



## *The Judiciary, State of Hawai'i*

### **Testimony to the House Committee on Finance**

Representative Marcus R. Oshiro, Chair  
Representative Marilyn B. Lee, Vice Chair  
Wednesday, March 11, 2009, 11:00 A.M.  
State Capitol, Conference Room 308

by

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**Bill No. and Title:** House Bill No. 300, Relating to the Judiciary.

**Purpose:** To provide biennium operating and capital improvement appropriations for FY 2010 and 2011.

### **Judiciary's Position:**

The Judiciary strongly urges your support of House Bill No. 300, which reflects the Judiciary's resource requirements for fiscal biennium 2010 and 2011. During the informational budget briefings to the members of the Senate Committee on Ways and Means and House Committee on Finance on January 6 and January 29, 2009, we provided detailed information on our budget, the nature of the requests, and potential budget reductions in light of the State's financial situation. Consequently, our testimony today will address only a few highlights.

Our administrative judges, court administrators, program directors, and Judiciary staff continually search for better ways to manage caseload to improve the services provided to citizens seeking the court's assistance. 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, and supervisory programs for children and adults. Other courts and programs, including the Girls Court; Teen Court; Mental Health Court; Adult, Family, and Juvenile Drug Courts; and the Probation Modification Project (also known as Project HOPE) reflect the Judiciary's commitment to providing effective alternatives to traditional adjudication. The Children's Justice Centers (CJC's) play an important role in Hawai'i in helping child sex abuse victims and their parents and in facilitating related treatment programs. The Office of Public Guardian (OPG) serves as a guardian, limited guardian,



testamentary guardian, or temporary guardian of an incapacitated person when appointed by the Family or Circuit Court. The Judiciary looks forward to discussing these or any other programs, as well as our future plans, with you as we proceed through the current legislative session.

The Judiciary is keenly aware of the State's limited financial resources, its economic situation, and the projected budget deficit for the fiscal biennium. Therefore, our general fund biennium budget request is only for items mandated by law or absolutely necessary to maintain operations. Specifically, it is limited to funds to pay for the judges' salary increase recommended by the Commission on Salaries, to cover significantly increased costs for electricity, and to open the new detention home and courthouse in Kapolei. In total, the Judiciary's general fund budget request includes additional funding of approximately \$6.4 million in FY 2010 and \$9.2 million in FY 2011, and, when added to our current operating budget, is approximately \$4.4 million below the Judiciary's biennium general fund appropriation ceiling in FY 2010; based on the November 19, 2008 final estimate of State growth for the upcoming 2-year period. Due to recent decreases in costs for electricity, these additional funding amounts are \$658,847 less than our biennium budget request for FY 2010 and \$901,891 less than our request for FY 2011 noted in our November 1, 2008 letter to Governor Lingle and in our testimony submitted to the legislature on December 31, 2008.

While the entire general fund budget request is important to the Judiciary, the adverse impact of not funding the move to Kapolei cannot be stressed enough. Twenty years ago, Carter Goble Associates, in an evaluation of all Judiciary facilities, singled out the Family Court in Ka'ahumanu Hale for critical mention. Specifically, the report stated that:

*"In number, size, configuration, and proximity, the courtrooms do not appropriately serve the public. Lack of adequate waiting, conferencing, holding, or secure prisoner circulation severely handicaps the Court's ability to serve the public with either dignity or efficiency. Family Court courtrooms are too small to safely conduct hearings and do not provide adequate separation of parties in these often emotional interactions. In addition, parties must wait in overcrowded areas. Frequently, those who should be physically separated – for example, victims and criminal defendants or emotionally charged parties in divorce or child custody proceedings – find themselves sitting next to each other in a confined waiting area."*

With the expanding role of Family Court; the continuing, steady increase in workload; and the lack of any remediation, these conditions have only worsened since 1989. The Kapolei Court Complex was designed to address the spatial, security, and other physical issues that have beleaguered the Family Court since its inception. The new building will relieve the dangerous overcrowding at Ka'ahumanu Hale; will provide safer waiting areas, courtrooms, and other public-use spaces than are presently available downtown; and will address security concerns



always present due to the nature of proceedings in Family Court. Passions are seldom higher than in a divorce or child custody matter. The safety of court personnel, litigants, and witnesses is vital to orderly case disposition and to public confidence in the judicial system. The Kapolei Court Complex addresses these security concerns by having: (1) multiple waiting areas to minimize contact between hostile parties and reduce the potential for violence; (2) a secure system for transporting custodies to courtrooms which does not utilize either public or staff circulation corridors, thereby limiting the opportunity for hostile confrontation; (3) court-specific holding facilities for custodies immediately adjacent to the courtrooms; and (4) courtrooms adequately sized to achieve appropriate separation of adverse parties, as well as witnesses, and thereby deter intimidation by hostile parties.

Moving the Detention Home to Kapolei is just as important, if not even more so, than moving the Family Court as Hale Ho'omalulu (the current Detention Home) is a disaster just waiting to happen. The desperate conditions in the Alder Street juvenile detention facility are well-known to the community and the Legislature. First built in 1949, Hale Ho'omalulu is a cement-plaster structure with a wood-sheathed roof that has not had a major renovation in more than 40 years. The plaster ceilings are original construction. The roof, walls, and ceilings have deteriorated significantly over the past 60 years and have suffered subterranean and drywood termite damage, rot, and simple decay. The building construction is not fire proof; the facility's sleeping rooms, toilets, and showers have many high suicide risk factors; and the facility has had a history of asbestos and paint problems. An analysis of the structural integrity of the facility nine months ago found that there exists significant stresses on braces, beams, and joists caused by termite damage, rot, and decay. The antiquated design and current deteriorated condition of the facility severely restrict the ability of the Judiciary to carry out its historic mission of "care, protection, and restitution", as well as current program mandates.

Five years ago, an assessment by the Center for Research and Professional Development of the conditions of confinement at the Alder Street facility found the physical plant to be unsafe:

*"Living conditions are unsanitary. The facility has deteriorated and is plagued by falling plaster, inadequate ventilation, and sewage, plumbing, and electrical problems. The institution lacks adequate space for programs, offices, training, and medical services. There are too many structural issues related to suicide opportunities. It seems unlikely that any corrective action, short of a new facility, will offer permanent or cost-effective solutions to the myriad problems associated with this inadequate physical plant."*

The movement of staff and juveniles from the Alder Street detention home to the new juvenile detention facility in Kapolei is imperative. The health and life safety of juveniles in the care of the court cannot be postponed. Any delay would not only seriously jeopardize the health and



safety of juveniles held at Alder Street, but also would incur additional expense to the Judiciary and liability to the State for repairs and maintenance to a failing building.

As noted in our budget support package, the Judiciary will assume responsibility for the operation and maintenance of the Kapolei Court Complex once the specified requirements for substantial completion have been met by the contractor, currently scheduled for late 2009. This means that the Judiciary will be responsible for utility costs, maintenance, and security for the new Complex from that date – while furniture, fixtures, and equipment are being installed and before Judiciary staff are present in either the court building or the juvenile detention facility. Further, once the Department of Accounting and General Services (DAGS) finds the project to be satisfactorily completed and in compliance with the terms of the contract, the Complex will be turned over to the State. At that time, the warranty periods begin running on the buildings' construction; all the equipment; and every mechanical, electrical, security, communications, low voltage, elevator, and fire extinguishing system. As stipulated in the Contract Documents, the contractor agrees to guarantee all work under the contract for one year from the project acceptance date. If any unsatisfactory condition or damage develops within the time of the contractor's warranty due to materials or workmanship that is deficient, inferior, or not in accordance with the contract, the contractor is obligated to make the repairs necessary, without any expense to the State. Beyond the one-year warranty period, the repairs would be at the State's expense. The minimal savings on utilities such as water and electricity<sup>1</sup> gained by delaying the movement of Judiciary staff and juveniles in custody would not offset the potential cost of repair to equipment or the mechanical system beyond the warranty period.

