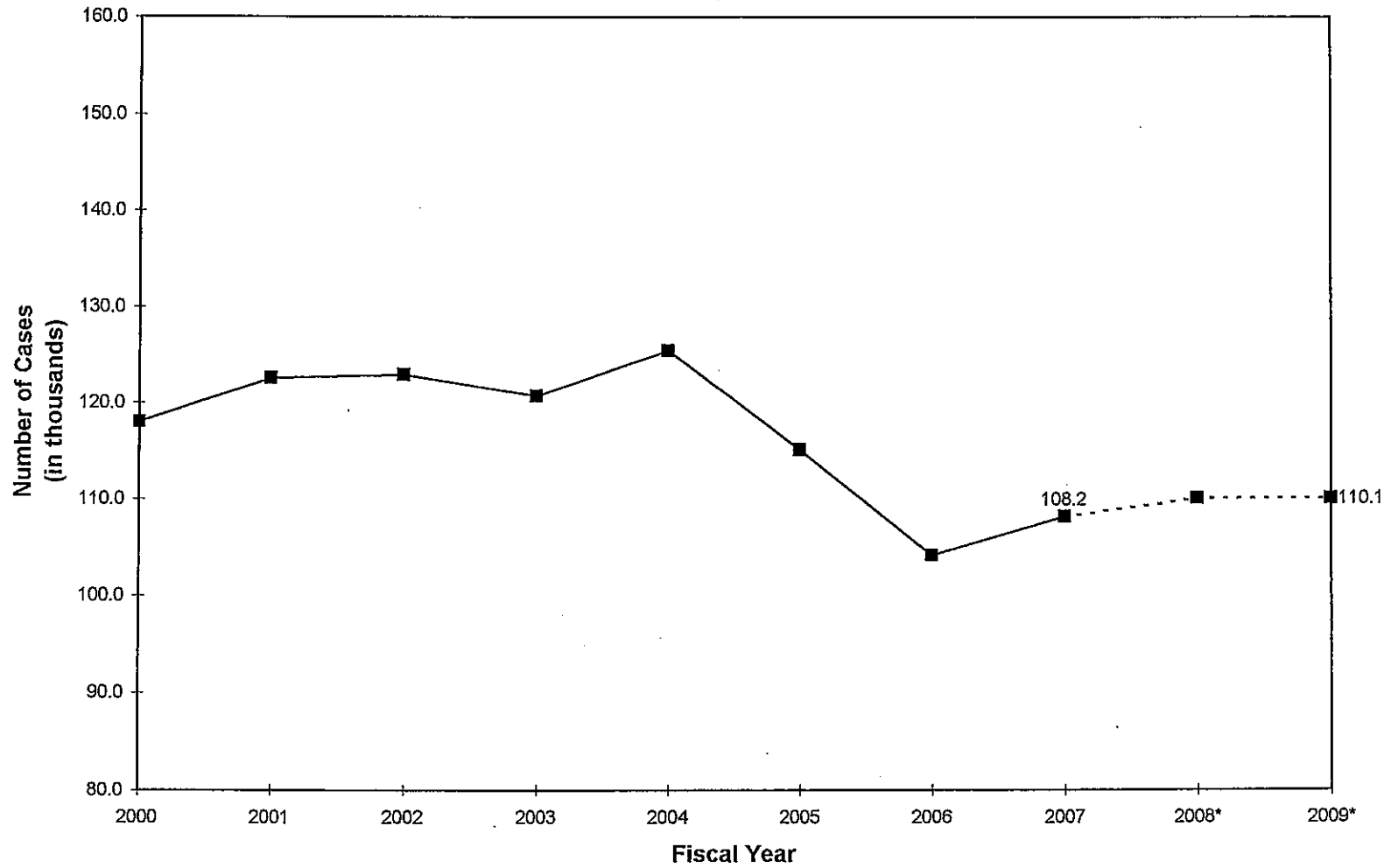
*Mean of Overall Performance and Other Ten Items.



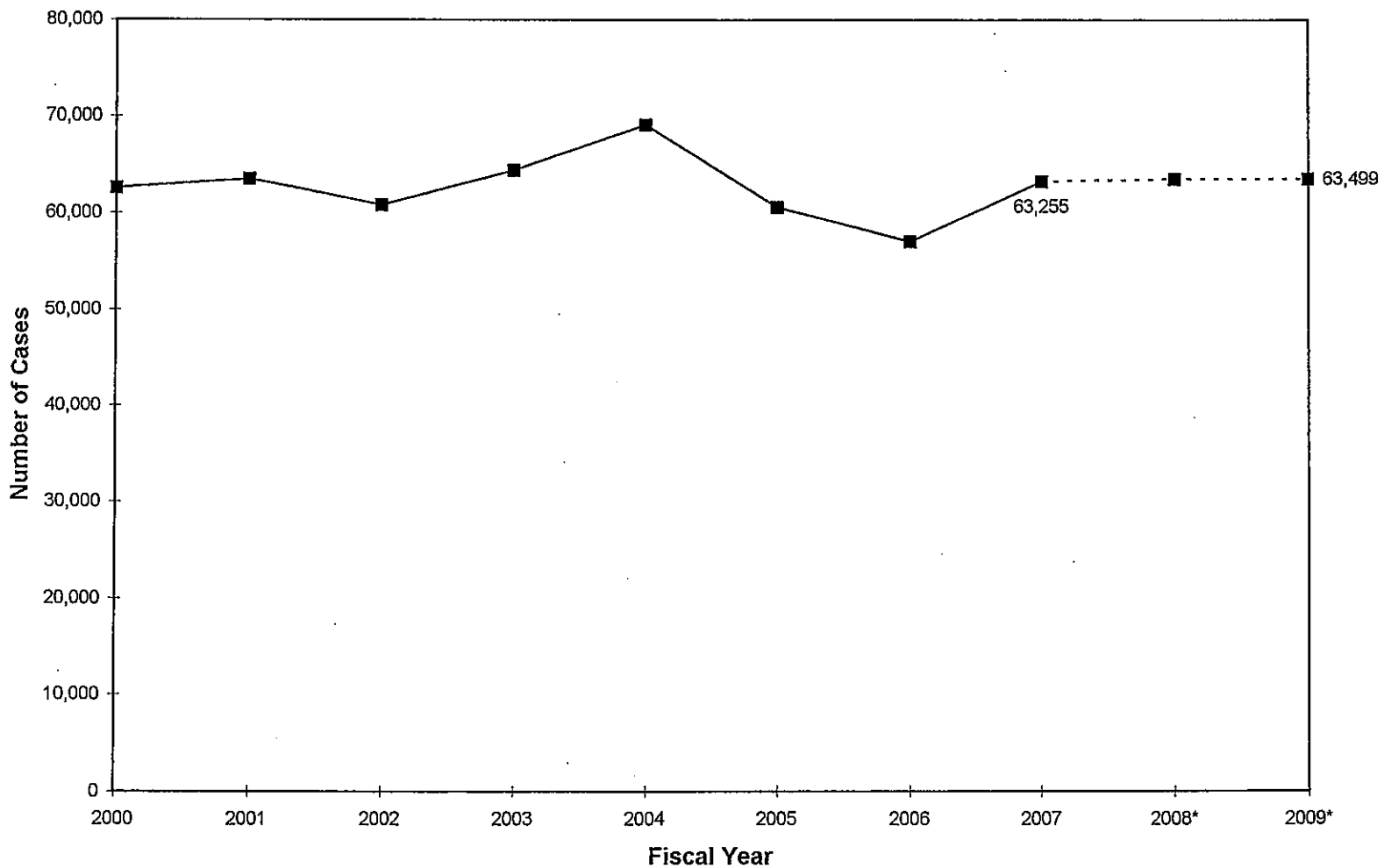
**Statewide Circuit, Family & District Courts
Total Cases Filed (excluding District Court Traffic Cases)
FY 2000 - 2007 (Actual); FY 2008 - 2009 (Forecast*)**



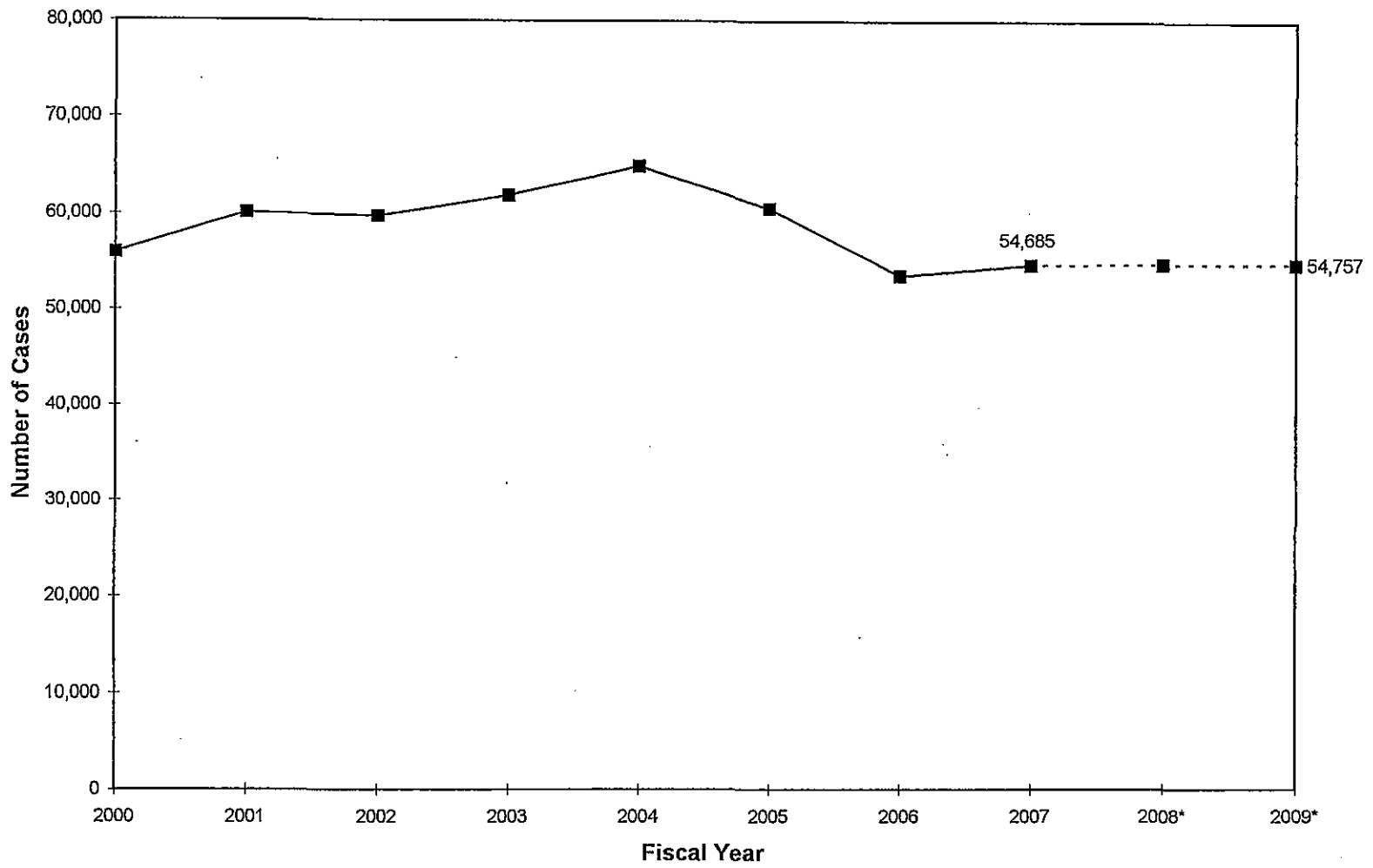
**Statewide Circuit, Family & District Courts
Total Cases Terminated (excluding District Court Traffic Cases)
FY 2000 - 2007 (Actual); FY 2008 - 2009 (Forecast*)**



Statewide Circuit, Family & District Courts
Criminal Cases Filed
FY 2000 - 2007 (Actual); FY 2008 - 2009 (Forecast*)



Statewide Circuit, Family & District Courts
Criminal Cases Terminated
FY 2000 - 2007 (Actual); FY 2008 - 2009 (Forecast*)



JUD page 20

Program I.D. and Title: JUD 101 - Courts of Appeal

Page references in the Supplemental Budget Document: Pgs. 11-13

1. Introduction:

Supreme Court - The mission of the Supreme Court is to provide timely disposition of cases, including resolution of particular disputes and explication of applicable law; to license and discipline attorneys; and to make rules of procedure for all Hawai'i courts.

Intermediate Court of Appeals - The mission of the Intermediate Court of Appeals is to provide timely disposition of appeals from trial courts and state agencies, including the resolution of the particular dispute and explication of the law for the benefit of the litigants, the bar, and the public.

Law Library - The mission of the State Law Library System is to provide for the centralized and standardized selection and purchase of legal research materials and services that meet the needs of those who utilize its resources.

a. Summary of program objectives.

Supreme Court

- To hear and determine appeals and original proceedings that are properly brought before the court, including cases heard upon
 - applications for writs of certiorari
 - applications for transfer from the Intermediate Court of Appeals
 - reserved questions of law from the circuit courts, the land court, and the tax appeal court
 - certified questions of law from federal courts
 - applications for writs to judges and other public officers
 - complaints regarding elections
- To make rules of practice and procedure for all state courts
- To license, regulate, and discipline attorneys
- To discipline judges

Intermediate Court of Appeals

- To promptly hear and determine all appeals from the district, family, and circuit courts and from any agency when appeals are allowed by law
- To entertain, at its discretion, any case submitted without suit when there is a question of law that could be the subject of a civil action or proceeding in the circuit court or tax appeal court, and the parties agree upon the facts upon which the controversy depends.

Law Library

- To collect, organize, and disseminate information and materials relating to legal research and judicial administration in order to enhance the effectiveness of the judicial process.

b. Description of program objectives

The Supreme Court is the State of Hawaii's court of last resort, and hears appeals on transfer from the Intermediate Court of Appeals (ICA) or on *writ of certiorari* to the ICA. It licenses and disciplines attorneys, disciplines judges, and exercises ultimate rule-making power for all courts in the State. The Supreme Court is empowered to issue all writs necessary and proper to carry out its functions.

The ICA reviews, in the first instance, appeals from trial courts and from some agencies. It is also authorized to entertain cases submitted without suit when there is a question of law that could be the subject of a civil suit in the circuit court or the tax appeal court, and the parties agree upon the facts upon which the controversy depends.

The State Law Library System (SLLS) provides legal reference sources and services to the courts, the legal community, and the public. It collects, organizes, and disseminates information and materials relating to legal research and judicial administration through the central collection in Honolulu and satellite collections in the Second, Third, and Fifth Circuit Courts. Chamber libraries also are furnished and maintained for each district, circuit, and appellate court judge statewide.

c. Explain how your program intends to meet its objectives within the upcoming fiscal biennium.

See Section 2, "Program Performance Results," below.

2. Program Performance Results:

a. Discuss the performance results achieved by each program in FY 2007.

See Section d below.

b. Explain how these results relate to the program's objectives and department's mission.

See Section d below.

- c. **Explain how the effectiveness of the program is measured (i.e., outcomes, measures of effectiveness, benchmarks, etc.) and discuss the performance results achieved during the past two years.**

See Section d below.

- d. **Discuss actions taken by each program to improve its performance results.**

The Courts of Appeal trends presented on JUD 101 pages 9 and 10 are for the overall caseload. On these charts, we have included the year-by-year actual caseload filing and termination data. The trend lines in the charts reflect the current and projected filings and dispositions based on past experience.

The graphs and trend analysis indicate that demands on the appellate courts remain relatively steady. FY 2007 marked the first year of a new appellate system in which all appeals are filed first in the ICA and move to the Supreme Court only upon a motion for transfer (before an ICA decision on the merits) or an application for a writ of certiorari (after an ICA dismissal or decision on the merits). At the beginning of FY 2007, two supreme court staff attorneys were transferred to the ICA, the ICA hired a third staff attorney during the fiscal year, and two other staff attorneys are being recruited. For the first time in its history, the ICA began handling the procedural motions routinely filed during the processing of an appeal. All unbriefed appeals were transferred to the ICA in early July 2006. The FY 2007 figures show a slight decrease in the total number of appeal terminations. The total number of terminations was affected by the retirement of Chief Judge Burns and the longer vacancy that resulted from the untimely death of Associate Judge John Lim. While the total number of terminations was down slightly, the termination rate (number of dispositions over the number docketed) was 107% for the ICA. The combined termination rate (ICA and supreme court) was 125%, reducing the inventory of pending appeals from 803 at the end of FY 2006 to 665 at the end of FY 2007.

We have provided long-term trends in lieu of looking at the most recent two years because of the more reliable resource implications; i.e., short-term comparisons as seen on the termination chart can be misleading because of the year-to-year variations in cases docketed and disposed.

The appellate mediation program established by the Supreme Court in 1995 continues to provide a forum for parties to explore settlement. Since the beginning of the appellate mediation program, approximately 400 appeals have been included in the program. About 43% of the mediated appeals have been completely settled. An ad hoc committee is working with the bar to determine if the appellate mediation program can be expanded using volunteer resources without additional costs. The courts continue to monitor appeals by priority, age, and number of dispositions. The clerk and the statisticians provide information about the age and size of the caseload on a regular basis to the Chief Justice and the Chief Judge.

The SLLS has been engaged in continuous evaluation of its collections to ensure that library customers are provided with the best, most current materials available. To the extent funds are available, emphasis is placed on acquiring resources geared towards Hawai'i law and practice.

The SLLS is now providing access to a variety of electronic legal resources through the CD-ROM network, web-based subscriptions, and the Patron Access Westlaw program at all of its public PC workstations. Conversion to electronic subscriptions and cancellation of their print equivalents have generated some cost savings, but more importantly, have expanded the library system's capability to provide access to more resources than it can afford to acquire and house in hard copy. For example, two web-based subscriptions (Patron Access Westlaw and Hein OnLine) have made it possible for all library users, including those on the neighbor islands, to be able to search for and retrieve federal and 50-states statutes, administrative codes, and case law, as well as articles from more than 1,000 law reviews.

- e. **Please identify all modifications to your program's performance measures and discuss the rationale for these modifications.**

N/A.

3. Problems and Issues:

- a. **Discussion of problems and issues encountered, if any.**

None.

- b. **Program change recommendations to remedy problems.**

None.

- c. **Identify any program issues or problems that have affected or will affect the implementation of the program, and the corrective measures or remedies established or planned.**

None.

4. Expenditures for FY 2008:

	<u>Act 169/07 FY 2008</u>	<u>Collective Bargaining</u>	<u>Transfers In/(Out)</u>	<u>(Restriction)/ Specific Apprn</u>	<u>Net Allocation</u>	<u>Estimated Total Expenditures</u>
(posn count)	80.00				80.00	80.00
Personal Services	5,240,596	117,032	171,120		5,528,748	5,528,748
Current Expenses	1,394,449		(171,120)		1,223,329	1,223,329
Lease/Purch Agrmnts	0				0	0
Equipment	554,622				554,622	554,622
Motor Vehicles	0				0	0
Total	<u>7,189,667</u>	<u>117,032</u>	<u>0</u>	<u>0</u>	<u>7,306,699</u>	<u>7,306,699</u>
Less: Special Federal Revolving	<u>243,261</u>				<u>243,261</u>	<u>243,261</u>
(posn count)	80.00	0.00	0.00	0.00	80.00	80.00
General Fund	<u>6,946,406</u>	<u>117,032</u>	<u>0</u>	<u>0</u>	<u>7,063,438</u>	<u>7,063,438</u>

a. Explain all Transfers Within the Program I.D. and its Impact on the Program.

\$171,120 was transferred from Other Current Expenses to Payroll in anticipation of shortages due to underfunding of salary requirements. Having to pay for salary shortages with Other Current Expense funds will cause operational difficulties in the Supreme Court and the ICA by reducing the amounts available for supplies, travel, and repair and maintenance costs.

b. Explain all Transfers Between Program I.D.'s and their Impact on the Program.

None.

c. Explain all Restrictions and their Impact on the Program.

None.

5. Supplemental Budget Requests for FY 2009 (JUD 101):

	<u>Act 169/07 FY 2009</u>	<u>Budget Adjustments FY 2009</u>	<u>Supplemental Request FY 2009</u>
(posn count)	80.00	0.00	80.00
Personal Services	5,303,888	99,884	5,403,772
Current Expenses	1,394,449	0	1,394,449
Lease/Purch Agrmnts	0	0	0
Equipment	554,622	0	554,622
Motor Vehicles	0	0	0
Total	<u>7,252,959</u>	<u>99,884</u>	<u>7,352,843</u>
Less: Special Federal Revolving	<u>243,261</u>	<u>0</u>	<u>243,261</u>
(posn count)	80.00	0.00	80.00
General Fund	<u>7,009,698</u>	<u>99,884</u>	<u>7,109,582</u>

a. Workload or program request:

- i. A description of the request, the reasons for the request, and the desired outcomes or the objectives to be accomplished by the proposed program.**

See following pages.

- ii. A listing/description of the positions requested, and funding requirements by cost category and source of funding.**

See following pages.

- iii. For all lump sum requests, please provide a breakdown indicating specific purposes for all planned expenditures.**

N/A

- b. For all position count reductions, please specify whether the positions were filled or vacant.**

N/A

Supplemental Budget Request for FY 2009:

Judges' Pay Raise: The Commission on Salaries was established as a result of a constitutional amendment of Article XVI of the Constitution of the State of Hawai'i which was approved in November 2006. The Commission was charged with reviewing and making recommendations for the salaries of justices and judges of all State courts, members of the Legislature, the Governor and Lieutenant Governor, and specified appointed officials within the State Executive branch. The 2006 Commission was convened in December 2006 and submitted its report and recommendations to the 2007 State Legislature. Although the recommendations of the Commission provided judges with a salary increase for FYs 2008 through 2013, such action occurred too late during the 2007 legislative session to add the resources to implement the increase. Thus, an additional \$99,884 is required to ensure that the Courts of Appeal have sufficient resources to provide payment to its justices and judges for this scheduled pay increase.

This request will provide \$99,884 to fund the incremental salary increase for justices and judges recommended by the Commission on Salaries and authorized by the 2007 Legislature.

6. Program Restrictions:

None.

7. Capital Improvement Program (CIP) Requests for FY 2009:

None.

8. Proposed Lapses of CIP Projects:

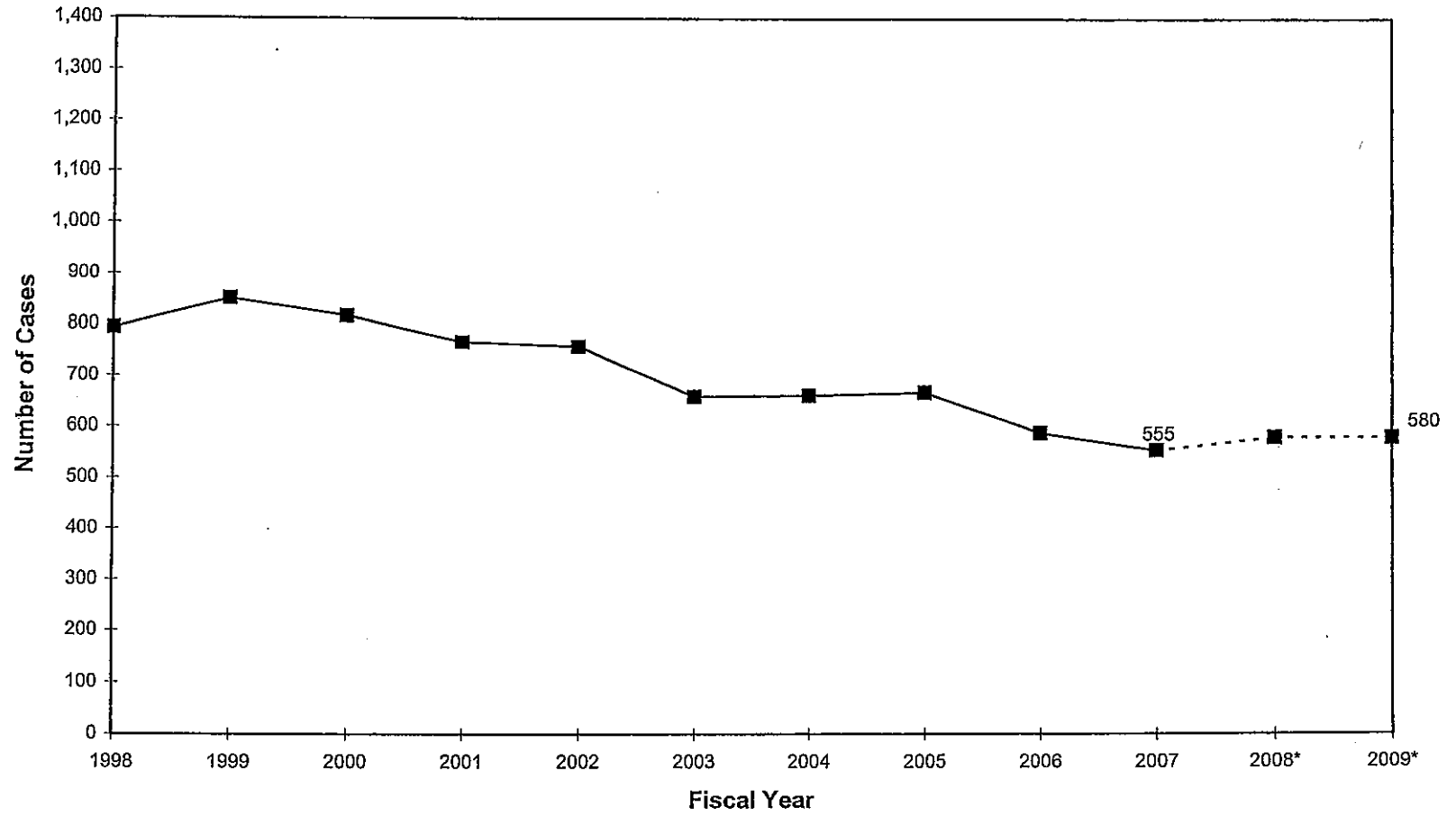
None.

5. BUDGET REQUEST FOR SUPPLEMENTAL BUDGET 08-09

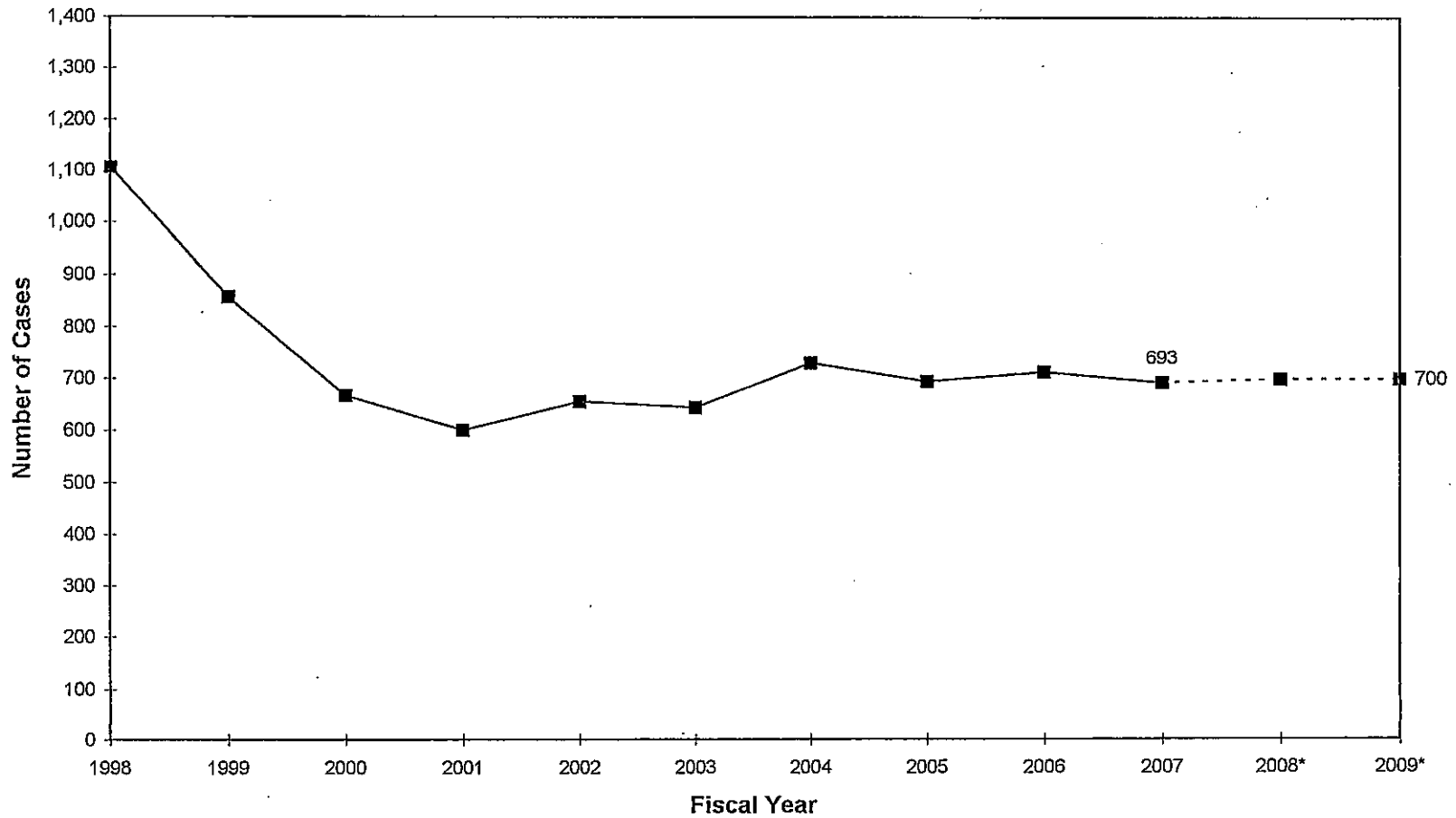
A. DESCRIPTION OF POSITIONS AND FUNDING REQUIREMENTS BY COST CATEGORY AND SOURCE OF FUNDING.

JUD 101			FY 2008-09				
PROGRAM	DESCRIPTION	ITEM	POS COUNT	PAYROLL	OTHER CURR EXP	EQUIPMENT	TOTAL
Supreme Court	Funding for Justices' Pay Raise	Payroll		47,335			47,335
	Total Supreme Court		0.00	47,335	0	0	47,335
Intermediate Court of Appeals	Funding for Judges' Pay Raise	Payroll		52,549			52,549
	Total Intermediate Court of Appeals		0.00	52,549	0	0	52,549
TOTAL - COURTS OF APPEAL			0.00	99,884	0	0	99,884

Appellate Courts Appeal Cases Filed FY 1998 - 2007 (Actual); FY 2008 - 2009 (Forecast*)



**Appellate Courts
Appeal Cases Terminated
FY 1998 - 2007 (Actual); FY 2008 - 2009 (Forecast*)**



Program I.D. and Title: JUD 310 - First Circuit
Page References in the Biennium Budget Document: Pgs. 14-24

1. Introduction:

The mission of the First Circuit is to expeditiously and fairly adjudicate or resolve all matters within its jurisdiction in accordance with law.

a. Summary of program objectives.

- To assure a proper consideration of all competing interests and countervailing considerations intertwined in questions of law arising under the Constitution of the State and the United States in order to safeguard individual rights and liberties and to protect the legitimate interest of the State and thereby ensure to the people of this State the highest standard of justice attainable under our system of government.
- To develop and maintain a sound management system which incorporates the most modern administrative practices and techniques to assure the uniform delivery of services of the highest possible quality, while providing for and promoting the effective, economical, and efficient utilization of public resources.
- To administer a system for the selection of qualified individuals to serve as jurors so as to ensure fair and impartial trials and thereby effectuate the constitutional guarantee of trial by jury.
- To provide for the fair and prompt resolution of all civil and criminal proceedings and all civil and criminal traffic cases so as to ensure public safety and promote the general welfare of the people of the State, but with due consideration for safeguarding the constitutional rights of the accused.
- To conduct presentence and other predispositional investigations in a fair and prompt manner for the purpose of assisting the courts in rendering appropriate sentences and other dispositions with due consideration for all relevant facts and circumstances.
- To maintain accurate and complete court records as required by law and to permit immediate access to such records, where appropriate, by employing a records management system which minimizes storage and meets retention requirements.

- To supervise convicted and deferred law violators who are placed on probation or given deferments of guilty pleas by the courts to assist them toward socially acceptable behavior, thereby promoting public safety.
- To safeguard the rights and interests of persons by assuring an effective, equitable, and expeditious resolution of civil and criminal cases properly brought to the courts, and by providing a proper legal remedy for legally recognized wrongs.
- To assist and protect children and families whose rights and well-being are jeopardized by securing such rights through action by the court, thereby promoting the community's legitimate interest in the unity and welfare of the family and the child.
- To administer, to the fullest extent permitted by law, the orders and decrees pronounced by the Family Division so as to maintain the integrity of the judicial process.
- To supervise law violators who are placed on probation by the Family Division to assist them toward socially acceptable behavior, thereby promoting public safety.
- To protect minors whose environment or behavior is injurious to themselves or others and to restore them to society as law-abiding citizens.
- To complement the strictly adjudicatory function of the Family Division by providing services such as counseling, guidance, mediation, education, and other necessary and proper services for children and adults.
- To coordinate and administer a comprehensive traffic safety education program as a preventive and rehabilitative endeavor directed to both adult and juvenile traffic offenders in order to reduce the number of deaths and injuries resulting from traffic mishaps.
- To develop a statewide drug court treatment and supervision model for non-violent adults and juveniles, adapted to meet the needs and resources of the individual jurisdictions the drug courts serve.
- To deliver services and attempt to resolve disputes in a balanced manner that provides attention to all participants in the justice system, including parties to a dispute, attorneys, witnesses, jurors, and other community members, embodying the principles of restorative justice.

Land Court/Tax Appeal Court

- To provide for an effective, equitable, and expeditious system for the adjudication and registration of title to land and easements and rights to land within the State.
 - To assure an effective, efficient, and expeditious adjudication of all appeals between the tax assessor and the taxpayer with respect to all matters of taxation committed to its jurisdiction.
 - To provide a guaranteed and absolute register of land titles which simplifies for landowners the method for conveying registered land.
- b. Description of program objectives.**

Present your summary of the objectives and activities as discussed in the Multi-Year program and Financial Plan.

The Adjudication program provides the First Circuit with judges and staff to operate the circuit, family, and district courts. Adjudication program judges also staff drug courts for adults, juveniles, and families. In addition, the program budget provides for judges' operating supplies and professional fees.

The Central Administration program consolidates court administrative offices, and includes the chief court administrator and administrative staff. The primary objectives of the program include providing for effective and efficient planning, direction, administration, coordination, and evaluation of all administrative, business and support functions, operations, and activities required to support judicial proceedings and judgements in the circuit, district, and family courts. This program also strives to provide the First Circuit with fiscal and accounting services that ensure the uniform delivery of services of the highest quality while providing and promoting the effective, economical, and efficient utilization of resources. The Central Administration program includes the Facilities Management Section whose staff coordinates the cleaning, repair, and maintenance of Judiciary buildings located in the First Circuit, and provides custodial and groundskeeping services.

The Client Services program's primary objective is to provide direct services to adult and juvenile clients of courts within the First Circuit. Activities include making recommendations to the courts, enforcing compliance with court orders, maintaining client classification and information systems, managing purchase of service contracts, and maintaining contacts with community resources. Drug court services for adults, families, and juveniles are also provided. All probation officers providing services to adult and juvenile clients are consolidated within this program.

The Court Services program is responsible for providing courtroom clerical, court reporting, and other support and ancillary services to the courts of the First Circuit. Programs in the division are designed to aid in the timely disposition of cases of general and limited jurisdiction for civil, criminal felonies, misdemeanors, petty misdemeanors, family proceedings, and traffic (decriminalized and regular traffic criminal) in the First Circuit.

Circuit Courts are trial courts of general jurisdiction. Circuit Courts have jurisdiction in most felony cases, and concurrent jurisdiction with the Family Courts for certain felonies related to domestic abuse, such as violations of temporary restraining orders involving family and household members. Circuit Courts also have exclusive jurisdiction in probate, trust, and conservatorship (formerly "guardian of the property") proceedings, and concurrent jurisdiction with the Family Courts over adult guardianship (formerly "guardian of the person") proceedings. Circuit Courts have exclusive jurisdiction in civil cases involving amounts greater than \$20,000, and concurrent jurisdiction with District Courts in civil cases involving amounts between \$10,000 and \$20,000. Jury trials are conducted exclusively by Circuit Court judges. A party to a civil case triable by jury may demand a jury trial where the amount in controversy exceeds \$5,000. Circuit Courts have exclusive jurisdiction in mechanics lien cases and foreclosure cases, and jurisdiction as provided by law in appeals from other agencies (such as unemployment compensation appeals). Appeals from decisions of the Circuit Courts are made directly to the Intermediate Court of Appeals, subject to transfer to or review by the Supreme Court.

As courts of record, the Circuit Courts are responsible for the filing, docketing, and maintenance of court records. During the course of a case, numerous documents may be filed. Thus, document filing is an ongoing activity. In addition to the Legal Documents Branch, the Court Reporters' Office, Jury Pool Office, and Cashier's Office provide services critical to effective court operations.

The Chief Clerks of the Circuit Courts, with the assistance of Small Estates and Guardianship Program staff, serve as personal representatives in small estates cases and as conservators in small conservatorship cases.

Circuit Court judges refer criminal offenders to the Adult Client Services (probation) staff for presentence diagnostic evaluations. Offenders sentenced to probation are supervised by probation officers on the Court's staff.

The Land Court and Tax Appeal Court are specialized statewide courts of record based in Honolulu. The Land Court hears and determines questions arising from applications for registration of title to fee simple land within the State, registers title to property, and determines disputes concerning land court property. The Tax Appeal Court determines tax appeals and exercises jurisdiction in disputes

between the tax assessor and taxpayer. Land Court and Tax Appeal Court matters are assigned to the appropriate judge or judges of the First Circuit Court. The Office of the Land and Tax Appeal Court maintains custody and control over papers and documents filed with the Land Court and Tax Appeal Court.

Circuit Court programs include alternatives to traditional dispute resolution methods. The Circuit Court Drug Court Programs aim to divert nonviolent defendants from the traditional criminal justice path and incarceration, placing them in treatment programs under judicial supervision, rewarding good behavior, and imposing immediate sanctions for relapse into drug use. The Circuit Court's Court Annexed Arbitration Program is designed to reduce the cost and delay of protracted civil litigation, requiring tort actions with a probable jury award value under \$150,000 to be submitted to the program and be subject to determination of arbitrability and to arbitration under program rules.

The Family Courts, divisions of the Circuit Courts, are specialized courts of record designed to deal with family conflict and juvenile offenders. The Family Court complements its strictly adjudicatory functions by providing a number of counseling, guidance, detention, mediation, education, and supervisory programs for children and adults.

The Family Courts retain jurisdiction over children who, while under the age of 18, violate any law or ordinance, are neglected or abandoned, are beyond the control of their parents or other custodians, live in an environment injurious to their welfare, or behave in a manner injurious to their own or others' welfare. Activities are geared toward facilitating the determination of the court for appropriate and timely dispositions; preparing cases for detention, adjudicatory, and dispositional hearings; conducting social study investigations; and supervising and treating juveniles under legal status with the court. Family Court activities also include Foster Home placement and providing volunteer guardians ad-litem.

The Family Court's jurisdiction also encompasses adults involved in offenses against other family members; dissolution of marriages; disputed child custody and visitation issues; resolution of paternity issues; adoptions; and adults who are incapacitated and/or are in need of protection. The Family Courts provide services which include temporary restraining orders for protection; treatment of parties involved in domestic violence; supervision and monitoring of defendants in domestic abuse cases; and education programs for separating parents and children.

The District Courts, in civil matters, exercise jurisdiction where the amount in controversy does not exceed \$20,000. If the amount in controversy exceeds \$5,000, the parties may demand a jury trial, in which case the matter is committed to the Circuit Courts. The District Courts also have exclusive jurisdiction in all

landlord-tenant cases and all small claims actions (suits in which the amount in controversy does not exceed \$3,500).

The civil divisions of the District Courts also handle temporary restraining orders and injunctions against harassment for non-household members.

In traffic matters, the District Courts exercise jurisdiction over civil infractions and criminal traffic violations of the Hawai'i Revised Statutes, county ordinances, and the rules and regulations of state and county regulatory agencies. Certain traffic matters, known as "decriminalized" traffic offenses, are handled on a civil standard within the traffic division. Those traffic matters which are not "decriminalized" are handled on a criminal standard.

In criminal matters, the jurisdiction of the District Courts is limited to misdemeanors, traffic offenses, and cases filed for violations of county ordinances and the rules of the State's regulatory agencies. In felony cases where an arrest has been made, the District Courts are required to hold a preliminary hearing, unless such hearing is waived by the accused. All trials are conducted by judges. However, in criminal misdemeanor cases, the defendant may demand a jury trial, in which case the matter is committed to the Circuit Courts for trial.

The District Courts are the courts with which the citizens of Hawai'i most frequently come into contact. In the First Circuit, courthouses in the four rural judicial districts of Ewa, Waianae, Wahiawa, and Kaneohe provide residents with the option of conveniently staying within their respective communities to transact many types of court business.

The Community Service Sentencing Program provides placement and monitoring services for offenders sentenced to perform community work by the District, Circuit, Family, and Federal Courts.

The Driver Education and Training Program provides counseling, instructional services, and public information in the area of traffic safety for the counties of O'ahu, Maui, Hawai'i, and Kauai. It is a preventive and rehabilitative endeavor directed at both adult and juvenile traffic offenders.

- c. Explain how your program intends to meet its objectives in the upcoming supplemental year.**

See Section 2, "Program Performance Results," below.

2. Program Performance Results:

- a. Discuss the performance results achieved by each program in FY 2007.**

See Section d below.

- b. Explain how these results relate to the program's objectives and department's mission.**

See Section d below.

- c. Explain how the effectiveness of the program is measured (i.e.: outcomes, measures of effectiveness, benchmarks, etc.) and discuss the performance results achieved during the past two years.**

See Section d below.

- d. Discuss the actions taken by each program to improve its performance results.**

As previously indicated, a central measure of Judiciary performance is a review of the caseload and disposition of these cases. The graphs and trend analysis that we have included clearly indicate the high public demand on the Courts. The trend charts also show that the First Circuit is meeting the urgent public need by its output or total dispositions, which were somewhat less than filings in FY 2007. We have provided long-term trends in lieu of looking at the most recent two years because of the more reliable resource implications, i.e., short-term comparisons can be misleading due to the year-to-year variations in both cases filed and cases disposed. Further, since there is always a special interest in the criminal caseload, we have broken the First Circuit data out separately for your review. In this subsection of the total caseload, the First Judicial Circuit is again fulfilling its mission by disposing of criminal cases in numbers slightly lower than the number of criminal cases filed (JUD 310, pages 24-27).