In summary, if the movement of court staff and juveniles in the court's custody to the facilities at Kapolei is delayed, Family Court staff and functions will remain in the substandard facilities at Ka'ahumanu Hale and Alder Street with significant safety and security concerns. Other Judiciary personnel who were to move into Ka'ahumanu Hale upon the movement of Family Court to Kapolei will remain in leased space around Honolulu. The dollar costs of delaying the move to Kapolei for one calendar year is \$618,620. Additionally, whether the facilities are occupied or not at Kapolei, the Judiciary will incur electricity charges to maintain the mechanical, HVAC, security and telecommunications equipment; water and sewer charges for cooling equipment, fire suppression, and landscaping maintenance; security charges for securing the site and buildings; and maintenance charges for the vacant buildings and groundskeeping for the parking areas and site works. We believe it would be fiscally irresponsible as well as be imprudent to leave unopened or under-resourced a court facility that can provide much needed and much deferred services for the entire community.

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<sup>1</sup> It is estimated that delaying the move to Kapolei for one calendar year would save 27.5% of base utility costs; 2 of 6 security guard positions; and one-half of the requested maintenance staff.



The Judiciary wishes to reiterate that it fully understands the economic situation faced by the State and because it does so, has also identified possible reductions to its budget base that offset the cost of our budget request items, as well as further reductions totaling 20% of our discretionary costs (approximately \$1.9 million each year). Taken together, these reductions, which are shown in Attachment 1 to this testimony, will reduce our total base budget by 5.5% in 2010 and 7.4% in 2011.

The reductions shown in Attachment 1 for guardian ad litem (GAL)/legal counsel services and Purchase of Services (POS) are especially significant because they have such a direct and important effect on people involved in court proceedings or in the client evaluation and treatment area. In the GAL area, there are certain federally mandated requirements that must be met and which could be affected by this reduction. We might have to lower our fees, after just receiving authorization from the legislature last year to raise the fees. This would likely impact the number of attorneys willing to accept these appointments as well as the quality of service provided. Reductions more than the percentage shown in Attachment 1 would most likely result in a crisis similar to the indigent criminal defense funding issue that existed prior to the legislative action to increase fees paid to the criminal defense bar. In that situation, there were an insufficient number of competent attorneys willing to take on cases. Decreased funding could adversely affect representation and may do harm to children and/or parents. Over 2,400 cases requiring GAL/legal counsel services were filed in FY 2008.

In the POS area, the Judiciary has over 90 contracts statewide costing about \$13 million. These contracts provide direct services for our juvenile and adult clients who require assessment, treatment, and other community support services (e.g., substance abuse, domestic violence, sex offender, mental health counseling, emergency shelter, anger management, etc.). Proposed reductions will limit the number of clients that can be served, and could have various societal effects relative to the safety of the public. Reductions beyond the amounts identified would have an even greater negative impact, especially if we are the primary source of income for these programs. Not only would fewer clients be served and services be decreased, but some of the smaller agencies might have to discontinue their programs completely. Clients would not be assessed, provided treatment, or sheltered if needed. Ultimately, public health and safety would be jeopardized as recidivism rates, arrests, and convictions would likely increase, thereby further impacting the Judiciary through increased caseloads and calendars. The effect can be quite startling when one looks at the number of clients served statewide in FY 2008 in some of these areas: over 11,000 for domestic violence, more than 500 for juvenile substance abuse/assessment/treatment, almost 1,200 for in-community services, and nearly 200 for sex offender assessment and/or treatment.

As mentioned above, further reductions beyond those amounts identified by the Judiciary could adversely affect the Judiciary's ability to provide complete, safe, and timely court services to the



public, and to open the Kapolei Court Complex. It is important to remember that the mission of the Judiciary is to administer justice in an impartial, efficient, and accessible manner, and thereby make justice available to all people without undue cost, inconvenience, or delay. All of the Judiciary's staffing and resources go toward meeting this mission. Programs in the court operations category, including Courts of Appeal and the four individual circuits, serve to safeguard the rights and interests of persons by assuring an equitable and expeditious judicial process. It is also important to note that the Judiciary has little control over its workload as such workload is dictated by the number of tickets written by police; the number of crimes committed; the number of family actions, suits, and civil actions filed; etc. Thus, all of the Judiciary's resources essentially go toward responding to workload dictated by others.

The major activity of the Courts of Appeal is to hear appeals and provide timely disposition of cases, including resolution of particular disputes and explication of applicable law; and of the four circuits is to expeditiously and fairly adjudicate or resolve all matters within their jurisdiction in accordance with law. Besides the Supreme Court and Intermediate Court of Appeals, which together disposed of 559 appeals in FY 2008 (563 new appeals were filed), the Courts of Appeal category also includes the State Law Library System. The State Law Library System is utilized by all the courts and the Judiciary administration and programs, and is of utmost importance to the public, especially on the neighbor islands where it is the only direct, public source of legal information. By providing both print and online resources, the Library has saved \$417,000 over the past 10 years, and \$160,000 annually going forward. The resources provided by the Library enable judges and the Judiciary to carry out their duties. If judges did not have a library at their disposal, the State would absorb the costs at full price and much higher rates. As this economic crisis continues, self-represented litigants will undoubtedly increase. The need to access legal information, presently provided by the Library, will ensure that the Judicial system does not become over-burdened with delays that often occur when people represent themselves in court and/or do not have access to the appropriate information in representing themselves. Such delays and concomitant resources are very difficult to quantify – they may range from \$100 to more than \$1000 in human resource costs (judges, bailiffs, clerks, state prosecutors, etc.) per *pro se* case.

The four circuits are divided into four major programs: adjudication, central administration, client services, and court services. Adjudication provides the judges and staff to operate the courts; central administration provides for all the business and support functions, such as fiscal operations and legal documents, to support court judicial proceedings and judgments; client services assists in providing direct services to adult and juvenile clients; and court services provides clerical, court reporting, and other support and ancillary services to the courts. Together, all these programs, sufficiently resourced and working together, provide for the efficient and smooth operation of the court system. Removing just one cog in the wheel could adversely effect the entire operation. This is especially important when one considers that in FY



2008, the courts overall and specifically the traffic violations bureau had to deal with more than 444,000 new traffic and parking cases, and were involved in the collection of over \$34 million in revenues, most of which were deposited into the general fund. In the probation area, there are 132 adult probation officers statewide averaging 150 cases each, which is a relatively high caseload considering that a National Institute of Corrections consultant has indicated that the average caseload should range from 20:1 for intensive cases, 50:1 for moderate/high risk cases, and up to 200:1 for low risk cases. The Judiciary also has 77 juvenile probation officers statewide averaging 67 cases each. The standard caseload per probation officer in Arizona is 35 juveniles on active probation, so we nearly double that number.

Each of the circuits has other important courts/programs attached to them such as drug courts, teen courts, mental health courts, girls court, Project HOPE, and Ho'okele. While we will briefly discuss some of them here, more details about these courts and programs can be seen in Attachment 2.

In the First Circuit, the Hawai'i Drug Court (allocation of about \$991,000) channels non-violent pre-trial and post conviction defendants, who would otherwise be incarcerated, into a comprehensive and integrated system of judicial and treatment services. The cost to service one offender annually in this court is about \$9,700 while the cost to house an inmate in a correctional facility is more than \$40,000, a savings of more than \$30,000. Thus, with 85 active cases in FY 2008, the potential savings to the State from this Drug Court, assuming all the offenders would have otherwise been incarcerated, is more than \$2.5 million. The Family (allocation of \$626,000) and Juvenile Drug Courts (allocation of \$899,000) on Oahu have somewhat similar goals, that is, to divert clients from incarceration if possible by reunifying families and turning juveniles away from substance abuse. Statistics show that the Family Drug Court reduces a child's stay in foster care by an average 100.5 days. At \$50 per day for foster care, the Family Drug Court would have saved almost \$700,000 in foster care payments for the 139 children served in FY 2008. If for some reason these children had been incarcerated, the savings by being in the drug court would have exceeded \$8 million annually. With 20 clients in the Juvenile Drug Court who otherwise might have been incarcerated at the Hawai'i Youth Correctional Facility (HYCF), the annual savings per offender is about \$59,000, or for 20 offenders, more than \$1.1 million. Hawai'i Girls Court provides female offenders gender responsive services to address substance abuse, family relationships, domestic violence, etc. Since its inception, the Girls Court (allocation of \$389,000) has not committed any youth to HYCF and has resulted in a significant decrease in law violations, shelter and detention home admits, etc. In FY 2008, Girls Court served 123 girls and family members. Currently, 26 girls are actively participating in Girls Court. If these girls had been incarcerated instead, the net cost when compared to the Girls Court cost would have exceeded \$1.7 million on an annualized basis. Project HOPE (allocation of \$1.245 million) offers an alternative to incarceration through swift and certain sanctions for probation violations. Clients assigned to Project HOPE have had a 96% reduction in positive



drug tests. With a cost of \$1.82 per day to supervise an individual on probation in Project HOPE relative to a cost of \$110 per day to incarcerate prisoners, the current savings resulting from this program are significant considering that there are 1,369 active participants (a daily savings of approximately \$150,000). The Ho'okele Program (operating costs of \$509,000) provides the public with assistance in navigating their way through the court system, and saves court and staff time by providing assistance in completing court documents and explaining the processes involved. This Program is the frontline for addressing pro se issues and without it, more than 90,000 individuals would be without assistance in initiating action to resolve their financial and personal concerns. Also, the duties of other employees, such as filing clerks, calendaring clerks, and court clerks would be severely impacted by having to take their time to help the public fill out and complete court documents and to explain court processes to them.

In the Second Circuit, the Maui Drug Court and Family Drug Court have goals similar to the drug courts of the First Circuit. In FY 2008, the Maui Drug Court provided services to 166 clients who were afforded the opportunity to avoid incarceration which would have cost the state approximately \$40,000 per client per year for a total cost of more than \$6.6 million. Considering the FY 2008 Maui Drug Court Program costs about \$1.1 million in Judiciary resources, the monetary savings to the state was about \$5.5 million. During the same period, the Family Court Drug Court provided services for 82 people including 26 children, which saved the state up to \$429,000 in unspent foster care and supervised visitation costs and \$65,000 in legal counsel costs, or a total of \$494,000. Considering the FY 2008 Family Court Drug Court Program costs of \$316,000, the monetary savings to the state was approximately \$178,000.

The Third Circuit has its Big Island Drug Court (allocation of about \$712,000) that is somewhat unique in that it provides a so-called One Stop Drug Court Concept that services adults, juveniles, and their families. It provides a continuum of comprehensive services, substance abuse treatment, and intensive judicial supervision. The program is currently serving 116 adults and juveniles, and if we were to assume that these participants would have been incarcerated if not accepted in the Drug Court, then about \$110 per day in incarceration costs is being avoided for each person, thereby saving more than \$4.0 million annually.

In the Fifth Circuit, the Kaua'i Drug court (allocation of \$612,000) has similar goals as the other drug courts. Currently, there are 51 adult clients, many of whom were probably headed for long term jail sentencing. Each client not incarcerated saves about \$110 per day in prison costs so if it is assumed that all 51 clients would have been incarcerated for one year, the Drug Court saved the state about \$1.4 million annually. A study by American University in November, 2004 (Cost Benefits/Costs avoided reported by Drug Court Programs, BJA Drug Court Clearinghouse, OJP, US Department of Justice, November 24, 2004) noted the following factors relative to drug court participants: jail time and pretrial detention time were substantially lower than others; and drug court graduates had higher wages, worked more time, paid higher taxes, used less public





benefits and mental health services, and had lower health care costs than non-drug court participants. Further, if these clients had gone directly to probation, the costs to supervise them would have been an estimated \$2,000 per month per person. With regular probation recidivism rates approaching 47%, it is likely there would be an equal chance of the client going back to crime after probation. Also, the low recidivism rate for Drug Court graduates (only 1 of 71 graduates to date) speaks volumes about cost savings for future crime costs (victims, police, court, public defender, prosecutor time), and translates to saving the public and the State a great deal of money.

Administration is also an integral part of and plays an important role in supporting the operations of the Judiciary. Specifically, the position of the Administrative Director of the Courts is established in article VI, section 6, of the state constitution. The responsibilities of the Administrative Director are set forth in HRS, section 601-3. In order to implement the directives of the Chief Justice in his capacity as the constitutional administrative head of the Judiciary (Article VI, section 6) and in support of his statutory authority to "do all acts which may be necessary or appropriate for the administration of the judiciary" (HRS, sec. 601-2), the Administrative Director manages and directs the Office of the Administrative Director of the Courts. The Office consists of the Administrative Director, Deputy Administrative Director, and four departments: Intergovernmental and Community Relations; Policy and Planning; Support Services; and Human Resources. The office is resourced with \$23.5 million, including 227 permanent and 8.5 temporary positions.

The Intergovernmental and Community Relations Department has oversight for: Staff Attorney's Office; Public Affairs Office; Judicial History Center; Center for Alternative Dispute Resolution; CJC; Office on Equality and Access to the Courts (OEAC); OPG; and Volunteers in Public Service Office (VIPS). The Policy and Planning Department has oversight for: Budget and Statistics Office; Planning and Program Evaluation Office; Internal Audit Office; Repair and Maintenance Office (Capital Improvement Projects); Legislative Coordinating Office; and the Administrative Driver's License Revocation Office. The Support Services Department has oversight for: Financial Services Division; Information Technology and Communications Division; Judiciary Information Management System (JIMS) Project; and Administration Fiscal Office. The Human Resources Department has oversight for: Employee Services Division; Compensation Management Division; Administrative Services Division; Labor Relations Division; Staffing Services Division; and Disability Claims Management Division. We will briefly discuss some of these programs in the following paragraphs, but more information on them and others within Administration can be found in Attachment 2.

The CJC's (allocation of about \$1.2 million) provide for the special needs of children who are alleged victims of sexual or serious physical abuse and/or witnesses to crime. A child abuse investigation using a CJC model costs an average of \$2,902 per case, according to a national



study, while an investigation not using a CJC model costs about \$3,949 per case. In FY 2008, this Program provided services for approximately 1,000 cases of alleged child abuse, thereby saving more than \$1 million. The CJC Program's annual budget of approximately \$1.2 million has been insufficient to respond to all child abuse cases and the special needs of child witnesses. Thus, other sources of funding have been tapped. For example, CJC receives approximately \$70,000 as an accredited member of the National Children's Alliance, receives another \$70,000 annually in federal grant funding that supports operations (e.g., training and equipment), and has also been the recipient of a grant from the American Bar Association for \$54,000. Five non-profit partners of the CJC Program also provide services to address the trauma to child abuse victims and their families. In 2007, approximately 3,000 children and their families received services. This saved the state more than \$1 million. Without CJC's, funding from these organizations would not be available and additional resources (more than \$1 million each year) may have to be spent to investigate child abuse cases.

OPG serves as legal guardians of the person for 750 statewide clients. Per client, based on the current FY 2009 budget allocation of almost \$800,000, the cost per client is \$88 per month or \$1,057 per client per year. Purchasing services from private guardians at a cost averaging \$123 per hour at a minimum of 2.0 hours per month would cost the state \$246 per month or \$2,952 per year per client. For 750 clients, the estimated cost to purchase this service would be about \$2.2 million annually, or \$1.4 million in savings relative to the cost of the program. This amount does not include additional expenses required for monitoring purposes.

The VIPS Office recruits volunteers to assist and augment the services provided by the Judiciary to our citizenry. VIPS currently has 586 volunteers contributing 14,000 hours during FY 2009. Based on the minimum wage of \$7.25/hour, that constitutes in-kind contributions totaling \$101,000. The actual figure for in-kind contributions is likely significantly higher, as the pay for many volunteer positions (e.g., law clerks, probation aides, account clerks, and legal research aides) is well beyond the minimum wage. VIPS is projected to save more than \$200,000 in salaries this Fiscal Year. Thus, if the budgeted amount of about \$100,000 for the two positions currently manning the office was not spent, the Judiciary would need to spend, at minimum, \$200,000 to hire employees to perform the work presently undertaken by volunteers.