Data compiled for the First Circuit Court showed that overall filings for FY 2007 totaled 6,836. During that same period, dispositions totaled 5,121. There is, however, considerable variation from year to year in both the filing and disposition data. The variance, which is most notable in our dispositions, is in large part the result of processing and recording procedures. Over the past eight years, however, the First Circuit Court has averaged a rate of overall case disposition in line with cases filed.

In the First Circuit, the data shows a leveling trend in filings for most types of Family Court cases, with overall filings for FY 2007 totaling 18,281. As a result,

the demands on the Family Court remain at a high level and still require the augmentation of our staff of existing permanent judges with per diem judges. The trend data also shows that the Family Court consistently meets the public need by disposing of cases at a rate consistent with new filings.

The data compiled for District Court operations in the First Circuit shows that District Court continues to address great demands caused by the high, though somewhat fluctuating, number of cases filed. The data and trend analysis indicate a slight downward trend followed by a period of stabilization and gradual increase in caseload for the District Court, excluding traffic cases. This includes 50,375 filings for FY 2007 alone.

The Circuit Court has used technology to effectively streamline operations and enhance services. An example would be in the area of jury pool operations which handles large numbers of people every year. Automation of nearly all the elements within the qualification and summoning process has largely replaced the intense manual labor once involved, improving the speed and accuracy of the juror qualification and summoning process. Video arraignment and conferencing have reduced court time, improved security, and eliminated substantial travel time and costs associated with transporting incarcerated defendants to arraignments, trial calls, and presentence interviews. Due to the apparent relationship between the increase in violent acts, crime in general, and the growing substance abuse problem, significant efforts have been made by the Circuit Courts to assist in dealing with the problem through the court system. The Hawai'i Drug Court Program was established within the Circuit Court as an alternative method of addressing the drug problem, as well as to assist with the prison overcrowding problem. The program has been in existence since January 1996, and has proven to be an effective means of treating drug offenders. In August 2004, the Circuit Court used intermediate sanctions to increase accountability and change offender behavior during probation, in an attempt to avoid probation revocations and divert individuals from long term prison sentences. The effort, known as "HOPE (Hawaii's Opportunity Probation with Enforcement) Probation," targets high risk probation violators and subjects them to frequent random drug testing and swift consequences for failed drug tests, missed appointments with probation staff, and other probation violations, thus far achieving promising results.

Another significant initiative is the First Circuit's Domestic Violence Court. This specialized court is intended to help ensure the safety of children and other at-risk family members through the compassionate and family-specific case resolution effort that is often necessary to resolve the highly emotional issues surrounding children and their families. The Family Court "Kids First" program, which requires parents involved in divorce and paternity proceedings to attend special sessions with their children, continues its successful operation. At "Kids First" sessions, parents learn about the effects of their behavior on their children, with the intent that this knowledge helps both parents and children to continue

appropriate involvement with each other, and helps to ensure a safe and healthy future for each affected child. The Juvenile Drug Court was permanently authorized with positions and general fund resources provided by the 2003 Legislature. The Family Court is building on the valuable experience gained from the Circuit Court's highly successful drug court for adults, and effectively applying similar principles to assist juveniles experiencing difficulty as a result of problems with substance abuse. With the help of legislatively authorized resources, the Family Court has also established a Family Drug Court, working closely with families whose parents are at risk of losing their children due to their substance abuse problems. Utilizing available federal grant funding, the Family Court established a Girls Court in 2005 in response to the need for gender specific programming targeting female juvenile offenders. It is the first court of its type in the United States, and has thus far proven effective in addressing the rising tide of female delinquency.

The District Court continues to strive to improve processes and services. This includes providing more information to the public on court procedures, and simplifying forms where possible. The decriminalization of certain traffic offenses has provided violators with an array of case termination options. The District Court operates a concierge station, where the public can receive assistance with court related matters. The Judiciary also provides the public with two payment options that are accessible 24 hours a day, seven days a week. Tickets may be paid through the Judiciary's Internet website or by calling an interactive telephone voice-response system.

- e. **Please identify all modifications to your program's performance measures and discuss the rationale for these modifications.**

N/A

3. Problems and Issues:

- a. **Discussion of problems and issues encountered, if any.**

Adequately maintaining aging Judiciary courthouse facilities is an ongoing issue in the First Circuit. While the construction of new facilities in Kapolei is the focus of much warranted attention, it is also important to ensure that existing courthouses are maintained to provide clean, safe, and efficient facilities where the public can continue to conduct court business, and to protect the significant capital investment initially required to construct these buildings. The supplemental budget request therefore includes funding to: 1) replace condenser water pipes to ensure that the air conditioning system at Kauikeaouli Hale (District Court Building) can continue to operate efficiently and effectively, and 2) replace and restretch worn carpeting in high traffic areas at Kaahumanu Hale

(Circuit Court Building) and Kauikeaouli Hale. Also directly related to the age of our facilities is the need to replace necessary operating equipment as it ages and becomes obsolete. To properly secure courthouse entrances and thereby ensure a safe environment for citizens and employees, funds to replace walk-through metal detectors and x-ray machines are being requested. To ensure the adequacy of facility equipment, resources to replace existing workstation equipment in the Judicial Services Branch of the Honolulu District Court have also been included in the First Circuit's supplemental budget request.

Time has also affected the First Circuit's budget base as its buying power has eroded with the passing of each inflationary year. Cost increases for necessary services, as well as growing caseloads, have further contributed to the need for additional resources above the First Circuit's existing budget base. Therefore, to alleviate budget base shortfalls, the First Circuit's supplemental request includes funding to: 1) provide adequate compensation to guardians ad litem (GALs) for children involved in child protective proceedings, and to legal counsel for parties involved in cases which may affect parental rights, 2) ensure that adequate medical services can be provided to juveniles who are assigned to the Juvenile Detention Facility, and 3) facilitate the payment of increased fees to psychiatric/psychological professionals conducting the forensic evaluations necessary to timely resolve the cases of individuals involved in court proceedings.

Additional new unfunded requirements impact the First Circuit's budget base, and are addressed in the supplemental budget request. Unfunded requirements include: 1) incremental salary increases for Judges, as recommended by the Commission on Salaries, and 2) medically targeted substance abuse treatment for drug addicted offenders, as provided by Section 8 of Act 169/07.

Finally, it is becoming increasingly difficult for the First Circuit to provide interpreting services to citizens who require in-court language assistance. Hawaii has one of the largest non-English speaking populations in the United States, and the language access needs in the courts continue to grow because of the diversity of cultures and languages. To ensure each citizen's right to appropriate representation, the First Circuit's supplemental budget request includes additional staff resources to process the growing number of requests for interpreters for court hearings and court related matters.

b. Program change recommendations to remedy problems.

See following pages.

c. Identify any program issues or problems that have affected or will affect the implementation of the program, and the corrective measures or remedies established or planned.

The First Circuit continues to pursue methods of improving court services and remedying problems with existing appropriations. However, where current means have proved to be insufficient, additional resources need to be requested to fulfill the following necessary requirements.

To provide the resources to adequately maintain aging First Circuit facilities and ensure that necessary court services can continue to be provided to those seeking the assistance of the courts, repair and maintenance funds for the Kauikeaouli Hale air conditioning system (\$120,560) and for carpeting in high-traffic areas at Kaahumanu Hale and Kauikeaouli Hale (\$450,400) are requested. Funding (\$59,740) is also requested to replace workstations and electrical cabling at Kauikeaouli Hale to ensure a safe and efficient work environment.

To continue to provide safe, secure facilities for courthouse users, funds (\$111,479) are requested to replace eight walk-through metal detectors (two at Kauikeaouli Hale, two at Kaahumanu Hale, and four at rural courthouses), as well as to replace two aging x-ray machines at Kaahumanu Hale.

Funding (\$1,715,092) is also requested to enable the First Circuit to comply with the provisions of Act 218/07, which significantly increased the rate of pay for appointed GALs for children and legal counsel for individuals whose parental rights may be affected. This increase was adopted to ensure that court-appointed GALs are available for children involved in child protective proceedings and other eligible parties, and that appropriate legal counsel can be provided to represent parties who are unable to afford such counsel due to their indigence. To ensure that adequate basic medical care can be provided to juveniles who are detained at the Judiciary's Juvenile Detention Facility, funds (\$28,000) are requested to increase the budget for contracted medical professionals.

To address delays experienced by individuals as they wait to receive the forensic evaluations required to resolve their court cases, funds (\$250,000) are requested to facilitate the payment of increased fees to add to the number of psychiatric/psychological professionals willing to provide necessary examination services.

To provide the resources to pay for unfunded budget base requirements, funds (\$429,643) are requested to fund the incremental salary increase for Judges recommended by the Commission on Salaries and authorized by the 2007 Legislature. Funds (\$100,000) are also requested to supplement the budget base to facilitate compliance with Section 8 of Act 169/07, which provided that funds be spent for medically targeted substance abuse treatment for drug addicted offenders.

Finally, to ensure that interpreting services are available to citizens who require in-court language assistance, funds (\$94,450) are requested for the staff support necessary to process the increasing volume of requests for such services.

Approving these requests will assist in remedying the problems and issues outlined in the previous section. Additional detailed information regarding the requests is provided in "Section 5. Supplemental Budget Requests for FY 2009," of the First Circuit's testimony.

4. Expenditures for FY 2008:

	<u>Act 169/07 FY 2008</u>	<u>Collective Bargaining</u>	<u>Transfers In/(Out)</u>	<u>(Restriction)/ Specific Apprn</u>	<u>Net Allocation</u>	<u>Estimated Total Expenditures</u>
(posn count)	1,109.50				1,109.50	1,109.50
Personal Services	52,470,778	1,977,557 ¹⁾			54,448,335	54,448,335
Current Expenses	20,728,506		44,133 ²⁾	769,548 ³⁾	21,542,187	21,542,187
Lease/Purch Agrmnts	22,503				22,503	22,503
Equipment	1,394,603				1,394,603	1,394,603
Motor Vehicles					0	0
Total	74,616,390	1,977,557	44,133	769,548	77,407,628	77,407,628
	40.00				40.00	40.00
Less: Special Federal Other	3,515,326	81,141 ¹⁾			3,596,467	3,596,467
(posn count)	1,069.50	0.00	0.00	0.00	1,069.50	1,069.50
General Fund	71,101,064	1,896,416	44,133	769,548	73,811,161	73,811,161

a. Explain all transfers within the Program I.D. and the impact on the program.

N/A

b. Explain all transfers between Program I.D.'s and the impact on the program.

Reflects the transfer-in of \$75,000 for Hawaii Family Law Clinic (which was appropriated to the JUD 601 Administration program); this amount was partially offset by the transfer-out of a total of \$30,867 to 2nd, 3rd, and 5th Circuits for urinalysis testing.

c. Explain any restrictions and the impacts on the program.

N/A

1) Includes collective bargaining appropriations from Acts 137/07, 138/07, 136/07, 133/07.

2) \$75,000 grant-in-aid to Hawaii Family Law Clinic administered by First Circuit staff; statewide funding for urinalysis testing appropriated to JUD 310.

3) Reflects First Circuit's share of \$880,000 appropriated by Act 218/07 for statewide guardian ad litem and legal counsel fee increase.

5. Supplemental Budget Requests for FY 2009:

	Act 169/07 FY 2009	Budget Adjustments FY 2009	Supplemental Request FY 2009
(posn count)	1117.50	4.00	1121.50
Personal Services	52,852,195	571,579	53,423,774
Current Expenses	20,418,506	2,618,999	23,037,505
Lease/Purch Agrmnts	22,503		22,503
Equipment	27,000	168,786	195,786
Motor Vehicles			
Total	<u>73,320,204</u>	<u>3,359,364</u>	<u>76,679,568</u>
	40.00		40.00
Less: Special	3,515,326		3,515,326
Federal			
Other			
(posn count)	1077.50	4.00	1081.50
General Fund	<u>69,804,878</u>	<u>3,359,364</u>	<u>73,164,242</u>

- a. **Workload or program request:**
For each program package or item requested within the Program I.D., provide the following (if no request is being made, indicate "none"):
- i. **A description of the request, the reasons for the request, and the desired outcomes or the objectives to be accomplished by the proposed program.**

See following pages.
 - ii. **A listing/description of the positions requested, and funding requirements by cost category and source of funding.**

See following pages.
 - iii. **For all lump sum requests, please provide a detailed breakout indicating specific purposes for all planned expenditures.**

N/A

- b. **For all position count reductions, please specify whether the positions were filled or vacant:**

N/A

Supplemental Budget Requests for FY 2009:

Repair and Maintenance of Aging Judiciary Facilities: Repair and Maintenance funds totaling \$570,960 are requested to: 1) ensure that the air conditioning system at Kauikeaouli Hale (District Court Building) can continue to operate efficiently and effectively, and 2) replace/repair carpeting in high-traffic areas at Kaahumanu Hale (Circuit Court Building) and Kauikeaouli Hale.

First, \$120,560 is requested to replace the air conditioner condenser water pipes at the cooling towers at Kauikeaouli Hale. Although the project to replace the Kauikeaouli Hale air conditioner chiller was completed in late 2005, the scope of repairs did not include replacing the condenser water pipes. At that time, it was believed that the pipes were structurally sound, and therefore the project scope included only cleaning and repainting of the water pipes. However, during the cleaning and preparation process, it was discovered that the over 25-year old pipes were in really bad condition and that just scraping off the rust during cleaning actually punctured the pipe. Because the available funding was very limited and insufficient to replace all of the condenser water pipes, only the section punctured during cleaning was replaced. The First Circuit has now been advised by air conditioning maintenance contractors that all of the pipes need to be replaced as they will eventually fail and cause the entire air conditioning system to shut down due to lack of condenser water flow. This would create a situation where the entire building would be without air conditioning (and necessary ventilation) until the leak could be temporarily repaired or the damaged section replaced. Replacement of the air conditioner condenser water pipes at Kauikeaouli Hale will ensure continuing system operation, and is essential to the First Circuit's effort to keep court services available to individuals who are party to judicial proceedings, or are requiring the assistance of the courts.

Second, \$450,400 is requested to replace and restretch deteriorating carpeting at Kaahumanu Hale and Kauikeaouli Hale. The building floor carpets in many areas of these two court buildings are over 25 years old and in very poor condition. (According to carpeting professionals, carpet system components can be expected to remain in reliable condition for up to 10 years with proper maintenance.) The carpets present a safety hazard to court users and staff because they exhibit a carpet condition called "buckling," where sections of the carpet have developed wave shapes which rise from one-half to one inch above the installed carpet. In other areas, the floor carpets are lumpy, and carpet seams are exposed and separating, all of which add to the hazardous conditions. Because of complaints regarding the carpet, the First Circuit has posted caution signs on the walls adjacent to the deteriorated areas to warn court users and staff of the dangerous conditions. Thus far, no injuries have occurred from individuals tripping or falling from the building carpeting. However, it is only a matter of time before a court user or employee suffers a serious injury and files suit or a worker's compensation claim. Carpet replacement or restretching (as appropriate) will

provide the safe, professional courthouse facilities that citizens and employees deserve.

Replacement of Essential Operating Equipment: Resources are needed to replace essential operating equipment as it ages and becomes obsolete. To continue to provide safe, secure facilities for courthouse users, additional resources are requested to replace eight walk-through metal detectors at First Circuit courthouses, and two x-ray machines at Kaahumanu Hale. Additional funding is also being requested to ensure the adequacy of electrical cabling and workstations at Kauikeaouli Hale, and to ensure a safe and efficient work environment.

First, \$43,960 is requested to replace eight walk-through metal detectors (two at Kauikeaouli Hale, two at Kaahumanu Hale, and four at First Circuit rural courthouses). The eight walk-through metal detectors currently in use at the security checkpoints at these locations were manufactured in 1995. Due to the age of the machines, replacement parts are becoming extremely difficult to locate, repair incidents have been increasing, and longer downtimes are being experienced. In fact, the equipment service maintenance provider has informed the First Circuit that due to the limited availability of repair parts, it no longer provides service contracts on the walk-through metal detectors. Therefore, future repairs on the equipment will be done on an ala carte basis, with separate charges for technical assessments, labor, and replacement parts (until the parts supply is exhausted). To illustrate the increasing repair cost, a recent repair charge on one of the walk-through metal detectors exceeded the vendor price to purchase a new machine.

Second, \$67,519 is requested to replace the two oldest x-ray security systems currently in use in the First Circuit. Both systems were manufactured in 1995 and are presently used at the security checkpoints at Kaahumanu Hale. Just as in the case of the walk-through metal detectors, the age of the x-ray systems has resulted in high repair costs, limited parts availability, and increasing system downtime. In fact, the maintenance technicians servicing the machines have repeatedly stated in their case service reports that due to age, the x-ray systems will continue to experience increasing incidents of system malfunction until the systems fail completely. The metal detectors and x-ray machines are an integral part of the "security triad" intended to keep courthouse users safe while transacting business at courthouse facilities. This "triad," consisting of walk-through metal detectors, x-ray machines, and hand-held metal detection scanners, is used at security checkpoints to intercept weapons or other contraband and prevent their entrance into the court building. Replacement of the eight walk-through metal detectors and two x-ray machines will maintain the effectiveness of the security procedures utilized at Kauikeaouli Hale, Kaahumanu Hale, and our rural courthouses, and ensure the safety of citizens transacting court business, as well as Judiciary employees.

Finally, \$59,740 is requested to ensure the adequacy of electrical cabling and workstations at Kauikeaouli Hale. This request will provide a safe, more efficient work environment for the Judicial Services Branch of the Honolulu District Court (JSB). The JSB provides courtroom clerical, court reporting, and other support services to the courts in the First Circuit. Duties performed by the staff aid in the efficient disposition of cases for civil and criminal matters, as well as misdemeanors, and family and traffic proceedings. As such, they are a key element in the First Circuit's effort to provide timely justice to citizens. Presently, the effectiveness of the JSB is hampered by a work area with computer, electrical, and telephone cabling stretched across the floor through rubber conduits, and under and behind desks. JSB staffers sit side-by-side at broken, mismatched desks, with electrical plugs protruding into walkways. As these desks were not intended to accommodate computer use, the risk of work-related stress disorders such as carpal tunnel syndrome is created. Staff work under crowded conditions with no privacy, and navigate around the obstacles on the work floor, a situation which does not meet Americans with Disabilities Act (ADA) requirements. The requested resources will facilitate the purchase of modular workstations which will provide personal workspaces for staff, comply with ADA requirements, and provide an ergonomically suitable workstation designed for computer use. Built-in conduits for wiring would also remove the power, data, and telephone cabling from the floor and hold them in place, creating a safe and more efficient work space within which to complete the essential tasks performed by the JSB.

GAL and Attorney Fees: The Family Court of the First Circuit requests \$1,715,092 in FY 2009 to provide for the appointment of GALs and counsel for indigent parties, as required by law. In most cases, GALs are appointed as advocates for children who are victims of child abuse or neglect. The role of the GAL is to keep the court informed about the child and the progress of the services provided to the child's family, by serving as a fact finder, investigator, advocate, and protector to a child in need. The GAL also ensures that the court's orders are carried out and brings to the court's attention any changes in the child's or family's situation which may require changes in the court's orders. The appointment of GALs in child protective proceedings is mandated by both federal law (the Child Abuse Prevention and Treatment Act of 1974 (P.L. 93-247)) and state law (Chapter 587-34, HRS).

Legal counsel are appointed to represent the parents in cases of child abuse and neglect and parties in other cases, based upon the indigence of these parties. Many of these parties (parents and guardians) have had their children removed from their custody and placed with foster parents, or they may be faced with having their parental rights taken away on a permanent basis.

In an effort to ensure that qualified, quality representation is available to children involved in child protective proceedings, and family members involved in cases

which may affect parental rights, Act 218/07, which significantly increases the rate of pay provided in these situations, was passed by the 2007 Legislature. However, no additional resources were appropriated to provide for this increase in FY 2009. The Family Court of the First Circuit's request therefore provides \$1,715,092 and two support positions (Account Clerk III's) to enable the Court to comply with the provisions of Act 218/07. These resources will facilitate the payment of higher fees for GALs and court-appointed counsel, and ensure the availability of continued proper representation for children and family members.

Prior to the enactment of Act 218/07, hourly compensation for GALs and legal counsel was \$60 for in-court services and \$40 for out-of-court services. Act 218/07 amended the hourly rate and definition to \$90 for legal services and \$60 for non-legal services. The legislative intent was to provide parity for the GALs and legal counsel because the Legislature in 2005 had approved an increase to \$90 per hour for criminal defense attorneys who are court appointed to represent indigent clients. The Legislature recognized that the welfare of children and vulnerable adults in our community was as important as defending the rights of criminal defendants, and felt that increasing the compensation rates for GALs and legal counsel for Family Court civil cases would attract new attorneys as well as retain competent ones to do this complex and difficult work. To control costs, and provide necessary services with available resources, the Family Court of the First Circuit had previously instituted the practice of contracting for the services of GALs and court-appointed legal counsel, scrutinizing financial statements for proof of indigence, and strictly monitoring charges to prevent the payment of excess fees.

The federal Adoption and Safe Families Act (P.L. 105-89) established shorter time-frames which require the State Department of Human Services to move for permanent out-of-home placement when a child is out of the home for 15 of the preceding 22 months. With these shortened time-frames, cases (which often involve issues of a very severe and complex nature) must be reviewed by the court with greater frequency to ensure that services are offered to parents on a timely basis, and that parents comply with their court orders. In addition, the number of new petitions filed increases the caseload of judges and support staff, and the corresponding need for GALs and legal counsel, because existing cases do not close with the same frequency that new cases are opened. As a result of these factors, it has become exceedingly difficult for the Family Court to attract the qualified, quality representation that children and family members deserve. The increased payments prescribed by Act 218/07, and the additional resources requested, will ensure that the Family Court of the First Circuit has the means to provide adequate compensation to retain existing qualified GALs and court-appointed counsel, and to continue to attract new capable service providers. In so doing, the Family Court of the First Circuit will fulfill its obligation to protect the interests of children while ensuring the rights of indigent parties in child protective and other Family Court proceedings.

Medical Services for Youth at the Juvenile Detention Facility: Despite the need for additional services, the First Circuit's Purchase of Services base appropriation for medical services at the Judiciary's detention and shelter facilities on Alder Street has remained at approximately \$24,000/year for more than 10 years. During this same period, the actual contractual costs for medical services have more than doubled to the present negotiated annual amount which exceeds \$50,000. When added to the existing appropriation base, the requested \$28,000 will provide the resources to ensure that adequate medical care can be given to juveniles who are detained at the Juvenile Detention Facility. The contract calls for physicians to be on-site at the Detention Facility on a limited basis each week. Acute care must be provided to youth who develop symptoms of medical distress or illness, or who are already ailing when first arriving at the facility. Other critical services provided under contract are 24-hour medical consultations and emergency services via telephone, and hospitalization and psychiatric services. Physical examinations must also be provided to youth awaiting placement in other juvenile programs. Many of the youth who enter the detention and shelter facilities have not received basic medical services because of their status as runaways, or because they come from a family environment where health services could not be afforded. This request will enable the Judiciary to provide at least basic medical care to juveniles temporarily housed at the Juvenile Detention Facility.

Increase in Psychiatric/Psychological Fees for Examinations: The fee for forensic psychiatric/psychological examinations performed under Section 704, HRS, is currently set at \$500 per examination by Circuit Court Part D Criminal Administrative Order No. 4.1. This flat fee (which does not take into account the number of hours devoted to conduct the evaluation) has not been raised by the Judiciary since 1992, and results in a lack of available professionals willing to provide examination services. This in turn subjects individuals involved in court proceedings to unreasonable delays as they wait to receive the forensic evaluation required in resolving their cases. To directly address this situation, we understand that the Task Force convened by the Governor in 2006 in response to Senate Concurrent Resolution No. 117, will be recommending a 100% increase in fees from \$500 to \$1,000 per court ordered forensic examination. It is believed that this fee increase to a more appropriate level of compensation will result in a corresponding increase in the number of professionals willing to conduct these evaluations, thereby ensuring that timely forensic examinations can be provided to individuals involved in court proceedings. The First Circuit's request therefore provides \$250,000 in additional resources to facilitate the payment of increased fees for examinations performed under Section 704, HRS, consistent with the recommendations of the Task Force.

Judges' Pay Raise: The Commission on Salaries was established as a result of a constitutional amendment of Article XVI of the Constitution of the State of

Hawai'i which was approved in November 2006. The Commission was charged with reviewing and making recommendations for the salaries of justices and judges of all State courts, members of the Legislature, the Governor and Lieutenant Governor, and specified appointed officials within the State Executive branch. The 2006 Commission was convened in December 2006 and submitted its report and recommendations to the 2007 State Legislature. Although the recommendations of the Commission provided judges with a salary increase for FYs 2008 through 2013, such action occurred too late during the 2007 legislative session to add the resources to implement the increase. Thus, an additional \$429,643 is required to ensure that the First Circuit has sufficient resources to provide payment to its judges for this scheduled pay increase.

Medically Targeted Substance Abuse Treatment for Drug Offenders: Section 8 of Act 169/07 provided that, "of the general fund appropriation for first judicial circuit (JUD 310), the sum of \$100,000 or so much thereof as may be necessary for fiscal year 2007-2008 and the sum of \$100,000 or so much thereof as may be necessary for fiscal year 2008-2009 shall be expended for drug court; provided further that the funds shall be used for medically targeted substance abuse treatment for drug addicted offenders - integrated approach supervised by physicians..." However, no funding was provided in either FYs 2008 or 2009 for this purpose. Without additional resources, the First Circuit is using FY 2008 to determine the most appropriate means of providing medically targeted substance abuse treatment to drug offenders. The requested \$100,000 will enable the First Circuit to provide such services to drug offenders, thus performing the actions prescribed by Section 8 of Act 169/07 for FY 2009.

Court Interpreter Services: Two Court Operations Specialist III positions (SR-20) and corresponding operating and equipment resources totalling \$94,450 are being requested. The positions will directly support the First Circuit's effort to ensure that interpreting services are available to citizens who require in-court language assistance. With the growing requirement to provide language access in the courts and the corresponding increase in interpreter requests, the establishment of a permanent unit to handle this responsibility is essential. Further, the language access needs in the courts will continue to grow because of Hawaii's diversity of cultures and languages. According to the 2000 Census of the United States, Hawai'i has one of the largest non-English speaking populations in the country, with over a quarter of Hawaii's population using a language other than English at home. The languages spoken in Hawai'i are diverse, and the courts currently accommodate 96 foreign language types. As a result, there are constant requests for interpreters for court hearings and court related matters. In fact, court interpreter requests have grown by 56% during the past three years.

To illustrate the wide scope of interpreter activities, the Court Services and Court Operations Divisions receive interpreter requests for hearings at 11 Honolulu District and Family Court courtrooms at Kauikeaouli Hale; the four rural district

courthouses at Wahiawa, Kaneohe, Ewa, and Waianae; nine Family Court courtrooms at Kaahumanu Hale; the Detention Facility on Alder Street (for juvenile client interviews); the Adult Client Services Branch (for pre-sentence, post-sentence, and probation interviews); District Court Counseling and Probation (for pre-sentence, post-sentence, and probation interviews); and Juvenile Client Services (for pre-sentence, post-sentence, and probation interviews). Interpreters are often requested to assist the offices of the prosecutor and public defender outside of the courtroom, for court ordered mental examinations at the Oahu Community Correctional Center and the Hawai'i State Hospital, and for drug assessments performed at the facilities of service providers.

Presently, the Court Services and Court Operations Divisions are attempting to handle the high volume of interpreter requests utilizing a temporary position. Without dedicated, permanent staff, the high volume of interpreter requests must also be addressed by other court operations staff and judges' law clerks, even as they attempt to fulfill their regular assigned responsibilities. The varied handling of interpreter requests by different staff on an "as available" basis has often resulted in confusion among the interpreters serving the various courts. Inability to adequately fulfill language access requirements has, in fact, resulted in court delays, continuances, and even dismissals. Delays in processing invoices to provide payment to court interpreters have also been experienced.

The requested dedicated staffing would facilitate centralization and coordination of court interpreter services. Coordinated matching of hearing and language types with interpreters assigned for the day would ensure that appropriate language access is available to parties requiring such assistance, while maximizing the services received for the fees paid. Dedicated staffing would also mean that the court users' right to appropriate representation and language access would be fulfilled, court interpreters would receive timely payment for the valuable services they provide, and the potential of legal challenges and possible lawsuits by court users relating to proper representation would be minimized.

6. Program Restrictions:

Identify restrictions carried over from FY 2008 as well as additional reductions due to Department of Budget and Finance budget ceilings for FY 2009. If no reduction is being proposed, indicate "none."

- a. A description of the reduction, the reasons for the reduction, and the impacts to the objectives to be accomplished by the program.**

None.

- b. A listing/description of the positions cut including source of funding; please specify whether the positions were filled or vacant.**

None.

- 7. Capital Improvement Program (CIP) Requests for FY 2009:
CIP data for all projects within the agency being heard shall be combined into a single appendix in the department's testimony (if no request is being made, please indicate "none").**

None.

- 8. Proposed Lapses of CIP projects:**

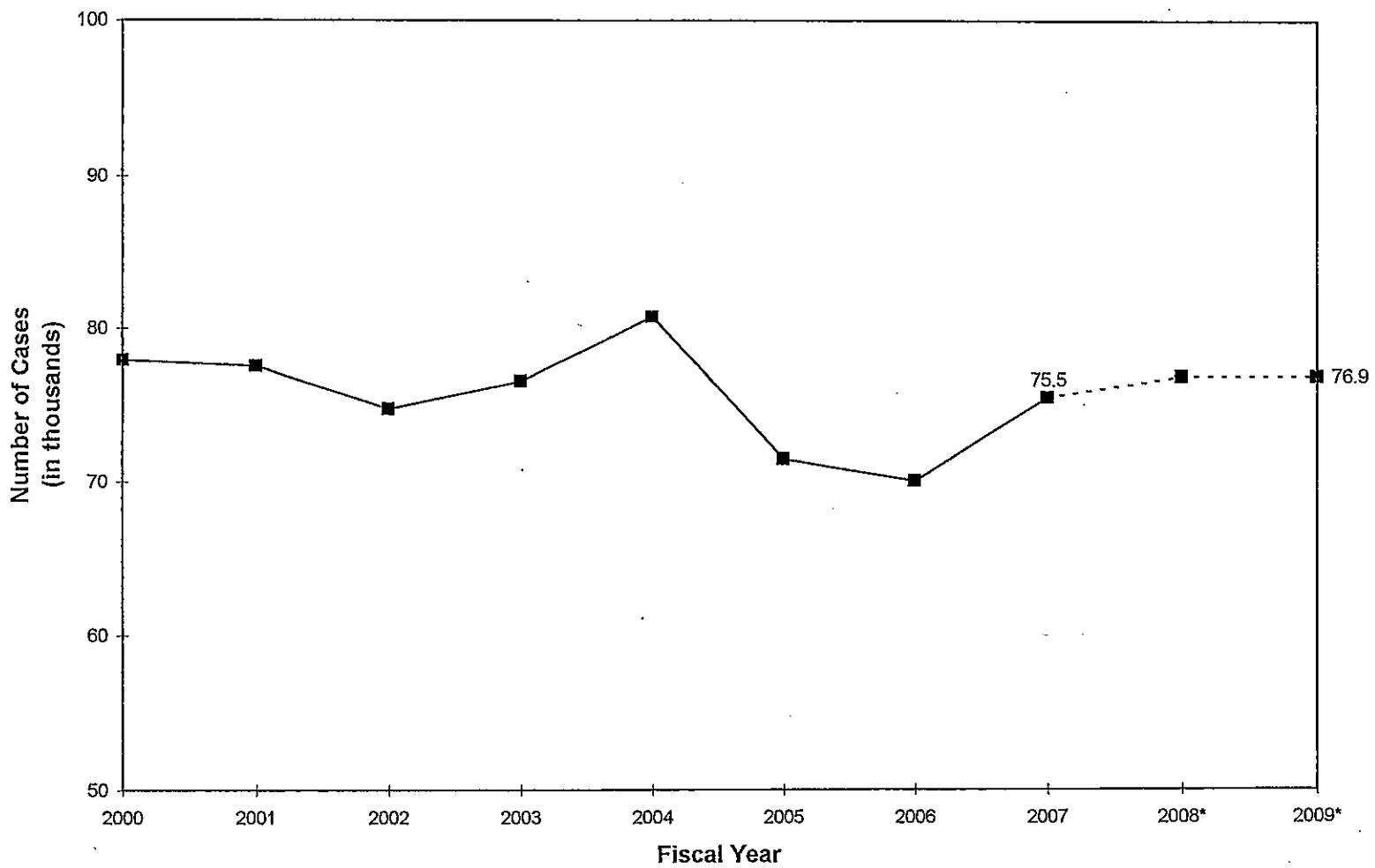
Any CIP project identified for lapse shall include the following (if no lapses are being proposed, please indicate "none"):

None.

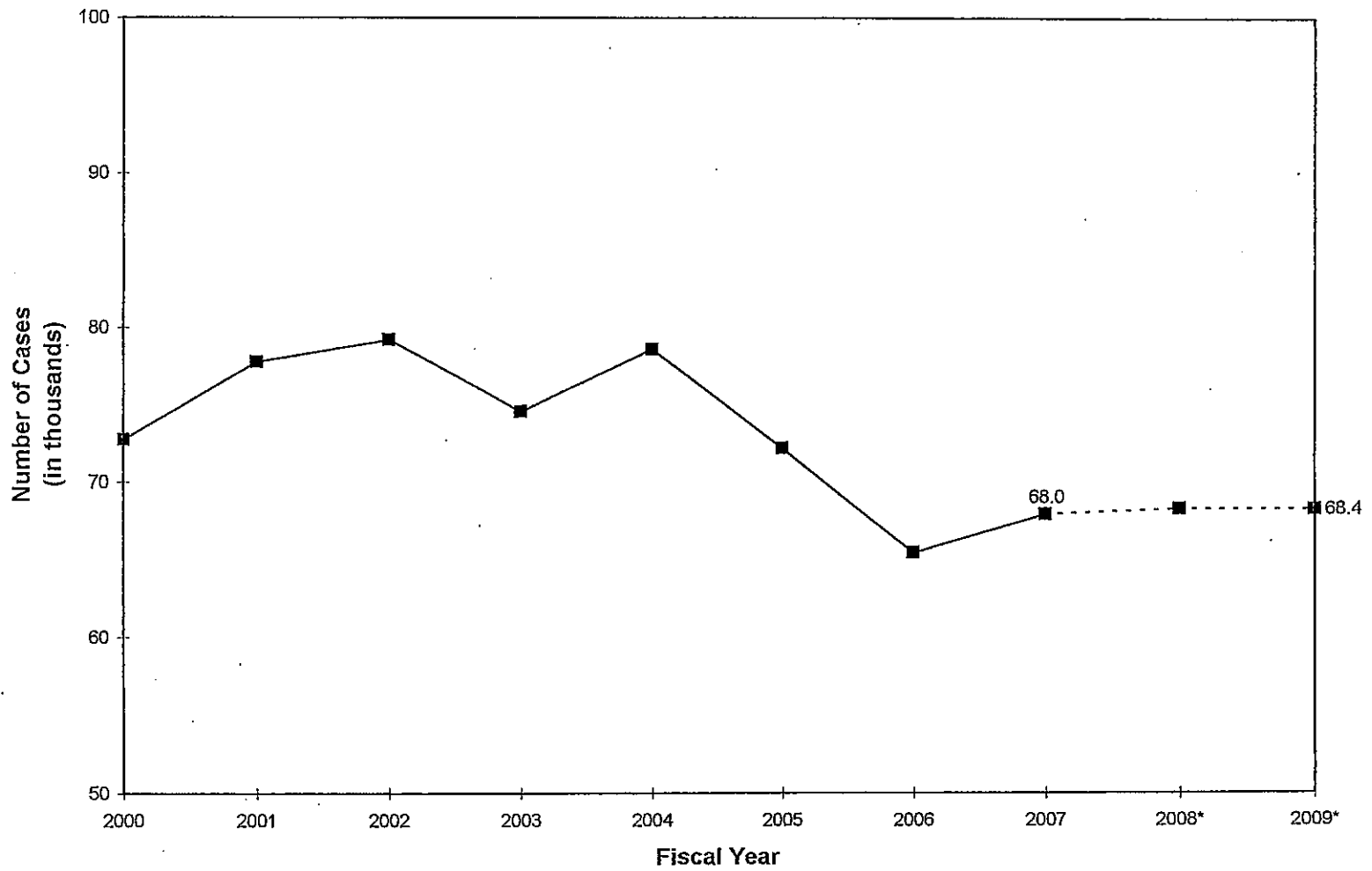
5. BUDGET REQUEST FOR SUPPLEMENTAL BUDGET 08-09
A. DESCRIPTION OF POSITIONS AND FUNDING REQUIREMENTS BY COST CATEGORY AND SOURCE OF FUNDS

JUD 310			FY 2008-09				
PROGRAM	DESCRIPTION	ITEM	POS COUNT	PAYROLL	OTHER CURR EXP	EQUIPMENT	TOTAL
Adjudication	Judges' Pay Raise	Payroll		429,643			429,643
				429,643			429,643
Court Svcs	GAL Fees	Account Clerk III (SR-11) (99100J)	1.00	28,836			28,836
		Account Clerk III (SR-11) (99101J)	1.00	28,836			28,836
		Attorney Fees (7155)			488,000		488,000
		Guardian Ad Litem Fees - 587 Cases (7159)			1,019,000		1,019,000
		Appeals on - 587 Cases (7155/7156)			120,000		120,000
		Guardian Ad Litem Fees - Other Cases (7159)			18,000		18,000
		Office Supplies (3200)			500		500
		Modular Panels (2)				1,734	1,734
		Desk, Steel, Double Pedestal (2)				1,266	1,266
		Bookcase 4 Shelf (2)				280	280
		File Cabinet, Vert, Steel, 4-Drawer (2)				592	592
		Chair, Task/Conf, Med Back, w/Arms (2)				508	508
		Chair Mat (2)				140	140
		PC w/Software (2)				5,000	5,000
		Printer (2)				1,600	1,600
		Printer R&M (2) (5809)			300		300
		Calculator (2)				500	500
			2.00	57,672	1,645,800	11,620	1,715,092
Client Svcs	Funding Medically Targeted Substance Abuse Treatmnt for Drug Offenders	Purchase of Treatment Svcs (6609)			100,000		100,000
					100,000		100,000
Client Svcs	Add'l Funding for Medical Services for Youth at the Detention Facility	Purchase of Medical Svcs (6609)			28,000		28,000
					28,000		28,000
Court Svcs	Replace 8 Walk-through Metal Detectors - Honolulu/ Rural Courts, and 2 X-ray Machines - Kaahumanu Hale	Walk-through Metal Detectors (8) X-ray Machines (2) Accessories Operator Training (7205) Maintenance Agreement (5804) Installation/Calibration (7198) Shipping (3609) Disposal Fees (7198)			225 3,414 450 4,430 6,000	43,960 49,000 4,000	43,960 49,000 4,000 225 3,414 450 4,430 6,000
					14,519	96,960	111,479
Central Admin	Replace Condenser Water Pipes at Cooling Towers at Honolulu District Court	Repair and Maintenance (5802) Engineering and Architectural Svcs (7100)			100,560 20,000		100,560 20,000
					120,560		120,560
Central Admin	Replace and Re-stretch Carpeting at Kaahumanu Hale (Circuit Ct) and Kaulikeaoull Hale (District Ct)	Repair and Maintenance (5800)			450,400		450,400
					450,400		450,400
Court Svcs	Staff to Facilitate Operation of the Court Interpreter Program	Ct Oper Spec III (SR-20) (99102J) Ct Oper Spec III (SR-20) (99103J) Office Supplies (3200) Desk, Steel, Double Pedestal (2) Bookcase 4 Shelf (2) File Cabinet, Vert, Steel, 4-Drawer (2) Chair, Task/Conf, Med Back, w/Arms (2) Chair Mat (2) PC w/Software (2) Printer (2) Printer R&M (2) (5809)	1.00 1.00	42,132 42,132	500	1,266 280 592 508 140 5,000 1,600	42,132 42,132 500 1,266 280 592 508 140 5,000 1,600 300
			2.00	84,264	800	9,386	94,450
Court Svcs	Necessary Workstation Improvements for Judicial Services Branch - Honolulu District Court	Electrical Repair and Maint (5805) Telephone/Data Cabling (3803) Workstation w/Paneled Partition (20)			4,540 4,380	50,820	4,540 4,380 50,820
					8,920	50,820	59,740
Court Svcs	Increase in Psychiatric/ Psychological Fees for Exams Under Sec 704, HRS	Psychiatric/Psychological Svcs (7100)			250,000		250,000
					250,000		250,000
TOTAL 1st CIRCUIT			4.00	571,579	2,618,999	168,786	3,359,364

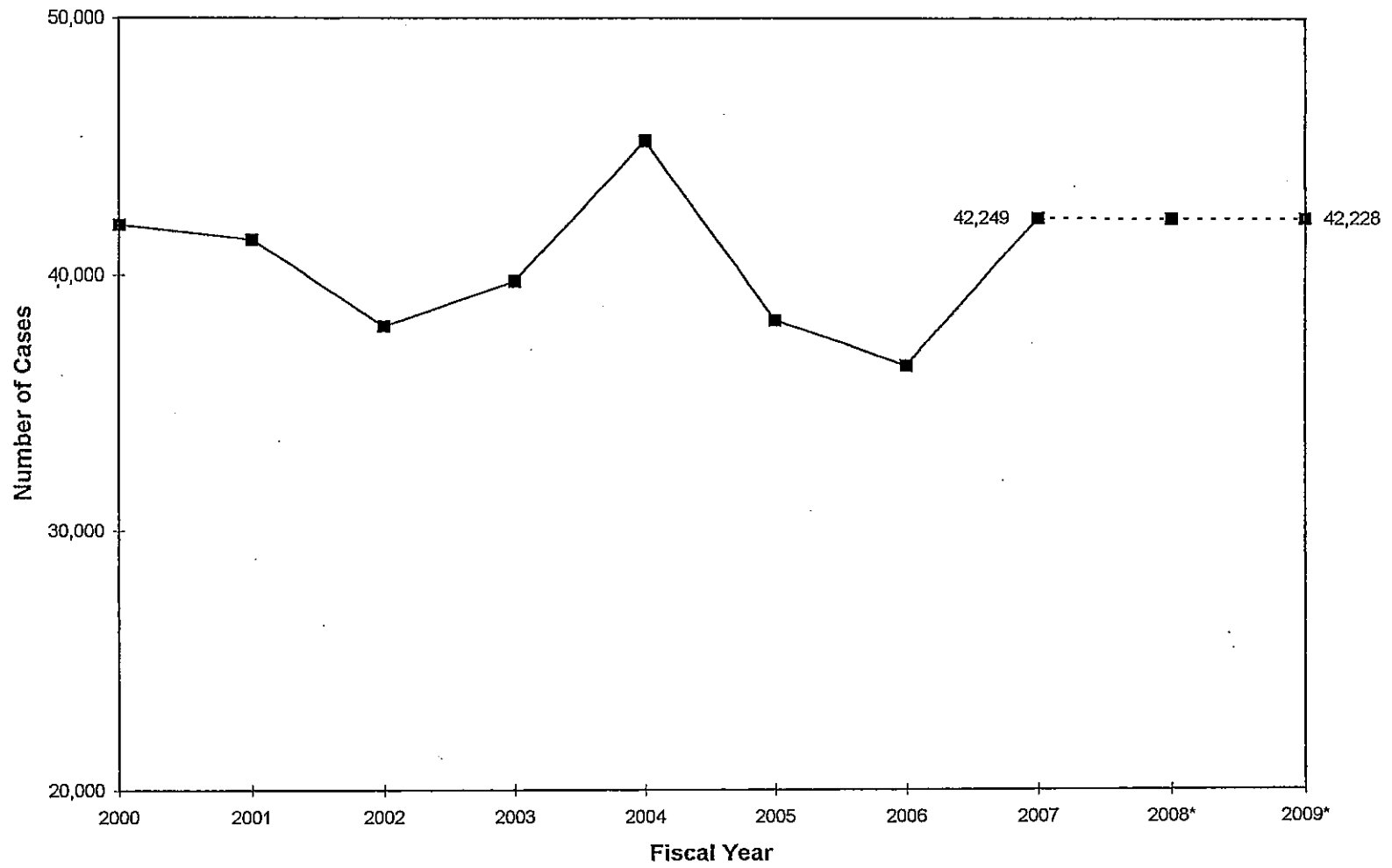
First Circuit
Total Cases Filed (excluding District Court Traffic Cases)
FY 2000 - 2007 (Actual); FY 2008 - 2009 (Forecast*)



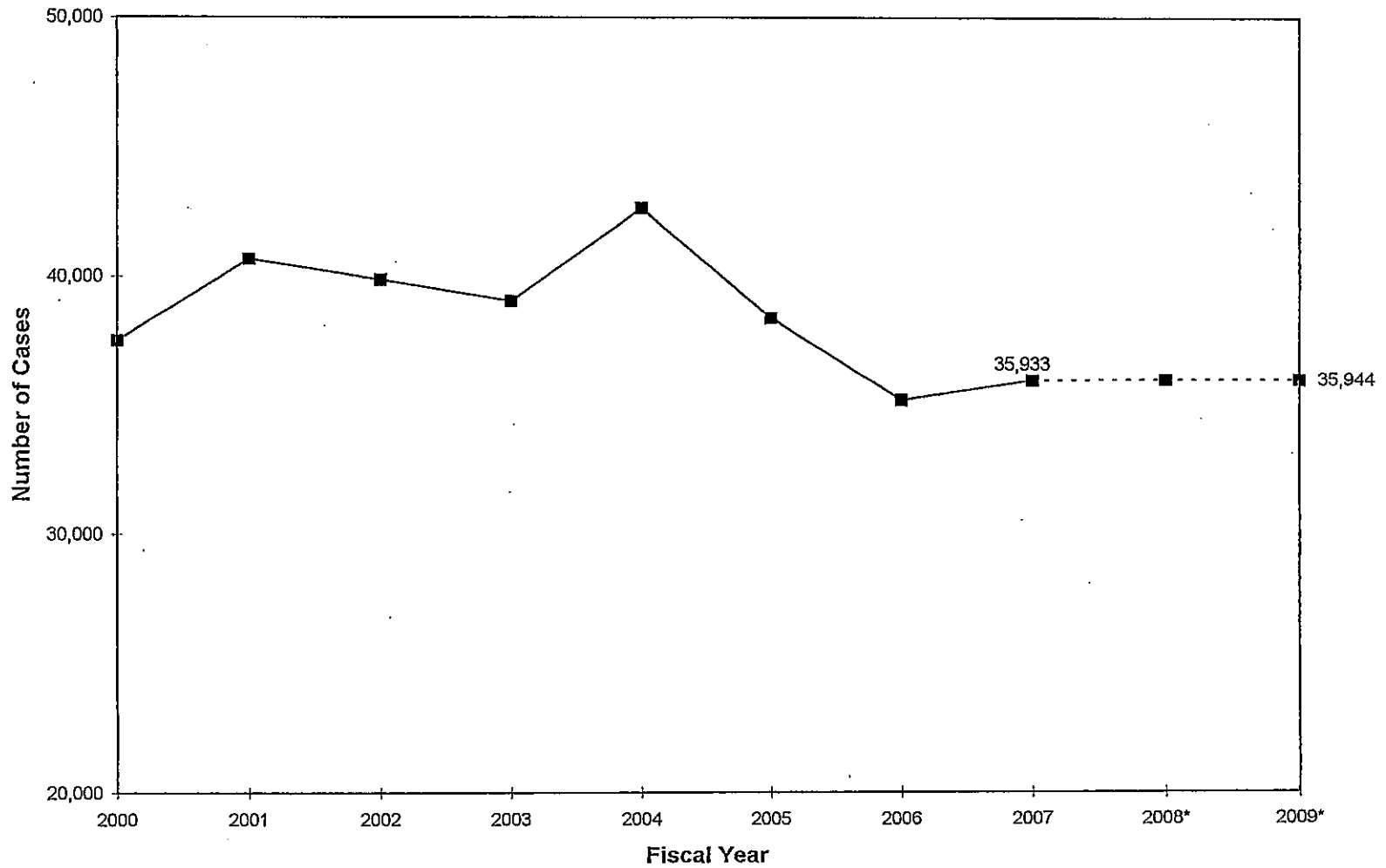
First Circuit
Total Cases Terminated (excluding District Court Traffic Cases)
FY 2000 - 2007 (Actual); FY 2008 - 2009 (Forecast*)



**First Circuit
Criminal Cases Filed
FY 2000 - 2007 (Actual); FY 2008 - 2009 (Forecast*)**



First Circuit Criminal Cases Terminated FY 2000 - 2007 (Actual); FY 2008 - 2009 (Forecast*)



Program I.D. and Title: JUD 320 - Second Circuit

Page References in the Supplemental Budget Document: Pgs. 25 - 31

1. Introduction:

The mission of the Second Circuit is to expeditiously and fairly adjudicate or resolve all matters within its jurisdiction in accordance with law.

a. Summary of program objectives.