The Office on Equality and Access to the Courts (OEAC) (allocation of about \$287,000) 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. OEAC is essential to meeting the mandates of state, federal, and constitutional law. If funding for OEAC staff was not maintained, the Judiciary would be noncompliant with federal, state, and constitutional mandates. It would also be exposed to lawsuits and legal challenges which could result in lengthy years of settlement and



implementation of settlement provisions, and perhaps hundreds of thousands of dollars spent in staff time and legal fees, not to mention eventual judgments, settlement agreements, or consent decrees. Without OEAC's oversight and coordination of programs that address elimination of bias in and unequal access to the justice system, the Judiciary would face state and federal investigations resulting in Judiciary expenditures of staff time, costs, and fines, including the possible withdrawal of more than \$2 million in critical federal and state funds that the Judiciary currently receives and relies upon. OEAC must continue meeting the mandates of state, federal, and constitutional law. OEAC staff serve as the Judiciary's designated language access coordinator, and conduct/administer all necessary projects and training to meet mandated requirements related to language access under both state (HRS chapter 371) and federal (Title VI) law.

The Judicial History Center (JHC) was created to inform and provide learning opportunities about the judicial process and Hawai'i's legal history, and it is the largest provider of civic education to public and private schools in the state. In FY 2008, over 34,000 visitors toured the Center, including over 10,000 students. Over the past 10 years, the JHC has provided significant savings to the State through its education programs. While savings through current education efforts are difficult to quantify, JHC can measure the dollar amount of curricula and teacher training provided to Hawai'i's schools through its programs. In FY 2009 to date, the Center has provided Hawai'i's schools 4,050 social studies textbooks valued at \$66,650. Replacing older curricula, the new textbooks align with the Hawai'i Content & Performance Standards III, facilitating the state's compliance with the No Child Left Behind Act. Recent federal law requires that states provide teachers who are highly qualified in their subject area. JHC's teacher training programs assist the Department of Education in meeting this requirement. Last year, at no cost to the Judiciary or the state, JHC generated \$94,000 worth of professional development for Hawaii's teachers by having teachers attend JHC workshops to earn credits for reclassification and highly qualified status. Since textbooks require replacing every few years and teachers need continuing education, and during the past year, the \$160,650 worth of curricula and teacher training provided by JHC during the past year at no cost to the State is representative of JHC's contributions to the welfare of the state, the school system, and the teachers and students.

In summary, all the Judiciary courts and programs resourced by the legislature play an essential and vital role in the well-being and public safety of the State and to an efficient and responsive Judiciary that addresses the needs and demands of society.

In other areas of our biennium budget request, the Judiciary is requesting a ceiling increase in the Drivers Education Special Fund to cover increased electric, lease, and special fund assessment costs; and in the Computer System Special Fund to accelerate completion of the JIMS project and pay for data center improvements. Capital Improvement Project (CIP) requirements also



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remain a major item of concern as the Judiciary's infrastructure continues to age and deteriorate, while the population served and services provided by the Judiciary keep expanding. With the move of the detention facility and much of the Family Court to Kapolei in FY 2010, CIP funds are needed to start the planning process for a Judiciary administration building in Kapolei and thereby avoid paying excessive costs for leased space. Persisting concerns about safety, security, parking, space, and accessibility at Judiciary facilities in Kona necessitate a request for CIP planning funds for a new Judiciary court complex in West Hawai'i. Other CIP funds are needed for critical repairs and upgrades for our elevators at Kau'ikeaouli Hale (District Court), for our roof and lanai deck at Ka'ahumanu Hale (Circuit Court), and for other miscellaneous repairs and improvements at Judiciary facilities statewide, but especially at historic Ali'iolani Hale (Supreme Court).

The Judiciary recognizes the difficult funding environment faced by the State this biennium and the sacrifices that may be required. We believe that our approach to the budget indicates our commitment to address these concerns. The proposed biennium budget is the Judiciary's best estimate of the resources necessary to maintain the integrity of the courts and to fulfill our statutory, constitutional, and public service mandates. The Judiciary respectfully requests your support of House Bill No. 300 which includes the Judiciary's biennium budget request.

Thank you for the opportunity to testify on this measure.

**POTENTIAL BUDGET REDUCTIONS**

**FY 2010 - 2011**

(Initial goal: FY10 \$8.290 million FY11 \$11.129 million to equal biennium budget request plus 20% of discretionary costs)

	<u>COA</u>	<u>First</u>	<u>Second</u>	<u>Third</u>	<u>Fifth</u>	<u>Admin</u>	<u>Total</u>	<u>Reduction</u>	
								<u>FY 2010</u>	<u>FY 2011</u>
GAL - Budgeted Amt		3,693,000	801,261	1,030,930	93,800		5,618,991		
20% reduction		738,600	160,300	206,200	18,800			1,123,900	
25% reduction		923,300	200,300	257,700	23,500				1,404,800
POS - Budgeted Amt		7,736,765	2,171,774	2,201,696	675,952	624,650	13,410,837		
25% reduction		1,934,200	542,900	550,400	169,000			3,196,500	
31% reduction		2,398,400	673,200	682,500	209,600				3,963,700
Per Diem Judges - Budgeted Amt		1,019,240	179,888	151,098	57,143		1,407,369		
30% reduction		305,800	54,000	45,300	17,100			422,200	
40% reduction		407,700	72,000	60,400	22,900				563,000
Juror Fees - Budgeted Amt		1,074,000	254,000	225,100	80,400		1,633,500		
33% reduction		354,400	83,800	74,300	26,500			539,000	
40% reduction		418,800	101,600	90,000	32,200				642,600
Overtime - Budgeted Amt	300	961,246	15,050	30,100	33,844	156,999	1,197,539		
40% reduction	100	384,500	6,000	12,000	13,500	62,800		478,900	
50% reduction	100	480,600	7,500	15,000	16,900	78,500			598,600
Travel	47,808	334,297	217,090	232,560	133,780	217,884	1,183,419		
56% reduction	26,800	187,200	121,600	130,200	74,900	122,000		662,700	662,700
Temporary positions									
Filled Budgeted		1,045,612		26,700	53,352	93,223	1,218,887		
Filled Unbudgeted	17,516	1,740,614	31,591	171,191		192,183	2,153,095		
10% or designated reduction	17,516	174,100	31,600	17,100		19,200		259,516	
14% or designated reduction	17,516	243,700	31,600	24,000		26,900			343,716
Vacant Budgeted		275,232					275,232	275,232	275,232

**POTENTIAL BUDGET REDUCTIONS**

**FY 2010 - 2011**

(Initial goal: FY10 \$8.290 million FY11 \$11.129 million to equal biennium budget request plus 20% of discretionary costs)

Permanent Position Vacancies	31,212	2,010,984	865,104	329,532	110,520	576,744	3,924,096		
10% reduction		201,100	86,500	33,000	11,100	57,700		389,400	
15% reduction		301,600	129,800	49,400	16,600	86,500			583,900
Other cur exp - identified by prog									
SC/ICA - various	241,000						241,000		
20% reduction	48,200							48,200	48,200
Law Library - Other, equipmt	1,292,143						1,292,143		
15% reduction	194,000							194,000	
20% reduction	258,000								258,000
OEAC - supplies, newsletter						125,675	125,675		
10% reduction						12,600		12,600	
15% reduction						18,900			18,900
History Center						28,392	28,392		
50% reduction						14,000		14,000	14,000
ITCD - service,maint. contracts						2,267,593	2,267,593		
05% reduction						113,400		113,400	
10% reduction						226,800			226,800
JERD						106,950	106,950		
Identified reduction						52,450		52,450	52,450
Additional reduction - First, Fifth									
6% reduction POS		464,200			40,600				504,800
10% reduction overtime		96,100			3,900				100,000
Operating Supplies	53,588	961,065	212,271	246,369	168,938	135,355	1,777,586		
15% reduction		144,200	31,800	37,000	25,300			238,300	
20% reduction		192,000	42,000	50,000	34,000				318,000
Repair and maintenance	72,108	2,115,164	267,791	107,612	280,676	944,521	3,787,872		
10% reduction		211,500	26,800	10,800	28,100			277,200	
20% reduction		423,000	53,600	21,000	56,100				553,700
<b>TOTAL POTENTIAL REDUCTIONS</b>	<b>286,616</b>	<b>4,910,832</b>	<b>1,145,300</b>	<b>1,116,300</b>	<b>384,300</b>	<b>454,150</b>		<b>8,297,498</b>	
<b>TOTAL POTENTIAL REDUCTIONS</b>	<b>350,616</b>	<b>6,811,832</b>	<b>1,433,200</b>	<b>1,380,200</b>	<b>531,200</b>	<b>626,050</b>			<b>11,133,098</b>

**INITIAL REDUCTION GOAL WAS \$8.290 MILLION FY 2010 AND \$11.129 MILLION FY 2011**

Administrative Driver's License Revocation Office  
FB 2009-11 Program Justification

Program ID: JUD 601

Program Title: Administrative  
Driver's License Revocation Office

Dept. Contact: Ronald Sakata

Phone No. 534-6800  
Fax No. 973-9508

Mission or Program Objective: 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.

Program Budget

MOF	FTE(P)	FTE(T)	FY09 Allocation
General Fund	17.00	5.50	\$1,310,837

Statute/Constitution: Act 188, 1990 Legislative Session

Performance Measures:

JUSTIFICATION:

- ADLRO was created at the initiative and express intent of the legislature. Its operations directly affect the health and welfare of the citizens of Hawaii, and the administrative revocation process is the most expedient and effective deterrent to the problem of persons operating under the influence of alcohol or drugs ("OVUII").
- Distinguishable from virtually any other judiciary program, ADLRO operates under strict statutorily mandated time constraints: if we don't do it within the required time, the case is lost.
- Handling in excess of 6,000 cases annually, ADLRO manages to maintain nearly an 80% revocation rate; from review, through hearings, and on appeal.
- ADLRO produces income to the state general fund. As an example, in 2008, of the 6,595 cases processed, 2,528 requested hearings. By law there is a \$30.00 hearing request fee imposed. A very small percentage are granted fee waivers, but even if only 2,000 paid their fee, that would amount to \$60,000 deposited into the general fund annually.
- ADLRO directly affects the availability of significant federal highway and safety funding to the state. If it reduces its functions, or ceases to operate, that funding

would undoubtedly be severely affected in substantial amounts, possibly in the millions of DOT dollars.

- The legislature has already approved a measure, effective next year, regarding ignition interlock for OVUII cases, for which ADLRO is going to be charged with significant oversight and monitoring responsibilities.
- Considering our heavy caseload, this added mandated responsibility will further tax our already heavily burdened staffing and budget resources.
- Any diminution of manpower or funding will have a direct and negative impact on our ability to discharge our responsibilities and accordingly, greatly affect the safety of both the pedestrian and motoring public.



Table BT - Revenue Estimates  
11/02/08

Program I.D. JUDICIARY - GENERAL FUND

Fund: A - General

Receipt and Legal Reference	Source Code	Fund	-Preceding Period-		--Budget Period--		-----Planning Period-----			
			2007-08	2008-09	2009-10	2010-11	2011-12	2012-13	2013-14	2014-15
Curr Deposits Gen Treas	0281	A	10,109	9,866	9,988	10,188	10,392	10,600	10,812	11,028
Interest	0286	A	32,728	33,450	34,232	35,035	35,860	36,705	37,573	38,464
Vac Earned County	0661	A	20,975	19,710	20,498	21,318	22,171	23,057	23,979	24,938
Contributions	0683	A	4,411	4,587	4,771	4,962	5,160	5,367	5,581	5,804
Cash Over/Unclaim	0712	A	936	584	593	602	612	621	630	640
Unclaimed Balances	0722	A	0	0	0	0	0	0	0	0
Sales of Supreme Court Repts	0741	A	0	5	0	0	0	0	0	0
Fee for Certificates	0742	A	1,605	1,605	1,605	1,605	1,605	1,605	1,605	1,605
Supreme Ct Costs	0743	A	73,379	73,444	73,512	73,582	73,654	73,728	73,805	73,884
Bar Admission Fee	0744	A	2,260	2,260	2,260	2,260	2,260	2,260	2,260	2,260
Chrg Photocopying Lib Mat	0750	A	292	301	310	319	329	339	349	359
Court Costs-Circuit Ct	0751	A	1,939,648	1,919,376	1,946,746	1,988,306	2,030,992	2,074,839	2,119,883	2,166,157
Court Fees-Circuit Ct	0752	A	250,907	253,340	256,084	261,440	266,950	272,645	278,443	284,439
Fee, Adm. Sm Est	0753	A	66,334	65,043	67,226	69,563	71,991	74,511	77,127	79,844
Court Costs-District Ct	0755	A	2,028,535	2,048,329	2,088,884	2,130,506	2,173,226	2,217,076	2,262,092	2,308,305
Court Fees	0756	A	1,810,171	1,849,887	1,887,245	1,925,420	1,964,429	2,004,293	2,045,032	2,086,665
Confiscated Evidence Funds	0757	A	0	0	0	0	0	0	0	0
Svc Ch, Bad Chks	0760	A	28,114	21,961	22,419	22,895	23,384	23,886	24,402	24,931
Misc Income	0761	A	621,059	622,729	641,048	654,150	667,556	681,274	695,312	709,676
Admin Cost Procss Traff Cit	0762	A	3,775,157	3,861,864	3,944,598	4,030,538	4,116,742	4,206,283	4,298,226	4,392,642
Fee, Land Ct Registration	0775	A	140,241	140,241	140,241	140,241	140,241	140,241	140,241	140,241
Fee, Tax Appeal	0810	A	17,653	17,653	17,653	17,653	17,653	17,653	17,653	17,653
Fees - Administrative Revocation	1260	A	76,020	77,540	79,091	80,673	82,286	83,932	85,611	87,323
Witness, Juror Fees-St emp	1361	A	4	0	0	0	0	0	0	0
Sale of Equipment and Other	1362	A	0	0	0	0	0	0	0	0
Reimb, prior per	1364	A	323,071	232,116	132,917	133,195	133,483	133,778	134,082	134,394
Vac Earned-Oth Agencies	1366	A	59,788	9,419	9,608	9,800	9,996	10,196	10,399	10,607
Fireworks Violation	1538	A	140	41	42	42	43	44	45	46
Fines-Circuit Ct	1541	A	481,638	481,452	487,235	497,560	508,177	519,095	530,325	541,876
Airport Violations	1542	A	962	981	1,001	1,021	1,041	1,062	1,083	1,105
Criminal Fines- District Ct	1549	A	818,073	806,845	822,025	837,642	853,709	870,242	887,254	904,761
Traffic Fines	1550	A	20,217,045	20,615,158	21,049,074	21,494,389	21,951,438	22,420,563	22,902,122	23,396,480
Dog Leash Waivers	1552	A	8,305	8,770	8,920	9,078	9,241	9,410	9,586	9,769
Violations of DLNR	1553	A	620	763	776	790	804	818	832	847
Harbor Vio Waivers	1554	A	75	100	100	100	100	100	100	100
Violations of Dept of Agriculture	1557	A	6,700	5,794	5,890	8,988	6,087	6,189	6,293	6,399
Bail Forfeitures-Cir Ct	1571	A	197,978	175,296	189,889	194,622	199,518	204,584	209,827	215,252
Bail Forfeitures-Dis Ct	1576	A	1,061,499	1,068,876	1,092,683	1,117,163	1,142,335	1,168,223	1,194,848	1,222,234
Bond Forfeitures	1577	A	52,835	54,225	55,433	56,676	57,954	59,268	60,620	62,012
Collection of Rule 20(B)	1586	A	79,728	79,463	81,242	83,065	84,938	86,859	88,830	90,853
Trf from Special Rev Funds	1992	A	0	0	0	0	0	0	0	0
<b>Total</b>		<b>A</b>	<b>34,208,995</b>	<b>34,563,074</b>	<b>35,175,839</b>	<b>35,915,387</b>	<b>36,666,357</b>	<b>37,441,346</b>	<b>38,236,862</b>	<b>39,053,593</b>

## The Judiciary, FC 2009-11 Program Justification

Program ID:

Program Title: Court Annexed  
Arbitration Program (CAAP)

Dept. Contact: Frances Yamada

Phone No.: (808) 534-6001

### MISSION/DESCRIPTION OF PROGRAM:

The purpose of the Court Annexed Arbitration Program (CAAP) is to provide a simplified procedure for obtaining a prompt and equitable resolution of tort cases having a probable jury award value not in excess of \$150,000. The implementation and administration of the program has been in effect since January 1, 1987.