- To assure a proper consideration of all competing interests and countervailing considerations intertwined in questions of law arising under the Constitution of the State and the United States in order to safeguard individual rights and liberties and to protect the legitimate interest of the State and thereby ensure to the people of this State the highest standard of justice attainable under our system of government.
- To develop and maintain a sound management system which incorporates the most modern administrative practices and techniques to assure the uniform delivery of services of the highest possible quality, while providing for and promoting the effective, economical, and efficient utilization of public resources.
- To administer a system for the selection of qualified individuals to serve as jurors so as to ensure fair and impartial trials and thereby effectuate the constitutional guarantee of trial by jury.
- To provide for the fair and prompt resolution of all civil and criminal proceedings and all civil and criminal traffic cases so as to ensure public safety and promote the general welfare of the people of the State, but with due consideration for safeguarding the constitutional rights of the accused.
- To conduct presentence and other predispositional investigations in a fair and prompt manner for the purpose of assisting the courts in rendering appropriate sentences and other dispositions with due consideration for all relevant facts and circumstances.
- To maintain accurate and complete court records as required by law and to permit immediate access to such records, where appropriate, by employing a records management system which minimizes storage and retention requirements.
- To supervise convicted and deferred law violators who are placed on probation or given deferments of guilty pleas by the courts to assist them towards socially acceptable behavior, thereby promoting public safety.

- To safeguard the rights and interests of persons by assuring an effective, equitable, and expeditious resolution of civil and criminal cases properly brought to the courts, and by providing a proper legal remedy for legally recognized wrongs.
- To assist and protect children and families whose rights and well-being are jeopardized by securing such rights through action by the court, thereby promoting the community's legitimate interest in the unity and welfare of the family and the child.
- To administer, to the fullest extent permitted by law, the orders and decrees pronounced by the Family Division so as to maintain the integrity of the judicial process.
- To supervise law violators who are placed on probation by the Family Division and assist them towards socially acceptable behavior, thereby promoting public safety.
- To protect minors whose environment or behavior is injurious to themselves or others and to restore them to society as law-abiding citizens.
- To complement the strictly adjudicatory function of the Family Division by providing services such as counseling, guidance, mediation, education, and other necessary and proper services for children and adults.
- To coordinate and administer a comprehensive traffic safety education program as a preventive and rehabilitative endeavor directed to both adult and juvenile traffic offenders in order to reduce the number of deaths and injuries resulting from traffic mishaps.
- To develop a statewide drug court treatment and supervision model for non-violent adults and juveniles, adapted to meet the needs and resources of the individual jurisdictions the Drug Courts serve.
- To deliver services and attempt to resolve disputes in a balanced manner that provides attention to all participants in the justice system, including parties to a dispute, attorneys, witnesses, jurors, and other community members, embodying the principles of restorative justice.

b. Description of program objectives.

As noted in the overview, this Supplemental Budget builds on the significant change from the Judiciary's traditional budget structure that began five years ago. Each new Circuit identifier retains elements of the prior program identifiers.

Further, except for slight variations attendant to each respective Circuit, the same basic court programs are operated in the Second, Third, and Fifth Circuits.

The Adjudication program provides the Second Circuit with judges and staff to operate the circuit, family, and district courts. Adjudication program judges also staff drug courts for adults, juveniles, and families. In addition, the program budget provides for judges' operating supplies and professional fees.

The Central Administration program consolidates court administrative offices, and includes the chief court administrator and administrative staff. The primary objectives of the program include providing for effective and efficient planning, direction, administration, coordination, and evaluation of all administrative, business and support functions, operations, and activities required to support judicial proceedings and judgments in the circuit, district, and family courts. This program also strives to provide the Second Circuit with fiscal and accounting services that ensure the uniform delivery of services of the highest quality while providing and promoting the effective, economical, and efficient utilization of resources.

The Client Services program's primary objective is to provide services which support the adjudicatory function of the Circuit, District, and Family Courts within the Second Circuit. The program accomplishes its mission with activities that include making recommendations to the courts, enforcing compliance with court orders, providing victim support services, maintaining client classification and information systems, managing purchase of service contracts, and maintaining contacts with community resources. Drug court services for adults, families, and juveniles are also provided. Families and juveniles appearing in the Family Court are provided a number of counseling and educational services, including volunteer guardian-ad-litem services for abused and neglected children and an educational program for separating parents and their children. All probation officers providing services to adult and juvenile clients are consolidated within this program.

The Court Services program is responsible for providing courtroom clerical, court reporting, and other support and ancillary services to the courts of the Second Circuit. Programs in the division are designed to aid in the timely disposition of cases of general and limited jurisdiction for civil, criminal felonies, misdemeanors, petty misdemeanors, family proceedings, and traffic (decriminalized and regular traffic criminal) in the Second Circuit.

Circuit Courts are trial courts of general jurisdiction. Circuit Courts have jurisdiction in most felony cases, and concurrent jurisdiction with the Family Courts for certain felonies related to domestic abuse, such as violations of temporary restraining orders involving family and household members. Circuit Courts also have exclusive jurisdiction in probate, trust, and conservatorship (formerly "guardian of the property") proceedings, and concurrent jurisdiction

with the Family Courts over adult guardianship (formerly "guardian of the person") proceedings. Circuit Courts have exclusive jurisdiction in civil cases involving amounts greater than \$20,000, and concurrent jurisdiction with District Courts in civil cases involving amounts between \$10,000 and \$20,000. Jury trials are conducted exclusively by Circuit Court judges. A party to a civil case triable by jury may demand a jury trial where the amount in controversy exceeds \$5,000. Circuit Courts have exclusive jurisdiction in mechanics lien cases and foreclosure cases, and jurisdiction as provided by law in appeals from other agencies (such as unemployment compensation appeals). Appeals from decisions of the Circuit Courts are made directly to the Intermediate Court of Appeals, subject to transfer to or review by the Supreme Court.

The Family Courts, divisions of the Circuit Courts, are specialized courts of record designed to deal with family conflict and juvenile offenders. The Family Courts retain jurisdiction over children under the age of 18 who violate any law or ordinance, are neglected or abandoned, are beyond the control of their parents or other custodians, live in an environment injurious to their welfare, or behave in a manner injurious to their own or others' welfare. The Family Court's jurisdiction also encompasses those adults involved in offenses against other family members; dissolution of marriages; disputed child custody and visitation issues; resolution of paternity issues; adoptions; temporary restraining orders for protection; and adults who are incapacitated and/or are in need of protection.

In civil matters, District Courts exercise exclusive jurisdiction where the amount in controversy does not exceed \$20,000. If the amount in controversy exceeds \$5,000, the parties may demand a jury trial, in which case the matter is committed to the Circuit Courts. The District Courts also have exclusive jurisdiction in all landlord-tenant cases and all small claims actions (suits in which the amount in controversy does not exceed \$3,500). Temporary restraining orders and injunctions against harassment are handled by the civil divisions of the District Courts.

In traffic matters, the District Courts exercise jurisdiction over civil and criminal traffic violations of the Hawai'i Revised Statutes, county ordinances, and the rules and regulations of state and county regulatory agencies. Certain traffic matters, known as "decriminalized" traffic offenses, are handled on a civil standard within the traffic division. Those traffic matters which are not "decriminalized" are handled on a criminal standard.

In criminal matters, the jurisdiction of the District Courts is limited to misdemeanors, traffic offenses, and cases filed for violations of county ordinances and the rules of the State's regulatory agencies. In felony cases where an arrest has been made, the District Courts are required to hold a preliminary hearing, unless such hearing is waived by the accused. All trials are conducted by judges. However, in criminal misdemeanor cases, the defendant may demand a jury trial, in which case the matter is committed to the Circuit Courts for trial.

The Driver Education and Training Program provides counseling, instructional services, and public information in the area of traffic safety. It is a preventive and rehabilitative endeavor directed at both adult and juvenile traffic offenders.

- c. **Explain how your program intends to meet its objectives within the upcoming supplemental year.**

See Section 2, "Program Performance Results," below.

2. **Program Performance Results:**

- a. **Discuss the performance results achieved by each program in FY 2007.**

See Section d below.

- b. **Explain how these results relate to the program's objectives and department's mission.**

See Section d below.

- c. **Explain how the effectiveness of the program is measured (i.e.: outcomes, measures of effectiveness, benchmarks, etc.) and discuss the performance results achieved during the past two years.**

See Section d below.

- d. **Discuss actions taken by each program to improve its performance results.**

As previously indicated in the overview, a central measure of Judiciary performance is a review of the caseload and disposition of these cases. The graphs and trend analysis that we have included (JUD 320 pages 15 -18) clearly indicate the public demand on the courts.

In total, case filings in the Second Circuit have increased from FY 2006 to FY 2007, with FY 2007 filings the highest in the past four years. In total, Circuit Court, Family Court, and District Court all experienced increases in filings compared to the previous fiscal year. Circuit Court criminal case filings increased, while civil and other cases showed slight decreases. Family Court juvenile filings almost doubled compared to the previous year, however, criminal, special, and domestic cases decreased. Finally, in District Court, civil, criminal, and other type cases all showed increases in filings. The increase in filings impacted clearance rates with all courts showing a decrease compared to the

previous year. The clearance rate in total decreased from 89% in FY 2006 to 80% in FY 2007. Overall, the eight-year average for clearance of cases is 93%.

The Second Circuit recently established a Court Navigation Program/Service Center to serve as a one-stop reference point to assist the general public as they navigate through the court system. The service center is designed to provide brochures and court forms, as well as computers and typewriters, to assist in filling out the forms, and to make appropriate referrals, whether to another court program or an outside agency.

- e. **Please identify all modifications to your program's performance measures and discuss the rationale for these modifications.**

N/A.

3. Problems and Issues:

- a. **Discussion of problems and issues encountered, if any.**

Like other Judiciary circuits, the Second Circuit is challenged to fund essential requirements that are currently unfunded or underfunded in this current fiscal year. The 2007 Legislature approved a significant pay increase for judges, however, no funding for this increase was provided. In addition, measures undertaken last session to increase compensation for Family Court's Guardians Ad Litem (GALs) left the Second Circuit, as well as the other circuits and Courts of Appeal, underfunded. Finally, Maui/Molokai Drug Court (MDC) continues to be successful in rehabilitating substance abusers, but even at full staffing, it cannot accommodate the numerous individuals currently on the waitlist.

- b. **Program change recommendations to remedy problems.**

The Second Circuit is seeking additional monies to address the funding shortages being experienced. Furthermore, additional positions and funds are being requested to help accommodate individuals currently awaiting acceptance into the MDC.

- c. **Identify any program issues or problems that have affected or will affect the implementation of the program, and the corrective measures or remedies established or planned.**

None.

4. Expenditures for FY 2008:

	<u>Act 169/07 FY 2008</u>	<u>Collective Bargaining</u>	<u>Transfers In/(Out)</u>	<u>(Restriction)/ Specific Apprn</u>	<u>Net Allocation</u>	<u>Estimated Total Expenditures</u>
(posn count)	215.00				215.00	215.00
Personal Services	9,745,540	360,159			10,105,699	10,105,699
Current Expenses	4,698,775		15,647	75,000 ¹⁾	4,789,422	4,789,422
Lease/Purch Agrmnts	0				0	0
Equipment	16,197				16,197	16,197
Motor Vehicles	0				0	0
Total	14,460,512	360,159	15,647	75,000	14,911,318	14,911,318
Less: Special Federal Other	10,168				10,168	10,168
(posn count)	215.00	0.00	0.00	0.00	215.00	215.00
General Fund	<u>14,450,344</u>	<u>360,159</u>	<u>15,647</u>	<u>75,000</u>	<u>14,901,150</u>	<u>14,901,150</u>

a. Explain all transfers within the Program I.D. and their impact on the Program.

None.

b. Explain all transfers between Program I.D.'s and their impact on the Program.

\$15,647 was transferred from First Circuit to Second Circuit for the Second Circuit's share of urinalysis testing.

c. Explain all restrictions and its impact on the Program.

None.

1) Reflects Second Circuit's share of \$880,000 appropriated by Act 218/07 for statewide Guardian Ad Litem and Legal Counsel fee increase.

5. Supplemental Budget Requests for FY 2009:

	<u>Act 169/07 FY 2009</u>	<u>Budget Adjustments FY 2009</u>	<u>Supplemental Request FY 2009</u>
(posn count)	216.00	5.00	221.00
Personal Services	9,900,486	286,265	10,186,751
Current Expenses	4,699,755	786,206	5,485,961
Lease/Purch Agrmnts	0	0	0
Equipment	1,664	18,349	20,013
Motor Vehicles	<u>0</u>	<u>0</u>	<u>0</u>
Total	14,601,905	1,090,820	15,692,725
 Less: Special Federal Other	 <u> </u>	 <u> </u>	 <u> </u>
 (posn count)	 216.00	 5.00	 221.00
General Fund	<u>14,601,905</u>	<u>1,090,820</u>	<u>15,692,725</u>

a. Workload or Program Request

i. A brief description of request, reasons for the request, and the desired outcomes or the objectives to be accomplished by the proposed program.

See following pages.

ii. A listing/description of positions requested, and funding requirements by cost category and source of funding.

See following pages.

Supplemental Budget Requests for FY 2009:

Judges' Pay Raise

The Commission on Salaries was established as a result of a constitutional amendment of Article XVI of the Constitution of the State of Hawai'i, which was approved in November 2006. The Commission was charged with reviewing and making recommendations for the salaries of justices and judges of all State courts, members of the Legislature, the Governor and Lieutenant Governor, and specified appointed officials within the State Executive branch. The 2006 Commission was convened in December 2006 and submitted its report and recommendations to the 2007 State Legislature. Although the recommendations of the Commission provided judges with a salary increase for FYs 2008 through 2013, such action occurred too late during the 2007 legislative session to add the resources to implement the increase. Thus, an additional \$84,929 is required to ensure that the Second Circuit has sufficient resources to provide payment to its judges for this scheduled pay increase.

GAL and Attorney Fees

The Family Court of the Second Circuit requests \$431,542 in FY 2009 to provide for the appointment of GALs and counsel for indigents, as required by law. In most of these cases, GALs are appointed as advocates for children who are victims of child abuse or neglect. The role of the GAL is to keep the court informed about the child and the progress of the services provided to the child's family, by serving as a fact finder, investigator, advocate, and protector to a child in need. The GAL also ensures that the court's orders are carried out and brings to the court's attention any changes in the child's or family's situation which may require changes in the court's orders. The appointment of GALs in child protective proceedings is mandated by both federal law (the Child Abuse Prevention and Treatment Act of 1974 (P.L. 93-247)) and state law (HRS Section 587-34).

Legal counsel are appointed to represent the parents in cases of child abuse and neglect and many of these parties (parents and guardians) have had their children removed from their custody and placed with foster parents, or they may be faced with having their parental rights taken away on a permanent basis.

In an effort to ensure that qualified, quality representation is available to children involved in child protective proceedings and family members involved in cases which may affect parental rights, Act 218/07, which significantly increases the rate of pay provided in these situations, was passed by the 2007 Legislature. However, no additional resources were appropriated to provide for this increase in FY 2009. The Family Court of the Second Circuit's request therefore provides \$431,542 and one support position (Account Clerk III) to enable the court to comply with the provisions of Act 218/07. These resources will facilitate the payment of higher fees for GALs and court-appointed counsel, and ensure the availability of continued proper representation for children and family members.

Prior to the enactment of Act 218/07, hourly compensation for GALs and legal counsel was \$60 for in-court services and \$40 for out-of-court services. Act 218/07 amended the hourly rate and definition to \$90 for legal services and \$60 for non-legal services. The legislative intent was to provide parity for the GALs and legal counsel because the Legislature in 2005 had approved an increase to \$90 per hour for criminal defense attorneys who are court appointed to represent indigent clients. The Legislature felt that increasing the compensation rates for GALs and legal counsel for Family Court civil cases would attract new attorneys as well as retain competent ones to do this complex and difficult work. The rate increases to \$90 and \$60 recognized that the welfare of children and vulnerable adults in our community were as important as defending the rights of criminal defendants. To control costs, and provide necessary services with available resources, the Family Court of the Second Circuit had previously instituted the practice of contracting for the services of GALs and court-appointed legal counsel, scrutinizing financial statements for proof of indigence, and strictly monitoring charges to prevent the payment of excess fees.

The federal Adoption and Safe Families Act (P.L. 105-89) established shorter time-frames which require the State Department of Human Services to move for permanent out-of-home placement when a child is out of the home for 15 of the preceding 22 months. With these shortened time-frames, cases (which often involve issues of a very severe and complex nature) must be reviewed by the court with greater frequency to ensure that services are offered to parents on a timely basis, and that parents comply with their court orders. In addition, the number of new petitions filed increase the caseloads of judges and support staff, and the corresponding need for GALs and legal counsel, because existing cases do not close with the same frequency that new cases are opened. As a result of these factors, it has become exceedingly difficult for the Family Court to attract the qualified, quality representation that children and family members deserve. The increased payments prescribed by Act 218/07, and the additional resources requested, will ensure that the Family Court of the Second Circuit has the means to provide adequate compensation to retain existing qualified GALs and court-appointed counsel, and to continue to attract new capable service providers. In so doing, the Family Court of the Second Circuit will fulfill its obligation to protect the interests of children while ensuring the rights of indigent parties in child protective and other Family Court proceedings.

Lease Costs for Molokai

Funding of \$62,160 for lease costs is requested to consolidate the various Judiciary offices on Molokai. Currently, a Social Worker in the Adult Client Services Branch and a Social Service Assistant and a Social Worker in the Juvenile Client and Family Services Branch work in two different locations. Each staff maintains their own office and when out on vacation or illness, their office is closed and a sign is posted for clients to call the Maui office. In 2004, MDC expanded to Molokai to include on-island drug court services. The Drug Court Counselor shares office space with the Adult Client Services Branch in a privately rented space on a month-to-month basis. In 2006, the Maui Family

Court Drug Court (FCDC) also expanded to Molokai. The FCDC case manager flies to Molokai for hearings and uses video conferencing technology or the telephone between hearings to provide case management services to the FCDC clients on Molokai. In addition, a Social Worker from Maui travels to Molokai weekly to provide investigative and intake services, and to address more complex probation supervision issues presented by minors. When on island, personnel in these positions either borrow office space from Molokai staff or the Social Service Assistant vacates her office for their use.

The new office space would enable staff to be consolidated in one location and to be cross-trained to provide basic assistance for each branch of service. Further, Molokai residents would no longer encounter a closed office due to staff vacation or illness.

The requested lease cost has been reduced by \$7,824, the yearly rent currently being paid for office space for the Adult Client Services position. The Juvenile Client and Family Services Branch position currently occupies office space in the state office complex and incurs no monthly rent.

Expansion of MDC

The Second Circuit is requesting \$486,189 and four positions to expand the MDC. MDC provides access to substance abuse and cognitive behavioral treatment for substance using criminal offenders that might not otherwise succeed in less intensive treatment without stringent and intensive supervision.

MDC is presently at full staff and has a program capacity of 120 individuals. Current staffing includes one Social Worker VI (Administrator), one Social Worker V (Clinical Supervisor), seven Drug Court Counselor positions (one located on Molokai), and one Judicial Clerk II. This allows for manageable caseloads of 15 to 20 individuals per counselor. Existing funds allow the MDC to provide in-community treatment services of up to 80 to 100 clients on any given day. The MDC has been able to have a program census of over 100 due to utilization of two treatment dormitories at the Maui Community Correctional Center and movement of clients into aftercare with family services once they have completed treatment yet continue in the program. Even with the current program census of 120 individuals through utilization of other sources, there is still a wait list of more than 70 individuals. The current negotiated contract for purchase of service (POS) monies is approximately \$100,000 for each additional block of 20 individuals.

To begin to address individuals who are currently waitlisted, the Second Circuit is requesting two additional Drug Court Counselors. Also needed with this are a Social Worker V to provide sufficient clinical supervision and a Judicial Clerk II to help assume some of the additional clerical duties. Total costs for these four people would be \$186,189. Another \$300,000 in POS funding is also needed--\$200,000 to treat an additional 40 individuals currently on the waitlist and \$100,000 to address Act 169 passed by the 2007 Legislature. This Act included a proviso where \$100,000 or so much

thereof, shall be expended for medically targeted substance abuse treatment for drug-addicted offenders. Despite this provision, no funds were appropriated for this purpose.

Increase in Psychiatric/Psychological Fees for Examinations

The fee for forensic psychiatric/psychological examinations performed under Section 704, HRS, is currently set at \$500 per examination by Circuit Court Part D Criminal Administrative Order No. 4.1. This flat fee (which does not take into account the number of hours devoted to conduct the evaluation) has not been raised by the Judiciary since 1992, and has resulted in a lack of available professionals willing to provide examination services. This in turn subjects individuals involved in court proceedings to unreasonable delays as they wait to receive the forensic evaluation required in resolving their cases. To directly address this situation, we understand that the Task Force convened by the Governor in 2006 in response to Senate Concurrent Resolution No. 117, will be recommending a 100% increase in fees from \$500 to \$1,000 per court ordered forensic examination. It is believed that this fee increase to a more appropriate level of compensation will result in a corresponding increase in the number of professionals willing to conduct these evaluations, thereby ensuring that timely forensic examinations can be provided to individuals involved in court proceedings. The Second Circuit's request therefore provides \$26,000 in additional resources to facilitate the payment of increased fees for examinations performed under Section 704, HRS, consistent with the recommendations of the Task Force.

6. Program Restrictions:

Identify restrictions carried over from FY 2008 as well as additional reductions due to the Department of Budget and Finances budget ceilings for FY 2009. If no reduction is being proposed, indicate "none".

- a. **A description of the reduction, the reason for the reduction, and the impacts to the objectives to be accomplished by the program.**

None.

- b. **A listing/description of the positions reduced including source of funding, please specify whether the positions were filled or vacant.**

None.

7. Capital Improvement Program (CIP) Requests for FY 2009:

None.

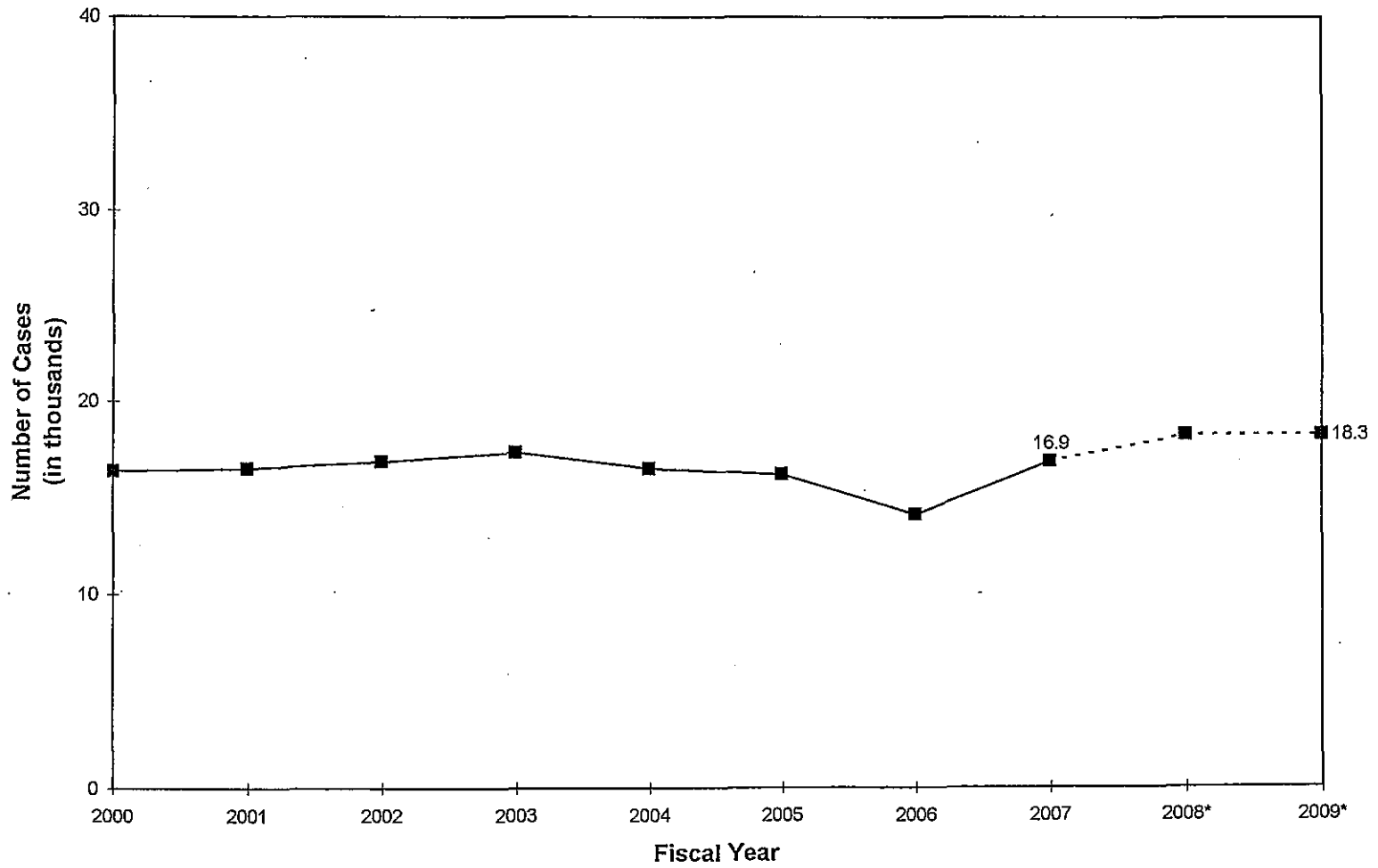
8. Proposed Lapses of CIP projects:

None.

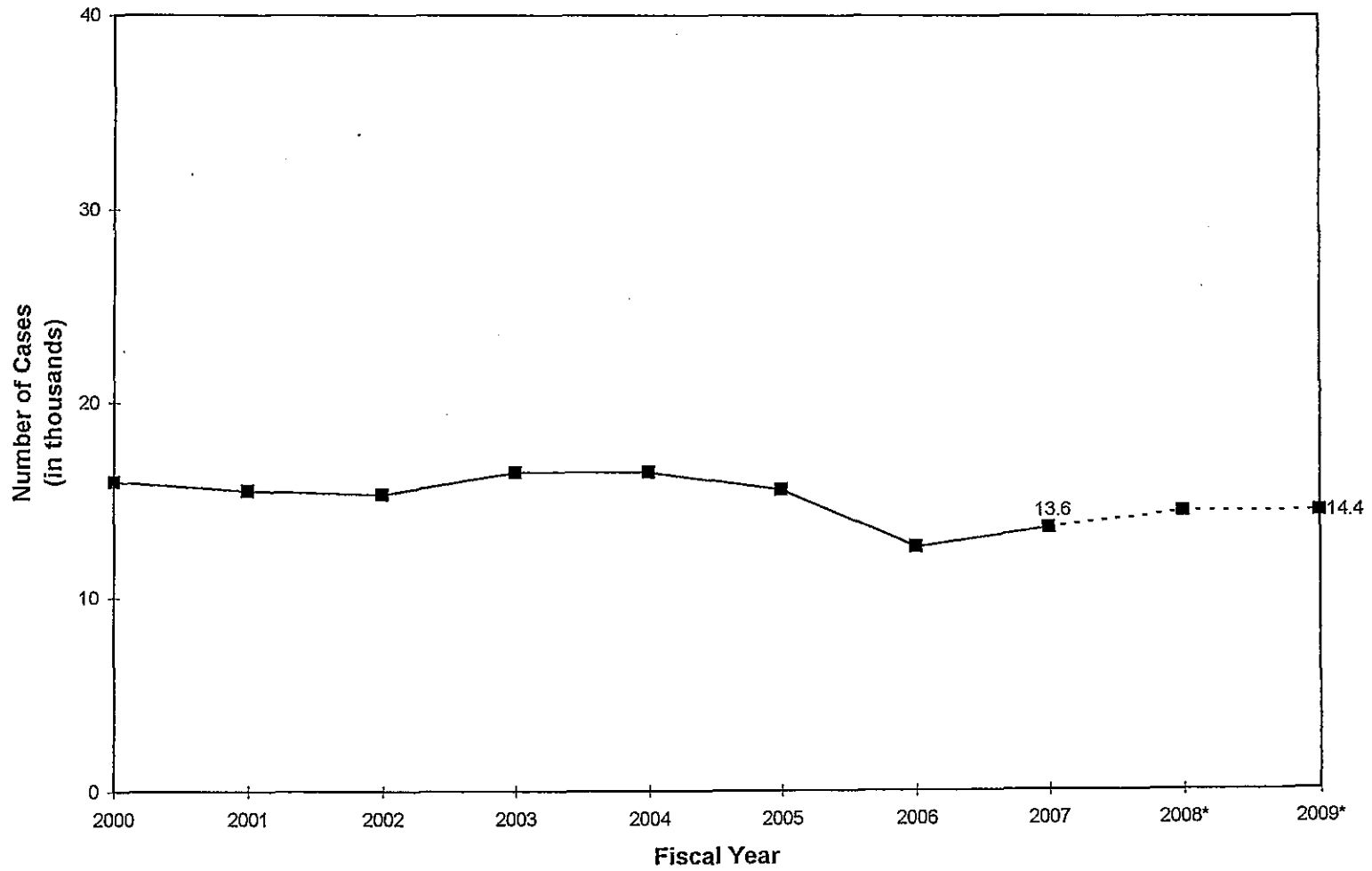
5. BUDGET REQUEST FOR SUPPLEMENTAL BUDGET 08-09
A. DESCRIPTION OF POSITIONS AND FUNDING REQUIREMENTS BY COST CATEGORY AND SOURCE OF FUNDS

JUD 320			FY 2008-09				
PROGRAM	DESCRIPTION	ITEM	POS COUNT	PAYROLL	OTHER CURR EXP	EQUIPMENT	TOTAL
Adjudication	Judges' Pay Raise	Payroll		84,929			84,929
				84,929	-	-	84,929
Client Svcs	GAL Fees	Account Clerk III (SR-11) 99301J	1.00	28,836			28,836
		Attorney Fees			205,953		205,953
		Guardian Ad Litem Fees			190,543		190,543
		Operating Supplies			250		250
		Modular Panel/Desk				1,500	1,500
		Bookcase 4 Shelf				140	140
		File Cabinet, Vert, Steel, 4-Drawer				296	296
		Chair, Task/Conf, Med Back, w/Arms				254	254
		Chair Mat				70	70
		PC w/Software				2,500	2,500
		Printer				800	800
		Printer R&M			150		150
		Calculator				250	250
			1.00	28,836	396,896	5,810	431,542
Client Svcs	Consolidation of Molokai Offices	Lease			39,960		39,960
		Electricity			14,400		14,400
		Janitorial Services			7,800		7,800
							-
					62,160		62,160
Client Svcs	Expansion of Drug Court	Social Worker V (SR-24) 99302J	1.00	51,312			51,312
		Drug Ct Sub Abuse Couns IV (SR-22) 99303J	1.00	45,576			45,576
		Drug Ct Sub Abuse Couns IV (SR-22) 99304J	1.00	45,576			45,576
		Judicial Clerk II (SR-12) 99305J	1.00	30,036			30,036
		Operating Supplies (4)			1,000		1,000
		POS			300,000		300,000
		PC w/Software (4)				10,000	10,000
		Printer, Network				1,950	1,950
		Printer Stand				265	265
		Printer R&M			150		150
		Chair, Task/Conf, Med Back, w/Arms				254	254
		Chair Mat				70	70
			4.00	172,500	301,150	12,539	486,189
Court Svcs	Increase in psychiatrist/ psychologist fees	Service on a Fee			26,000		26,000
					26,000		26,000
							-
							26,000
	TOTAL 2nd CIRCUIT		5.00	286,265	786,206	18,349	1,090,820

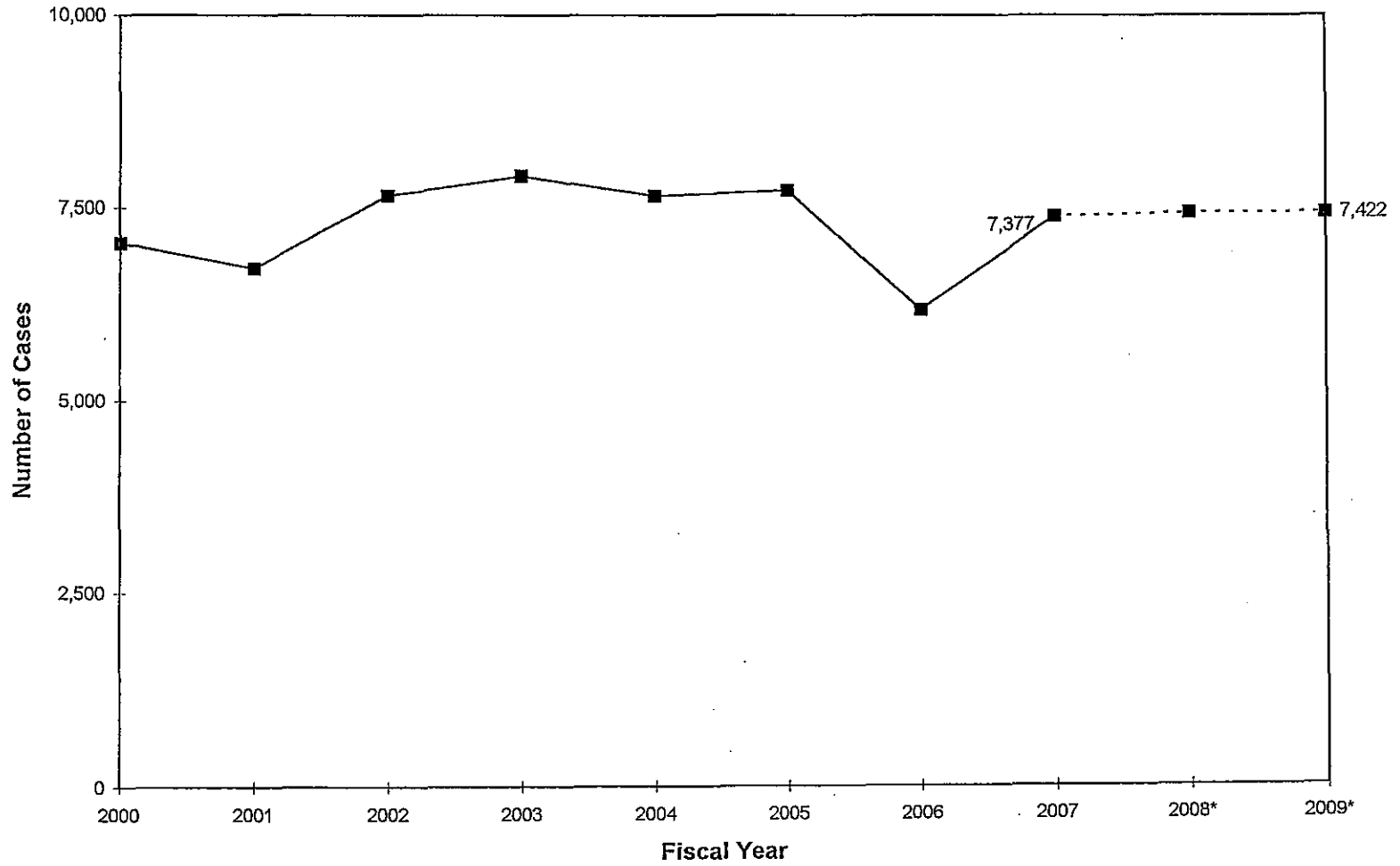
Second Circuit
Total Cases Filed (excluding District Court Traffic Cases)
FY 2000 - 2007 (Actual); FY 2008 - 2009 (Forecast*)



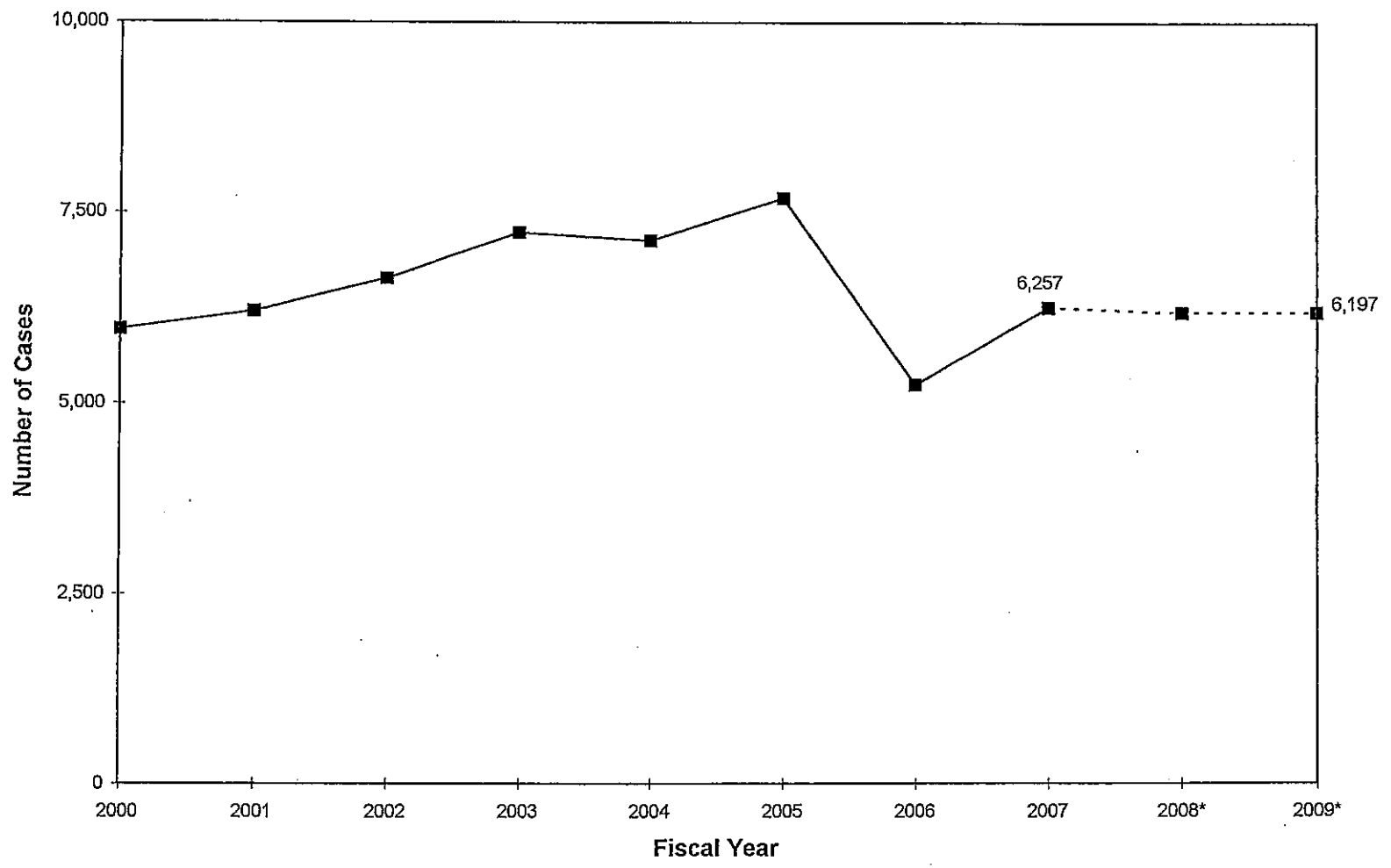
Second Circuit
Total Cases Terminated (excluding District Court Traffic Cases)
FY 2000 - 2007 (Actual); FY 2008 - 2009 (Forecast*)



**Second Circuit
Criminal Cases Filed
FY 2000 - 2007 (Actual); FY 2008 - 2009 (Forecast*)**



Second Circuit Criminal Cases Terminated FY 2000 - 2007 (Actual); FY 2008 - 2009 (Forecast*)



Program I.D. and Title: JUD 330 - Third Circuit

Page References in the Supplemental Budget Document: Pgs. 32 - 40

1. Introduction:

The mission of the Third Circuit is to expeditiously and fairly adjudicate or resolve all matters within its jurisdiction in accordance with law.

a. Summary of program objectives.

- To assure a proper consideration of all competing interests and countervailing considerations intertwined in questions of law arising under the Constitution of the State and the United States in order to safeguard individual rights and liberties and to protect the legitimate interest of the State and thereby ensure to the people of this State the highest standard of justice attainable under our system of government.
- To develop and maintain a sound management system which incorporates the most modern administrative practices and techniques to assure the uniform delivery of services of the highest possible quality, while providing for and promoting the effective, economical, and efficient utilization of public resources.
- To administer a system for the selection of qualified individuals to serve as jurors so as to ensure fair and impartial trials and thereby effectuate the constitutional guarantee of trial by jury.
- To provide for the fair and prompt resolution of all civil and criminal proceedings and all civil and criminal traffic cases so as to ensure public safety and promote the general welfare of the people of the State, but with due consideration for safeguarding the constitutional rights of the accused.
- To conduct presentence and other predispositional investigations in a fair and prompt manner for the purpose of assisting the courts in rendering appropriate sentences and other dispositions with due consideration for all relevant facts and circumstances.
- To maintain accurate and complete court records as required by law and to permit immediate access to such records, where appropriate, by employing a records management system which minimizes storage and retention requirements.
- To supervise convicted and deferred law violators who are placed on probation or given deferments of guilty pleas by the courts to assist them towards socially acceptable behavior, thereby promoting public safety.

- To safeguard the rights and interests of persons by assuring an effective, equitable, and expeditious resolution of civil and criminal cases properly brought to the courts, and by providing a proper legal remedy for legally recognized wrongs.
- To assist and protect children and families whose rights and well-being are jeopardized by securing such rights through action by the court, thereby promoting the community's legitimate interest in the unity and welfare of the family and the child.
- To administer, to the fullest extent permitted by law, the orders and decrees pronounced by the Family Division so as to maintain the integrity of the judicial process.
- To supervise law violators who are placed on probation by the Family Division and assist them towards socially acceptable behavior, thereby promoting public safety.
- To protect minors whose environment or behavior is injurious to themselves or others and to restore them to society as law-abiding citizens.
- To complement the strictly adjudicatory function of the Family Division by providing services such as counseling, guidance, mediation, education, and other necessary and proper services for children and adults.
- To coordinate and administer a comprehensive traffic safety education program as a preventive and rehabilitative endeavor directed to both adult and juvenile traffic offenders in order to reduce the number of deaths and injuries resulting from traffic mishaps.
- To develop a statewide drug court treatment and supervision model for non-violent adults and juveniles, adapted to meet the needs and resources of the individual jurisdictions the Drug Courts serve.
- To deliver services and attempt to resolve disputes in a balanced manner that provides attention to all participants in the justice system, including parties to a dispute, attorneys, witnesses, jurors, and other community members, embodying the principles of restorative justice.

b. Description of program objectives.

As noted in the overview, this Supplemental Budget builds on the significant change from the Judiciary's traditional budget structure that began five years ago. Each new Circuit identifier retains elements of the prior program identifiers. Further, except for slight variations attendant to each respective Circuit, the same basic court programs are operated in the Second, Third, and Fifth Circuits.

The Adjudication program provides the Third Circuit with judges and staff to operate the circuit, family, and district courts. Adjudication program judges also staff drug courts for adults, juveniles, and families. In addition, the program budget provides for judges' operating supplies and professional fees.

The Central Administration program consolidates court administrative offices, and includes the chief court administrator and administrative staff. The primary objectives of the program include providing for effective and efficient planning, direction, administration, coordination, and evaluation of all administrative, business and support functions, operations, and activities required to support judicial proceedings and judgments in the circuit, district, and family courts. This program also strives to provide the Third Circuit with fiscal and accounting services that ensure the uniform delivery of services of the highest quality while providing and promoting the effective, economical, and efficient utilization of resources.

The Client Services program's primary objective is to provide services which support the adjudicatory function of the Circuit, District, and Family Courts within the Third Circuit. The program accomplishes its mission with activities that include making recommendations to the courts, enforcing compliance with court orders, providing victim support services, maintaining client classification and information systems, managing purchase of service contracts, and maintaining contacts with community resources. Drug court services for adults, families, and juveniles are also provided. Families and juveniles appearing in the Family Court are provided a number of counseling and educational services, including volunteer guardian-ad-litem services for abused and neglected children and an educational program for separating parents and their children. All probation officers providing services to adult and juvenile clients are consolidated within this program.

The Court Services program is responsible for providing courtroom clerical, court reporting, and other support and ancillary services to the courts of the Third Circuit. Programs in the division are designed to aid in the timely disposition of cases of general and limited jurisdiction for civil, criminal felonies, misdemeanors, petty misdemeanors, family proceedings, and traffic (decriminalized and regular traffic criminal) in the Third Circuit.

Circuit Courts are trial courts of general jurisdiction. Circuit Courts have jurisdiction in most felony cases, and concurrent jurisdiction with the Family Courts for certain felonies related to domestic abuse, such as violations of temporary restraining orders involving family and household members. Circuit Courts also have exclusive jurisdiction in probate, trust, and conservatorship (formerly "guardian of the property") proceedings, and concurrent jurisdiction with the Family Courts over adult guardianship (formerly "guardian of the person") proceedings. Circuit Courts have exclusive jurisdiction in civil cases

involving amounts greater than \$20,000, and concurrent jurisdiction with District Courts in civil cases involving amounts between \$10,000 and \$20,000. Jury trials are conducted exclusively by Circuit Court judges. A party to a civil case triable by jury may demand a jury trial where the amount in controversy exceeds \$5,000. Circuit Courts have exclusive jurisdiction in mechanics lien cases and foreclosure cases, and jurisdiction as provided by law in appeals from other agencies (such as unemployment compensation appeals). Appeals from decisions of the Circuit Courts are made directly to the Intermediate Court of Appeals, subject to transfer to or review by the Supreme Court.

The Family Courts, divisions of the Circuit Courts, are specialized courts of record designed to deal with family conflict and juvenile offenders. The Family Courts retain jurisdiction over children under the age of 18 who violate any law or ordinance, are neglected or abandoned, are beyond the control of their parents or other custodians, live in an environment injurious to their welfare, or behave in a manner injurious to their own or others' welfare. The Family Court's jurisdiction also encompasses those adults involved in offenses against other family members; dissolution of marriages; disputed child custody and visitation issues; resolution of paternity issues; adoptions; temporary restraining orders for protection; and adults who are incapacitated and/or are in need of protection.

In civil matters, District Courts exercise exclusive jurisdiction where the amount in controversy does not exceed \$20,000. If the amount in controversy exceeds \$5,000, the parties may demand a jury trial, in which case the matter is committed to the Circuit Courts. The District Courts also have exclusive jurisdiction in all landlord-tenant cases and all small claims actions (suits in which the amount in controversy does not exceed \$3,500). Temporary restraining orders and injunctions against harassment are handled by the civil divisions of the District Courts.

In traffic matters, the District Courts exercise jurisdiction over civil and criminal traffic violations of the Hawai'i Revised Statutes, county ordinances, and the rules and regulations of state and county regulatory agencies. Certain traffic matters, known as "decriminalized" traffic offenses, are handled on a civil standard within the traffic division. Those traffic matters which are not "decriminalized" are handled on a criminal standard:

In criminal matters, the jurisdiction of the District Courts is limited to misdemeanors, traffic offenses, and cases filed for violations of county ordinances and the rules of the State's regulatory agencies. In felony cases where an arrest has been made, the District Courts are required to hold a preliminary hearing, unless such hearing is waived by the accused. All trials are conducted by judges. However, in criminal misdemeanor cases, the defendant may demand a jury trial, in which case the matter is committed to the Circuit Courts for trial.

The Driver Education and Training Program provides counseling, instructional services, and public information in the area of traffic safety. It is a preventive and rehabilitative endeavor directed at both adult and juvenile traffic offenders.

- c. **Explain how your program intends to meet its objectives within the upcoming supplemental year.**

See Section 2, "Program Performance Results," below.

2. **Program Performance Results:**

- a. **Discuss the performance results achieved by each program in FY 2007.**

See Section d below.

- b. **Explain how these results relate to the program's objectives and department's mission.**

See Section d below.

- c. **Explain how the effectiveness of the program is measured (i.e.: outcomes, measures of effectiveness, benchmarks, etc.) and discuss the performance results achieved during the past two years.**

See Section d below.

- d. **Discuss actions taken by each program to improve its performance results.**

As previously indicated in the overview, central to the measure of Judiciary performance is a review of the caseload and disposition of these cases. The graphs and trend analysis that we have included (JUD 330 pages 16-19) clearly indicate the public demand on the Third Circuit.

In total, the Third Circuit experienced a slight increase in case filings in comparison to the previous fiscal year. Circuit Court showed increases in civil and other filings, while criminal filings decreased slightly. In Family Court, filing increases were seen in juvenile and criminal cases, while special and domestic cases showed decreases. In the District Court, only civil cases experienced increases in filings, with criminal and other filings showing considerable decreases. Overall, clearance rates in the Third Circuit increased from 95% to 97% from FY 2006 to FY 2007, with Circuit Court experiencing a decrease and Family and District Courts showing impressive increases. The eight-year average for all courts is 96%.

Like all circuits, the Third Circuit strives to find new methods to improve its efficiency and productivity. The circuit has consolidated some programs to better provide for those utilizing the services of the courts. With Drug Court well underway, the Third Circuit hopes to better control increasing acts of drug abuse.

- e. **Please identify all modifications to your program's performance measures and discuss the rationale for these modifications.**

N/A.

3. Problems and Issues:

- a. **Discussion of problems and issues encountered, if any.**

Like other Judiciary circuits, the Third Circuit is challenged to fund essential requirements that are currently unfunded or underfunded for this fiscal year. The 2007 Legislature approved a significant pay increase for judges, however, no funding for the increase was provided. In addition, measures undertaken last session to increase compensation for Family Court's Guardians Ad Litem (GALs) left the Third Circuit and all circuits underfunded. The Third Circuit continues to struggle with the lack of adequate staffing in various program areas. Legislative changes in laws and more complex technology have resulted in workload increases and staffing shortages in many areas. Statutory amendments have increased the complexity of and time required to resolve cases. The combination of unfunded/underfunded items along with shortages in staffing has played a major role in the challenge to operate within the Third Circuit's existing budget.

- b. **Program change recommendations to remedy problems.**

The Third Circuit is requesting funds in this supplemental budget to address the funding and staffing shortages presently occurring that are anticipated to continue into the supplemental year.

- c. **Identify any program issues or problems that have affected or will affect the implementation of the program, and the corrective measures or remedies established or planned.**

None.

4. Expenditures for FY 2008:

	<u>Act 169/07 FY 2008</u>	<u>Collective Bargaining</u>	<u>Transfers In/(Out)</u>	<u>(Restriction)/ Specific Apprn</u>	<u>Net Allocation</u>	<u>Estimated Total Expenditures</u>
(posn count)	222.00				222.00	222.00
Personal Services	10,631,199	385,703			11,016,902	11,016,902
Current Expenses	6,510,606		7,910	27,348 ¹⁾	6,545,864	6,545,864
Lease/Purch Agrmnts	0				0	0
Equipment	352,380				352,380	352,380
Motor Vehicles	0				0	0
Total	17,494,185	385,703	7,910	27,348	17,915,146	17,915,146
Less: Special Federal Other						
(posn count)	222.00	0.00	0.00	0.00	222.00	222.00
General Fund	<u>17,494,185</u>	<u>385,703</u>	<u>7,910</u>	<u>27,348</u>	<u>17,915,146</u>	<u>17,915,146</u>

a. Explain all transfers within the Program I.D. and their impact on the Program.

None.

b. Explain all transfers between Program I.D.'s and their impact on the Program.

\$7,910 was transferred from First Circuit to Third Circuit for the Third Circuit's share of urinalysis testing.

c. Explain all restrictions and its impact on the Program.

None.

1) Reflects Third Circuit's share of \$880,000 appropriated by Act 218/07 for statewide Guardian Ad Litem and Legal Counsel fee increase.

5. Supplemental Budget Requests for FY 2009:

	<u>Act 169/07 FY 2009</u>	<u>Budget Adjustments FY 2009</u>	<u>Supplemental Request FY 2009</u>
(posn count)	222.00	10.00	232.00
Personal Services	10,832,842	454,849	11,287,691
Current Expenses	6,803,406	1,109,884	7,913,290
Lease/Purch Agrmnts	0	0	0
Equipment	0	50,402	50,402
Motor Vehicles	<u>0</u>	<u>0</u>	<u>0</u>
Total	17,636,248	1,615,135	19,251,383
 Less: Special Federal Other	 <u> </u>	 <u> </u>	 <u> </u>
 (posn count)	 222.00	 10.00	 232.00
General Fund	<u>17,636,248</u>	<u>1,615,135</u>	<u>19,251,383</u>

a. Workload or Program Request

i. A brief description of request, reasons for the request, and the desired outcomes or the objectives to be accomplished by the proposed program.

See following pages.

ii. A listing/description of positions requested, and funding requirements by cost category and source of funding.

See following pages.

Supplemental Budget Requests for FY 2009:

Judges' Pay Raise

The Commission on Salaries was established as a result of a constitutional amendment of Article XVI of the Constitution of the State of Hawai'i, which was approved in November 2006. The Commission was charged with reviewing and making recommendations for the salaries of justices and judges of all State courts, members of the Legislature, the Governor and Lieutenant Governor, and specified appointed officials within the State Executive branch. The 2006 Commission was convened in December 2006 and submitted its report and recommendations to the 2007 State Legislature. Although the recommendations of the Commission provided judges with a salary increase for FYs 2008 through 2013, such action occurred too late during the 2007 legislative session to add the resources to implement the increase. Thus, an additional \$95,137 is required to ensure that the Third Circuit has sufficient resources to provide payment to its judges for this scheduled pay increase.

GAL and Attorney Fees

The Family Court of the Third Circuit requests \$909,756 in FY 2009 to provide for the appointment of GALs and counsel for indigent parties, as required by law. In most of these cases, GALs are appointed as advocates for children who are victims of child abuse or neglect. The role of the GAL is to keep the court informed about the child and the progress of the services provided to the child's family, by serving as a fact finder, investigator, advocate, and protector to a child in need. The GAL also ensures that the court's orders are carried out and brings to the court's attention any changes in the child's or family's situation which may require changes in the court's orders. The appointment of GALs in child protective proceedings is mandated by both federal law (the Child Abuse Prevention and Treatment Act of 1974 (P.L. 93-247)) and state law (HRS Section 587-34).

Legal counsel are appointed to represent the parents in cases of child abuse and neglect and parties in other cases, based upon the indigence of these parties. Many of these parties (parents and guardians) have had their children removed from their custody and placed with foster parents, or they may be faced with having their parental rights taken away on a permanent basis.

In an effort to ensure that qualified, quality representation is available to children involved in child protective proceedings and family members involved in cases which may affect parental rights, Act 218/07, which significantly increases the rate of pay provided in these situations, was passed by the 2007 Legislature. However, no additional resources were appropriated to provide for this increase in FY 2009. The Family Court of the Third Circuit's request therefore provides \$909,756 and one support position (Account Clerk III) to enable the court to comply with the provisions of Act 218/07. These resources will facilitate the payment of higher fees for GALs and court-appointed

counsel, and ensure the availability of continued proper representation for children and family members.

Prior to the enactment of Act 218/07, hourly compensation for GALs and legal counsel was \$60 for in-court services and \$40 for out-of-court services. Act 218/07 amended the hourly rate and definition to \$90 for legal services and \$60 for non-legal services. The legislative intent was to provide parity for the GALs and legal counsel because the Legislature in 2005 had approved an increase to \$90 per hour for criminal defense attorneys who are court appointed to represent indigent clients. The Legislature felt that increasing the compensation rates for GALs and legal counsel for Family Court civil cases would attract new attorneys as well as retain competent ones to do this complex and difficult work. The rate increases to \$90 and \$60 recognized that the welfare of children and vulnerable adults in our community were as important as defending the rights of criminal defendants. To control costs, and provide necessary services with available resources, the Family Court of the Third Circuit had previously instituted the practice of contracting for the services of GALs and court-appointed legal counsel, scrutinizing financial statements for proof of indigence, and strictly monitoring charges to prevent the payment of excess fees.

The federal Adoption and Safe Families Act (P.L. 105-89) established shorter time-frames which require the State Department of Human Services to move for permanent out-of-home placement when a child is out of the home for 15 of the preceding 22 months. With these shortened time-frames, cases (which often involve issues of a very severe and complex nature) must be reviewed by the court with greater frequency to ensure that services are offered to parents on a timely basis, and that parents comply with their court orders. In addition, the number of new petitions filed increase the caseloads of judges and support staff, and the corresponding need for GALs and legal counsel, because existing cases do not close with the same frequency that new cases are opened. As a result of these factors, it has become exceedingly difficult for the Family Court to attract the qualified, quality representation that children and family members deserve. The increased payments prescribed by Act 218/07, and the additional resources requested, will ensure that the Family Court of the Third Circuit has the means to provide adequate compensation to retain existing qualified GALs and court-appointed counsel, and to continue to attract new capable service providers. In so doing, the Family Court of the Third Circuit will fulfill its obligation to protect the interests of children while ensuring the rights of indigent parties in child protective and other Family Court proceedings.

Additional Judgeship

The Third Circuit is requesting \$278,358 for an additional District Family Court Judge and staff for the Hamakua and North/South Kohala divisions. The additional judgeship is needed to address the continuing increase in case filings and population in one of the fastest growing areas in the county, and to improve public service and safety.

Presently, a District Court Judge travels weekly from Hilo to the Hamakua and Kohala divisions weekly to hear District Court cases. A per diem judge is used by Family Court to hear Family Court cases on Fridays. Currently, a person needing a temporary restraining order (TRO) has to wait until a judge is available at the scheduled court date or travel over 100 miles round trip to have the application reviewed by a judge in Hilo or Kona. If a person chooses not to make the long trip, the TRO application is held until a judge is available in Kohala, which is once a week for civil TROs. For Family Court TROs, the person still needs to drive to Kona or Hilo.

The last District Court judgeship granted to the Third Circuit was more than 20 years ago. Since then, population and case filings have increased and statutory changes have impacted judicial resources. For example, for Family Court, amendments to Section 709-906 HRS have expanded the definition of a family or household member. A third domestic offense within two years now is a class C felony. Section 586 HRS has been amended to expand the definition of a family member to also include people in dating relationships. These changes have resulted in more contested hearings, and cases with a higher level of complexity requiring more judicial time for resolution. Currently, if juvenile cases in Kohala need a longer hearing, they are continued and assigned to Kona Family Court. For Child Protective Services cases, petitions are filed in Kona or Hilo. No trials, divorce cases, or contested cases for paternity are set in Kohala. If a full-time judge were to be made available in Kohala and Hamakua, these cases could then be heard in the area where the offense or the initial proceedings occurred.

In District Court, the decriminalization of traffic offenses has given the violator more options than before, increasing the complexity of the court's processes. These changes are keenly apparent in the physical handling of legal documents. A judge will review written statements made by the traffic violators contesting traffic infractions, make a decision, and have the judgment sent to the motorist. Currently, written statements by motorists in the Kohala area are sent to the Kohala division, where they are reviewed by the judge when he/she is there, usually once or twice a week.

Conversion of Temporary Positions to Permanent

The Juvenile Services Branch is requesting to convert two Social Worker IV positions from temporary status to permanent. Generally, Social Worker positions are difficult to fill due to the nature of the job. This, combined with the temporary status of these positions, has made recruitment and retention extremely challenging. The temporary status has also resulted in high turnover as qualified candidates often do not remain in the position very long as they seek out positions with permanent status.

Kohala Traffic Violations Bureau (TVB) is requesting the conversion of a Clerk III from temporary status to permanent status. This position is needed to collect fines and fees, enter transactions into the computer/accounting system, tabulate cash received, make deposit slips, image documents into the computer system, and perform other clerical duties.

The Kohala TVB Office is having difficulty retaining people in this position due to the position's temporary status. High turnover results in employees frequently having to retrain new employees, taking time and resources away from the daily operations of the office. Further, as the population has increased in the Kohala/Hamakua area, so have traffic filings:

<u>Year</u>	<u>Traffic Filings</u>
2003	9,114
2004	10,726
2005	10,642
2006	11,287

Having this position will address increases in filings that have created periodic backlogs in processing of traffic citations.

Sex Offender Treatment Funds

The Third Circuit's Adult Client and Probation Branch needs an additional \$55,000 to fund sex offender assessments/evaluations and treatments. The program currently has \$70,000 in POS funding for sex offender treatment for one group in Kona and one in Hilo. The current cost for the two groups has now risen to \$95,000. In addition, the courts and attorneys need sex offender assessments to help determine how dangerous a person is to the community, the possibility of future victimization, and appropriate sentencing and treatment requirements. Approximately \$30,000 is needed each year to provide assessments for 10 sex offenders. The Third Circuit has no funds in its base to fund such assessments because the Department of Public Safety, which used to assist in funding these assessments, no longer provides such assistance. The loss of this funding assistance (\$30,000), combined with the deficit incurred in POS funding for treatment (\$25,000), has resulted in the need for additional funding to continue providing these services.

Additional Positions

The Third Circuit is requesting \$45,368 for an Accountant III position to supervise fiscal operations in Kona and oversee fiscal matters related to the Judiciary Information and Management System (JIMS).

Currently, there is no supervisory staff in Kona to oversee fiscal operations on a daily basis. The Accountant position will provide this supervisory function, as well as handle day-to-day operations of the fiscal section. This position will also help oversee the complex computer system for JIMS, which is still in its first stage of implementation. The JIMS traffic module, which began operation in November 2005, has dramatically impacted fiscal responsibilities. These added responsibilities and increased workload, combined with an overall staffing shortage, have sometimes resulted in the Fiscal Office not complying with previous audit findings or good internal controls. For example, cashiers who issue receipts and make errors in the system make their own adjustment

vouchers, which is not a sound accounting practice. The new Accountant position will oversee the system on a daily basis and will make any adjustments when necessary. Cashier collections will be audited and reviewed for overages and shortages daily. This requested position will provide the necessary checks and balances and internal controls to allow the Kona division to comply with sound accounting practices.

Funds totaling \$45,536 are also being requested for a Court Documents Clerk III for Kona Family Court. This Clerk is needed to file documents and input data into the statewide computer programs in a timely manner because other agencies depend on this information. After each hearing, all cases are updated with information regarding what transpired in court and this information is available for all agencies to receive. Without updated data available, agencies will not be able to obtain accurate, current data from the Judiciary's computer system.

Over the past years, the total number of cases filed in the Kona Family Court has increased from 765 in 2002, to 905 in 2005, and to 1,455 in 2006. This increase, combined with only one existing clerk, has resulted in a backlog of timely data entry into the computer systems. For example, while Child Protective Services documents are generally filed immediately, other orders may take one to two weeks to file subsequent to the court action. It takes a week for the clerk to index and update the cases. The Kona clerk is a month late in closing Child Protective Services cases. Family Court Adult Criminal cases are filed within a week of receiving them, but judgments take longer to file. Indexing of certain documents may take a couple of weeks to a month.

Security

The Third Circuit is requesting \$70,980 to provide security guard services for its South Kohala District Court. The South Kohala District Court has full-time staff working in addition to Family and District Court hearings being conducted several times a week. The court provides services to the public on a daily basis for filing TROs, paying traffic and criminal fines, filing legal and civil documents, etc.; however, currently, no security is being provided to the court. This request would provide for two security guard positions and related equipment to be stationed at the entrance to the South Kohala District Court to provide security services for court staff and patrons.

Increase in Psychiatric/Psychological Fees for Examinations

The fee for forensic psychiatric/psychological examinations performed under Section 704, HRS, is currently set at \$500 per examination by Circuit Court Part D Criminal Administrative Order No. 4.1. This flat fee (which does not take into account the number of hours devoted to conduct the evaluation) has not been raised by the Judiciary since 1992, and has resulted in a lack of available professionals willing to provide examination services. This in turn subjects individuals involved in court proceedings to unreasonable delays as they wait to receive the forensic evaluation required in resolving their cases. To directly address this situation, we understand that the Task Force convened by the Governor in 2006 in response to Senate Concurrent Resolution No. 117, will be

recommending a 100% increase in fees from \$500 to \$1,000 per court ordered forensic examination. It is believed that this fee increase to a more appropriate level of compensation will result in a corresponding increase in the number of professionals willing to conduct these evaluations, thereby ensuring that timely forensic examinations can be provided to individuals involved in court proceedings. The Third Circuit's request therefore provides \$115,000 in additional resources to facilitate the payment of increased fees for examinations performed under Section 704, HRS, consistent with the recommendations of the Task Force.

6. Program Restrictions:

Identify restrictions carried over from FY 2008 as well as additional reductions due to the Department of Budget and Finances budget ceilings for FY 2009. If no reduction is being proposed, indicate "none".

- a. **A description of the reduction, the reason for the reduction, and the impacts to the objectives to be accomplished by the program.**

None.

- b. **A listing/description of the positions reduced including source of funding, please specify whether the positions were filled or vacant.**

None.

7. Capital Improvement Program (CIP) Requests for FY 2009:

None.

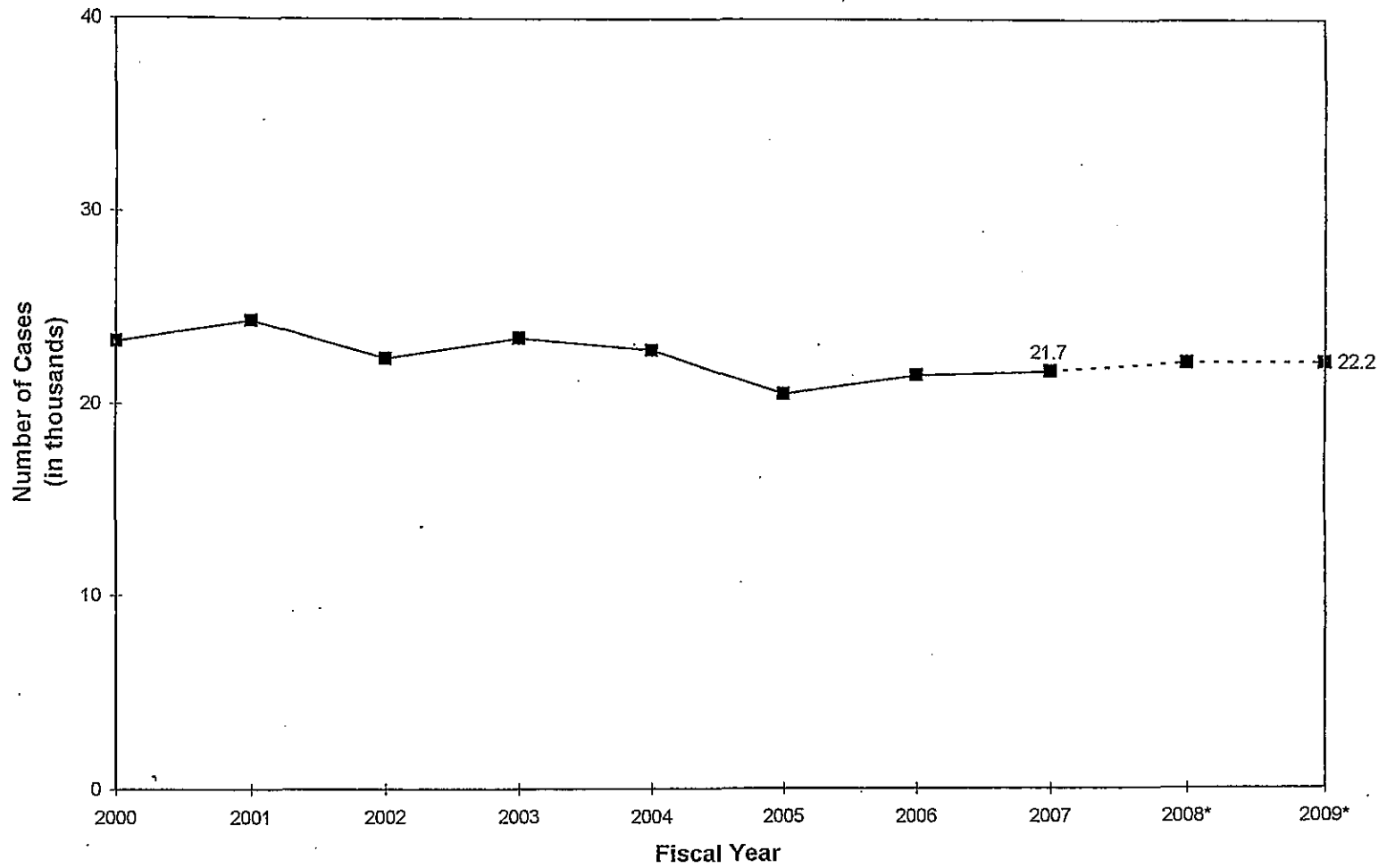
8. Proposed Lapses of CIP projects:

None.

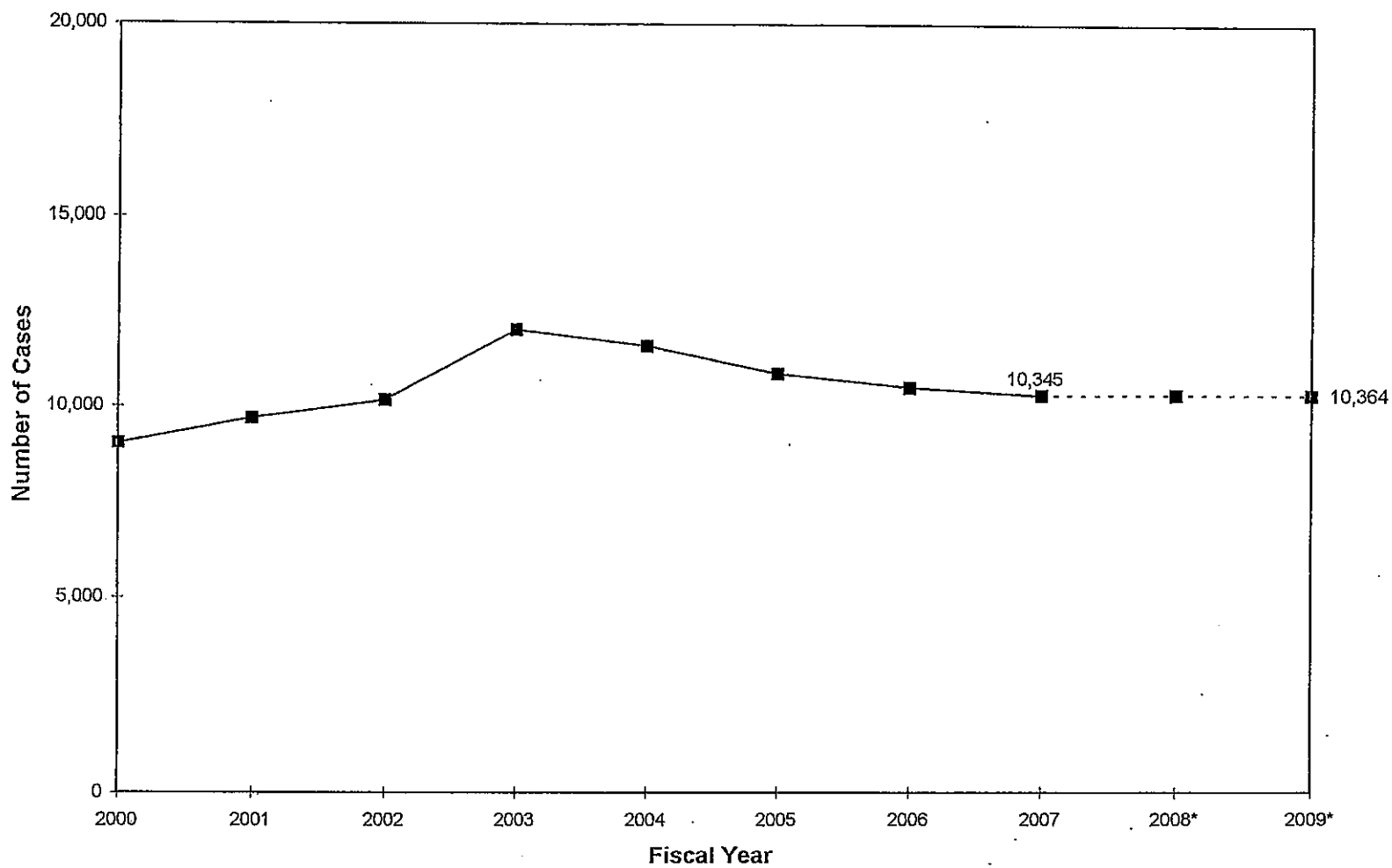
5. BUDGET REQUEST FOR SUPPLEMENTAL BUDGET 08-09
A. DESCRIPTION OF POSITIONS AND FUNDING REQUIREMENTS BY COST CATEGORY AND SOURCE OF FUNDS

JUD 330			FY 2008-09				
PROGRAM	DESCRIPTION	ITEM	POS COUNT	PAYROLL	OTHER CURR EXP	EQUIPMENT	TOTAL
Adjudication	Judges' Pay Raise	Payroll		95,137			95,137
			-	95,137	-	-	95,137
Court Svcs	GAL Fees	Account Clerk III (SR-11) 99500J	1.00	28,836			28,836
		Attorney Fees			384,971		384,971
		Guardian Ad Litem Fees			489,739		489,739
		Operating Supplies			250		250
		Modular Panel/Desk				1,500	1,500
		Bookcase 4 Shelf				140	140
		File Cabinet, Vert, Steel, 4-Drawer				296	296
		Chair, Task/Conf, Med Back, w/Arms				254	254
		Chair Mat				70	70
		PC w/Software				2,500	2,500
		Printer				800	800
		Printer R&M			150		150
		Calculator				250	250
			1.00	28,836	875,110	5,810	909,756
Adjudication	Judgeship & Staffing for N/S Kohala, Hānauka	District Family Court Judge 99501J	1.00	135,048			135,048
		Circuit Court Clerk II (SR-20) 99502J	1.00	41,040			41,040
		Circuit Court Clerk II (SR-20) 99503J	1.00	41,040			41,040
		Court Bailiff II (SR-15) 99504J	1.00	33,756			33,756
		Operating Supplies (4)			1,000		1,000
		PC's w/Software (4)				10,000	10,000
		Data Station (4)				1,400	1,400
		Laser Printer (4)				3,200	3,200
		Printer R&M			150		150
		Lateral File, Vert, Steel, 5-Drawer (2)				770	770
		Chair, Task/Conf, High Back, w/Arms (4)				1,092	1,092
		Desk, Steel, Double Ped (3)				1,899	1,899
		Typewriter (2)				1,200	1,200
		Judges' Chamber Collection				6,763	6,763
			4.00	250,884	1,150	26,324	278,358
Client Svcs	Convert Temporary Positions to Permanent Status for Juvenile Client Services	Social Worker IV (SR-22) #59717T	1.00				-
		Social Worker IV (SR-22) #59718T	1.00				-
			2.00	-	-	-	-
Court Svcs	Convert Temporary Position to Permanent - Kohala TVB	Clerk III (SR-8) #500252T	1.00				-
			1.00	-	-	-	-
Client Svcs	Sex Offender Treatment, Assessment, Evaluation	Purchase of Service			55,000		55,000
					55,000		55,000
Administration	Accountant Position for Kona Fiscal	Accountant III (SR-20) 99505J	1.00	40,512			40,512
		Operating Supplies			250		250
		PC w/Software				2,500	2,500
		Printer				800	800
		Printer R&M			150		150
		Desk, Steel, Double Ped				633	633
		Chair, Task/Conf, High Back, w/Arms				273	273
		Calculator				250	250
			1.00	40,512	400	4,456	45,368
Court Svcs	Position for Kona Family Court	Court Documents Clerk III (SR-19) 99506J	1.00	39,480			39,480
		Operating Supplies			250		250
		PC w/Software				2,500	2,500
		Printer				800	800
		Printer R&M			150		150
		Desk, Steel, Double Ped				633	633
		Chair, Task/Conf, High Back, w/Arms				273	273
		Calculator				250	250
		Typewriter				600	600
		File Stamp Machine				600	600
			1.00	39,480	400	5,656	45,536
Court Svcs	Security for South Kohala District Court	Service on a Fee			62,824		62,824
		Desk, Steel, Double Ped				633	633
		Chair, Task/Conf, High Back, w/Arms				273	273
		Magnetometer				7,000	7,000
		Hand held Wand				250	250
					62,824	8,156	70,980
Court Svcs	Increase in psychiatrist/psychologist fees	Service on a Fee			115,000		115,000
					115,000		115,000
TOTAL 3rd CIRCUIT			10.00	454,849	1,109,884	50,402	1,615,135

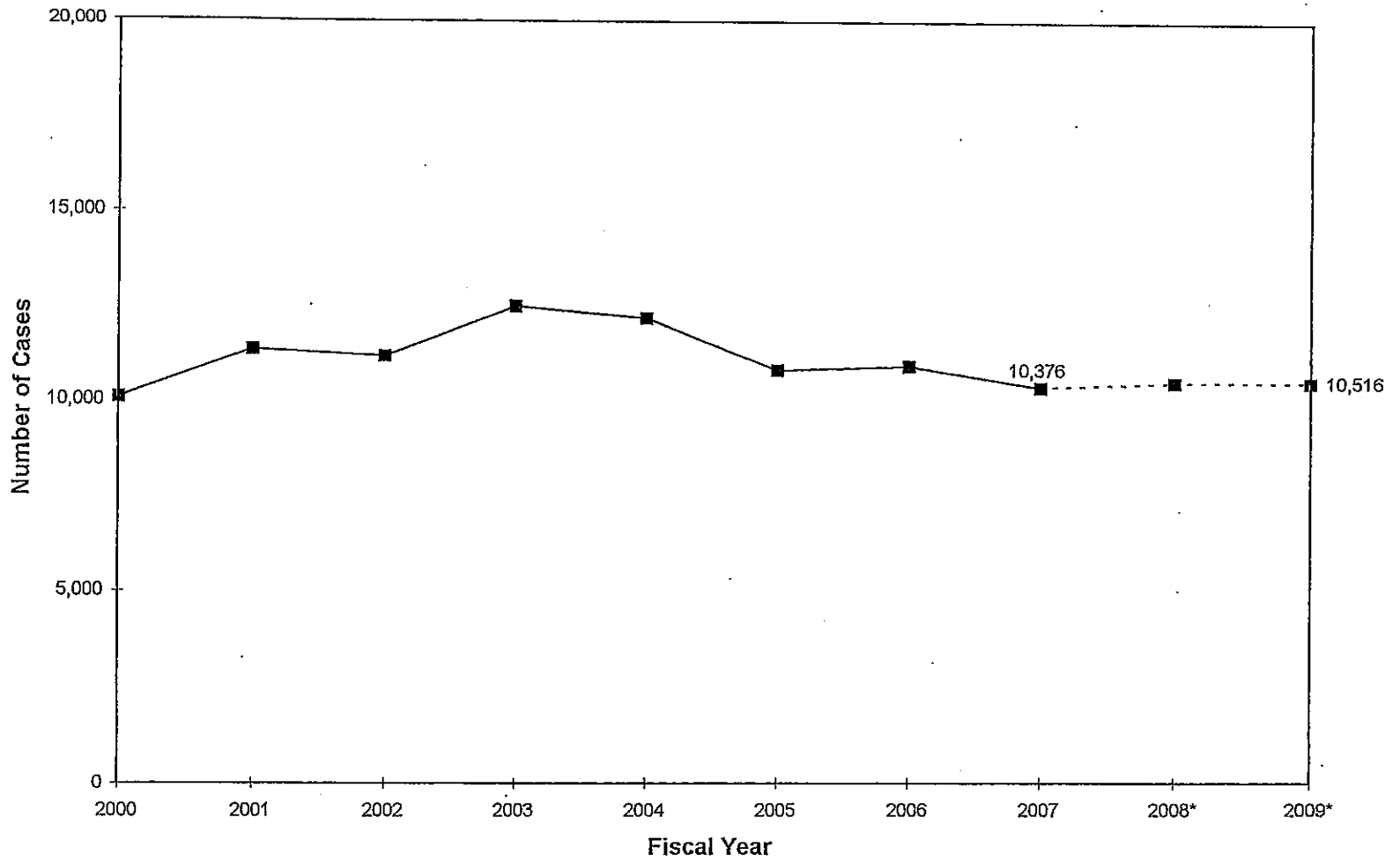
Third Circuit
Total Cases Filed (excluding District Court Traffic Cases)
FY 2000 - 2007 (Actual); FY 2008 - 2009 (Forecast*)



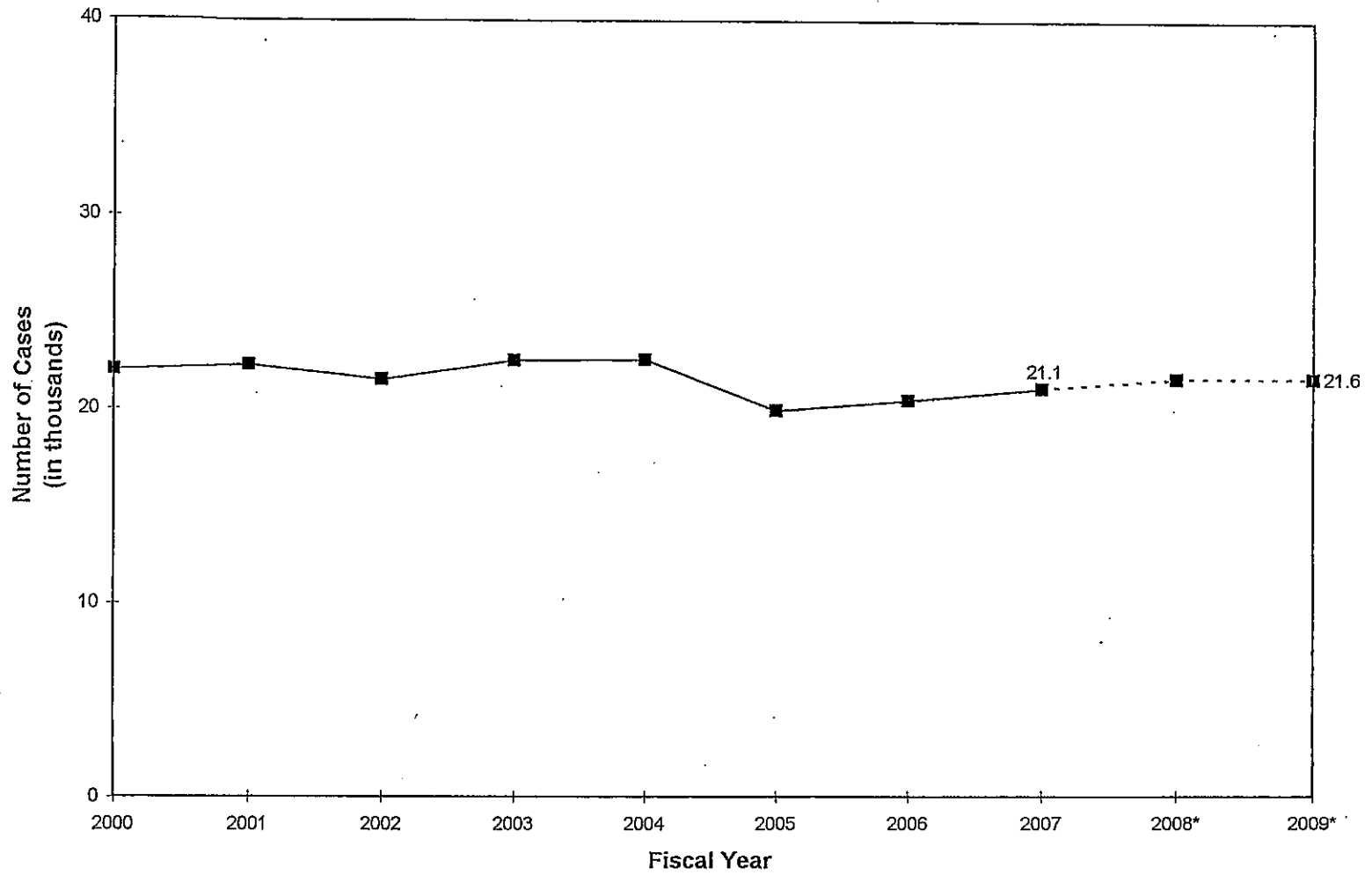
**Third Circuit
Criminal Cases Terminated
FY 2000 - 2007 (Actual); FY 2008 - 2009 (Forecast*)**



Third Circuit Criminal Cases Filed FY 2000 - 2007 (Actual); FY 2008 - 2009 (Forecast*)



Third Circuit
Total Cases Terminated (excluding District Court Traffic Cases)
FY 2000 - 2007 (Actual); FY 2008 - 2009 (Forecast*)



Program I.D. and Title: JUD 350 - Fifth Circuit

Page References in the Supplemental Budget Document: Pgs. 41-47

1. Introduction:

The mission of the Fifth Circuit is to expeditiously and fairly adjudicate or resolve all matters within its jurisdiction in accordance with law.

a. Summary of program objectives.