All tort cases are automatically accepted into the program. Attorneys who believe that their case should be exempt from participation in the program must make a special request with a justification for exemption. Other cases (i.e., contract cases) may be admitted into the program by parties agreement and with the approval of the arbitration judge.

After the last defendant's answer is filed, a volunteer arbitrator is assigned to the case. This arbitrator must schedule a pre-hearing conference within 30 days of the date case was assigned, and determine what pretrial discovery will be allowed. Discovery is at the sole discretion of the arbitrator. Types of discovery shall be those permitted by the Hawaii Rules of Civil Procedure, but these may be modified in the discretion of the arbitrator to save time and expense. A party may at anytime utilize standard forms of discovery, which the Judicial Arbitration Commission has approved. The arbitrator can attempt to aid in the settlement of the case if all parties agree in writing. If the case proceeds to an arbitration hearing, attorneys must file their pre-hearing statement 30 days prior to the hearing. CAAP goals are to resolve the case within a nine-month period, which may be extended with the permission of the arbitration judge.

### PROGRAM BUDGET:

<i>Pos. No.</i>	<i>Pos. Title</i>		<i>SR/Step</i>	<i>Monthly Salary*</i>
58956	Clk III	08/B	\$2114	
58978	JC II		12/A	\$2378
59100	Arb Adm		26/D	\$4569
59114	Arb Prob Spc I	16/C	\$2852	

\*adjusted for turnover savings

### STATUTE/CONSTITUTION:

HRS 601-20 established the Court Annexed Arbitration Program (CAAP). The CAAP is a mandatory, non-binding arbitration program. The purpose of the program is to provide a simplified procedure for obtaining a prompt and equitable resolution of certain civil

matters to be designated by the Judicial Arbitration Commission (1). Its major goals are to reduce litigant costs; increase the pace of disposing of tort cases; and to improve or at least maintain the level of satisfaction for litigants and attorneys.

#### **JUSTIFICATION:**

A study was conducted by the University of Hawaii's Program on Conflict Resolution, through an evaluation project called the Study of Arbitration and Litigation (1988)(2). The study was conducted on Phase I of CAAP, which had a jurisdictional limit of \$50,000.00. The jurisdictional limit was raised to \$150,000 during Phase II, which began May 1, 1987

The evaluation was conducted using a randomized experimental design with two groups of cases; half were assigned to the arbitration program, and the comparison group was assigned to regular litigation.

#### **Report of the Cost and Time Savings of CAAP:**

The focus of the evaluation was cost, pace, and satisfaction, because these constructs reflected the goals of CAAP. The study concluded that the goals of saving time and money were accomplished without sacrificing client or attorney satisfaction, as follows:

1. Participating attorneys perceived that discovery costs were reduced.  
  
Discovery was reduced without impairing the fairness of the dispute resolution process, or case outcome. The study did not have data from the comparison group to determine discovery cost savings through CAAP. The study did note that anecdotally, most attorneys believed that the case would have cost more had it not been in CAAP.
2. Pace of the case and disposition was expedited. The majority of attorneys agreed that if their cases had not been in CAAP, the case would have taken longer to terminate. As noted above, CAAP goals are to resolve the case within a nine-month period.
3. Attorneys were overall satisfied with CAAP.
  - a. Awards through CAAP were thought to have compared favorably with the award anticipated through traditional trial methods.
  - b. Overall, attorneys were satisfied with the experience level of the arbitrator, and felt that the arbitrator was impartial.

#### **Analysis**

CAAP has continued to save taxpayers money and time. Because arbitration programs

can reduce the amount of time that judges must spend on pretrial hearings and trials. the courts save a considerable amount of judge and staff time, which translates into saving the state government and its public these costs.

Cases placed in the CAAP program are paced to be resolved within nine months. Each CAAP case is administered by one volunteer arbitrator. A fee of \$100 per case, per arbitrator was reduced to \$50 in the mid-nineties due to budgetary constraints. The fee of \$100 has not been restored.

Since the inception of this program, there have been well over 25,000 cases heard through CAAP, cases that would have otherwise gone to trial track. As of December 2006, there were a total 26,402 cases heard through CAAP in the First Circuit alone.

Per CAAP monitoring statistics performed from January 1, 2005 through December 31, 2007, throughout all Circuits statewide, there were approximately 10,996 civil cases filed in this three-year period of which 4,006 cases were placed into CAAP, and 3,552 being terminated:

- Terminated by settlement prior to CAAP hearing: 1,510
- Terminated by awards issued: 1,009
- Other: 1,033 (this "other" category consist of cases that were terminated by court order; volunteer dismissal; parties requested to remove from CAAP (and granted by Arbitration Judge); removal to USDC: default judgment, etc.
- 35 went on to regular trial track (trial de novo).

The administration budget of CAAP is \$220,921 annually throughout all circuits (1 Arbitration Administrator, an Arbitration Specialist I, 3 Judicial Clerks II, 1 Clerk III). There are currently more than a thousand volunteer attorneys serving as CAAP arbitrators statewide. Each circuit has an arbitration judges who are circuit court judges. The Judicial Arbitration Commission is in charge of training of the arbitrators statewide and have been conducting training conferences for the arbitrators statewide since the inception of this program. The Judicial Arbitration Commission consists of individuals from private sectors who are appointed by the Chief Justice of the State of Hawaii.

The CAAP has reduced the use of limited court resourced throughout the years. The awards issued in CAAP cases have been, and continues to be extremely valuable tools towards settlement of cases.

References:

(1) Rules of the Circuit Court of the state of Hawaii, Exhibit A, Hawaii Arbitration Rules, Rules 1, 2-A

(2) Barkai, John and Kassebaum, Gene (1988). Court-Annexed Arbitration in Hawaii: An Evaluation of Cost, Satisfaction, and Pace. Honolulu, Hawaii: Program on Conflict Resolution, Matsunaga Institute for Peace, University of Hawaii at Manoa.

## The Judiciary, FC 2009-11 Program Justification

Program ID:  
Dept. Contact: Calvin Ching

Program Title: Ho'okele Program  
Phone No.: (808) 538-5102

### **Mission or Program Objective:**

The Ho'okele Court Navigation Program is a comprehensive court-based assistance program which is comprised of four (4) courthouse stations: Family Court Service Center and Circuit Court Concierge located at Kaahumanu Hale, 777 Punchbowl Street; and District Court Civil Division Service Center and District Court Concierge located at Kauikeaouli Hale, 1111 Alakea Street. The program started as a pilot project in August 1999 to assist the public in navigating through the court system. The program was permanently established in the First Circuit in September 2001.

The concierge stations provide direction and assistance to court users as they enter the respective buildings. The concierge staff identifies the nature of the court user's business and will direct the court user to the appropriate internal office or program where the court user may go in order to attend a court hearing or obtain the relief or assistance they are seeking. If appropriate, the court user may be referred to an outside agency.

The service centers provide court users with brochures, court forms, instructions and one-on-one assistance in the completion of court forms of their respective courts.

### **Program Budget**

The Hookele operating staff budget is \$508,702, and includes the following positions.

<u>Pos. Title</u>	<u>Pos. No.</u>	<u>SR/Step</u>	<u>Monthly Salary*</u>
CC Docs Spvr	14487	21K	5004
Ct Docs Clk III	58149	19J	4618
Ct Docs Clk I	14467	15G	3379
Ct Docs Clk I	14912	15L	4112
Ct Docs Clk I	57223	15H	3516
JC II	24040	12E	2776
Clk III	15375	8H	2672
Ct Docs Clk I	15661	15G	3379
Ct Docs Clk I	58037	15I	3656
Ct Docs Clk I	58143	15G	3379
Ct Docs Clk I	58150	15E	3126
JC II	58021	12E	2776

\*adjusted for turnover savings

**Performance Measures:** In 2008, 31% of divorce, domestic abuse and appeal cases and 80% of regular claims, small claims, temporary restraining orders and special proceedings cases involved pro se parties. In 2007, the Ho'okele Program assisted a total of 90,289 court users either in person or on the telephone (See appendix A).

**JUSTIFICATION:** Ho'okele staff members provide the public with assistance in navigating their way through the court system. With the growing number of people who are unable to afford attorneys but must come to court to deal with important matters, the Ho'okele Program provides vital and indispensable assistance to the public. Recent surveys conducted by the court show amazingly high rates of self-representation in all of the private Family Court and District Court cases, which includes paternity, divorce, domestic violence protective orders, guardianship, adoption small claims, regular claim, restraining order against harassment and landlord-tenant. Although a variety of self-help pro-se packets of court forms and related instructions have been produced, the average lay person still needs guidance and assistance in the completion of the court forms. Pro-se litigants who use the service center are given personalized checklist with instructions on what the litigant needs to do next after forms are completed.

Ho'okele assistance provided to the pro-se litigant, eases the work of the court staff and saves court time. Court forms are checked for completeness at the service center before being submitted for review. Law clerks or calendar clerks do not have to take the time to return documents because something is missing or not filled in completely. Also questions regarding what document to submit previously handled by the law clerks or calendar clerks are now routed to the service centers. Court time is saved as cases do not have to be continued as pro-se documents are checked by service center staff before the case is set.

Concierge staff are able to provide information and direction for not only Judiciary related inquiries, but also are able to provide information on other government and private agencies. Maps of downtown and the Kakaako area which depict the location of government or private agencies are provided to court users and the general public.

Ho'okele staff members are also able to assist other sections of the Legal Documents Branch #2. Members are versed in all aspects of each of these sections and are able to assist in the filing, conforming and docketing of documents, processing of bench warrants, inputting of citations to create the daily court calendar and scanning of documents.

Diminishing the service provided by the Ho'okele program will leave hundreds of court users with no alternative but to navigate their way toward a judicial solution by themselves. For some, the way alone will be so daunting that they will give up. It will be detrimental to those who need to get immediate relief from the court to protect the best interest of their children as they will have to figure out on their own what is needed. Many who have come to the Ho'okele stations do not have the resources to hire an attorney. Our democratic system will not be able to function well if larger numbers of citizens are disenfranchised from the judicial system.

2007 HO'OKELE COURT USER COUNTS

MONTH	DISTRICT COURT		CIRCUIT COURT	
	Concierge	District Court Service Center	Concierge	Family Court Service Center
JAN	1,903	2,442	1080	2217
FEB	1,724	2,335	536	2,061
MAR	2,056	2,782	824	2,006
APR	1,803	2,875	865	2,222
MAY	1,819	2,657	995	2640
JUN	1,400	2,693	1134	2172
JUL	1,613	2,622	1189	2207
AUG	1,521	2,806	1104	2484
SEP	1,342	2,803	988	1983
OCT	1,579	2,789	1156	2515
NOV	1,296	2,418	1418	2235
DEC	1,211	2,358	1468	1943
<b>TOTALS</b>	<b>19,267</b>	<b>31,580</b>	<b>12,757</b>	<b>26,685</b>



**Office of the Administrative Director – Supreme Court Law Library**

THE JUDICIARY • STATE OF HAWAII • 417 S. KING STREET, ROOM 119 • ALI'IOLANI HALE  
HONOLULU, HAWAII 96813-2902 • TELEPHONE (808) 539-4964 • FAX (808) 539-4974

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**Susan Pang Gochros**  
DEPARTMENT HEAD, INTERGOVERNMENTAL  
AND COMMUNITY RELATIONS DEPARTMENT  
**Jenny R.F. Fujinaka**  
STATE LAW LIBRARIAN

**The Judiciary, FB 2009-11 Program Justification**

Program ID: JUD101  
Dept. Contact: Jenny Fujinaka

Program Title: State Law Library System  
Phone No.: 539-4965

**What if the judge presiding over your case had no access to relevant case law and legislation?**

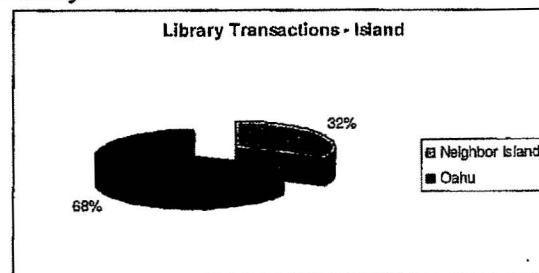
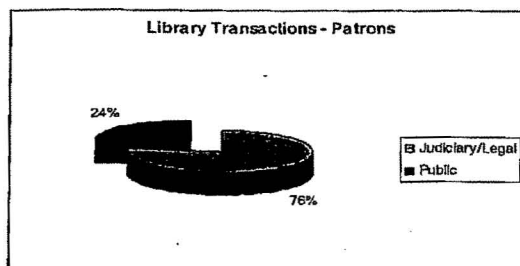
**Mission:** The Hawaii State Law Library System (SLLS) provides primary and secondary legal resources that are needed for the practice of law by the Judiciary and the community. Additionally, SLLS provides **access to justice** for the public by making its collection and information services available throughout the state.

**Program Budget:**

**MOF:** General Fund **FTE(P):** 8.0 **FY 09 Allocation:** \$1,720,473

**Background:** In the 1840 Constitution of the Kingdom of Hawaii, King Kamehameha III established the Supreme Court of Hawaii, and the Supreme Court Library was born. Since then, the library has expanded to a statewide system, known as the Hawaii State Law Library System. The Supreme Court Law Library serves as administrative headquarters in Honolulu, and library branches provide services to the neighbor islands' 2nd, 3rd and 5th circuit courts.

**Performance Measures:** In FY2008, SLLS facilitated more than 10,000 transactions including circulation, reference by email, phone, and in person, as well as usage of library PCs. Of the total transactions, more than 3,300 transactions served neighbor island patrons. Additionally of the total transactions, 2,400 transactions were for members of the general public, with the remaining serving the Judiciary and legal community.



Online resource use includes the Judiciary and the public, with more than 18,000 searches in the library's Lexis database, resulting in more than 2,000 documents printed. The library's Westlaw database is used primarily by the public, and shows more than 19,500 searches, as well.

**Justification:**

**Cost Savings:** Currently, the American Bar Association reports a rising trend of self represented litigants.<sup>1</sup> Hard economic times ahead will serve to increase this number as counsel becomes a luxury fewer can afford. Without meaningful access to the necessary information provided by

<sup>1</sup>ABA Journal (2008). ([http://www.abajournal.com/news/more\\_americans\\_go\\_pro\\_se\\_even\\_in\\_complex\\_matters](http://www.abajournal.com/news/more_americans_go_pro_se_even_in_complex_matters))



the law library for the self-represented, delays and appeals will abound at court—a cost that is ultimately transferred to the state.

**Judiciary:** Primary and secondary legal resources provided by the law library are required for the ethical and legal practice of law by the district, family, circuit, and appellate courts in Hawaii. SLLS resources and services are also utilized by Judiciary administration and programs.

**Public:** In worsening economies, library usage increases, as is currently reported in communities from Boston<sup>2</sup> to Phoenix.<sup>3</sup> Availability of SLLS is of utmost importance to the public, **especially on the neighbor islands**, where SLLS is the only direct, public source of legal information. **Denying citizens access to the law library would be denying them access to justice.**

**SLLS provides the following services:**

- collect, organize, and disseminate primary law and legal information in various formats relating to the practice of law and judicial administration.
- provide legal reference/research assistance.
- assist and train library patrons on the use of print and non-print legal resources.
- provide document delivery via regular mail, fax, or email.
- locate alternative sources of information if materials are not available in-house.
- seek out current trends in legal research and sources and incorporate materials into the collection.
- acquire, distribute, inventory, and maintain resources for judges' chambers and courtrooms.
- distribute rules amendments, statutes, session laws, reporters, and other basic Hawai'i legal resources throughout the Judiciary.
- prepare and post appellate court dispositions and court rules to the Judiciary's web site for immediate public access.
- update and maintain law library web site.
- conduct training sessions and/or tours for Judiciary employees, the public, libraries, educational institutions, and other interested groups.

**Testimony:** “The Supreme Court law library is a valuable resource to the Judiciary, the bar and the community as a whole. It has an extensive, well organized collection. Moreover, the staff of the library is knowledgeable and helpful. The library is especially important for *pro se* litigants or others who do not have access to law books or who cannot afford the cost of on-line legal research services, since it gives them access to the same resources that are available to large law firms. It thus helps to facilitate equal access to justice for all members of our community.