- To assure a proper consideration of all competing interests and countervailing considerations intertwined in questions of law arising under the Constitution of the State and the United States in order to safeguard individual rights and liberties and to protect the legitimate interest of the State and thereby ensure to the people of this State the highest standard of justice attainable under our system of government.
- To develop and maintain a sound management system which incorporates the most modern administrative practices and techniques to assure the uniform delivery of services of the highest possible quality, while providing for and promoting the effective, economical, and efficient utilization of public resources.
- To administer a system for the selection of qualified individuals to serve as jurors so as to ensure fair and impartial trials and thereby effectuate the constitutional guarantee of trial by jury.
- To provide for the fair and prompt resolution of all civil and criminal proceedings and all civil and criminal traffic cases so as to ensure public safety and promote the general welfare of the people of the State, but with due consideration for safeguarding the constitutional rights of the accused.
- To conduct presentence and other predispositional investigations in a fair and prompt manner for the purpose of assisting the courts in rendering appropriate sentences and other dispositions with due consideration for all relevant facts and circumstances.
- To maintain accurate and complete court records as required by law and to permit immediate access to such records, where appropriate, by employing a records management system which minimizes storage and retention requirements.
- To supervise convicted and deferred law violators who are placed on probation or given deferments of guilty pleas by the courts to assist them towards socially acceptable behavior, thereby promoting public safety.

- To safeguard the rights and interests of persons by assuring an effective, equitable, and expeditious resolution of civil and criminal cases properly brought to the courts, and by providing a proper legal remedy for legally recognized wrongs.
- To assist and protect children and families whose rights and well-being are jeopardized by securing such rights through action by the court, thereby promoting the community's legitimate interest in the unity and welfare of the family and the child.
- To administer, to the fullest extent permitted by law, the orders and decrees pronounced by the Family Division so as to maintain the integrity of the judicial process.
- To supervise law violators who are placed on probation by the Family Division and assist them towards socially acceptable behavior, thereby promoting public safety.
- To protect minors whose environment or behavior is injurious to themselves or others and to restore them to society as law-abiding citizens.
- To complement the strictly adjudicatory function of the Family Division by providing services such as counseling, guidance, mediation, education, and other necessary and proper services for children and adults.
- To coordinate and administer a comprehensive traffic safety education program as a preventive and rehabilitative endeavor directed to both adult and juvenile traffic offenders in order to reduce the number of deaths and injuries resulting from traffic mishaps.
- To develop a statewide drug court treatment and supervision model for non-violent adults and juveniles, adapted to meet the needs and resources of the individual jurisdictions they serve.
- To deliver services and attempt to resolve disputes in a balanced manner that provides attention to all participants in the justice system, including parties to a dispute, attorneys, witnesses, jurors, and other community members, embodying the principles of restorative justice.

b. Description of program objectives.

The Adjudication program provides the Fifth Circuit with judges and staff to operate the circuit, family, and district courts. Adjudication program judges also staff drug courts for adults, juveniles, and families. In addition, the program budget provides for judges' operating supplies and professional fees.

The Central Administration program consolidates court administrative offices, and includes the chief court administrator and administrative staff. The primary objectives of the program include providing for effective and efficient planning, direction, administration, coordination, and evaluation of all administrative, business and support functions, operations, and activities required to support judicial proceedings and judgments in the circuit, district, and family courts. This program also strives to provide the Fifth Circuit with fiscal and accounting services that ensure the uniform delivery of services of the highest quality while providing and promoting the effective, economical, and efficient utilization of resources.

The Client Services program's primary objective is to provide services which support the adjudicatory function of the Circuit, District, and Family Courts within the Fifth Circuit. The program accomplishes its mission with activities that include making recommendations to the courts, enforcing compliance with court orders, providing victim support services, maintaining client classification and information systems, managing purchase of service contracts, and maintaining contacts with community resources. Drug court services for adults, families, and juveniles are also provided. Families and juveniles appearing in the Family Court are provided a number of counseling and educational services, including volunteer guardian-ad-litem services for abused and neglected children and an educational program for separating parents and their children. All probation officers providing services to adult and juvenile clients are consolidated within this program.

The Court Services program is responsible for providing courtroom clerical, court reporting, and other support and ancillary services to the courts of the Fifth Circuit. Programs in the division are designed to aid in the timely disposition of cases of general and limited jurisdiction for civil, criminal felonies, misdemeanors, petty misdemeanors, family proceedings, and traffic (decriminalized and regular traffic criminal) in the Fifth Circuit.

The Client/Court Support program groups and accounts for expenditures such as attorney fees, court ordered transportation services, grand jury counsel fees, interpreter fees, process server fees, and guardian-ad-litem fees. A major portion of program resources is also allocated to purchase services for adult and juvenile clients in the Fifth Circuit. Juvenile shelter, substance abuse and sex offender treatment, and domestic violence services for both victims and perpetrators are included here.

Circuit Courts are trial courts of general jurisdiction. They have exclusive jurisdiction in all felony cases, probate and guardianship proceedings, and civil cases involving amounts greater than \$20,000. In civil, non-jury cases involving amounts between \$10,000 and \$20,000, Circuit Courts have concurrent jurisdiction with District Courts. Appeals are made directly to the Intermediate Court of Appeals and the Supreme Court. As a court of record, the Circuit Court is responsible for the filing, docketing, and maintaining of court records. During the course of a case, numerous documents may be filed, thus document filing is an ongoing and labor-intensive activity. The court administrators, with the assistance of support staff, administer probate hearings of small estates and guardianship cases. Criminal

offenders are referred to the probation staff for presentence diagnostic evaluations. Offenders placed under court jurisdiction are supervised by probation officers.

The Family Courts, divisions of the Circuit Courts, are specialized courts of record designed to deal with family conflict and juvenile offenders. The Family Courts retain jurisdiction over children under the age of 18 who violate any law or ordinance, are neglected or abandoned, are beyond the control of their parents or other custodians, live in an environment injurious to their welfare, or behave in a manner injurious to their own or others' welfare. The Family Court's jurisdiction also encompasses those adults involved in offenses against other family members; dissolution of marriages; disputed child custody and visitation issues; resolution of paternity issues; adoptions; and adults who are incapacitated and/or are in need of protection.

In civil matters, District Courts exercise exclusive jurisdiction where the amount in controversy does not exceed \$20,000. If the amount in controversy exceeds \$5,000, the parties may demand a jury trial, in which case the matter is committed to the Circuit Courts. The District Courts also have exclusive jurisdiction in all landlord-tenant cases and all small claims actions (suits in which the amount in controversy does not exceed \$3,500). Temporary restraining orders and injunctions against harassment are handled by the civil divisions of the District Courts.

In traffic matters, the District Courts exercise jurisdiction over civil and criminal traffic violations of the Hawai'i Revised Statutes, county ordinances, and the rules and regulations of state and county regulatory agencies. Certain traffic matters, known as "decriminalized" traffic offenses, are handled on a civil standard within the traffic division. Those traffic matters which are not "decriminalized" are handled on a criminal standard.

In criminal matters, the jurisdiction of the District Courts is limited to misdemeanors, traffic offenses, and cases filed for violations of county ordinances and the rules of the State's regulatory agencies. In felony cases where an arrest has been made, the District Courts are required to hold a preliminary hearing, unless such hearing is waived by the accused. All trials are conducted by judges. However, in criminal misdemeanor cases, the defendant may demand a jury trial, in which case the matter is committed to the Circuit Courts for trial.

The Driver Education and Training Program provides counseling, instructional services, and public information in the area of traffic safety. It is a preventive and rehabilitative endeavor directed at both adult and juvenile traffic offenders.

c. Explain how your program intends to meet its objectives within the upcoming fiscal biennium.

See Section 2, "Program Performance Results", below.

2. Program Performance Results:

- a. Discuss the performance results achieved by each program in FY 2007.**

See Section d below.

- b. Explain how these results relate to the program's objectives and department's mission.**

See Section d below.

- c. Explain how the effectiveness of the program is measured (i.e.: outcomes, measures of effectiveness, benchmarks, etc.) and discuss the performance results achieved during the past two years.**

See Section d below.

- d. Discuss actions taken by each program to improve its performance results.**

As indicated in the overview, central to the measure of Judiciary performance is a review of caseload and disposition of these cases. While the graphs and trend analysis (JUD 350 pages 14 - 17) for the last two years reflect a slight downward turn overall, this pattern is expected to taper off or show slight growth in case filings and terminations. It should also be noted that the FY 2007 overall clearance rate for Family Court cases exceeded 100% and was a significant improvement over FY 2006.

As in all circuits, the Fifth Circuit strives to enhance its processes and services. The state-of-the-art Kauai Judiciary Complex opened to the public on August 22, 2005, and offers technologically enhanced courtrooms and a comprehensive security system to better serve its patrons. In addition, the new complex fulfills the Fifth Circuit's long-standing office space needs and consolidates its many court programs into one convenient location.

- e. Please identify all modifications to your program's performance measures and discuss the rationale for these modifications.**

N/A.

3. Problems and Issues:

- a. Discussion of problems and issues encountered, if any.**

The Fifth Circuit continues to manage its existing resources in a very prudent and efficient manner. However, as with the other circuits, the Fifth Circuit currently faces

legislation requiring the courts to comply with compensation increases that are either already established or planned. While these rate and salary increases are well-deserved and contribute to the overall effectiveness of the courts, they have been authorized without a corresponding funding component. In addition, the Fifth Circuit is also experiencing staffing deficiencies in its Fiscal Branch. Expanded fiscal responsibilities tax an already overburdened fiscal staff, therefore, relief is not expected without the addition of personnel.

During the 2007 Session, the Legislature passed Act 218/07 which increased the hourly compensation for guardians ad litem (GALs) and court-appointed counsel from \$60 to \$90 for legal services, and from \$40 to \$60 for non-legal services. This required 50% increase in compensation has not been matched with a commensurate increase in appropriations. The same situation applies to our judge's salaries. A pay raise for judges that was recommended by the Commission on Salaries was approved without a proportionate augmentation of our payroll funding. While a 100% increase in fees for court ordered psychiatric/psychological examinations has not yet been enacted, the task force established through SCR 117/06 has stated plans for such an increase. Additional funding will again be required to meet the rise in compensation for essential services.

Along with the anticipated funding shortfalls in the various areas described above, Fifth Circuit does not have sufficient staff to meet its fiscal-related requirements. The significant growth experienced by the Fifth Circuit over the past several years has led to a corresponding increase in fiscal responsibilities for the circuit. Throughout the past few years, the fiscal staff has absorbed the added duties associated with organizational changes, the Judiciary Information Management System (JIMS), and the circuit's new facility without any additional staff. However, the fiscal branch is struggling to maintain its current workload and would be seriously debilitated if it were to attempt to accommodate further increases without additional staffing support.

b. Program change recommendations to remedy problems.

The program change recommendations to remedy the aforementioned problems involve the acquisition of additional funding and positions. The requests to fund the judges' pay raise, the GAL / legal counsel rate increase, and the forensic exam rate increase are being submitted statewide and address basic operating court costs. The request for the Accountant position is long overdue and will alleviate the current problems confronting the Fifth Circuit's fiscal staff. The Fifth Circuit's budget request was configured with the minimum resource levels necessary to fulfill the program's objectives and is described in detail in the following section.

c. Identify any program issues or problems that have affected or will affect the implementation of the program, and the corrective measures or remedies established or planned.

None.

4. Expenditures for FY 2008:

	<u>Act 169/07 FY 2008</u>	<u>Collective Bargaining</u>	<u>Transfers In/(Out)</u>	<u>(Restriction)/ Specific Apprn</u>	<u>Net Allocation</u>	<u>Estimated Total Expenditures</u>
(posn count)	98.00				98.00	98.00
Personal Services	4,600,200	167,824 1)			4,768,024	4,768,024
Current Expenses	2,278,191		7,310 2)	8,104 3)	2,293,605	2,293,605
Lease/Purch Agrmnts					0	0
Equipment					0	0
Motor Vehicles					0	0
Total	<u>6,878,391</u>	<u>167,824</u>	<u>7,310</u>	<u>8,104</u>	<u>7,061,629</u>	<u>7,061,629</u>
					0.00	0.00
Less: Special					0	0
Federal						
Other						
(posn count)	98.00	0.00	0.00	0.00	98.00	98.00
General Fund	<u>6,878,391</u>	<u>167,824</u>	<u>7,310</u>	<u>8,104</u>	<u>7,061,629</u>	<u>7,061,629</u>

a. Explain all transfers within the Program I.D. and the impact on the program.

None

b. Explain all transfers between Program I.D.'s and the impact on the program.

Transfer of \$7,310 from First Circuit for distribution of urinalysis funding.

c. Explain any restrictions and the impacts on the program.

None

1) Includes collective bargaining appropriations from Acts 137/07 and 136/07.

2) Reflects Fifth Circuit's share of statewide funding for urinalysis testing appropriated to JUD 310.

3) Reflects Fifth Circuit's share of \$880,000 appropriated by Act 218/07 for statewide guardian ad litem and legal counsel fee increases.

5. Supplemental Budget Requests for FY 2009:

	Act 169/07 FY 2009	Budget Adjustments FY 2009	Supplemental Request FY2009
(posn count)	98.00	1.00	99.00
Personal Services	4,620,299	79,493	4,699,792
Current Expenses	2,278,191	54,250	2,332,441
Lease/Purch Agrmnts Equipment		3,806	3,806
Motor Vehicles			
Total	6,898,490	137,549	7,036,039
 Less: Special Federal Other			
(posn count)	98.00	1.00	99.00
General Fund	6,898,490	137,549	7,036,039

a. Workload or program request:

- i. A description of the request, the reasons for the request, and the desired outcomes or the objectives to be accomplished by the proposed program.

See following pages.

- ii. A listing/description of positions requested, and funding requirements by cost category and source of funding.

See following pages.

- iii. For all lump sum requests, please provide a breakout indicating specific purposes for all planned expenditures.

N/A.

b. For all position count reductions, please specify whether the positions were filled or vacant.

N/A.

Supplemental Budget Requests for FY 2009:

Judges' Pay Raise: The Commission on Salaries was established as a result of a constitutional amendment of Article XVI of the Constitution of the State of Hawaii which was approved in November 2006. The Commission was charged with reviewing and making recommendations for the salaries of justices and judges of all State courts, members of the Legislature, the Governor and Lieutenant Governor, and specified appointed officials within the State Executive branch. The 2006 Commission was convened in December 2006 and submitted its report and recommendations to the 2007 State Legislature. Although the recommendations of the Commission provided judges with a salary increase for FYs 2008 through 2013, such action occurred too late during the 2007 legislative session to add the resources to implement the increase. Thus, an additional \$37,361 is required to ensure that the Fifth Circuit has sufficient resources to provide payment to its judges for this scheduled pay increase.

GAL and Attorney Fees: The Family Court of the Fifth Circuit requests \$29,000 in FY 2009 to provide for the appointment of GALs and counsel, as required by law. In most of these cases, GALs are appointed as advocates for children who are victims of child abuse or neglect. The role of the GAL is to keep the court informed about the child and the progress of the services provided to the child's family, by serving as a fact finder, investigator, advocate, and protector to a child in need. The GAL also ensures that the court's orders are carried out and brings to the court's attention any changes in the child's or family's situation which may require changes in the court's orders. The appointment of GALs in child protective proceedings is mandated by both federal law, the Child Abuse Prevention and Treatment Act of 1974 (P.L. 93-247) and state law, HRS Section 587-34.

Legal counsel are appointed to represent the parents in cases of child abuse and neglect and parties in other cases, based upon the indigence of these parties. Many of these parents have had their children removed from their custody and placed with foster parents, or they may be faced with having their parental rights taken away on a permanent basis.

In an effort to ensure that qualified, quality representation is available to children involved in child protective proceedings, and family members involved in cases which may affect parental rights, Act 218/07, which significantly increased the rate of pay provided in these situations, was passed by the 2007 Legislature. However, no additional resources were appropriated to provide for this increase in FY 2009. The Family Court of the Fifth Circuit's request therefore provides \$29,000 to enable the Court to comply with the provisions of Act 218/07. These resources will facilitate the payment of higher fees for GALs and court-appointed counsel, and ensure the availability of continued proper representation for children and family members.

Prior to the enactment of Act 218/07, hourly compensation for GALs and legal counsel was \$60 for in-court services and \$40 for out-of-court services. Act 218/07 amended the hourly rate and definition to \$90 for legal services and \$60 for non-legal services. The legislative intent was to provide parity for the GALs and legal counsel because the Legislature in 2005 had approved an increase to \$90 per hour for criminal defense attorneys who are court

appointed to represent indigent clients. The Legislature recognized that the welfare of children and vulnerable adults in our community was as important as defending the rights of criminal defendants, and felt that increasing the compensation rates for GALs and legal counsel would attract new attorneys as well as retain competent ones to do this complex and difficult work. The Fifth Circuit continues to review alternative means of providing necessary services, while keeping control of service costs.

The federal Adoption and Safe Families Act (P.L. No. 105-89) established shorter time-frames which require the State Department of Human Services to move for permanent out-of-home placement when a child is out of the home for 15 of the preceding 22 months. With these shortened time-frames, cases (which often involve issues of a very severe and complex nature) must be reviewed by the court with greater frequency to ensure that services are offered to parents on a timely basis, and that parents comply with their court orders. In addition, the number of new petitions filed increases the caseload of judges and support staff, and the corresponding need for GALs and legal counsel, because existing cases do not close with the same frequency that new cases are opened. As a result of these factors, it has become exceedingly difficult for the Family Court to attract the qualified, quality representation that children and family members deserve. The increased payments prescribed by Act 218/07, and the additional resources requested, will ensure that the Family Court of the Fifth Circuit has the means to provide adequate compensation to retain existing qualified GALs and court-appointed counsel, and to continue to attract new capable service providers.

In so doing, the Family Court of the Fifth Circuit will fulfill its obligation to protect the interests of children while ensuring the rights of indigent parties in child protective and other Family Court proceedings.

Accountant III: Over the past five years, the Fifth Circuit has experienced substantial growth financially, organizationally, programmatically, and physically. For the current fiscal year, the Fifth Circuit is operating with a budget of \$7,053,525, which is a 47% increase from its budget of \$4,794,217 in FY 2003. With respect to staffing, the Fifth Circuit workforce grew 21% from 81 to 98 employees during this same five year period. While a significant portion of the Fifth Circuit's expansion can be attributed to its new facility, the circuit has also experienced a significant change in its staffing structure and computer systems. Along with other Judiciary programs, the Fifth Circuit has undergone a substantive reorganization as well as incorporated the new JIMS into its operations. While a few programs within the Fifth Circuit may have benefited from staffing increases, notably facilities management, the majority of support functions have had to address increased responsibilities with existing resources. The Fiscal Branch of the Fifth Circuit has had to contend with the fiscal implications of all the aforementioned changes without a commensurate increase in additional personnel. Augmentation of the Fiscal Branch is long overdue as the circuit has not added any new positions to the Branch for over 15 years.

While the traffic module of JIMS has sought to automate various procedures and functions, it has also resulted in numerous fiscal related changes. Therefore, not only has the Fiscal Staff had the challenge of transitioning to JIMS, but also the added responsibility of dealing with accounting problems relating specifically to the Traffic Violations Branch (TVB). Currently, the fiscal staff and the TVB Supervisor have worked jointly to address the accounting issues raised by JIMS and TVB. However, by focusing on these problems, their efforts have been

diverted away from their primary duties. To ensure that the accuracy and integrity of JIMS are not compromised and to effectively address fiscal matters relating to TVB, an Accountant position is required. The Fifth Circuit's request for \$46,188 and a permanent position count will ensure that the circuit realizes the optimal benefits of JIMS without detracting from the ongoing operations of the fiscal staff and TVB. The requested position will be responsible for leading any JIMS related initiatives, monitoring their progress, and tending to any fiscal issues that may result.

In addition to the previously described duties, the Accountant will facilitate the renewal or establishment of maintenance and rental contracts and assist with the procurement of equipment/supplies. While the new Kauai Judiciary Complex has provided the public and its employees with a greatly enhanced court environment, the facility also entails numerous maintenance and operational requirements. Along with a state-of-the-art security system, the courtrooms and judicial chambers have been outfitted with advanced technological systems requiring ongoing maintenance and equipment replacement. The newly constructed facility has also impacted day-to-day operations. Increased supplies and equipment purchases are required to sufficiently stock and furnish the building with essential office resources.

Finally, the requested position will aid in the collecting, analyzing, and reporting of fiscal data. Increased demands in these areas further demonstrate the need for an additional Accountant position. Considering the current size of the Fifth Circuit, it is imperative that an integral administrative support function such as the Fiscal Branch is afforded the necessary staffing means to meet its program obligations.

Increase in Psychiatric/Psychological Fees for Examinations: The fee for forensic psychiatric/psychological examinations performed under Section 704, HRS, is currently set at \$500 per examination by Circuit Court Part D Criminal Administrative Order No. 4.1. This flat fee (which does not take into account the number of hours devoted to conduct the evaluation) has not been raised by the Judiciary since 1992, and results in a lack of available professionals willing to provide examination services. This, in turn, subjects individuals involved in court proceedings to unreasonable delays as they wait to receive the forensic evaluation required in resolving their cases. To directly address this situation, we understand that the Task Force convened by the Governor in 2006 in response to Senate Concurrent Resolution No. 117, will be recommending a 100% increase in fees from \$500 to \$1,000 per court ordered forensic examination. It is believed that this fee increase to a more appropriate level of compensation will result in a corresponding increase in the number of professionals willing to conduct these evaluations, thereby insuring that timely forensic examinations can be provided to individuals involved in court proceedings. Therefore, the Fifth Circuit's request provides \$25,000 in additional resources to facilitate the payment of increased fees for examinations performed under Section 704, HRS, consistent with the recommendations of the Task Force.

6. Program Restrictions:

Identify restrictions carried over from FY 2008 as well as additional reductions due to the Department of Budget and Finance budget ceilings for FY 2009. If no reduction is being proposed, please indicate "none".

- a. A description of the reduction, the reasons for the reduction, and the impacts to the objectives to be accomplished by the program.**

None.

- b. A listing/description of the positions cut including source of funding, please specify whether the positions were filled or vacant.**

None.

7. Capital Improvement Program (CIP) Requests for FY 2009:

N/A.

8. Proposed Lapses of CIP projects:

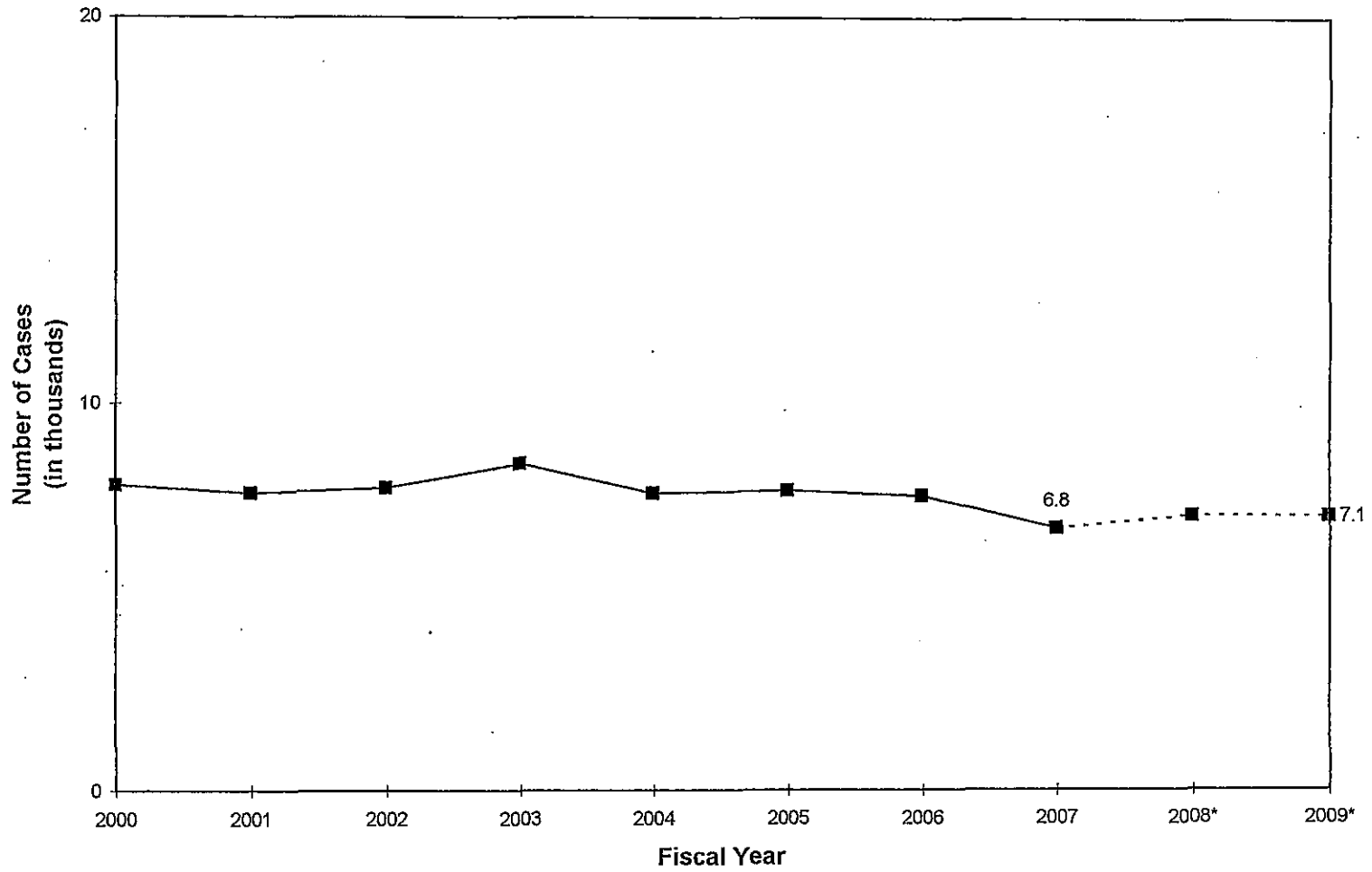
N/A.

5. BUDGET REQUEST FOR SUPPLEMENTAL BUDGET 08-09

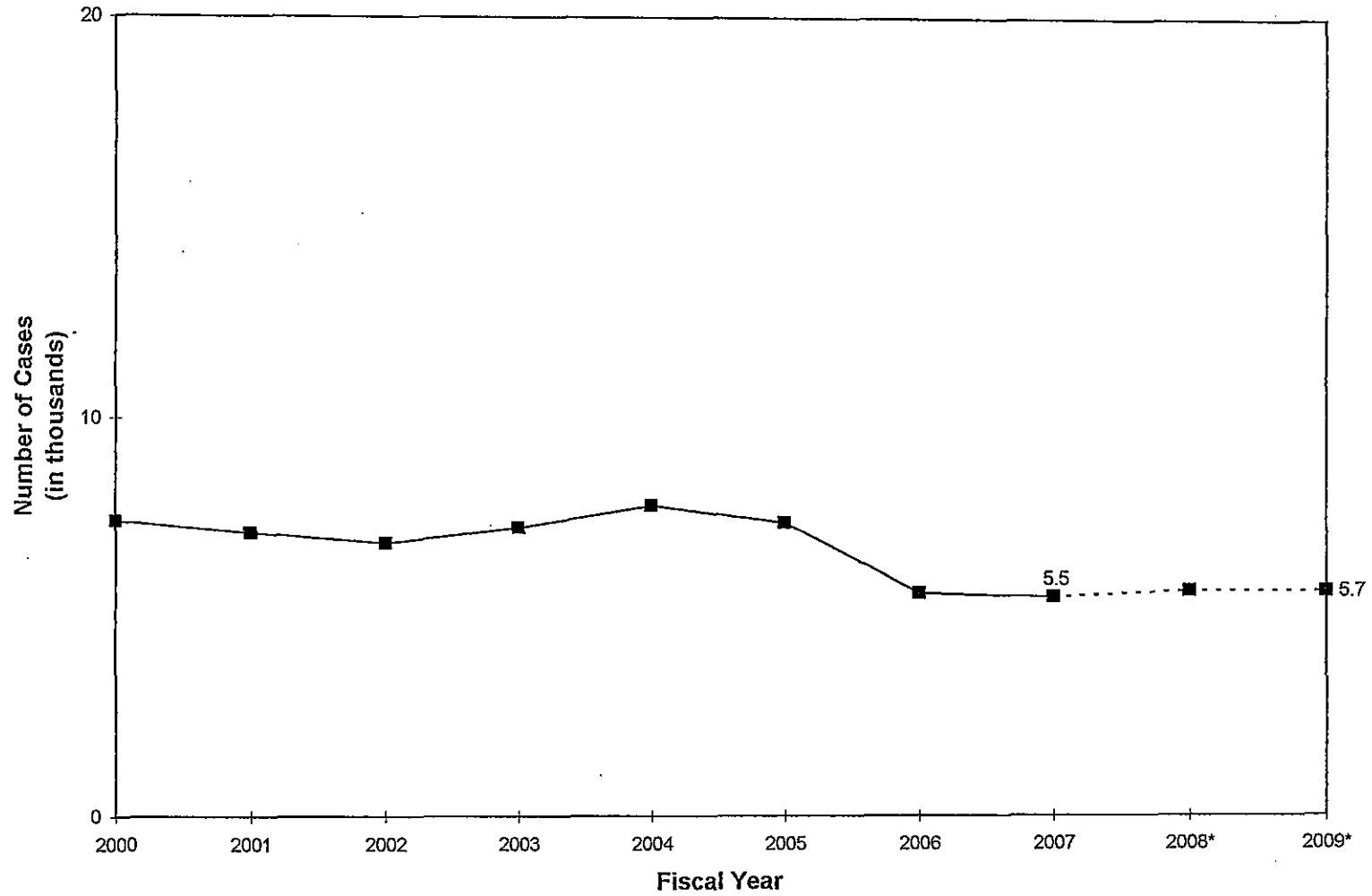
A. DESCRIPTION OF POSITIONS AND FUNDING REQUIREMENTS BY COST CATEGORY AND SOURCE OF FUNDS

JUD 350			FY 2008-09				
PROGRAM	DESCRIPTION	ITEM	POS COUNT	PAYROLL	OTHER CURR EXP	EQUIPMENT	TOTAL
Adjudication	Judges' Pay Raise	Payroll		37,361			37,361
			-	37,361	-	-	37,361
Court Svcs	GAL/Attrny Fees Increase	Guardian Ad Litem Fees			13,000		13,000
		Attorney Fees			16,000		16,000
			-	-	29,000	-	29,000
Central Admin	Accountant III SR20 (99700J)	Accountant III	1.00	42,132			42,132
		PC's w/Software				2,500	2,500
		Chair, Task/Conf, High Back, w/Arms				273	273
		Desk, Steel, Double Ped				633	633
		Calculator				400	400
		Office Supplies			250		
			1.00	42,132	250	3,806	46,188
Court Svcs	Forensic Exam Rate Increase	Psychiatric/Psychological Services			25,000		25,000
			-	-	25,000	-	25,000
TOTAL 5th CIRCUIT			1.00	79,493	54,250	3,806	137,549

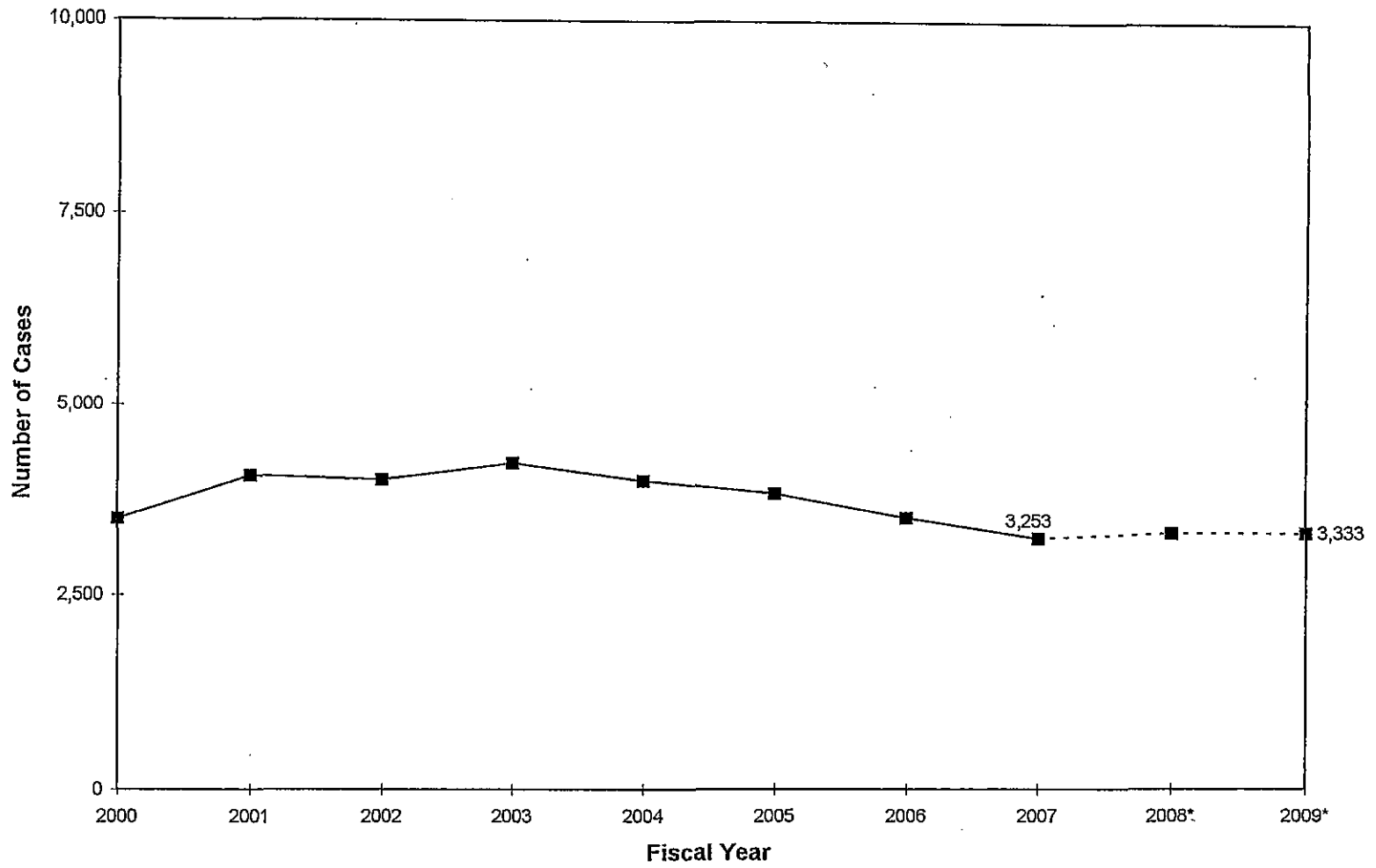
Fifth Circuit
Total Cases Filed (excluding District Court Traffic Cases)
FY 2000 - 2007 (Actual); FY 2008 - 2009 (Forecast*)



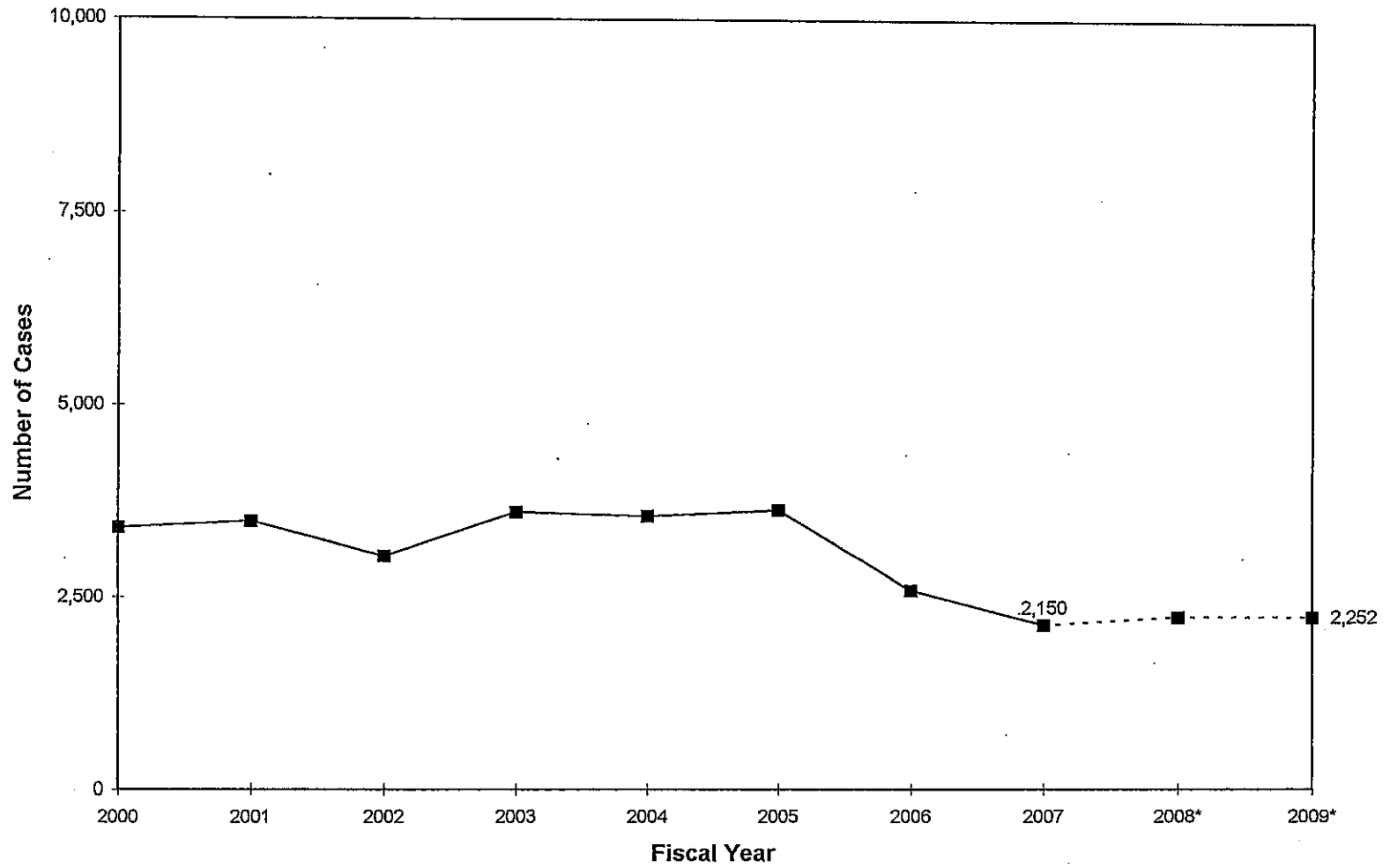
Fifth Circuit
Total Cases Terminated (excluding District Court Traffic Cases)
FY 2000 - 2007 (Actual); FY 2008 - 2009 (Forecast*)



Fifth Circuit
Criminal Cases Filed
FY 2000 - 2007 (Actual); FY 2008 - 2009 (Forecast*)



**Fifth Circuit
Criminal Cases Terminated
FY 2000 - 2007 (Actual); FY 2008 - 2009 (Forecast*)**



Program I.D. and Title: JUD 601 - Administration

Page references in the Supplemental Budget Document: Pgs. 48-75

1. Introduction

The Office of the Administrative Director is responsible for the provision of efficient and effective administrative support to the Chief Justice, the courts, and Judiciary programs, and to promote, facilitate, and enhance the mission of the Judiciary

a. Summary of Program Objectives

- To enhance the effectiveness and efficiency of judicial programs by providing executive direction, program coordination, policy development, resource allocation, fiscal control, and administrative services.

Policy and Planning

- To develop and maintain an effective and comprehensive planning capability within the Judiciary to provide the statewide organization with overall guidance and long-range direction in meeting the community's demands for judicial service.
- To establish and maintain a budgeting system that will serve as the mechanism by which the required resources to achieve the objectives of the Judiciary will be identified and articulated to top-level management.
- To develop and maintain a uniform statistical information system for the statewide Judiciary which identifies what data is needed as well as how the data shall be collected, tabulated, analyzed, and interpreted so as to permit the periodic reporting of statistics of court cases to the principal decision-makers of the Judiciary and thereby facilitate evaluation of influential factors or variables affecting court workload and efficiency.
- To administer a judiciary-wide audit program to ensure compliance with laws, rules and regulations, and policies of the Judiciary, the State of Hawai'i and, where applicable, the federal government.
- To conduct investigations and audits of accounting, reporting, and internal control systems established and maintained in the Judiciary, and to recommend improvements to accounting methods and procedures.

- To provide advice and technical assistance to the Judiciary to ensure compliance with equal employment opportunity (EEO) laws, legislation, and policies.
- To provide training to judges, administrators, and staff on current EEO issues; to develop and review EEO policies and procedures; and to investigate complaints of discrimination.
- To provide a fair and expeditious administrative process for revoking the driver licenses and motor vehicle registrations of alcohol or drug impaired offenders who have shown themselves to be safety hazards by driving or boating under the influence of intoxicants or who refused chemical testing.

Support Services

- To provide current, accurate, and complete financial and accounting data in a form useful to decision-makers.
- To ensure adequate and reasonable accounting control over assets, liabilities, revenues, and expenditures in accordance with generally accepted accounting principles, laws, policies, rules, and regulations of the State and the Judiciary.
- To plan, organize, direct, and coordinate the Judiciary's statewide telecommunications and information processing program, resources, and services by providing advice, guidance, and assistance to all Judiciary courts and administrative units relating to the concepts, methods, and use of telecommunication and information processing technologies and equipment.
- To plan, direct, and manage a centralized court records management system which includes reproduction, retention, control, storage, and destruction.
- To maintain accurate and complete court records, render technical assistance, and provide information and reference services from court records to court personnel, attorneys, and the general public.
- To provide cost effective printing, form development, and related services, statewide.

Intergovernmental and Community Relations

- To promote public awareness and understanding of the Judiciary by disseminating information through various print, broadcast, and electronic means; the news media; and direct dealings with the general public and

other audiences concerning the role of the Judiciary and the services that it provides.

- To acquaint the Legislature with the program and policies of the Judiciary in order to convey the ongoing needs and importance of its role as an independent branch of government.
- To advise Judiciary officials on public perception of particular issues relating to the Judiciary.
- To design and implement projects that promote access to the courts for all persons, including those with special needs.
- To promote, through research and educational programs, fair treatment in adjudication of cases and provision of services to the public.
- To inform and provide learning opportunities to the public about the judicial process and Hawaii's legal history from precontact to present. The Judiciary History Center generates knowledge by conducting and encouraging research, disseminating information, and collecting, preserving, and displaying materials.
- To provide an impartial professional process for addressing reports of felony child abuse that will facilitate access to the justice system for child victims and witnesses.
- To maintain a continuing liaison with agencies and departments dealing with child abuse and thereby foster cooperation within the legal system to improve and coordinate activities for the effective overall administration of justice.
- To investigate, design, and implement alternative dispute resolution processes for the judicial, legislative, and executive branches of government that will assist these three branches of government in resolving their disputes. Emphasis is on developing systems for use by the Judiciary in the various courts, mediating/facilitating public policy issues, and building skills capacity within all branches of government.
- To provide and coordinate the Judiciary's statewide guardianship services for mentally incapacitated adults.
- To provide information, referral, and technical assistance to guardians and to the courts on the roles and responsibilities of a guardian.

- To effectively utilize volunteer citizen participants from a cross-section of the community in formalized volunteer positions based on the needs of the Judiciary and the skills, talents, and interests of the volunteers.

Human Resources

- To manage a central recruitment and examination system that will attract the most capable persons and provide a selection system that will ensure the highest caliber employee, without regard to race, color, religion, sex, sexual orientation, national origin, ancestry, age, physical disability, marital status, or political affiliation.
- To develop, enhance, and manage a Judiciary compensation program consistent with merit principles, recognized job evaluation principles and methodologies, and labor market trends, and to attract and retain a competent and skilled workforce.
- To develop and implement an ongoing comprehensive continuing legal education program for judges to support them in their judicial roles and in the performance of their duties and responsibilities, and programs of continuing education and development for staff in support of the judges and the mission of the Judiciary.

Judicial Selection Commission

- To screen and submit nominees for judicial vacancies, and to conduct hearings for retention of justices or judges.

Commission on Judicial Conduct

- To investigate and conduct hearings concerning allegations of misconduct or disability of justices or judges.
- To make recommendations to the Supreme Court concerning the reprimand, discipline, suspension, retirement, or removal of any justice or judge.
- To provide advisory opinions concerning proper interpretations of the Revised Code of Judicial Conduct.

b. Description of Program Objectives.

The Office of the Administrative Director of the Courts serves as the administrative arm of the Judiciary. It is headed by an Administrative Director who is appointed by the Chief Justice with the approval of the Supreme Court. The Administrative Director is assisted by a Deputy Administrative Director of

the Courts in fulfilling the duties and responsibilities assigned to the office. The Director's Office is composed of a number of staff and specific programs.

The planning, program evaluation, budgeting, statistical, capital improvement, affirmative action, audit, legislative coordination, and administrative drivers' license revocation functions are carried out by the Policy and Planning Department.

The financial, purchasing, data processing, reprographics, telecommunications, and records management functions are performed within the Support Services Department.

The Human Resources Department manages centralized programs of recruitment, compensation, record keeping, employee and labor relations, employee benefits, and continuing education.

The Intergovernmental and Community Relations Department provides legal services, public relations, and information services for the Judiciary; coordinates citizen volunteer services and investigative processes in cases of intrafamilial and extrafamilial child sex abuse; researches, plans, and develops alternate dispute resolution procedures and programs; and provides educational programs using a variety of interpretive media that promote understanding and appreciation of the history of Hawaii's Judiciary. This Department is also concerned with providing public guardianship for mentally incapacitated adults, and providing equality and accessibility in the State's justice system.

The Judicial Selection Commission is responsible for reviewing applicants for judgeships in Hawai'i courts and submitting a list of six nominees to the appointing authority for each vacancy. The Governor, with the consent of the Senate, appoints justices to the Supreme Court and judges to the Intermediate Court of Appeals and Circuit Court. The Chief Justice appoints and the Senate confirms District Court and District Family Court judges. The Commission has sole authority to act on reappointments to judicial office.

The Commission on Judicial Conduct is responsible for investigating allegations of judicial misconduct and disability. Rules of the court require that three licensed attorneys and four citizens who are not attorneys be appointed to this Commission. An additional function allows the Commission to issue advisory opinions to aid judges in the interpretation of the Code of Judicial Conduct.

The Judicial Selection Commission and the Commission on Judicial Conduct are attached to the Judiciary for administrative purposes only.

Individual program functions within the Office of the Administrative Director are addressed in the following paragraphs.

The Planning and Program Evaluation Office directs and coordinates the long-range planning activities of the Judiciary in consultation with the Chief Justice, the Administrative Director of the Courts, the Deputy Administrative Director, and other key court officials. When necessary, it proposes policies, procedures, and standards for the development or improvement of programs within the Judiciary, and provides research and analysis for proposed, planned, or recently developed programs. This office also assists the various courts through grants management activities, futures research, emerging issues analysis, and the formulation of legislative and administrative proposals.

The Budget and Statistics Office plans, develops, coordinates, and administers budget and statistic service activities within the Judiciary. This includes: research and statistical analyses; budget preparation and execution; analysis and evaluation of proposed and enacted legislation affecting the Judiciary's budget and program and financial plan; and the development, administration, and evaluation of capital improvement projects throughout the Judiciary.

The Internal Audit Office conducts investigations and audits of accounting, reporting, and internal control systems established and maintained in the Judiciary. Internal Audit administers a Judiciary-wide audit program; ensures compliance with federal grant and other private and governmental agencies' program requirements, suggests and recommends improvements to accounting methods and procedures, investigates alleged violations, coordinates management and financial audits, and provides audit and audit-related services.

The Affirmative Action/EEO Office provides advice and technical assistance to ensure the Judiciary's compliance with civil rights laws.

The Administrative Driver's License Revocation Office administers Act 188, SLH 1990 (as amended), The Administrative Revocation of Driver's License Law, through a hearing, review, and decision-making process that determines revocation or restoration of a driver's license based on evidence produced pertaining to driving under the influence of alcohol or illegal drugs.

The Financial Services Division is responsible for the financial management of the Judiciary and for providing property management and reprographic services. Its activities include financial accounting, payroll preparation, centralized purchasing, property management, preaudit of vendor claims, coordination of expenditure plans, and the preparation and printing of documents and reports. This division is also responsible for the overall administration of the Judiciary's Purchase of Services (POS) contracts.

The Information Technology and Communications Division is the central telecommunications and data processing service organization of the Judiciary. It is responsible for the coordination, development, maintenance, and expansion of telecommunications and data processing programs Judiciary-wide. The resources

of this office are applied to enhance efficiency and increase productivity of court and administrative units through the application of voice, data, video, and image technologies.

The Records Management Office administers a program to maintain accurate and complete court records by planning, directing, and managing a centralized court records management system which includes reproduction, retention, control, storage, and destruction.

The Public Affairs Office seeks to promote public awareness of how the courts work and what services they offer. The office provides educational and informational materials about court operations, prepares media releases, assists the Chief Justice in preparing public addresses, and prepares internal publications and newsletters.

The Office on Equality and Access to the Courts administers a statewide program addressing bias in and unequal access to the justice system. This program develops, conducts, and coordinates research and educational programs to promote equality and to provide better access to the courts by pro se litigants, the economically disadvantaged, and the immigrant population.

The King Kamehameha V Judiciary History Center is charged with promoting public awareness and understanding of the history of Hawaii's Judiciary through exhibitions, research, collection, and educational activities focusing on traditional Hawaiian concepts of law and the development of a Western legal system.

The Children's Justice Center provides an impartial professional process to address reports of child sexual assault and facilitates access to the justice system for child victims. It maintains a continuing liaison with external agencies and executive branch departments dealing with child abuse to foster cooperation within the legal system to improve and coordinate activities for the effective overall administration of justice.

The Center for Alternative Dispute Resolution mediates and facilitates cases involving public conflict, cases designated as complex cases by the civil courts, and cases that are referred to the office by judges, court administrators, legislators, or other government officials.

The Office of the Public Guardian assists the court as appointed guardian of an incapacitated person, and offers guidance and counsel to the general public.

The Volunteers in Public Service program coordinates an extensive volunteer program that complements the personnel in the Circuit, Family, and District Courts; and promotes public participation in the ongoing programs of the Judiciary, thus enhancing citizen involvement and understanding of court programs.

The Court Staff Attorney's Office plans, directs, and coordinates statewide legal and technical counsel to the Judiciary and serves as the legal advisor to the Administrative Director of the Courts and others; and provides advice on matters impacting court operations, the legal community, the general public, and the State of Hawaii's legal and judicial system.

- c. **Explain how your program intends to meet its objectives within the upcoming supplemental year.**

See Section 2, "Program Performance Results," below.

2. Program Performance Results

- a. **Discuss the performance results achieved by each program in FY 2007.**

See Section d below.

- b. **Explain how these results relate to the program's objectives and department's mission.**

See Section d below.

- c. **Explain how the effectiveness of the program is measured (i.e., outcomes, measures of effectiveness, benchmarks, etc.) and discuss the performance results achieved during the past two years.**

See Section d below.

- d. **Discuss actions taken by each program to improve its performance results.**

The Office of the Administrative Director provides an extremely wide range of services as is indicated in Section 1.b., Description of Program Objectives. These offices directly or indirectly contribute to the overall performance of the individual court programs. Thus, the performance measures addressed in the Judiciary Overview and in each of the individual program sections of this testimony can be considered as indirect measures of the Administration program's performance. Included are gains in technology, improvements in processes, making the courts safer, improving court access, initiating public information efforts, obtaining grants, and coordinating a strong volunteer program.

The Administration is expanding training and educational efforts of its employees, as well as providing public information programs to educate the

public about the judicial process. The Administration also provides public-service oriented information through the Judiciary's web site. This program is further enhancing assistance efforts such as the multilingual Lawline, the self-help center, and the court interpreter program. Simplification of court forms is another project that continues to move forward.

The Center for Alternative Dispute Resolution (CADR) focuses on making alternative dispute resolution (ADR) broadly available in Hawai'i. ADR provides opportunities for early, party-driven, efficient, and fair solutions. The CADR 1) designs and helps implement ADR programs for state and county government, 2) mediates and facilitates public policy disputes, 3) oversees the Judiciary's POS contract for mediation and related ADR services, and 4) promotes ADR through training and education..

Designing and implementing ADR programs for state and county agencies are an effective way to make ADR broadly available in Hawai'i. CADR designed programs include a monitoring segment. Evaluations from users and neutrals in the programs provide the CADR with measures to determine whether a particular program is successful. Questionnaires make it possible for the CADR to identify problems that may arise, monitor the quality of the programs, and make adjustments as necessary. CADR monitors questionnaires for the Hawai'i Appellate Mediation Program (AMP), which CADR administers, and three different ADR processes utilized in the courts.

During FY 2007, 25 AMP cases were closed of which 18 were settled or partially settled by mediation. At the end of FY 2007, the AMP had processed 400 cases since its inception in 1995. The Volunteer Settlement Master (VSM) process, in which licensed attorneys of the Family Law Section help divorcing couples settle their financial and other issues, was used in approximately 140 cases in FY 2007. Evaluations reflected a 4.8 rating (on a 1 to 5 scale with 5 being the best) for "I would recommend meeting with a VSM to others." Additionally, the Judicial Pre-trial Assistant Program (JPA Program), in which impartial third parties assist judges by working with families to resolve cases on the HRS Chapter 587 calendar, was involved with 24 cases during FY 2007. JPA Program evaluations reflected a 4.6 average for "I would recommend this program to others."

CADR also mediates and facilitates public policy disputes referred by elected or appointed officials. In FY 2007, CADR mediated a dispute involving land in Waiahole Valley, and facilitated cases related to domestic violence issues, the Domestic Violence Fatality Review Committee, the Arrest Warrant Backlog Task Force, and the Standing Committee on Children in the Family Court. These cases often bring together diverse participants to collaborate on a common goal. CADR services include conflict analysis, which involves identifying the issues and stakeholders; agenda building; serving as mediators and facilitators; and writing meeting summaries.

In addition, CADR oversees the Judiciary's POS contract with the community mediation centers. The six community mediation centers in Hawai'i provide affordable and quality mediation services statewide. In FY 2007, the community mediation centers opened 2,867 new cases of which 2,222 were justice system based cases. 1,923 cases were court-referred cases, which provided a direct alternative to court. Overall, approximately 46 percent of the cases handled by the community mediation centers were either conciliated or resolved through mediation. Client satisfaction questionnaires indicate that 87 percent of the community mediation centers' clients were satisfied with the mediation process, and 94 percent would definitely or probably recommend mediation to others with problems. It should be noted that even though a case may not be resolved or conciliated, the intake process provides a valuable opportunity to educate disputants about the availability and merits of utilizing mediation for any future matters.

CADR further promotes ADR through training and education. CADR conducts training in mediation skills, and basic and advanced meeting facilitation for Hawai'i state and county employees. CADR training efforts provide government employees with skills and techniques to improve their communication and conflict resolution skills, which increases their efficiency and capacity to work with each other, and better serve the public. In FY 2007, CADR conducted 19 classes and trained approximately 280 employees.

Finally, CADR promotes public awareness and understanding of ADR processes. By disseminating information through public forums and various print, broadcast, and electronic media, and by direct dealings with the general public and other audiences, CADR assists the public in identifying opportunities for fast, fair, effective, party-driven resolution of disputes. In FY 2007, education and outreach activities included numerous presentations, and the publication of three new brochures on topics relating to *Mediation*, the *Hawaii Appellate Mediation Program*, and *Public Policy Dispute Resolution*. Additionally, CADR held 10 public forums with a total of over 300 attendees. Forum topics included hooponopono, collaborative practices, restorative justice, and ADR in the workplace.

The King Kamehameha V Judiciary History Center (Center) provides law-related educational activities and resources to schools, the general public, and Hawaii's visitors. During FY 2007, the Center welcomed 37,659 visitors, 9,822 of which were students. Students conduct mock trials in the Center's restored courtroom and learn about the evolution of Hawaii's legal system from the kapu era to present. Adult visitors enjoy the movie theater as well as an array of exhibits examining topics including Hawaiian kapu before western contact, the Republic of Hawaii's trial of Queen Lili'uokalani, martial law in Hawai'i during World War II, and the appeals process. The Center offers credit to teachers training for professional development with workshops exploring principles of democracy, the United States Constitution, and the public policy process. Free curriculums

provide teachers methods to examine state and federal supreme court cases, as well as juvenile law and Hawaii's Family Court. The Center coordinates the Judiciary's Speaker's Bureau, affording schools and the general public a chance to meet with state judges and learn about Hawaii's court system. In addition, the Center hosts the annual Hawai'i High School Mock Trial Tournament with mock trial competitions throughout the State each February and March. Finally, the Center's public programs engage Hawaii's residents and adults with a variety of lectures and presentations conducted during lunch, weekends, and early evenings."

In Hawai'i, children are the victims in approximately 60% of the reported cases of felony sexual assault. The Children's Justice Centers (CJCs) ensure that the doors of the justice system are open to our youngest and most vulnerable citizens.

Felony child abuse, particularly sexual abuse, is a severe and extremely traumatizing crime. The Oahu Center opened in 1988 and expanded to the neighbor islands (East Hawai'i, West Hawai'i, Maui, and Kauai) in 1990/1991. Presently, the CJCs serve an expanded legislative mandate to provide services for all children who are victims of abuse and witnesses to crimes. With the advent of computers and the advancement of technology, more children are becoming victims of internet crimes that include pornography. Despite limited resources, most cases are handled expeditiously and interagency cooperation and collaboration are used to seek ways to handle the increased workloads.

The CJCs strive to accomplish its mission as defined in Chapter 588, HRS. From 1988 through October 2007, approximately 26,900 reports of child abuse (primarily sexual assault) were made to the CJCs. Approximately 17,400 children have received forensic interviews at the CJCs. Statewide, approximately 950 children were involved in reports made to the CJCs regarding abuse and witnesses to crimes during the past fiscal year. Hundreds of professionals were provided training. Legal proceedings with child witnesses were coordinated by the CJCs to reduce trauma to children. In calendar year 2006, approximately 3,000 abused children and their families received support through our five community support organizations. These non-profits (Children's Alliance of Hawai'i and the Friends of the East Hawai'i, West Hawai'i, Maui, and Kauai) also provided other services such as prevention and educational activities.

The pursuit of federal and private grants is another way that we aid the courts in their search for innovative and more effective programs, and in stretching the value of appropriated funding.

The Judiciary Information Management Systems (JIMS) Project is envisioned as a statewide, integrated case management system for the Judiciary. The implementation of JIMS not only represents a new set of technology, but more importantly, a business transformation aimed at enabling many of the Judiciary's strategic goals:

- shared information
 - internally
 - with trusted agencies, and
 - with the public;
- improved public safety;
- improved data quality;
- streamlined and standardized business processes; and
- improvement of Judiciary operations by leveraging new technologies.

Over many years, Judiciary's case management and other technical systems were developed to support paper-based and circuit-specific operational processes and court functions. The piecemeal development resulted in silos of information and disjointed and inconsistent business processes. The situation became increasingly complex as the separately developed technical environments inhibited the Judiciary's ability to adequately meet changing business and public needs. A growing demand for information sharing, readily accessible information and functions, automation of manual processes, and other functional needs required more holistic technology. The idea of JIMS was birthed. When fully implemented, the Judiciary's goal is that court and administrative processes will be modernized and standardized, with the disparate and antiquated systems replaced by a statewide, case management system.

Implementation of the JIMS vision is being conducted in phases, *i.e.*, by implementation of 'modules' that address specific case types (traffic, criminal, civil, family, land and tax, appellate) and specific functions that may be common to multiple case types (jury, probation, public access, e-filing).

The Traffic module of JIMS launched in November 2005. For traffic cases, paper documents now are scanned, stored electronically, and linked to the appropriate case and docket entry. This allows Judiciary staff in any part of the state, to see and provide all the information, regardless of where the case was initiated. The public may also view traffic case information over the internet, although viewing of documents over the internet is not yet available. Trusted agencies are also able to access aggregated information such as individual abstracts and court calendars. In addition, by electronic interface, the Judiciary is able to exchange data with trusted agencies to improve traffic case processing. Finally, the JIMS system allows the public to pay traffic citations over the telephone and over the internet. Since the launch of JIMS, the Judiciary has seen year-over-year growth in electronically collected traffic fees and fines exceeding 100%.

JIMS primary area of focus

Under the direction of a professional project manager, who joined the Judiciary in June of 2006, the Judiciary has focused on laying required groundwork for additional modules. A project of this nature requires a solid internal infrastructure that can support the complexity involved in implementing a project like JIMS.

Accordingly, the Judiciary is working to develop, implement, and refine its JIMS project infrastructure, which includes providing a means for post implementation support and developing structured project methodologies for its future modules.

JIMS Post-Module Implementation Support

In August of 2006, the Judiciary launched an internal support process that allows JIMS users to request and get support. In sum, all JIMS-related issues are systematically reported and brought to the attention of technicians, court administrators, and administrative judges who together determine priorities, and develop processes and solutions to resolve the issues. The Judiciary is also installing updated software to improve system functionality performance, and to enable new initiatives.

As each module is implemented, Judiciary user groups will grow, the types of issues will become more complex, and accommodation of statewide interests will continue to be challenging. Implementation and refinement of the Judiciary's Post-Module Implementation Support Model continues to be a matter of high priority, as it will support all future JIMS users.

Future Module Implementation Methodology

The Judiciary is formalizing project methodology and project team structures for future module implementations and other projects. The methodology and structures are designed to guide appropriate personnel in carrying out all the steps necessary to achieving successful module implementations. These concepts are currently used to implement the Jury module, so that the staff time is used productively, the Judiciary gets a better end product, and more employees are aware of the system and associated operational processes before a module is launched.

JIMS Hardware Planning

Hardware for the JIMS system must be sufficient to support users and data. As each module is implemented and the number of users grows, the amount of data in the system increases. Additionally, the expectations of the public and justice agencies for more information being available online, increases. With each new module, the need for solid training and testing environments increases. This year, the Judiciary outlined a three-year Hardware Plan. The first year plan is scheduled to be fully implemented by March 2008. As with any technical project, the JIMS Hardware plan will require review and adjustment on a regular basis to keep the system performing properly.

JIMS Roadmap Planning

The Judiciary had a defined sequence for its modules to be implemented at the onset of JIMS – the JIMS Project Roadmap. However, after the implementation of Traffic, the first module, it recognized a need to reevaluate the previously defined sequence. The Judiciary plans to take a deeper look at the complexity of the processes associated with each module, evaluate Judiciary staffing and

resource needs associated with the project as a whole, and more specifically, for each module, and assess how the hardware plan will align with the sequence of its module implementations. These and other factors are critical to ensuring the optimal module sequence and overall project success.

Project Activities

The Judiciary's main focus for the last year has been on foundational matters such as defining methodologies and setting up a proper infrastructure. However, after the launch of the Traffic module, the Judiciary also addressed smaller, but critical projects, that validated its newly defined methodologies and internal structure. These projects are summarized below:

Jury Phase I

The Jury Phase I module began implementation in November 2007. This first phase standardized processes statewide and brought all circuits to a single technological platform. As a result of this first foundational step, future phases may include online interactive services for jurors and other features.

Collections Interface

In November 2007, the Judiciary launched a collection interface whereby delinquent accounts (unpaid traffic judgments) are electronically referred to a contracted collection agency. Additionally, electronic payments of amounts collected are deposited directly into Judiciary bank accounts, eliminating a lot of human intervention and paperwork. Within the first month of the interface launch, approximately \$6 million in delinquent cases were anticipated to be referred electronically.

Juvenile Graduated License Interface

In November 2007, the Judiciary launched the Juvenile Graduated License Interface. The interface sends data to the driver licensing data systems so that juveniles can go straight to the Department of Motor Vehicles to obtain their license, rather than paying a visit to the courts to obtain a "Status Letter". The Judiciary has reduced the internal manual labor involved with this process and thereby improved service to the public.

Electronic Bench Warrants Portal

In August 2007, the Judiciary and the Hawai'i Information Consortium (HIC) partnered to develop a Traffic Electronic Bench Warrant Portal, that the Judiciary hopes will be the first step in developing a system for all warrants, thereby using technology to improve public safety for the State of Hawai'i. With HIC's leadership, the Judiciary is working closely with impacted criminal justice agencies in the state. The beta release is scheduled for December 2007.

Moving Forward

As the Judiciary moves forward with JIMS, it will continue to focus on its JIMS Post-Module Implementation Support, Future Module Implementation Methodology, and Hardware Planning. Additionally, it will focus on taking steps to strengthen the Traffic module while concurrently assessing its situation and planning for its future project roadmap.

- e. **Please identify all modifications to your program's performance measures and discuss the rationale for these modifications.**

N/A.

3. Problems and Issues:

- a. **Discussion of problems and issues encountered, if any.**

According to the Department of Accounting and General Services, the Judiciary's risk management cost assessment has increased as a result of the rising costs of the State's property and liability insurance. The State's property insurance premium for December 1, 2006 increased by \$4.4 million or 55%, which follows the previous year's \$2.9 million or 46% increase. Liability insurance premiums have also increased by \$350,000 or 26% since FY 2005, which was the last time property and liability amounts assessed to the Judiciary were increased. Due to timing problems with the notification of the FY 2008 and FY 2009 assessments, the Judiciary was not able to accommodate the required amounts into the FY 2007-09 Biennium Budget. These amounts will need to be included in the Judiciary's FY 2009 Supplemental Budget.

Another issue involves the Judiciary's future. The last strategic plan used to guide the Judiciary was developed in 1987. However, no plan, no matter how good, could have foreseen all of the changes that have occurred and will occur. Hence, the Judiciary finds that its 1987 strategic plan needs to be updated with a new vision to the year 2020. We must determine where we are, where we need to be, what we must bring along, and what we must leave behind, and then plot our course to reach our destination.

In essence, the mission, goals, policies, and strategies to be outlined in our proposed 2020 Plan will constitute the basis and framework for all future changes towards which the time and energy of the Judiciary are focused. Ultimately, the plan will deal with the most important and fundamental ends sought by the Judiciary and the major approaches to achieve them.

Another issue that needs to be addressed is the cost effectiveness of Hawaii's drug courts. Since its inception in Florida in 1989, drug courts have spread throughout the country. According to the National Criminal Justice Service, "as of April

2007, there were 1,699 drug courts operating in all 50 States, the District of Columbia, Northern Mariana Islands, Puerto Rico, Guam, and 2 Federal Districts. Another 349 drug court programs were in the planning stages.”

In Hawai‘i, the first adult drug court was established on O‘ahu in 1996. Since then, eight additional drug courts (First Circuit (O‘ahu): Family and Juvenile, Second Circuit (Maui): Adult and Family, Third Circuit (Big Island): Adult and Juvenile, and Fifth Circuit (Kauai): Adult and Juvenile) have become operational across all Circuits.

Over the years, numerous adult drug court evaluations (the number of juvenile and family drug court evaluations are more limited since these type of drug courts have been in existence for a shorter period of time) have been conducted across the nation, including Hawai‘i. In large part, these drug court evaluations are due to federal requirements attached to the grants used to fund pilot drug courts. However, the amount of funding, time available, and sample size for these evaluations were often limited. In addition, the scope, objectives, and methodologies vary widely due to the type of court, location, and evaluator.

In order to determine the true value of Hawaii’s drug court programs, a comprehensive study and evaluation is required. A well designed impact and cost-effectiveness evaluation can track each client’s progress over their time in drug court, understand and improve program operations, assess the effectiveness and cost of the program, ensure accountability to funding agencies, and garner support from potential future funding sources. In addition, questions such as the long-term impact of drug courts, factors that promote or inhibit participant retention, comparative costs and savings, determinants of treatment success, and effects of different drug court dynamics and approaches may be studied and perhaps answered.

In the area of language accessibility, the Judiciary is faced with a unique challenge resulting from Hawaii's diversity of culture and language, and geographic isolation. According to the U.S. 2000 Census, over a quarter of Hawaii's population speak a language other than English at home. This diversity is also reflected in Hawaii's courts, where many court users are given constitutional protections to language access and the best-qualified interpreters available. Deaf and hard-of-hearing court users have even greater protections. Through the support of the Hawai‘i State Legislature, the Hawai‘i State Judiciary Court Interpreter Certification Program helps to ensure that defendants facing the criminal courts will obtain the most qualified court interpreters available. However, individuals in the civil courts and individuals facing Judiciary administrative proceedings do not currently receive court appointed interpreter services unless specifically ordered by the presiding authority of the non-criminal matter. Also, for lack of funds, the majority of probation and community service appointments are not provided court interpreter services. Likewise, at Judiciary service counters, limited-English proficient persons are customarily requested to

return with a bilingual friend or family member to assist them, which often results in inaccurate delivery of information due to lack of interpreting competency and/or conflicts of interest. The lack of language assistance services has reportedly discouraged many from coming to the Judiciary despite their clear need for Judiciary services.

Court Rules authorizing the Hawai'i State Judiciary Court Interpreter Certification Program became effective July 1, 2007. Three major positive changes in court interpreting resulting from implementation of the court interpreter program are:

- 1) A growing pool of interpreters who have fulfilled minimum requirements to interpret in the courts: a) attended a 2-day workshop; b) obtained passing scores on the Hawai'i Basic Ethics Exam and Consortium Written English Proficiency Exam; and c) passed a criminal background check;
- 2) A growing pool of interpreters who have demonstrated their interpreting skill levels by achieving scores on an oral exam(s) recognized by the Judiciary; and
- 3) Publication of a Hawai'i State Judiciary Certification Program Court Interpreter Registry available statewide to court staff seeking to obtain a court interpreter for Judiciary legal proceedings, sorted within each language and circuit by standardized, objective qualifications (i.e., interpreter oral, written, and ethics exam scores, respectively), designed to assist court staff in ensuring that the best qualified interpreters available are being obtained for court assignments.

This new objective, rational, and standardized process of obtaining court interpreters primarily benefits only criminal proceedings. It is strongly recommended that this process also be identically adopted for civil and administrative proceedings as well. However, the availability of funds will be critical in order for the Judiciary to compensate court interpreters for providing interpreting services for civil and administrative proceedings.

Another area of concern is the funding shortfalls for the Mediation POS contract, for the Neogov recruitment and referral software system maintenance fee, and for the alcohol and substance abuse testing program. Additional funding for these services and programs are critically needed for their continued functioning.

New positions are also needed to meet greater workload demands in the King Kamehameha V Judiciary History Center, the Human Resources (HR) Department, and the Staff Attorney's Office.

Finally, new computer equipment is needed to replace old and obsolete personal computers in the Office of the Public Guardian (OPG).

b. Program change recommendations to remedy problems.

It is recommended that the funds and positions requested be approved.

c. Identify and program issues or problems that have affected or will affect the implementation of the program, and the corrective measures or remedies established or planned.

None.

4. Expenditures for FY 2008:

	<u>Act 169/07 FY 2008</u>	<u>Collective Bargaining</u>	<u>Transfers In/(Out)</u>	<u>(Restriction)/ Specific Apprn</u>	<u>Net Allocation</u>	<u>Estimated Total Expenditures</u>
(posn count)	227.00				227.00	227.00
Personal Services	12,468,768	612,115	225,871		13,306,754	13,306,754
Current Expenses	13,664,035		(300,871)		13,363,164	13,363,164
Lease/Purch Agrmnts	209,100				209,100	209,100
Equipment	2,507,119				2,507,119	2,507,119
Motor Vehicles	0				0	0
Total	28,849,022	612,115	(75,000)	0	29,386,137	29,386,137
	1.00				1.00	1.00
Less: Special	6,207,227	2,681			6,209,908	6,209,908
Federal						
Other	100,000					
(posn count)	226.00	0.00	0.00	0.00	226.00	226.00
General Fund	22,541,795	609,434	(75,000)	0	23,176,229	23,176,229

a. Explain all Transfers Within the Program I.D. and its Impact on the Program.

Transferred \$225,871 from Other Current Expenses to Payroll to cover anticipated shortfalls in various Administration program payroll costs. Purchases of goods and services may need to be deferred as a result. However, the exact impact is unknown at this time.

b. Explain all Transfers Between Program I.D.'s and its Impact on the Program.

Transferred \$75,000, which was appropriated as a Grant-in-Aid for the Hawaii Family Law Clinic, from JUD 601 - Administration to the Family Court of the First Circuit. These funds will be more appropriately administered and expended from the First Circuit.

c. Explain all Restrictions and its Impact on the Program.

None.

5. Supplemental Budget Requests for FY 2009 (JUD 601):

	<u>Act 169/07 FY 2009</u>	<u>Budget Adjustments FY 2009</u>	<u>Supplemental Request FY 2009</u>
(posn count)	227.00	5.00	232.00
Personal Services	12,605,907	141,900	12,747,807
Current Expenses	11,695,791	1,224,843	12,920,634
Lease/Purch Agrmnts	197,198	0	197,198
Equipment	1,781,676	37,690	1,819,366
Motor Vehicles	<u>0</u>	<u>0</u>	<u>0</u>
Total	26,280,572	1,404,433	27,685,005
	1.00		1.00
Less: Special	5,624,607		5,624,607
Federal			
Other	<u>100,000</u>		<u>100,000</u>
(posn count)	226.00	5.00	231.00
General Fund	<u>20,555,965</u>	<u>1,404,433</u>	<u>21,960,398</u>

a. Workload or Program Request:

- i. A brief description of the request, the reasons for the request, and the desired outcomes or the objectives to be accomplished by the proposed program.

See following pages.

- ii. A listing/description of the positions requested, and funding requirements by cost category and source of funding.

See following pages.

- iii. For all lump sum requests, please provide a breakdown indicating specific purposes for all planned expenditures.

N/A

- b. For all position count reductions, please specify whether the positions were filled or vacant.

N/A

Supplemental Budget Requests for FY 2009:

Risk Management Insurance Premium Increase: Under Chapter 41D, HRS (State Risk Management and Insurance Administration), the DAGS Risk Management Program assesses and collects from the Judiciary its portion of the costs to fund the program for the purchase of statewide insurance coverage and payment of claims.

The Department of Budget and Finance (B&F) approved a revision of the cost allocation system to return the general funded programs' risk management budget to the DAGS Risk Management Program, effective for the FY 2008 and FY 2009 biennium budget years. DAGS initially indicated that the Judiciary would be included in the transferred budget and the related cost allocation increases. However, the Comptroller subsequently notified us in a memo, dated January 10, 2007, that B&F would not be including the Judiciary in this revision, and the Judiciary would have to include the risk management cost assessment increases in its own biennium budget. At that point, however, the Judiciary budget had already been finalized and it was too late to include the increases in the budget submission to the 2007 Legislature. We are therefore requesting that the FY 2008 and FY 2009 increases be included in the FY 2009 supplemental budget. DAGS has assured us that we can pay for the FY 2008 increase in FY 2009 along with the FY 2009 assessment.

The Judiciary's risk management cost allocation base, which has been appropriated in prior legislative sessions, is \$120,812. The total FY 2008 cost assessment is \$312,548, an increase of \$191,736. The total FY 2009 cost assessment is \$371,548, an increase of \$250,736.

The total FY 2009 supplemental budget request for the cost assessment is \$442,472, which represents FY 2008's cost assessment increase of \$191,736 and FY 2009's cost assessment increase of \$250,736.

Upon approval and funding of this request, the Judiciary's risk management cost allocation base for FY 2010 will be set at \$371,548.

Future Vision Conference - Development of the Judiciary's 2020 Plan: The Judiciary first embarked on creating a strategic plan in 1987 with the drafting of *An Agenda for Action: The Strategic Plan of the Hawaii Judiciary (1988-1993)*. The plan established the overall direction for the Judiciary and provided the basis for the formulation of short-term subordinate plans. It indicated, in general terms, what the Judiciary aspired to do as well as how it would do it. Thus, the plan contained not only the mission and goals (the "what") but also the policies and strategies (the "how") that were formulated to achieve them.

In the 20 years since the drafting of this plan, the Judiciary has made many changes.

1987 – Started the Children’s Advocacy Center (now Children’s Justice Center), the nation’s first court-based, multi-agency advocacy center for sexually abused children.

1989 – Began the one-day, one-trial juror program, reducing the service period from 30 days to one day or the length of one trial.

1991 – Expanded, and therefore created a potentially more representative jury pool by including, for the first time, names of those who filed tax returns.

1993 – Strove to promote public trust and confidence in the courts by establishing the judicial performance program (evaluates judges).

1994 – Provided gavel-to-gavel coverage of certain court cases via ‘Olelo community television to encourage better understanding of the legal process.

1995 – Began the video arraignment project, which is intended to maximize the use of technology while also maximizing the efficient use of time and resources.

1996 – Launched the first drug court (there are now a total of nine drug courts on all islands) to increase public safety, while at the same time avoiding the high cost of incarceration.

1997 – Improved public access to court information by initiating a pilot web-based data retrieval system.

1998 – Conducted a systematic and comprehensive examination of the Judiciary’s structure, procedures, scope, and functions as a method to increase efficiency. In the following year, this resulted in the Achieving Court Excellence (ACE) plan’s 29 recommendations for change.

2000 – Started the Ho‘okele court navigation project to provide concierge services to the public, including directing court users to the proper location, having service centers with computers and typewriters available to fill out court forms, and providing instructions and one-on-one assistance for completing these forms.

2004 – Initiated Hawaii’s Opportunity Probation with Enforcement (HOPE) program. The intense supervision is intended to encourage

probationers to adhere to their responsibilities by providing swift, predictable, and immediate consequences if they do not.

2007 -- Provided greater access to justice to those who do not speak English by launching the court interpreter certification program.

The Judiciary must now begin a new voyage to meet our future. To this end, funds are requested for a facilitated strategic planning process to look forward to the period of 2010 to 2020. As presently envisioned, it would cover both operations and facilities. The process is to begin sometime in the late third or early fourth quarter of 2008 and will involve approximately 100 internal and external stakeholders. The participants will meet in a general opening session and then break into smaller focus groups to formulate the individual parts of the plan. Finally, everyone will reconvene as a whole and report their findings and recommendations. This request is for \$100,000 for FY 2009.

Drug Court Evaluation Study: This request is for \$360,669 to contract with the National Center for State Courts (NCSC) to perform a five-year impact and cost-effectiveness study of Hawaii's drug court programs. In general, the NCSC will use much of the first year, in collaboration with the drug courts, in designing the study, creating the two comparison groups of approximately 300 individuals each, identifying factors that may influence outcomes and impacts, and developing the instrument to capture the required data. Data collection will then be done over a three-year period. There will be interim annual reports with the 5th-year being the final and most comprehensive.

With regard to this proposed study, it is critical to understand the difference between performance and impact/cost-effectiveness evaluations and to define what is meant by each term. Performance evaluation focuses on how closely the program is meeting its goals and objectives. For example, if the goal is to reduce drug use by 100% (while in the program), a performance indicator might be the number of positive drug tests during a fiscal or calendar year. Thus, a performance evaluation detects variances from the planned level of achievement.

On the other hand, impact assessment requires estimates of the value added by the program. That is, the benefits that may occur (e.g., abstinence from drug use, and therefore a resulting reduction in crime) are due to the actions of the program being studied and not another factor. This type of evaluation is much more complex and time consuming than a performance evaluation. Classically, this question is answered by comparing what happens to two matched groups, only one of which receives the treatment. At the end of the program, the two groups are compared and any differences are, theoretically, attributed to the treatment.

It is axiomatic that accurate and timely program data are a major determinant of effective decision making. The extent to which this information is readily available determines the effectiveness and precision of management decisions.

As drug courts in Hawai‘i have grown and matured, it has become clear that each one has arisen according to local needs, population, etc. This diversity of culture, while tailoring the programs to fit the specifics of each Circuit, has made it difficult to develop statewide performance and impact measures.

Hence, decision makers are left with incomplete and fragmented indicators of how well the drug court programs, as a system, are doing. Although most would agree that, in general, drug courts “work”, the question of how well they work is still open. For example, the questions of why some treatments work in some settings, under some circumstances and not others and, in any case, what is the most cost-effective treatment are, for the most part, left unexamined and unanswerable.

NCSC is a private, non-profit organization with a mission “to improve the administration of justice through leadership and service to state courts, and courts around the world.” Over the years, NCSC has performed groundbreaking research, and provided consulting services, publications, and national educational programs. NCSC has worked towards solutions that enhance court operations using the latest technology; collected and interpreted the latest data on court operations nationwide; and provided information on proven “best practices” for improving court operations.

Focusing on drug courts, NCSC has assisted seven states – Hawai‘i, Michigan, Missouri, New Jersey, Tennessee, Vermont, and Wyoming – to develop or enhance performance measures for their adult, family, and/or juvenile drug courts. During this period, NCSC worked closely with Hawai‘i personnel and became knowledgeable about our structure, operations, statutes, and policies.

Additionally, NCSC has prior experience with and knowledge of the Hawai‘i Judiciary through its landmark study, Kent Pankey, Sr. & James Tobin, Setting Judicial Salaries in Hawai‘i: Model Based on Comparative National Study for the Cades Foundation, National Center for State Courts (2003), of judicial salary setting models here and across the U.S. The resulting multi-year, two-volume report is widely seen as the decisive element in justifying the adoption of the judicial salary setting mechanism now in use for all three branches of government in Hawai‘i.

The study will provide decision makers with scientifically validated data regarding what impact our drug courts provide and how cost-effective are their results. These data may be used to determine whether to continue, expand, and/or improve program operations.

Moreover, clients may benefit from improvements or expansion to program operations highlighted by the data.

Expansion of Court Interpreter Services: This request is for \$219,385 in FY 2009 to fund the expansion of court interpreter services to all Judiciary civil and administrative proceedings and for the provision of interpreters for language access at all Judiciary points of contact with the public, as mandated in Act 290, SLH 2006.

Act 290, Relating to Language Access (Section 371, 31-37, HRS), provides for effective and timely communication between all levels of government and individuals who are precluded from using public services due to language-proficiency barriers. Appropriations from Act 290, however, were limited to staffing and maintaining positions in the Office on Language Access and the Language Access Advisory Council in the Department of Labor and Industrial Relations, and did not provide funds for other government agencies to be able to fully comply with the mandate. Act 290 sets the imperative that the Judiciary provide language access for individuals seeking government services, which inevitably includes court interpreter services to be provided for civil and administrative proceedings. Federal and state Constitutional mandates further underscore the need to provide court interpreter services for civil and administrative proceedings.

Act 120, SLH 2006 appropriated funds to provide the seed monies necessary for court interpreter certification program staff and costs. Act 184, SLH 2005 established the Court Interpreting Services Revolving Fund in order to create a self-sustaining funding source for a court interpreter certification program and other related court interpreter screening, training, and testing activities. But neither of these Acts provides the required resources to meet the language access requirements of Act 290.

In order for the Hawai'i State Judiciary to promote and ensure equal access to Hawaii's courts for all linguistic minorities, the Judiciary must commit to providing the best qualified spoken and American Sign Language interpreters available to all state court users in need in all capacities. Through the court interpreter certification program, which is aimed at increasing the pool of interpreters qualified through objective, standardized means, and trained to understand the professional expectations of them, the infrastructure is in place to be able to meet the linguistic need, both inside and outside the courtroom. Legislative appropriations for this budget request will translate this existing infrastructure into true linguistic access to justice for all.

In summary, the requested \$219,385 is based on adding together the projected fiscal impacts of the following two related projects:

- the expansion of court interpreter services to civil and Judiciary administrative proceedings (\$94,233), and

- the provision of interpreter services in the Judiciary for language access to persons who are limited-English proficient and/or deaf or hard-of-hearing (\$125,152).

Both projections are based on FY 2006 court interpreter payments totaling \$320,486, accounting for 6,527 interpreted assignments. A cost projection worksheet for these figures will be made available upon request.

For the expansion of court interpreter services to civil and Judiciary administrative proceedings, the number of interpreted assignments (6,527) was compared to the overall actions filed in criminal proceedings (344,950), as reported in the Statistical Supplement to the 2006 Judiciary Annual Report, in order to obtain the estimated percentage of criminal proceedings requiring court interpreter services (1.89%). This percentage was then multiplied by the number of actions filed in non-criminal proceedings (67,170), also reported in the Statistical Supplement, in order to project the number of additional proceedings requiring court interpreter services (1,271), as well as the percentage increase in the use of interpreters resulting from this expansion (19.47%). This percentage was multiplied by FY 2006 court interpreter payments (\$320,486) in order to determine the base increase of interpreter payments due to expansion under the FY 2006 interpreter fee schedule (\$62,406). This base amount was then applied to a multiple (1.51) that is used to project the increase in interpreter fees resulting from the new certification program fee schedule (\$94,233.48).

For the provision of interpreter services for language access to individuals seeking Judiciary information and services, a different interpreter fee schedule would be implemented that would be based on a \$12.50 hourly rate at a 15-minute minimum, as opposed to the FY 2006 court interpreter \$25 hourly rate at a 2-hour minimum. To project the fiscal impact of this program, FY 2006 court interpreter payments (\$320,486) were applied to the new hourly rate multiple (x .5). This amount (\$160,243) was then applied to the 15-minute increment multiple (x .125). This amount (\$20,030) was then applied to a multiple (x .5) designed to capture the assumption that repeat appearances are half as likely for language access than court proceedings. This amount (\$10,015) was then applied to a multiple (x 10) designed to capture the assumption that for every individual in a given day that is in court for a proceeding, there are 10 individuals that are interfacing with the Judiciary for purposes un-related to a proceeding. This amount (\$100,152) was then added to the amount (\$25,000) for a contract with Language Line, a telephonic interpreting company on the mainland, to cover language access requests that are not covered through the local court interpreter Registry to determine the total projected fiscal impact of this program (\$125,152).

Funding this request will be instrumental in allowing the Judiciary to better achieve its mission to ensure equal access to the courts for all by:

- 1) Ensuring the best qualified court interpreters be provided for:
 - Judiciary civil proceedings; and
 - Judiciary administrative proceedings.
- 2) Ensuring that qualified interpreters be provided for:
 - Language access of linguistic minorities to Judiciary services.
- 3) Better leveraging the newly implemented certification program to ensure linguistic access to all legal proceedings and increase opportunities for interpreters in the certification program to utilize and develop their interpreting skills
- 4) Further professionalizing the interpreter community while simultaneously expanding the interpreter profession.

The ultimate beneficiaries of funding the request will be all linguistic minorities interfacing with the Hawai'i court system.

Increase CADR's Mediation POS funding base to ensure quality statewide mediation and related dispute resolution services: This request provides a \$61,000 increase to CADR's funding base for its POS contract, which will ensure adequate funding for mediation and dispute resolution services, and will mitigate the negative impact of inflationary pressures on these services. The CADR oversees the Judiciary's POS contract with Mediation Centers of Hawai'i, Inc., which in turn contracts with six mediation centers on five different islands (there are two centers on Hawai'i Island). The purpose of the contract is to ensure that there is a dispute resolution infrastructure statewide so that there is access to affordable, quality mediation services. This service has become increasingly important in the past decade because the Judiciary now routinely mandates mediation in many cases. The contract ensures that litigants will be able to get mediation at a low cost, or no cost if necessary, so that they may comply with the courts' orders. Without this "safety valve," they might not be able to comply, and thus would not have access to the justice system.

The community mediation centers mediate approximately 2,000 cases per year that are referred by the district, family, and circuit courts. Many of these cases are mediated at the courthouse on the day set for trial. For instance, if two neighbors are having a dispute and one files a case in Small Claims Court, they will be asked to mediate the case on the day set for trial. Many parties are able to resolve their cases in mediation; if they cannot, then a trial is held. Thus, the parties are offered services in a prompt, efficient way.

The community mediation centers handle many different types of cases, involving issues such as civil rights, divorce, paternity, consumer complaints, residential landlord summary possession, condominium disputes, special education, juvenile issues, auto accidents, and temporary restraining orders.

The community mediation centers build the community's capacity to resolve conflicts without going to court in many different ways. They provide training in mediation, sponsor forums, work with children and the schools, and collaborate with other many organizations and governmental entities in the justice system. They are active in community outreach and work with the media to promote peaceful conflict resolution.

On any given day, mediators may help: divorcing parents decide the best way to care for their children during and after the divorce, family members work together to care for an elderly parent, neighbors understand why each is upset and find ways to resolve their problems, and teenagers who admitted that they vandalized property work out a means of restitution with the property owner. In short, the community mediation centers help parties find their own solutions, and research has shown that solutions that people reach on their own are likely to be more permanent and satisfying than any resolution imposed by a third party.

The Judiciary's contract for mediation and other dispute resolution services requires a presence and delivery of services on every major island in the state. The provider is required to have mediators present at court for all sessions of small claims court and residential landlord-tenant court, so that parties may mediate their cases, at no cost, prior to their trial. The contractor also must provide affordable and quality mediation services for other cases that are pending in the justice system, as well as for cases that are not pending in the justice system. Additionally, cases continue to get more complex, e.g., restorative justice cases demand significant case management resources, and require mediators to have specialized skills, which calls for additional training.

In the 1990's, statewide budget cuts resulted in a reduction in the POS funding level, from \$555,098 to \$424,650. Although the POS contract amount has increased to \$485,000 since then, it has only been able to do so by reallocating funds from other Administration programs each fiscal year. The actual POS funding base remains at \$424,650. Due to inflationary pressures and needs in those other Administration programs, reallocating funds from them to support the Mediation POS is becoming more and more difficult. Since FY 1993, the POS funding amount has decreased by almost 12.63%, yet inflation has increased by approximately 44.29%, and the number of cases opened per year by the POS provider has remained relatively constant. To illustrate, the \$555,098 POS funding amount for FY 1993 would be over \$800,940 in 2007 dollars.

If the increase to the POS funding base is not approved, other Judiciary programs will need to contribute to CADR's POS and this will detract from their ability to provide services. Should funds from other Judiciary programs become unavailable, it would require cutting current mediation and related dispute resolution services. This would severely impact the Judiciary's commitment to helping parties resolve their disputes fairly, quickly, and as efficiently as possible.

Two Permanent, Exempt Half-Time Positions for the King Kamehameha V Judiciary History Center (Center): The Center, formerly known as the Judiciary History Center, was established by the Hawai'i State Legislature in 1990 through Act 211 and HRS §6F-5. The Center was created to inform and provide learning opportunities about the judicial process, and Hawaii's legal history from pre-western contact to present. The Center features museum exhibits, a historic courtroom, a movie theater, DVD productions, school and adult tours, teacher workshops, public programs, publications, and legal history research. During FY 2006, the Center received 37,659 visitors including 10,823 students and teachers.

When the Center was established, three positions were created: executive director, education specialist, and clerk typist. A program specialist was funded in 1992. In 1996, as the result of the state's economic downturn and subsequent budget issues, the clerk typist position was abolished in a Reduction-in-Force action. For the past several years, the Center has two temporary half-time positions; a clerk typist and an education assistant using program savings to address the associated workload.

The two half-time, but unbudgeted, positions have enabled the Center to achieve and expand its services as mandated under §6F-5. At present, however, the temporary and unfunded nature of the positions jeopardizes the Center's continued success in recognizing its mission and expanding its services due to the diminishing availability of program savings, which are being affected by inflation and an overall under-funding of payroll costs.

The continuation of the education assistant position is necessary to accommodate the growing demand for school tours as well as expanded teacher workshop programs. Participation in these programs is expected to increase in upcoming years.

A clerk typist position is also needed to accommodate the increasing clerical workload of the Center's programs and activities, and to respond to changes in Judiciary procedures. For example, HR's adoption of PeopleSoft, a human resources management system, requires significant amounts of data entry and paperwork. The clerk typist also assists all three of the Center's full-time positions in areas of record keeping, photo-copying, answering phones, filing, payroll-related paperwork, and general correspondence.

Under §6F-5, the Center is mandated to stimulate and promote public interest in Hawaiian judicial history and provide information and services for Hawaii's schools. The Center's operations in these areas have expanded significantly since its creation in 1990.

Over the last three years, school-tour participant counts have increased by 35%. In FY 2006, the Center conducted tours for 10,823 students and teachers, compared to 8,019 in FY 2004. These increases are expected to continue with the Department of Education's (DOE) recently implemented Hawai'i Content Performance Standards (HCPS III), which mandate instruction in government and civics from grades K-11 (Social Studies is not required in grade 12.) The Center's school tours have been designed with the assistance of the DOE's Social Studies specialist to meet HCPS III requirements. The Center currently offers standards-based tours for 3rd, 5th, 7th, and high school level students. The upcoming debut of the Center's new DVD focusing on martial law during WWII and its affect on Hawaii's children is also expected to increase school tour visitation.

In addition to increases in school visitation, the Center has expanded its teacher workshop program. For the last several years, the Center has conducted an annual teacher workshop series consisting of three 2-day teacher workshops and two days of classroom assistance by Center staff for each of the teacher participants. These workshops are offered in accordance with Chief Justice Moon's initiatives to promote the concepts of judicial independence and separate but equal branches of government. Since its inception, the workshop series has trained 117 teachers from over 100 schools throughout the state. Approximately 8,750 students have received instruction from teachers who have completed the program.

In FY 2009, the Center will introduce a new teacher training program in addition to its annual workshop series. The new workshops, developed in partnership with the DOE, are intended especially for neighbor island teachers who are unable to commit to the current training consisting of three 2-day sessions.

As with the school tours, interest and participation in the Center's workshops are expected to increase as a result of HCPS III. In addition, the new DOE bargaining contract for teachers includes provisions for pay increases through professional development credit. As a result of a partnership with the DOE, public school teachers participating in the Center's workshop series are able to obtain this professional development credit.

As a result of a growing needs of the public for the Center's programs and services, the current approach of requesting temporary and unfunded positions from year to year is not practical since inflation and payroll shortfalls in the Administration program, and in fact the Judiciary overall, have significantly reduced the availability of program savings that, in the past, could provide such support.

Funding for Neogov Software: Previously, personnel recruitment involving job referrals, job posting, job applications, examination scheduling and notification, vacancy information, and statistical reporting were done manually, which were labor intensive and time consuming. In early 1998, the Hawai'i State Judiciary

embarked on an inclusive and comprehensive, statewide Improvement Process Initiative, or ACE. The purpose of this initiative, which examined the Judiciary's structure, procedures, and scope of functions, was to develop a far-reaching plan based on an in-depth, systematic, and critical self examination that would enable the Judiciary to enter the 21st century better prepared to meet the needs of the people of Hawai'i. The goal of ACE was to develop practical recommendations and implementation strategies that would result in a more efficient and effective Judiciary.

One of the ACE recommendations was that the HR program improve and streamline recruitment, hiring, and promotional practices and processes. As a consequence, HR analyzed and evaluated different software vendors that could meet this need. The conclusion was that the Neogov software system was the best match. It was the most flexible and adaptable system, making customization easy and quick. Utilizing available program savings at the end of FY 2005, a contract was entered into and the application went live during September 2005. This software system has lived up to its anticipated expectations. The continual vendor support activities, which include bi-weekly conference calls, an annual user conference, newsletters, and online technical support, as well as quarterly upgrades to the software, enhance our abilities to fully utilize the system. It has become an invaluable staffing tool because of its web-based platform, which provides an on-line job listing process, an online job application process including application screening capabilities, and electronic referral of candidates to hiring managers. The system is user friendly and intuitive for applicants as well as for the Judiciary staff. The turnaround time to refer candidates to hiring managers has been reduced between 30 and 50 percent when compared to the former manual processes. The system provides hiring managers with the ability to track recruitment activity for their vacancies, electronically receive the job applications with the referred candidate lists which was not possible with the former manual system, schedule candidates for interviews, and send notifications via the system, including 24 hours a day, 7 days a week access if necessary.

At this time, we are requesting \$28,000 to insure continuation of services from this vendor. Previous funding for this system was provided through savings in other program areas. However, due to inflation and payroll shortfalls, these savings will be more difficult to generate. Without the requested funds, the Judiciary will be forced to return to the manual recruitment processes, which will negatively impact our ability to compete in the local and national labor market for qualified candidates to fill our vacant civil service positions, especially when compared against other local government jurisdictions and private employers who are currently utilizing web-based recruitment tools.

Alcohol and Substance Abuse Testing Costs: Recently negotiated collective bargaining provisions allow for the random and reasonable suspicion testing of UPW employees and certain HGEA employees in health and safety positions. The public sector unions have recognized the drug and alcohol problems that

every employer faces and have agreed to allow the employer to conduct alcohol and controlled substance testing. This is an opportune time for the employer to take advantage of and implement those provisions recently negotiated under the various bargaining unit contracts.

No new position is being requested since the Judiciary has reallocated an existing position to carry out the testing functions. However, there are additional costs associated with the implementation of the testing program. These include laboratory alcohol and controlled substance testing charges; medical review officer review, assessment, and determination costs; substance abuse professional counseling and follow-up testing fees; and subject matter expert trainer payments to provide training for all supervisors and employees. All these provisions are required by the collective bargaining agreements.

The scope of services required to implement the testing program cannot be reduced as the negotiated provisions requires the Judiciary to administer the program with certain features, such as allowing split samples, mandatory training for all employees and supervisors, having a medical review officer available to make determinations on test results, counseling and follow up tests, etc.

All departments or court programs that employ UPW and HGEA employees covered by the negotiated drug and alcohol-testing program will be affected. The programs must allow employees to report to the clinical labs during work hours to conduct a lab test. Resources may be expended in finding a replacement for those employees who are being tested, especially at our Detention Facility where it is necessary to have replacement employees on staff to ensure the safety of our detainees.

Details of the requested funds are as follows:

Lab costs for testing, including a Medical Review Officer	\$3,802
Substance Abuse Professional and Training (Training required for all supervisors and employees)	8,209
Travel to neighbor island to assist with training and program implementation/administration	<u>306</u>
	<u>\$12,317</u>

Of critical importance is the fact that through the drug and alcohol testing program, employees who test positive or self admit to drug and/or alcohol use, may be able to seek the assistance of professionals in addressing their drug and/or alcohol problems.

Permanent Position for HR's Administrative Services Division: The Judiciary is experiencing steady growth and now has over 1,900 employees, an increase of almost 7% over the last several years. With new programs being established (Drug Court, Juvenile Drug Court, Girls Court, HOPE, etc.), the need to

sufficiently and effectively provide employment services to the growing number of employees has become more and more critical.

The Judiciary HR Department operates as a separate and independent human resources system. HR provides both central and line human resource services. The Administrative Services Division of HR is responsible for reviewing and documenting Judiciary-wide employee actions affecting employment status, pay, and benefits; ensuring that employee transactions comply with all applicable state and federal personnel laws and Judiciary personnel rules and regulations; and ensuring that they are completed in a timely, proper, and accurate manner.

An average of 7,500 employee transactions per year was completed over the last three fiscal years. From FYs 2004 to 2005, there was a 30% increase in the number of transactions completed (6,726); from FYs 2005 to 2006, a 10% increase (7,399); and from FYs 2006 to 2007, a 14% increase (8,444). With only three clerical positions (or staff members), each had to review and complete 2,815 employee transactions in FY 2007. Furthermore, with 24 payroll deadlines per year, each of these positions was also tasked with the review and completion of over 115 transactions in a two-week period. This is in addition to meeting one-on-one with newly hired employees; effectively servicing current employees with employment verifications, health benefits issues, retirement issues, and vacation pay deferrals; distributing and filing of employment materials; responding to requests for information (i.e., subpoenas, insurance claims, etc.); implementing, deploying, and maintaining the Electronic Leave System (ELS); and handling other employment related issues that may have arisen.

To further elaborate, in addition to executing personnel actions and reviewing/updating employee records, the Administrative Services Division is also responsible for timely enrollment in the various employee benefit programs and in maintaining records and assisting employees in this regard, inclusive of coordination with the Hawai'i Employer-Union Health Benefits Trust Fund, the Employees Retirement System, Island Savings Plan, Island Flex Plan, etc. Employees are in constant need of assistance when dealing with health benefits enrollment, eligibility, and life event changes. There are now three retirement plans to monitor for employees, Contributory, Non-Contributory, and Hybrid. On O'ahu, in order for employees to have an understanding of all the benefits available, staff members meet with each newly hired employee on a one-to-one basis. For newly hired neighbor island employees, staff members provide technical assistance in preparing and coordinating new hire processing to a neighbor island HR representative. Staff time is spent on thoroughly explaining and describing the various employment benefits available to Judiciary employees. In addition to health and retirement benefits, employees may be eligible for flexible spending plans, deferred compensation, savings bond purchases, etc.

Employment benefits are becoming increasingly more complex. Under the State's Deferred Compensation plan, there now exists the Early Vacation Payout

program and the newly instituted Post-Separation Vacation Pay Deferral Program based on the Internal Revenue Service's recently issued regulation allowing the deferral of pay received after separation from service. The ELS will soon be implemented statewide for the Judiciary and the Administrative Services Division is the assigned administrator of this system.

Because of the increased complexity in administering employment benefits, it is critical that employees have the necessary assistance and up-to-date information regarding their benefits as they progress through their career with the State of Hawai'i. To keep up with the new programs and technological developments, staff members must be able to devote time to learning and training. However, tasked with the reviewing and completing of over 2,800 employee transactions per year, per staff member, and in ensuring that all employee transactions are completed in a timely manner for proper and accurate pay and recording, each staff member is forced to decrease the staff time devoted to employment benefits. As a result, staff members are not well versed in all the various benefit programs and employees are left to interpret benefit programs on their own. This situation leads to misunderstanding, missed opportunities, missed submission deadlines, and untimely reporting of qualifying events.

The HR Department needs to ensure that all employees, whether newly hired or employed long-time, have the information and resources to enable them to take advantage of all possible benefits, to make well-informed decisions for retirement planning, and to feel secure and confident in their employer, the State of Hawai'i. The State of Hawai'i provides excellent employee benefits, but if employees are unaware of these benefits or are unable to take advantage of them, these benefits are meaningless. Being able to provide a high level of standard in the provision of these employee benefits will assist in the retention and improved morale of employees.

An additional permanent HR Technician VI to focus primarily on employee benefits is critically needed. This position will enable the Division to improve the level of service required to provide employees with the information and resources necessary.

Additional Permanent Position for HR's Administrative Services Division:

The problem to be addressed is the lack of sufficient personnel support for the Administration Program (JUD 601) of the Judiciary. This employee pool represents 13% of the employee workforce for the Judiciary. At this time, there is no dedicated personnel support staff for this group of employees which results in the personnel support functions falling upon accountants, account clerks, secretaries, and/or other staff members who are neither familiar with human resources related functions nor blessed with the time needed to execute them. The reality is that a dedicated personnel position is needed to provide effective and timely employment services for Administration employees.

For example, each circuit in the Judiciary maintains at least one HR technician who serves as a point of contact between its employees and the HR Department. The ratio of personnel support staff to the number of employees in each circuit is shown below:

First Circuit:	7 HR Representatives for 1,076 employees
Second Circuit:	1 HR Representative for 199 employees
Third Circuit:	1 HR Representative for 211 employees
Fifth Circuit:	1 HR Representative for 104 employees
Appellate Courts:	1 HR Representative for 68 employees

The Administration Program has a total of 227 employees, more employees than each of the Second, Third, and Fifth Circuits and the Appellate Courts, yet the Administration Program does not have a dedicated support staff member for human resources related functions.

The personnel support offices/staff of each circuit performs human resources support functions such as: submitting requests for Judiciary-wide employee actions affecting employment status, monitoring and maintaining employee leave records, and assisting program managers in the civil service hiring process, which includes submitting requests to fill vacancies, monitoring the recruitment and selection process, coordinating the hiring process, clarifying discrepancies or questions, and ensuring timely submission of required information. For exempt positions such as law clerks, judicial assistants, and others, the circuit personnel support staff perform the full range of recruitment functions. Furthermore, the personnel support staff is relied upon to ensure that workers' compensation forms and documents are completed accurately so claims and wage loss payments can be efficiently processed. The personnel support staff provide timely and necessary leave balance information to ensure timely payments and management of claims. In addition, the personnel staff supports other functions in position classification and labor relations.

A dedicated HR support position would perform the same functions for the employees of the Administration Program. This position will serve as a direct liaison between the Administration employees and the HR Department which is essential to insure timely and efficient personnel actions for the Administrative department programs. Having one point of contact for the Administration Program will contribute greatly to consistency, timeliness, and efficiency.

HR Workforce Planning and Staff Development Position: Between 49 and 51 percent of the Judiciary's workforce will be eligible to retire within the next five years. With the impending nationwide exodus of baby boomers from the workforce, workforce planning becomes critical as a business tool. Workforce planning includes the transfer of knowledge, skills, and institutional memory, as well as having an effective staff development program. Other jurisdictions have instituted or are launching major initiatives in this regard, notably with reference

to developing and nurturing the leaders of tomorrow. As the current leaders leave, workers may become supervisors; supervisors may become managers; and managers may become executives. Each rung of the corporate ladder requires the infusion of well prepared and organizationally committed individuals. As employees move up the ladder, we must also deal with the influx of newcomers to the organization who will be in need of training and development. In other words, effective workforce planning is a continuous process that ensures that we will have the right number of people in the right jobs at the right time.

Workforce planning will provide our managers with a strategic basis for making human resource decisions. It will allow our managers to anticipate change rather than being surprised by events, as well as providing strategic methods for addressing present and anticipated workforce issues. Workforce planning will provide our managers with the means of identifying the competencies needed in the workforce, not only in the present but also in the future, and then selecting and developing that workforce.

It is imperative for the Judiciary to develop a robust program to meet these needs. Current resources and workload demands preclude devoting a position to this endeavor, despite the legislative auditor's admonishments to allocate time and resources to staff development. With the impending change in the landscape of the employees' population, we believe the time is now.

Additionally, due to increased workload for the administration of employee benefit programs because of the addition of new benefits and the increased complexity of programs, the requested position must also dedicate time to serve as the benefits coordinator. At present, the benefits administration program has been on a time available basis and spread out among the transactions staff, who have neither the time nor qualifications to serve as benefits experts to the degree required to service our employees. It is more efficient and effective to consolidate the benefits administration responsibility to improve our delivery of service.

In summary, this position will be focused on staff development and workforce planning to improve the quality of the workforce and to prepare employees for career enhancement as well as serve as benefits coordinator for increasing complex programs.

Computer Equipment for OPG: OPG was created in 1984 to serve, when court-appointed, as decision makers for incapacitated adult wards in the State of Hawai'i when no other individual is available or willing to serve. Currently, approximately 800 wards statewide are managed by an office staffed with 10 full-time equivalent guardians, one accountant, one clerk-typist, and a director. Of the 10 guardians, one full-time position serves Hawai'i and two half-time positions are on the islands of Maui and Kauai. The guardians are responsible for overseeing and making all necessary decisions for the ward's overall health, care, and welfare. OPG's cases represent the most difficult situations and the guardians

are appointed as a last resort when family members or interested parties are nonexistent, cannot be found, or are not considered appropriate decision makers by the court. In some instances, family members are identified as perpetrators of financial exploitation, neglect, or abuse. Approximately half of all new cases arise from acute care or psychiatric facilities whereby medical decisions or discharge planning needs are precipitating factors. The other half of referrals are petitions prepared by Adult Protective Services involving cases of financial exploitation, self neglect, or abuse/neglect.

OPG is linked statewide with a computer software system developed specifically for OPG which permits sharing of information on all wards statewide. This has proven invaluable as the director's position is located on the island of O'ahu where the majority of wards reside. It has also made possible the opportunity to provide statewide coverage for after-hour emergencies by staff on O'ahu via cell phone and lap top computer. The majority of the 10 desk top computers currently being utilized on O'ahu are seven years old having been purchased in the year 2000 (eight computers) and 2001 (two computers). The computers are obsolete and need replacement. One computer is inoperable. As the islands of Hawai'i, Maui, and Kauai have newer equipment, this request for 10 computers is only for the island of O'ahu.

Conversion of Temporary Staff Attorney to Permanent Status: Act 169, SLH 2007 authorized the creation of a temporary staff attorney position for FY 2008. Thus, the Staff Attorney's Office currently has one permanent staff attorney and one temporary staff attorney. Converting the temporary position to permanent status would better enable the Staff Attorney's Office to recruit and retain a candidate for this position.

The Administrative Staff Attorney's Office provides legal advice and counsel to Judiciary programs and offices statewide. Each day, the Staff Attorney's Office receives an average of five to seven inquires and requests for assistance from the various programs and offices. On some days, the Staff Attorney's Office receives up to 12 requests for assistance. Responding to these requests and inquiries generally requires the Staff Attorney's Office to gather information or perform legal research. On a given day, the Office may have to do research on a wide range of subjects, such as workers' compensation, authorized penalties under the penal code, and responsibilities of the public guardian. The Staff Attorney's Office issues approximately two written legal opinions per month.

The staff attorneys review all contracts for health and human services procured through HRS, Chapter 103F, all contracts for goods and services procured through HRS, Chapter 103D, and all grant-in-aid contracts awarded pursuant through HRS, Chapter 42F. From January to August 2007, the Staff Attorney's Office reviewed over 300 contracts. The staff attorneys sometimes assist in drafting language for the contracts. Additionally, the staff attorneys assist in drafting and negotiating agreements for the leasing of office space.

The Staff Attorney's Office also drafts and assists in drafting various plans and policies for the Judiciary. Some recent examples include drafting of the Language Access Plan, required under HRS, Section 371-34, and providing guidelines on drafting a Records Destruction Policy, required under HRS, Chapter 487R.

The staff attorneys serve as liaison to the Department of the Attorney General when the Judiciary requires legal representation or other assistance from the Attorney General, and sometimes represent the Judiciary in administrative proceedings before the Hawai'i Labor Relations Board and other boards and commissions. The staff attorneys assist staff in responding to subpoenas and conduct investigations on discrimination and other types of complaints.

The staff attorneys assist in implementing JIMS as they help with the development of violation codes and review court processes.

In addition to these day-to-day responsibilities, the Staff Attorney's Office has additional responsibilities in the months preceding and during each legislative session. They draft and assist other offices in drafting legislative bills, and do research that enable administrators to decide whether or not to propose particular bills. The staff attorneys assist with the drafting of testimony in support of Judiciary bills. During the legislative session, the staff attorneys review all bills that have potential impact upon the Judiciary, and provide analysis and assist in drafting testimony in response to bills. They also assist administrators in responding to concerns and issues raised on bills proposed by the Judiciary.

Two permanent full-time attorneys are needed to keep up with the nature and volume of legal work within the Judiciary. Some complex projects take weeks, and sometimes several months, to complete. Other requests for assistance require an immediate response. The staff attorneys must be familiar with a broad range of laws. While most attorneys concentrate on either criminal or civil law, the staff attorneys must be familiar with both areas.

With the conversion of the position to permanent, the Judiciary will have a stable and dependable resource for legal assistance. Judiciary personnel can expect to receive timely legal advice and assistance. Obtaining timely legal assistance enables Judiciary staff to efficiently deal with operational and other issues, to provide services to the public, and to work with other entities.

6. Program Restrictions:

None.

5. BUDGET REQUEST FOR SUPPLEMENTAL BUDGET 08-09

A. DESCRIPTION OF POSITIONS AND FUNDING REQUIREMENTS BY COST CATEGORY AND SOURCE OF FUNDING.

JUD 601			FY 2008-09				
PROGRAM	DESCRIPTION	ITEM	POS COUNT	PAYROLL	OTHER CURR EXP	EQUIPMENT	TOTAL
Admin Dir Staff Svc	Future Vision Conference - Judiciary Planning	Other Current Expenses			100,000		100,000
	Total Administrative Director		0.00	0	100,000	0	100,000
Office of Equality & Access to the Courts	Expansion of Court Interpreter Services and the Provision of Interpreters for Language Access	Services on Fee Basis			219,385		219,385
			0.00	0	219,385	0	219,385
Center for Alternative Dispute Resolution	Increase Purchase of Services Funding Base	Purchase of Services			61,000		61,000
			0.00	0	61,000	0	61,000
Judiciary History Center	Establish Two Half-Time Permanent Positions	Clerk Typist II (#99900J - 50%) Educ Assistant (99901J - 50%) Office Supplies	0.50 0.50	12,834 12,834	0 0 250	0 0	12,834 12,834 250
			1.00	25,668	250	0	25,918
Office of the Public Guardian	Replacement Personal Computers, Monitors, & Software	Personal Computers, w/Software (10)				25,000	25,000
			0.00	0	0	25,000	25,000
Staff Attorney	Convert Temporary Staff Attorney to Permanent	Attorney (98901JT)	1.00				0
			1.00	0	0	0	0
	Total Intergovernmental & Community Relations		2.00	25,668	280,635	25,000	331,303
Support Services Staff Svcs	Risk Management - Cost Allocation	Insurance			442,472		442,472
	Total Support Services		0.00	0	442,472	0	442,472
Policy & Planning Staff Svcs	National Center for State Courts Drug Court Impact / Cost Effectiveness Evaluation	Services on Fee Basis			360,669		360,669
	Total Policy and Planning		0.00	0	360,669	0	360,669
HR	NeoGov Software & Licensing Fee	Maintenance Fees			28,000		28,000
			0.00	0	28,000	0	28,000
HR	Alcohol & Substance Abuse Testing & Operational Costs	Lab Testing Costs Training Expenses Intra-State Travel			3,802 8,209 306		3,802 8,209 306
			0.00	0	12,317	0	12,317

5. BUDGET REQUEST FOR SUPPLEMENTAL BUDGET 08-09

A. DESCRIPTION OF POSITIONS AND FUNDING REQUIREMENTS BY COST CATEGORY AND SOURCE OF FUNDING.

JUD 601			FY 2008-09				
PROGRAM	DESCRIPTION	ITEM	POS COUNT	PAYROLL	OTHER CURR EXP	EQUIPMENT	TOTAL
HR	Additional Position for Human Resources - Employee Transactions & Services	HR Technician VI (#99902J)	1.00	32,460			32,460
		Office Supplies			250		250
		Desk, Steel, Dbl Ped				633	633
		Chair, Med Back, w/Arms				238	238
		File Cabinet, Vert, 4-Dr				259	259
		Pers Comp w/Software				2,300	2,300
		Laser Printer				800	800
				1.00	32,460	250	4,230
HR	Additional Position for Human Resources - Administration's HR Representative	HR Technician VI (#99903J)	1.00	32,460			32,460
		Office Supplies			250		250
		Desk, Steel, Dbl Ped				633	633
		Chair, Med Back, w/Arms				238	238
		File Cabinet, Vert, 4-Dr				259	259
		Pers Comp w/Software				2,300	2,300
		Laser Printer				800	800
				1.00	32,460	250	4,230
HR	Additional Position for Human Resources - Staff Development	HR Specialist V (#99904J)	1.00	51,312			51,312
		Office Supplies			250		250
		Desk, Steel, Dbl Ped				633	633
		Chair, Med Back, w/Arms				238	238
		File Cabinet, Vert, 4-Dr				259	259
		Pers Comp w/Software				2,300	2,300
		Laser Printer				800	800
				1.00	51,312	250	4,230
Total Human Resources			3.00	116,232	41,067	12,690	169,989
TOTAL - ADMINISTRATION			5.00	141,800	1,224,843	37,690	1,404,433

**7. Capital Improvement Program (CIP) Requests for FY 2009:
Page Reference in the Supplemental Budget Document: Pages 71-75**

- a. Project title and description;
- b. Financial requirements (in \$ thousands) by project phase and means of financing;
- c. Explanation and scope of project;
- d. Justification for the project;
- e. For lump sum requests, please provide a specific breakout detailing specific projects for all planned expenditures; and
- f. Senate and House district(s) for the project.

Program Title: Administration (Program ID: JUD 601)

<u>Description</u>	<u>Project Total</u>	<u>Prior Years</u>	<u>Budget Appropriation FY 2008</u>	<u>Budget Request FY 2009</u>
Kapolei Judiciary Complex, O'ahu				
Plans (land, design, construction) and equipment for the Kapolei Judiciary Complex at Kapolei, O'ahu.				
Plans	1,315	865	225	225
Land	6,164	6,139	25	
Design	12,965	6,965	1,000	
Construction	143,900	85,000	23,900	
Equipment	23,050	9,000	50	9,000
Total	187,394	107,969	25,200	9,225
G.O. Bonds				

Ka'ahumanu Hale and Kauikeaouli Hale Facility Redevelopment Planning, O'ahu

Plans for redevelopment of portions of Ka'ahumanu Hale and Kauikeaouli Hale to be vacated upon relocation of court functions to Kapolei, O'ahu.

Plans	575	0		450
Land	0	0		
Design	875	0		
Construction	5,000	0		
Equipment	1,000	0		
Total	7,450	0	0	450
G.O. Bonds				

Status Offender Shelter and Juvenile Services Center, O'ahu

Plans for the development of a new status offender shelter and juvenile services center facility, O'ahu.

Plans	350			225
Land	0			
Design	1,875			
Construction	10,000			
Equipment	1,000			
Total	13,225	0	0	225
G.O. Bonds				

Explanation of Scope and Justification for the Projects

The funding necessary to allow the State to enter into a construction contract for the Kapolei Judiciary Complex (and meet the conditions of the 2006 Letter Agreement with the Estate of James Campbell) was appropriated by the 2007 Legislature and approved by the Governor under Act 169/2007. Groundbreaking for the complex has since occurred, and the contractor has graded the site and has begun building foundation work. In addition, design funds from the 2007 appropriation have allowed the state Department of Accounting and General Services (DAGS) to amend its current design contract with Architects Hawai'i Limited (AHL), such that interior design and furniture/equipment specification work for the complex are now well underway.

The intent of the Judiciary has been to complete construction of the new court and detention buildings as quickly as safety and circumstances permit. With substantial completion of construction by the contractor projected for October 2009, and anticipated occupancy of the buildings to follow in early- to mid-2010, the current need is for funding for the furniture, fixtures, and equipment for these large, important new facilities. The request for funding in the FY 2009 supplemental budget is based upon these time frames. A 12 to 15 month period is projected for the overall procurement process (allowing adequate time for the ordering, confirming of availability, manufacturing, shipping, delivering, and installing on site all of the specified items). As such, funding must be available to put the furniture, fixtures, and equipment package out to bid in the latter half of FY 2009, or potentially risk being ready to occupy the completed buildings the following year, but not being able to do so without the furniture, fixtures, and equipment needed to operate out of the facilities. The Judiciary's continued commitment to the success of its Kapolei Judiciary Complex project, therefore, is reflected in the Judiciary's budget request of \$9,000,000 under the Equipment cost element for the needed furniture, fixtures, and equipment.

The 2006 Legislature appropriated \$6.0 million for the purchase of that portion of the Kapolei Judiciary Complex site which the Judiciary was unable to “take down” from the Estate of James Campbell as a result of the reduced square footage of the court and detention buildings. The 4.3 acres in the north-west portion of the site are intended as the location for the construction of an administration office building to accommodate those Judiciary staff functions which could not be accommodated in the court or juvenile detention buildings. The current need is for \$225,000 in planning funds to initiate project development phase work related to this future administration building; that is, technical assessments/evaluations of the site, a conceptual site plan/floor plan layout, construction cost estimating, and an environmental assessment.

With respect to existing facilities, the movement of court and related operations to Kapolei will set into motion significant space allocation readjustments at Ka'ahumanu Hale (the Punchbowl Street, Circuit Court building), and at Kauikeaouli Hale (the Alakea Street, District Court building) in downtown Honolulu. At Ka'ahumanu Hale, the affected areas are largely those on the second floor of the building that are scheduled to be vacated by the staff and operational functions that are moving to Kapolei. In turn, Circuit Family, District Family, and Circuit Civil judges, staff, and court functions that have been based at Kauikeaouli Hale because of space limitations are intended to be relocated to Ka'ahumanu Hale, once the spaces at the latter have been satisfactory renovated for reoccupancy. The supplemental request for \$450,000 in planning funds is necessary to conduct the required technical assessments, evaluations, and construction cost projections for the affected portions of the two buildings.

The 50-plus year old Alder Street detention home in the lower Pi'ikoi area of Honolulu continues to deteriorate, despite extensive repairs and improvements that have been carried out over the past 10 years and which have been funded by appropriations from several previous biennia. When construction of the new detention facility at the Kapolei Judiciary Complex is completed, the tangible result will be vastly improved conditions for the secure, pre-adjudication detention operations that have endured the deteriorated state of the existing facility. The Judiciary proposes to substantially redevelop the Alder Street site and include it in a continuum of services provided to juveniles, such as status offender-related, and counseling and treatment functions, for which there is increasing demand but no currently suitable available facilities. The supplemental budget request is for \$225,000 in planning funds to conduct project development phase work; that is, technical assessments/evaluations of the site, a conceptual site plan/floor plan layout, preliminary construction cost estimating, and an environmental assessment.

(The Kapolei Judiciary Complex site is located in the 40th Representative District and 19th Senatorial District. The existing sites in Honolulu to be redeveloped are located in the 23rd, 25th, and 28th Representative Districts, and the 12th Senatorial District.)

<u>Description</u>	<u>Project Total</u>	<u>Prior Years</u>	<u>Budget Appropriation FY 2008</u>	<u>Budget Request FY 2009</u>
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Hoapili Hale Air Conditioning Equipment Replacement, Maui

Design and construction for the replacement of air conditioning system equipment at Hoapili Hale, Maui.

Plans	0	0		
Land	0	0		
Design	100	0		100
Construction	900	0		900
Equipment	0	0		
Total	1,000	0	0	1,000
G.O. Bonds				

Hoapili Hale Elevator System Upgrade, Maui

Design and construction for the upgrading of elevator system equipment at Hoapili Hale, Maui.

Plans	0	0		
Land	0	0		
Design	65	0		65
Construction	565	0		565
Equipment	0	0		
Total	630	0	0	630
G.O. Bonds				

Lahaina District Court Air Conditioning Equipment Replacement, Maui

Design and construction for the replacement of air conditioning system equipment at the Lahaina District Court facility, Maui.

Plans	0			
Land	0			
Design	10			10
Construction	50			50
Equipment	0			
Total	60	0	0	60
G.O. Bonds				

Explanation of Scope and Justification for the Projects

The Judiciary's two major facilities on Maui, Hoapili Hale in Wailuku and the Lahaina District Court building, are now both over 20 years old. Dating back to the original construction of these two facilities in the mid-1980's, the various major building systems and equipment at both locations are in significant need of replacement and/or upgrading. The existing equipment is becoming increasingly difficult to service and upkeep, as most of the mechanical parts and other serviceable components are hard to find and/or have been phased out of production.

The air conditioning equipment at both buildings has become increasingly difficult to repair and maintain, especially given the obsolescence of replacement parts and propensity for frequent service outages. The Lahaina District Court needs replacement of the 20 year old main package-type air conditioning unit that services the majority of the building's spaces. The even older cooling tower and chiller units at Hoapili Hale are similarly antiquated and long overdue for replacement. Additionally, the chlorofluorocarbon (CFC) refrigerants that are in use in the existing equipment have been banned from production under U. S. Environmental Protection Agency regulations since the late 1990's; as such, CFC has become increasingly expensive and difficult to obtain. The environmental consequences of accidental discharge of CFC from the aged equipment are an added concern. The Judiciary's supplemental budget request therefore includes funding needed to replace air conditioning equipment at both buildings.

At Hoapili Hale, the building's elevators, which also date back to the building's original construction in the mid-1980's, have been similarly difficult to service and upkeep, and are in need of a complete overhaul and upgrade of the electrical and mechanical components. In particular, the elevator control equipment and door operator systems are the most seriously affected items. Over the past year, each of the building's three elevators has been out of service at one time or another, on numerous occasions. The elevators are an essential part of the facility's operations, and when any one of them is not operating, the effects on the public and staff operations are substantial. For example, there have been occasions when both public elevators have been out of order, which greatly inconvenienced and frustrated court users by necessitating the use of multiple flights of stairs to access the upper floors of the building. When the single back-of-the-house elevator within the building that is used by deputy sheriffs to transport custodies has broken down, the sheriffs have had to either commandeer one of the public elevators, which is not always possible, or else escort the custodies up through five or six floors of building stairs between the courtrooms and holding facilities. As occurrences such as these are expected to only increase, due to the condition of the existing equipment, the Judiciary is requesting funding for the needed upgrade of the elevators at Hoapili Hale.

(Hoapili Hale is located in the 9th Representative District and 4th Senatorial District. The Lahaina District Court building is located in the 10th Representative District and 5th Senatorial District.)

<u>Description</u>	<u>Project Total</u>	<u>Prior Years</u>	<u>Budget Appropriation FY 2008</u>	<u>Budget Request FY 2009</u>
Kona Judiciary Complex, Hawai'i				
Plans and land for a new Judiciary Complex for Kona, Hawai'i.				
Plans	1,100	100		500
Land	5,050			50
Design	5,500			
Construction	0			
Equipment	0			
Total	11,650	100	0	550
G.O. Bonds				

Keakealani Building Court Facilities Improvements, Hawai'i

Plans, design, construction, and equipment for facilities improvements at the Keakealani Building in Kealakekua, Hawai'i.

Plans	5	5		0
Land	0	0		0
Design	40	20		20
Construction	1,075	100		975
Equipment	50	25		25
Total	1,170	150	0	1,020
G.O. Bonds				

Explanation of Scope and Justification for the Projects

Nearly 20 years ago, the Judiciary began a long-range effort aimed toward improving and upgrading the physical facilities that service its neighbor-island Circuits. Assessments from the mid- to late 1980's of the Judiciary's facilities in the Third Circuit, whose jurisdictional area was then, and still is, the "Big Island" of Hawai'i, identified various deficiencies in the existing facilities in West Hawai'i, including an overall severe shortage of space, lack of adaptability of the physical plants to implement proper security measures, and numerous inefficiencies that stemmed from separate, disparate locations for court operations.

The Keakealani Building (which is often also referred to as the "Old Kona Hospital Building") is the main facility for the courts in Kona. The Judiciary has long outgrown the spaces that it occupies in the building, which is ill-suited for court operations. Certain

functions in recent years were moved out of the Keakealani Building to leased space in privately owned buildings, but with the growing volume of court activity, client programs, visitors, and staff, the logistical and operational difficulties inherent throughout the West Hawai'i court facilities, especially at this location, have persisted. The acute need at this site continues to be for improvements to various staff and public areas, including public service counters, probation services offices, jury accommodations, and security checkpoint areas. Act 38/2004 appropriated an initial \$150,000 for this project, which funded planning and design work; the present supplemental request is targeted toward the anticipated cost for construction.

The Judiciary's long-term goal for West Hawai'i remains the development of a new, permanent full-service court facility. With construction of the new Hilo Judiciary Complex approaching completion, the Kona area will become the Judiciary's last major service region without permanent court facilities. The Judiciary therefore desires to begin the preliminary steps toward development of a new Judiciary Complex for West Hawai'i. The one and only appropriation that the Judiciary received for this project dates back to 1989, when planning funding was appropriated. Those funds were conveyed to DAGS, which commissioned a study to identify potential sites for a multi-agency State civic center that it would develop and operate in the area, of which a new court facility would be a part. Unfortunately, that and subsequent efforts were unsuccessful in determining and securing such a civic center site, and the project has remained largely dormant in the interim.

In the meanwhile, Judiciary employees and members of the public are continuing in their struggle to "make do" with the present substandard facilities. The West Hawai'i community has continued to express its concerns regarding the longstanding problems of severe overcrowding, security and accessibility difficulties, spatial inefficiencies, and other shortcomings at the Judiciary's existing facilities in the Kona area.

On the advice and with the concurrence and support of the Executive Branch and DAGS, the Judiciary is requesting \$550,000 in planning and land funding in the supplemental budget.

(These projects are both located in the 5th Representative District and 3rd Senatorial District.)

<u>Description</u>	<u>Project Total</u>	<u>Prior Years</u>	<u>Budget Appropriation FY 2008</u>	<u>Budget Request FY 2009</u>
North Kohala District Court Facility Alterations and Improvements, Hawai'i				
Design and construction for facility alterations and improvements at the North Kohala District Court building in Kapa'au, Hawai'i.				
Plans	0			
Land	0			
Design	40			40
Construction	110			110
Equipment	0			
Total	150	0	0	150
G.O. Bonds				

Explanation of Scope and Justification for Project

The North Kohala District Court facility located at the civic center in the town of Kapa'au, at the far northern end of the "Big Island" of Hawai'i, was constructed in the late 1970's. The building is operated by the Judiciary (with periodic assistance from DAGS) as one of its "rural" area courts in the Third Circuit. While a relatively small building, compared to others occupied by the Judiciary across the state, the facility has not required significant improvement or upgrading until recent years. Currently, however, a number of items in and around the structure are in need of overdue remedial improvement, including exterior pavement, site fixtures, and masonry walls, as well as substantial upgrading, repair, and replacement of elements throughout the public and staff spaces in the building's interior which are of the original construction thirty-plus years ago.

Funding is therefore being requested for design and construction of the needed remedial work, with which DAGS will be assisting the Judiciary.

(This project is located in the 1st Representative District and 3rd Senatorial District.)

<u>Description</u>	<u>Project Total</u>	<u>Prior Years</u>	<u>Budget Appropriation FY 2008</u>	<u>Budget Request FY 2009</u>
Lump Sum C I P for Judiciary Facilities, Statewide (for Fiscal Biennium 2007-2009)				
Plans, design, construction, and equipment for the remodeling and upgrading of Judiciary buildings, statewide (for Fiscal Biennium 2007-2009).				
Plans	350		100	250
Land	0			
Design	800		300	500
Construction	2,600		1,000	1,600
Equipment	350		100	250
Total	4,100	0	1,500	2,600
G.O. Bonds				

Explanation of Scope and Justification for Project

Funding under this project title was first authorized by the Legislature under Act 120/2006, as an alternative to the appropriations that the Judiciary had received in previous years dating back to the 1980's for remodeling and upgrading, architectural barrier removal (i.e., physical plant alterations for Americans with Disabilities Act compliance and concurrent accessibility laws under the Hawai'i Revised Statutes), and similar general facility upkeep and improvement purposes. The Judiciary operates out of nearly 50 building locations across the state that require a continuing and constantly changing variety of alterations, improvements, and modifications for improved efficiency, along with basic health and safety. The focus remains on those types of urgent, near-term improvements, renovations, and other pertinent alterations of limited scope at various facilities occupied by the Judiciary, including security-related alterations, emergency repairs, and miscellaneous alteration work prompted by building code or other regulatory compliance requirements.

(These projects are statewide in scope, and therefore affect all Representative and Senatorial Districts.)

8. Proposed Lapses of CIP Projects:

None.

Attachment 1
Judiciary Summary Information
Totals for Proposed Judiciary Budget Adjustments (by Method of Funding)

FY08				
MOF	Act 169/07 Appropriation (a)	Restriction (b)	Emergency Request (c)	Total FY08 (a)+(b)+(c)
A	139,412,185			139,412,185
B	9,732,721			9,732,721
W	343,261			343,261
				-
JUD Totals	149,488,167			149,488,167

FY09				
MOF	Act 169/07 Appropriation (d)	Reduction (e)	Addition (f)	Total FY09 (d)+(e)+(f)
A	136,507,184		7,707,185	144,214,369
B	9,140,083			9,140,083
W	343,261			343,261
				-
JUD Totals	145,990,528		7,707,185	153,697,713

Please indicate restrictions and reductions as negative numbers, using brackets ()

Attachment 2
Judiciary Summary Information
Fiscal Year 08 Proposed Emergency Requests

<u>Program ID</u>	<u>MOF</u>	<u>Title of Emergency Requests</u>	<u>FTE</u>	<u>\$ Amount</u>
		NONE		
JUD Totals by MOF			-	-

Attachment 3
Judiciary Summary Information
Fiscal Year 09 Proposed Budget Adjustments

<u>Program ID</u>	<u>MOF</u>	<u>Program ID Title</u>	<u>FTE</u>	<u>\$ Amount</u>
JUD 101	A	Courts of Appeal	-	99,884
JUD 310	A	First Circuit	4.00	3,359,364
JUD 320	A	Second Circuit	5.00	1,090,820
JUD 330	A	Third Circuit	10.00	1,615,135
JUD 350	A	Fifth Circuit	1.00	137,549
JUD 601	A	Administration	5.00	1,404,433
JUD Totals by MOF			25.00	7,707,185

**Attachment 4
Fiscal Year 09 Proposed Budget Adjustments**

Program I.D.	Description of Adjustment	FTE	\$ Amount	MOF
JUD 101	Funding for Judges' Pay Raise	-	99,884	A
		-	99,884	A
JUD 310	Funding for Judges' Pay Raise	-	429,643	A
JUD 310	Additional Cost of Guardian Ad Litem (GAL) Services	2.00	1,715,092	A
JUD 310	Funding for medically targeted substance abuse treatment	-	100,000	A
JUD 310	Additional funding for medical services for youth at Hale Hoomalu & Home Maluhia	-	28,000	A
JUD 310	Replace eight walk-through metal detectors at Honolulu & rural District Courts (\$43,960), and two x-ray machines at Kaahumanu Hale (\$67,519)	-	111,479	A
JUD 310	Replace condenser water pipes at cooling towers at Honolulu District Court	-	120,560	A
JUD 310	Replace & re-stretch carpeting at Kaahumanu Hale (Circuit Court) and Kauikeaouli Hale (District Court)	-	450,400	A
JUD 310	Two Court Operations Specialist III (SR20) positions to facilitate operation of Court Interpreter Program	2.00	94,450	A
JUD 310	Necessary workstation improvements for Judicial Services Branch - Honolulu District Court	-	59,740	A
JUD 310	Increase in Psychiatric/Psychological Fees for Exams Under Section 704, HRS	-	250,000	A
		4.00	3,359,364	A
JUD 320	Funding for Judges' Pay Raise	-	84,929	A
JUD 320	GAL/Legal Fees & (1) Account Clerk III	1.00	431,542	A
JUD 320	Consolidation of Offices - Molokai	-	62,160	A
JUD 320	Expand Maui/Molokai Drug Court	4.00	486,189	A
JUD 320	Increase in Psychiatric/Psychological Fees for Exams Under Section 704, HRS	-	26,000	A
		5.00	1,090,820	A
JUD 330	Funding for Judges' Pay Raise	-	95,137	A
JUD 330	GAL/Legal Fees & (1) Account Clerk III	1.00	909,756	A
JUD 330	District Family Court Judge & Support Staff - Hamakua, S/N Kohala	4.00	278,358	A
JUD 330	Convert (2) Temporary SW Positions to Permanent & Related Equipment - Juvenile Client Services	2.00	-	A
JUD 330	Convert (1) Temporary Clerk III Postions to Permanent & Related Equipment - Kohala TVB	1.00	-	A
JUD 330	Additional Sex Offender Treatment/Assess/Eval Funds	-	55,000	A
JUD 330	(1) Accountant III - Kona Fiscal	1.00	45,368	A
JUD 330	(1) Documents Clerk III - Kona Family Court	1.00	45,536	A
JUD 330	Security for South Kohala District Court	-	70,980	A
JUD 330	Increase in Psychiatric/Psychological Fees for Exams Under Section 704, HRS	-	115,000	A
		10.00	1,615,135	A
JUD 350	Funding for Judges' Pay Raise	-	37,361	A
JUD 350	Funding for GAL Rate Increase	-	29,000	A
JUD 350	(1) Accountant III Position	1.00	46,188	A
JUD 350	Increase in Psychiatric/Psychological Fees for Exams Under Section 704, HRS	-	25,000	A
		1.00	137,549	A
JUD 601	Risk Management Cost Allocation	-	442,472	A
JUD 601	Future Vision Conference - Judiciary Planning	-	100,000	A
JUD 601	National Center for State Courts Drug Court Impact/Cost Effectiveness Evaluation	-	360,669	A
JUD 601	Expansion of Court Interpreter Services and the Provision of Interpreters for Language Access at all Judiciary Points of Contact with the Public	-	219,385	A
JUD 601	Increase Mediation POS funding base	-	61,000	A
JUD 601	Establish Two Half-Time Permanent Positions for Judiciary History Center	1.00	25,918	A
JUD 601	Neogov Software License and Maintenance Fee	-	28,000	A
JUD 601	Alcohol & Substance Abuse Testing Costs	-	12,317	A
JUD 601	One Permanent HR Technician VI for Admin Services	1.00	36,940	A
JUD 601	One Permanent Staff Development Specialist for HR	1.00	55,792	A
JUD 601	One Permanent HR Technician VI for Admin Services	1.00	36,940	A
JUD 601	Ten Personal Computers, Monitors, and Software for Office of the Public Guardian	-	25,000	A
JUD 601	Convert Temporary Staff Atty to Permanent	1.00	-	A
		5.00	1,404,433	A
Judiciary Total - General Fund		25.00	7,707,185	A

Attachment 5
FY09 Capital Improvements Program Summary

Priority	Project Title	FY09 \$ Amount	MOF
1	Kapolei Judiciary Complex, O'ahu	9,225,000	C
2	Kona Judiciary Complex, Hawai'i	550,000	C
3	Keakealani Building Court Facilities Alterations and Improvements, Hawai'i	1,020,000	C
4	Hoapili Hale Air Conditioning Equipment Replacement, Maui	1,000,000	C
5	Hoapili Hale Elevator System Upgrade, Maui	630,000	C
6	Ka'ahumanu Hale & Kauikeaouli Hale Facility Redevelopment Planning, O'ahu	450,000	C
7	Status Offender Shelter and Juvenile Services Center, O'ahu	225,000	C
8	Lahaina District Court Air Conditioning Equipment Replacement, Maui	60,000	C
9	North Kohala District Court Facility Alterations and Improvements, Hawai'i	150,000	C
10	Lump Sum CIP for Judiciary Facilities, Statewide (FB 2007-2009)	2,100,000	C
		15,410,000	C

Attachment 6
Actions to Realize Savings

<u>Program ID</u>	<u>MOF</u>	<u>Description of Action to Realize Savings</u>	<u>\$ Amount of Actual FY07 Savings</u>	<u>\$ Amount of Projected FY08 Savings</u>

The Judiciary has undertaken a state Court Improvement Process Initiative to improve the structure, procedures and scope of functions of the Judiciary. The Judiciary is committed to a systematic review of its programs, and to restructuring efforts that will reduce operating costs. For the long run, we believe that this approach will provide better services to the public and produce more "real" savings than short-term reactive undertakings. At this point, our Achieving Court Excellence (ACE) project remains a work in progress.

**Attachment 7
All Positions Vacant As of 12/1/07**

Date of Vacancy	Program I.D.	Position Title	Position Number	Exempt (Y/N)	Budgeted Amount*	Actual Salary Last Employee Paid	MOF	Program ID	Authority to Hire (Y/N)
GENERAL FUNDED POSITIONS									
6/13/2007	JUD101	Associate Judge	57256	Y	129,886.00	10,781.25	A	JUD101	Y
12/1/2007	JUD101	Law Clerk	57262	Y	49,773.00	4,447.00	A	JUD101	Y
9/24/2007	JUD101	Secretary IV	57446	N	39,832.00	3,559.00	A	JUD101	Y
8/2/2007	JUD101	Attorney	500369	N	79,676.00	5,002.00	A	JUD101	Y
3/1/2005	JUD310	Court Reporter II	4708	N	47,447.00	5,754.00	A	JUD310	Y
6/1/2007	JUD310	Social Worker IV	4749	N	53,215.00	4,625.00	A	JUD310	Y
3/16/2007	JUD310	Social Worker IV	4754	N	56,122.00	4,810.00	A	JUD310	Y
5/6/2006	JUD310	Judicial Clerk II	4789	N	28,477.00	2,236.00	A	JUD310	Y
6/19/2007	JUD310	Account Clerk V	10350	N	34,667.00	3,162.00	A	JUD310	Y
12/1/2007	JUD310	Judicial Clerk I	12073	N	32,068.00	2,926.00	A	JUD310	Y
6/30/2007	JUD310	Judicial Clerk II	12074	N	34,667.00	3,162.00	A	JUD310	Y
9/1/2003	JUD310	Court Reporter II	12137	N	43,856.00	4,506.00	A	JUD310	Y
7/1/2003	JUD310	Court Documents Clerk III	13365	N	34,667.00	3,700.00	A	JUD310	Y
6/18/2007	JUD310	District Court Clerk II	14520	N	32,068.00	3,162.00	A	JUD310	Y
10/18/2007	JUD310	Judicial Clerk I	14525	N	24,373.00	2,407.00	A	JUD310	Y
10/8/2007	JUD310	Judicial Clerk III	14557	N	36,047.00	3,288.00	A	JUD310	Y
9/1/2006	JUD310	Court Reporter II	14897	N	47,447.00	4,021.00	A	JUD310	Y
11/26/2007	JUD310	Court Documents Clerk I	14912	N	33,345.00	3,042.00	A	JUD310	Y
8/16/2006	JUD310	District Court Clerk II	15662	N	36,047.00	3,055.00	A	JUD310	Y
9/29/2007	JUD310	Court Bailiff IV	15959	N	53,352.00	4,867.00	A	JUD310	Y
3/1/2007	JUD310	Social Worker IV	17720	N	57,023.00	5,002.00	A	JUD310	Y
7/25/2007	JUD310	Court Bailiff I	22996	N	29,651.00	2,501.00	A	JUD310	Y
10/16/2007	JUD310	District Court Clerk II	23082	N	42,203.00	3,850.00	A	JUD310	Y
3/1/2007	JUD310	Judicial Clerk III	24039	N	37,483.00	3,422.00	A	JUD310	Y
10/23/2007	JUD310	Judicial Clerk III	24061	N	32,068.00	3,042.00	A	JUD310	Y
5/1/2007	JUD310	District Court Clerk II	24062	N	45,623.00	4,162.00	A	JUD310	Y

**Attachment 7
All Positions Vacant As of 12/1/07**

Date of Vacancy	Program I.D.	PositionTitle	Position Number	Exempt (Y/N)	Budgeted Amount*	Actual Salary Last Employee Paid	MOF	Program ID	Authority to Hire (Y/N)
8/15/2003	JUD310	Account Clerk III	25263	N	26,380.00	2,138.00	A	JUD310	Y
9/4/2007	JUD310	Clerk Typist III	25442	N	25,331.00	2,407.00	A	JUD310	Y
3/6/2007	JUD310	District Court Clerk II	27893	N	49,339.00	4,182.00	A	JUD310	Y
6/18/2007	JUD310	Judicial Clerk II	27894	N	27,417.00	2,601.00	A	JUD310	Y
11/1/2007	JUD310	Judicial Clerk II	57024	N	28,477.00	2,705.00	A	JUD310	Y
6/28/2007	JUD310	Account Clerk III	57103	N	25,331.00	2,314.00	A	JUD310	Y
12/1/2007	JUD310	Court Reporter II	57112	N	67,579.00	6,165.00	A	JUD310	Y
9/9/2006	JUD310	Judicial Clerk II	57392	N	28,477.00	2,414.00	A	JUD310	Y
11/21/2007	JUD310	Judicial Clerk I	57393	N	24,373.00	2,224.00	A	JUD310	Y
2/2/2007	JUD310	Social Worker II	57399	N	40,037.00	3,124.00	A	JUD310	Y
11/1/2007	JUD310	Social Worker IV	57410	N	40,037.00	3,652.00	A	JUD310	Y
6/9/2007	JUD310	Judicial Clerk III	57523	N	30,803.00	2,925.00	A	JUD310	Y
6/9/2007	JUD310	Social Worker IV	57562	N	43,331.00	3,954.00	A	JUD310	Y
10/24/2007	JUD310	Clerk Typist II	57567	N	26,380.00	2,407.00	A	JUD310	Y
4/1/2006	JUD310	Judicial Clerk III	57809	N	24,373.00	2,513.00	A	JUD310	Y
6/16/2006	JUD310	Clerk Typist II	57811	N	22,549.00	1,987.00	A	JUD310	Y
10/29/2007	JUD310	Clerk Typist II	57813	N	22,549.00	2,057.00	A	JUD310	Y
10/31/2007	JUD310	Judicial Clerk III	57881	N	36,047.00	3,288.00	A	JUD310	Y
10/3/2007	JUD310	Judicial Clerk II	57883	N	30,803.00	2,926.00	A	JUD310	Y
10/19/2007	JUD310	Judicial Clerk I	57895	N	26,380.00	2,224.00	A	JUD310	Y
9/12/2007	JUD310	Janitor II	57960	N	28,534.00	2,503.00	A	JUD310	Y
3/1/2006	JUD310	Ct Optns Spclt II	58041	N	45,076.00	5,438.00	A	JUD310	Y
4/26/2004	JUD310	District Court Clerk II	58147	N	22,549.00	1,758.00	A	JUD310	Y
11/16/2007	JUD310	Judicial Clerk II	58151	N	36,047.00	3,420.00	A	JUD310	Y
9/10/2007	JUD310	Social Worker IV	58161	N	43,331.00	3,953.00	A	JUD310	Y
1/8/2007	JUD310	Judicial Clerk II	58194	N	26,380.00	2,601.00	A	JUD310	Y
6/1/2007	JUD310	Judicial Clerk III	58220	N	28,477.00	2,601.00	A	JUD310	Y
10/2/2007	JUD310	Social Worker IV	58240	N	49,898.00	4,624.00	A	JUD310	Y
6/30/2006	JUD310	Social Worker III	58241	N	40,037.00	3,136.00	A	JUD310	Y

**Attachment 7
All Positions Vacant As of 12/1/07**

Date of Vacancy	Program I.D.	Position Title	Position Number	Exempt (Y/N)	Budgeted Amount*	Actual Salary Last Employee Paid	MOF	Program ID	Authority to Hire (Y/N)
10/5/2007	JUD310	Juvenile Detention Worker II	58245	N	34,485.00	3,025.00	A	JUD310	Y
9/12/2007	JUD310	Janitor II	58316	N	28,534.00	2,503.00	A	JUD310	Y
10/1/2007	JUD310	Social Worker I	58533	N	40,037.00	2,887.00	A	JUD310	Y
4/16/2007	JUD310	Judicial Clerk II	58588	N	33,345.00	2,925.00	A	JUD310	Y
3/1/2004	JUD310	Judicial Clerk III	58666	N	34,667.00	2,924.00	A	JUD310	Y
11/1/2007	JUD310	Clerk Typist III	58687	N	24,373.00	2,311.00	A	JUD310	Y
10/20/2007	JUD310	Law Clerk	58869	Y	46,865.00	4,275.00	A	JUD310	Y
10/29/2007	JUD310	Clerk Typist II	58937	N	24,373.00	2,057.00	A	JUD310	Y
7/2/2007	JUD310	Juvenile Counselor III	58984	N	46,865.00	4,275.00	A	JUD310	Y
8/1/2007	JUD310	Judicial Clerk II	59199	N	27,417.00	2,598.00	A	JUD310	Y
4/27/2007	JUD310	Clerk Typist II	59313	N	22,549.00	1,978.00	A	JUD310	Y
11/1/2007	JUD310	Judicial Clerk II	59362	N	26,380.00	3,042.00	A	JUD310	Y
11/20/2007	JUD310	Drug Ct Subst Abuse Cnslr III	59475	N	40,037.00	3,512.00	A	JUD310	Y
5/8/2007	JUD310	Drug Ct Subst Abuse Cnslr IV	59476	N	41,644.00	3,801.00	A	JUD310	Y
11/24/2007	JUD310	Drug Ct Subst Abuse Cnslr IV	59479	N	40,037.00	3,799.00	A	JUD310	Y
11/16/2006	JUD310	District Court Clerk II	59533	N	36,047.00	3,162.00	A	JUD310	Y
8/1/2007	JUD310	Drug Ct Subst Abuse Cnslr II	59561	N	40,037.00	3,249.00	A	JUD310	Y
8/18/2006	JUD310	Social Service Aid III	59568	N	23,450.00	1,987.00	A	JUD310	Y
10/25/2006	JUD310	Social Worker IV	500205	N	50,684.00	4,446.00	A	JUD310	Y
7/1/2007	JUD310	Juvenile Detention Worker I	500343	N	23,983.00	2,917.00	A	JUD310	Y
7/1/2007	JUD310	Juvenile Detention Worker I	500344	N	23,983.00	2,917.00	A	JUD310	Y
7/1/2007	JUD310	Juvenile Detention Worker I	500347	N	23,983.00	2,917.00	A	JUD310	Y
10/26/2007	JUD320	Social Worker IV	9727	N	37,783.00	3,799.00	A	JUD320	Y
9/4/2007	JUD320	Social Worker IV	12047	N	49,773.00	4,447.00	A	JUD320	Y
6/14/2006	JUD320	Judicial Clerk III	26328	N	26,935.00	2,324.00	A	JUD320	Y
11/1/2007	JUD320	Judicial Clerk II	57049	N	38,272.00	3,420.00	A	JUD320	Y
8/1/2007	JUD320	Judicial Clerk I	58141	N	29,077.00	2,311.00	A	JUD320	Y
10/16/2007	JUD320	Judicial Clerk II	58330	N	36,806.00	3,288.00	A	JUD320	Y

**Attachment 7
All Positions Vacant As of 12/1/07**

Date of Vacancy	Program I.D.	PositionTitle	Position Number	Exempt (Y/N)	Budgeted Amount*	Actual Salary Last Employee Paid	MOF	Program ID	Authority to Hire (Y/N)
10/1/2007	JUD320	Social Worker III	58562	N	32,616.00	3,376.00	A	JUD320	Y
7/2/2007	JUD320	Social Worker IV	58662	N	46,025.00	4,112.00	A	JUD320	Y
1/9/2006	JUD320	Clerk Typist II	58820	N	26,935.00	2,324.00	A	JUD320	Y
7/20/2007	JUD320	Social Worker IV	59126	N	46,025.00	3,652.00	A	JUD320	Y
10/16/2007	JUD320	Judicial Clerk II	59202	N	34,047.00	3,163.00	A	JUD320	Y
10/24/2007	JUD320	Judicial Clerk I	59220	N	40,782.00	2,311.00	A	JUD320	Y
11/1/2007	JUD320	Social Worker IV	59263	N	53,020.00	4,624.00	A	JUD320	Y
11/26/2007	JUD320	Judicial Clerk II	59367	N	29,077.00	2,598.00	A	JUD320	Y
9/15/2007	JUD320	Drug Ct Subst Abuse Cnslr II	500099	N	36,363.00	3,249.00	A	JUD320	Y
10/6/2007	JUD320	Drug Ct Subst Abuse Cnslr III	500269	N	37,783.00	3,376.00	A	JUD320	Y
7/1/2007	JUD320	IT Support Technician III	500350	N	32,743.00	2926.00	A	JUD320	Y
7/1/2007	JUD320	Assistant Facilities Manager	500351	N	38,272.00	3420.00	A	JUD320	Y
7/1/2007	JUD320	Social Worker IV	500365	N	40,880.00	3652.00	A	JUD320	Y
7/1/2007	JUD320	Social Worker IV	500366	N	40,880.00	3652.00	A	JUD320	Y
9/27/2007	JUD320	Library Technician V	500401	N	25,864.00	22311.00	A	JUD320	Y
9/1/2006	JUD330	Social Worker IV	4835	N	40,880.00	4,647.00	A	JUD330	Y
10/27/2007	JUD330	Social Worker IV	24378	N	44,244.00	3,953.00	A	JUD330	Y
12/1/2007	JUD330	Court Documents Clerk III	26476	N	53,579.00	4,867.00	A	JUD330	Y
3/17/2007	JUD330	Social Worker IV	57889	N	46,025.00	3,954.00	A	JUD330	Y
6/8/2006	JUD330	Judicial Clerk IV	58568	N	23,024.00	1,911.00	A	JUD330	Y
6/1/2007	JUD330	Social Worker IV	58833	N	53,835.00	4,625.00	A	JUD330	Y
10/1/2007	JUD330	Court Bailiff II	59003	N	39,832.00	3,559.00	A	JUD330	Y
7/1/2006	JUD330	Judicial Clerk II	59186	N	26,935.00	2,826.00	A	JUD330	Y
11/26/2007	JUD330	Clerk Typist II	59742	N	26,935.00	2,501.00	A	JUD330	Y
11/27/2007	JUD330	Clerk Typist II	500010	N	24,991.00	2,224.00	A	JUD330	Y
11/1/2007	JUD330	Circuit Court Clerk II	500147	N	39,832.00	3,559.00	A	JUD330	Y
4/27/2007	JUD330	Law Clerk	500148	Y	47,852.00	4,111.00	A	JUD330	Y
7/16/2007	JUD330	Assistant Facilities Manager	500372	N	38,272.00	3420.00	A	JUD330	Y

**Attachment 7
All Positions Vacant As of 12/1/07**

Date of Vacancy	Program I.D.	PositionTitle	Position Number	Exempt (Y/N)	Budgeted Amount*	Actual Salary Last Employee Paid	MOF	Program ID	Authority to Hire (Y/N)
SPECIAL FUNDED POSITIONS									
10/19/1999	JUD310	Clerk Typist II	19272	N	25,331.00	1,920.00	B	JUD310	Y
4/1/2004	JUD310	Driver Education Officer	25738	N	45,076.00	4,112.00	B	JUD310	Y
12/30/2006	JUD310	Illustrator III	26900	N	51,334.00	4,680.00	B	JUD310	Y
12/14/1998	JUD310	Information Specialist II	57783	N	34,246.00	3,691.00	B	JUD310	Y
8/30/2003	JUD310	Clerk Typist II	57941	N	23,450.00	2,312.00	B	JUD310	Y
12/31/1998	JUD310	Clerk Typist II	57942	N	23,450.00	1,920.00	B	JUD310	Y
2/12/2007	JUD310	Social Worker I	500168	N	33,312.00	3,246.00	B	JUD310	Y
9/25/2007	JUD601	Information Specialist IV	500026	N	49,332.00	4,447.00	B	JUD601	Y
*Represents the net amount after turnover savings adjustment is applied.									

Attachment 8
Listing of Transfers for FY07 and FY08

<u>Program ID</u>	<u>FY07 Ceiling</u>	<u>FY07 Amount Transferred</u>	<u>FY08 Ceiling</u>	<u>FY08 Amount Transferred</u>	<u>Reason for Transfer</u>	<u>Recurring (Y/N)</u>
JUD 101	6,688,266	(63,311)	7,063,438			
JUD 310	68,255,552	(646,286)	73,811,161			
JUD 320	14,042,711	(29,700)	14,901,150			
JUD 330	15,981,962	(174,349)	17,915,146			
JUD 350	6,779,458	(575,725)	7,061,629			
JUD 601	20,317,787	1,489,371	23,076,229			
Total	132,065,736	0	143,828,753			

FY 2007 includes appropriations from Acts 120/06, 98/05, 94/05, & 97/05.

FY 2008 includes appropriations from Acts 169/07, 137/07, 138/07, 136/07, 133/07 & 218/07.



LINDA LINGLE
GOVERNOR

JAMES R. AIONA, JR.
LIEUTENANT GOVERNOR

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OFFICE OF THE LIEUTENANT GOVERNOR
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TESTIMONY OF THE OFFICE OF INFORMATION PRACTICES
OFFICE OF THE LIEUTENANT GOVERNOR
PROGRAM ID: LTG 105

SUPPLEMENTAL BUDGET REQUEST FOR FY 2008-2009

SENATE COMMITTEE ON JUDICIARY AND LABOR

Friday, January 11, 2008
State Capitol, Conference Room 016

Chair Taniguchi, Vice-Chair Hee, and members of the Senate Committee on Judiciary and Labor, my name is Paul Tsukiyama and I am the director of the Office of Information Practices ("OIP").

As you know, OIP's role is to administer our state's public records law, the Uniform Information Practices Act (Modified) ("UIPA"), chapter 92F, Hawaii Revised Statutes, and, since 1998, our state's open meetings law, part I of chapter 92, Hawaii Revised Statutes, (the "Sunshine Law"). In administering these laws, OIP performs a wide range of duties, from providing education and legal guidance to government agencies and the public about these laws, to assisting the public in obtaining access to government records, to overseeing compliance with both laws through investigation of alleged Sunshine Law violations and ruling on public appeals from agency denials of access.

Additionally, OIP monitors and may participate in litigation involving the UIPA or Sunshine Law. During the legislative session, OIP may recommend legislative changes to the UIPA and Sunshine Law. It also assists others with drafting legislation and offers testimony on legislation, where such legislation concerns the government's information practices, public access to government records and meetings, and the privacy rights of individuals.

OIP continues to look for ways to streamline its procedures to provide timely legal guidance and assistance to the public and government agencies, boards and officials. OIP is most successful in providing timely assistance through its Attorney-of-the-Day ("AOD") program. Through this program, members of the

public and government personnel, officers or board members can receive legal guidance and assistance from an OIP staff attorney usually within the same day. OIP has also placed emphasis on training and has generally satisfied all requests for training and educational materials made by government boards and agencies. Because of the breadth of its duties and staffing levels, OIP's largest struggle continues to be reducing the backlog of UIPA appeals, requests for formal advisory opinions, and requests for investigations.

I. Department-Wide Budget Summary Information:

- 1. Totals for department FY08 budget with restrictions (where applicable) and emergency requests and FY09 proposed operating budget adjustments by means of financing.**

MOF	FY08			Total FY08 (a)+(b)+(c)
	Act 213/07 Appropriation (a)	Restriction (b)	Emergency Request (c)	
A	411,475	-	-	411,475
Program Total	411,475	0	0	411,475

MOF	FY09			Total FY09 (d)+(e)+(f)
	Act 213/07 Appropriation (d)	Reduction (e)	Addition (f)	
	411,507	-		411,507
Program Totals	411,507	-		411,507

- 2. Identify any emergency requests (by title and amount) that your department will be seeking for the current fiscal year.** None
- 3. Provide a summary of your FY09 proposed operating budget adjustments by Program ID.** None
- 4. Provide a description of all FY09 proposed operating budget adjustments by Program ID.** None
- 5. Provide a listing of all proposed FY09 capital improvement projects.** None
- 6. Briefly discuss specific budget adjustments of concern for your agency.** N/A

7. Provide a summary of your department's request to the Department of Budget and Finance, the funding decisions made by the Department of Budget and Finance, and the funding decisions finalized by the Governor. N/A
8. Explain the process used to identify priorities (requests for additional operating and capital improvements program funding) for your department. N/A
9. Discuss how requests for additional operating and capital improvements program funding were prioritized. N/A
10. Briefly discuss which actions your department has taken or is planning to take to reduce operating costs, and how those actions will translate into savings that may be reduced from your budget. N/A
11. Identify all positions that are vacant as of December 1, 2007. For each of these positions please indicate if authority for your department to hire was or was not granted.

Date of Vacancy	Program I.D.	Position Title	Position No.	Exempt (Y/N)	Budgeted Amount	Actual Salary Last Employee Paid	MOF	Program ID	Authority to Hire (Y/N)
5/15/07	LTG105	Staff Attorney	117247	Y	\$ 51,000.00	\$ 51,000.00	A	LTG105	Y

12. Provide a listing of all instances of your department's expenditures exceeding the federal fund ceiling for FY07 and FY08. N/A
13. Provide a listing of all budget appropriations transferred to another Program ID and/or another department in FY07 and FY08. N/A
14. Provide a listing of all deployed positions. N/A

II. Program I.D. and Title:

1. Introduction:

a. Summary of program objectives.

To implement and oversee compliance with the UIPA and the Sunshine Law in accordance with its powers and duties set forth in sections 92F-42, HRS, and 92-1.5, HRS.

b. Description of program objectives. Present your summary of the objectives and activities as discussed in the Multi-Year program and Financial Plan.

1. Provide guidance and assistance to the public and government entities through its "Attorney of the Day" service and through the issuance of written advisory opinions.
2. Provide education and guidance through the publication of advisory opinions, educational materials, and newsletter.
3. Provide education through training workshops for government agency employees and officials and government board members.
4. Receive and resolve complaints regarding alleged violations of the Sunshine Law.
5. Accept and rule on appeals made by members of the public from agency denials of access to government records.
6. Monitor litigation raising issues under the UIPA or Sunshine law with possible intervention in those cases concerning the UIPA.
7. Make recommendations for, assist with drafting of and providing comment regarding legislation concerning government information practices, public access to government records and meetings, and the privacy rights of individuals.
8. Administer "Records Report System" and assist agencies with meeting their annual statutory obligations to maintain their reports under section 92F-18.

c. Explain how your program intends to meet its objectives in the upcoming supplemental year.

OIP will continue with its current programs and publications. It will also continue its efforts to streamline its procedures in an effort to decrease its current backlog of pending requests for opinions, investigations, and appeals. OIP will continue in its efforts to better utilize its existing staffing level, shifting job responsibilities, and utilizing other resources to create greater efficiency.

OIP will also continue to look to assisting communication and cooperation among the parties and, if necessary, serving as mediator. OIP will look for ways to better utilize its website to provide guidance and to expand on its training materials to reduce the requests for general guidance that it provides on a daily basis in order to devote more of its resources to meeting the demand for formal opinions, investigations and appeals.

2. Program Performance Results:

a. Performance results achieved by each program in FY07.

In FY07, OIP received over 1,100 inquiries and requests from the public, government agencies and boards. 772 inquiries were received through its AOD program. Of those, 201 inquiries (26%) were from members of the public, including 125 from private individuals, 32 from news media sources, and 15 from public interest groups. The remaining 571 requests (74%) came from government agencies and boards.

When possible, OIP responds to written requests through informal correspondence, generally within a very short timeframe. OIP handled 26 requests in this manner in FY07. For more factually detailed or legally complex issues, appeals, or Sunshine Law investigations, OIP opens formal case files. OIP will also open case files where a member of the public requires assistance in obtaining a response from a government agency.

In FY07, OIP opened 51 case files in response to written requests for opinions and investigations under the Sunshine Law, 23 investigations and 28 opinion requests (information regarding the investigations is detailed at pages 6-8 of the 2007 Annual Report). 62 files were opened in response to requests for assistance under the UIPA and 47 files were opened in response to requests for opinions under the UIPA or UIPA appeals. In FY07, OIP issued 13 formal opinions and 31 informal opinions (see summaries of opinions at pages 20-26 of the 2007 Annual Report). OIP also continued to monitor lawsuits involving the Sunshine Law or UIPA (see pages 8-10 of the 2007 Annual Report).

OIP introduced three bills in the last legislative session that recommended changes to the UIPA and Sunshine Law. OIP also provided assistance to agencies, boards, officials and the public in drafting legislations or in understanding the ramifications of proposed legislation. OIP also monitored and/or testified on 130 legislative initiatives that dealt with information practices and meetings (see page 27 of the 2007 Annual Report).

To provide education and guidance OIP continued its traditional print publications, including the *Openline* newsletter, annual report, UIPA handbook (to provide agency personnel with guidance in responding to record requests), an informational brochure to assist the public in understanding and using the UIPA, and an Open Meetings Guide. In addition to OIP's annual training workshops on the UIPA and the Sunshine Law for all state agency personnel and state board members and staff and similar workshops for the County of Hawaii, OIP conducted 33 smaller training sessions for various state and county agencies and boards (see page 34 of the 2007 Annual Report). OIP also held a Sunshine Law presentation for the public hosted by the Honolulu Advertiser in conjunction with national Sunshine Week.

b. Explain how these results relate to the program's objectives and department's mission.

OIP's activities described directly further its objective to provide assistance and uniform legal guidance in response to all requests, to provide education to the public as well as all government boards, agencies and officials, and to offer its expertise with legislation concerning issues within its purview.

c. Explain how the effectiveness of the program is measured (i.e., outcomes, measures of effectiveness, benchmarks, etc.) and discuss the performance results achieved during the past two years.

OIP has instituted a system to track the various types of requests made and completion dates. Effectiveness is measured by the number of requests for assistance or legal guidance fulfilled, the number of opinion letters issued and determinations made, and the number of training sessions completed. Performance results have generally remained fairly consistent, but the number of training sessions were significantly increased.

d. Discuss the actions taken by each program to improve its performance results.

OIP has streamlined its procedures, created and updated forms to improve efficiency, and improved its website to allow greater accessibility to information. In addition, OIP solicits feedback on its training methods.

- e. **Please identify all modifications to your program's performance measures.** None

3. Problems and Issues:

- a. **Discussion of problems and issues encountered, if any.**

OIP's limited staff has been taxed by the need to defend its determination against a suit brought by the County of Kauai arising from a UIPA appeal brought by a member of the public for the denial of access to county council minutes.

- b. **Program change recommendations to remedy problems.** None
- c. **Identify any program issues or problems that have affected or will affect the implementation of the program, and the corrective measures or remedies established or planned.** N/A

4. Expenditures for FY08:

Provide the appropriation data, transfers, restrictions, available resources, and the estimated expenditures for FY08.

	Appropriation Act 213/07 Fiscal Year '08	Collective Bargaining	Transfer in Transfer-out	Restriction	Estimated Total Expenditure
(Pos Counts)	5.00				
Personal Services	376,255	15,347			391,602
Current Expense	35,220				35,220
Equipment	0				0
Motor Vehicle	0				0
TOTAL	411,475	15,347			426,822

- a. **Explain all transfers within the Program I.D. and the impact on the program.** None.
- b. **Explain all transfers between Program I.D.'s and the impact on the program.** None.
- c. **Explain any restrictions and the impacts on the program.** None

5. **Supplemental Budget Requests for FY09:** None
6. **Program Restrictions:** None
7. **Capital Improvement Program (CIP) Requests for FY09:** None
8. **Proposed Lapses of CIP projects:** None