I have used the library throughout my career, both as a lawyer and as a judge, and have found it to contain many resources that materially facilitated my research and that were not otherwise available to me. For example, the Judiciary's Westlaw subscription does not cover some resources, and I have relied on the library for those books. Also, while on-line research tools are extremely powerful, I have on occasion found that using hard copy resources (for example, to skim the summaries of cases in digests) can be more efficient. Finally, the library staff has been extremely helpful to me and other judges at the ICA, helping us, for example, to locate difficult-to-find legislative history.”

**--Honorable Mark Recktenwald, Chief Judge, Intermediate Court of Appeals**

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<sup>2</sup> *Boston Globe* (2009). ([http://www.boston.com/news/local/massachusetts/articles/2009/01/04/check\\_it\\_out/](http://www.boston.com/news/local/massachusetts/articles/2009/01/04/check_it_out/))

<sup>3</sup> *Tuscan's News First* (2008). (<http://www.fox11az.com/news/topstories/stories/kmsb20081028jc-poor-economy-increase-library-use.1590cd03c.html>)

**The Judiciary, FB 2009-11 Program Justification  
Office on Equality and Access to the Courts**

Program ID: JUD 601  
Div. Contact: Debi Tulang-De Silva

Program Title: OEAC  
Phone No.: 539-4860

**Mission or Program Objective:**

The Office on Equality and Access to the Courts (OEAC) 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.

**Program Budget:**

MOF: General Fund

FTE(P): 7.0

FY 09 Allocation: \$404,394

**Justification:**

OEAC is essential to meeting the mandates of state, federal, and constitutional law. The vital need for OEAC is underscored by the fact that surveys and census data indicate that non-English speakers account for approximately one quarter of Hawaii's population, ranking Hawaii as having one of the largest non-English speaking populations in the country. Many of these Limited English Proficient (LEP) individuals have difficulty obtaining services from state agencies, including the courts, because of their limited ability in the English language. These groups of people are generally unfamiliar with the court process, prolong court proceedings, and require personalized attention from Judiciary staff. OEAC's work in developing and overseeing projects and programs that provide language assistance services to LEP individuals is mandated by the following:

- **State law mandate**  
Under HRS Chapter 371, the State of Hawaii committed itself and all government agencies, including the Judiciary, to provide for effective and timely communication between all levels of government and individuals who are precluded from using public services due to language-proficiency barriers. Furthering its support for language access, the 2006 Legislature recognized the unique importance of language access within the Judiciary and authorized appropriations for start-up costs for the Judiciary's Court Interpreter Certification Program and additional permanent OEAC staff positions to manage the program.
- **Federal law mandate**  
Title VI of the Civil Rights Act of 1964, 42 U.S.C. §2000d *et seq.*, and Executive Order 13166, require all government agencies receiving federal funding to address the needs of LEP individuals by providing language assistance, such as interpreting and translating services, to ensure meaningful access and participation in agency programs and activities.
- **Constitutional law mandates**  
Constitutional requirements of fundamental fairness (Fifth and Fourteenth Amendments), equal protection (Fourteenth Amendment), and the right to cross-examine adverse witnesses (Sixth Amendment) establish that courts preserve a LEP defendant's right to be present in their proceeding through the services of an interpreter. (See *United States ex rel. Negron v. New York*, 434 F.2d 386 (2d Cir. 1970))

**Present Program:**

In order to better ensure that linguistic minority court users attain legally mandated access to the courts, OEAC is responsible for the following:

- **Judiciary Court Interpreter Certification Program**

The Judiciary needs to ensure that court users requiring an interpreter are obtaining properly qualified interpreters. The certification program establishes minimal, mandatory standards for the level of interpreting skill, professionalism, and ethics required of court interpreters. Since the implementation of the Court Interpreter Certification Program, the Judiciary has produced approximately 25 certified court interpreters, and notably, the first certified Ilokano court interpreter in the nation. In addition, HRS 371 has generated a tremendous increase in interpreting and translator needs and services by state and local agencies. Because the Judiciary is the only agency in the state that formally screens and tests interpreting skills, many non-judicial agencies and organizations have relied on the Judiciary's list of interpreters as a resource for quality interpreting needs.

- **Judiciary Language Access Coordinating Office**

OEAC staff serves as the Judiciary's designated language access coordinator, and conducts/administers all necessary projects and training to meet mandated requirements under HRS Chapter 371 such as the filing of the Judiciary's annual Language Access Plan, the collection/reporting of LEP data, the monitoring/reporting of LEP bilingual staff hiring, and the provision of interpretation and translation services throughout the Judiciary.

**Impact of Noncompliance:**

If funding for OEAC is not maintained, the Judiciary will be noncompliant with federal, state, and constitutional mandates. Consequences of reduction or elimination expose the Judiciary to:

- noncompliance with the provision of qualified and competent interpreters in court proceedings, despite constitutional and civil rights to such, and frustration of court users' rights to fundamental fairness, due process and representation;
- noncompliance with the provision of language access to court patrons who are LEP, deaf, or hard-of-hearing, despite civil rights laws that compel otherwise;
- lawsuits and legal challenges which could result in lengthy years of settlement and exponential amounts of dollars spent in staff time and legal fees (See *State of Oregon v. Santiago Ventura Morales*, 1988 Ore. App. LEXIS 1627 (affirmed without opinion), where an 18-year-old migrant from a remote mountain village of Southern Mexico was provided a Spanish interpreter during his murder trial proceedings despite his native, indigenous language of Mixtec. Mr. Morales' conviction was dismissed after appeal and the *Morales* case received significant media exposure nationwide and raised this country's consciousness of fundamental fairness issues and equal access to justice for linguistic minorities.
- state and federal investigation which could result in immense Judiciary expenditures of staff time, costs, and fines (See Department of Justice (DOJ) Settlement Agreement with Judiciary dated October 22, 1988 for failure to provide adequate American Sign Language interpreting services; and DOJ Resolution Agreement with Hawaii State Department of Human Services dated August 12, 2008 for failure to provide an interpreter to a LEP Cantonese patron applying for services);
- imminent withdrawal of millions of dollars in critical federal funds which the Judiciary currently relies upon;
- public and media criticism for obstructing meaningful access to justice; and
- reduction of the Judiciary's moral authority in related matters.

As Governor Lingle recently stated in a news release issued regarding the State Department of Human Services settlement with the DOJ for failure to provide its services with adequate language access, "Those who use state services are often most vulnerable and require the most assistance. Language should not be a barrier to obtaining food, housing, job training, medical coverage or other necessities." OEAC's program directly support this position. Without OEAC, LEP court users will be unable to understand and meaningfully participate in court services which may materially affect

their lives, and render large groups of marginalized and disenfranchised members of Hawaii's population even further vulnerable and isolated.

## The Judiciary, FB 2009-11, Program Justification

Program ID: JUD 601

Program Title: Equal Employment Opportunity (EEO)/Affirmative Action (AA)/Americans with Disabilities Act (ADA) – Amendments Act

Dept. Contact: Beth Tarter, EEO/AA/ADA Officer

Phone Number: 539-4336

### Mission or Program Objective:

The program serves as a resource within the Judiciary to provide advice, training and technical assistance to ensure compliance with State and Federal equal employment opportunity laws, anti-discrimination laws, disability laws, legislation and policies.

### Program Budget

MOF: General Fund

FTE (P): 1.0

FY 09 Allocation: \$72,342

### Statute/Constitution

- Applicable Hawaii State Laws and Statutes related to discrimination, harassment and disability
- Title VII of the Civil Rights Act of 1964
- Age Discrimination Act of 1963
- Title I and Title II of the Americans with Disabilities Act of 1990; and the ADA – Amendments Act effective January 1, 2009

### Performance Measures and Statistics

Calendar 2008

- Approximately 100 ADA related inquires and concerns from court clients.
- Resolution of approximately 12 complex ADA access requests for court clients.
- Conducted 7 internal investigations related to discrimination, harassment, contentious work environment and/or misconduct.

### Justification and Key Initiatives:

- Provides training to judges, administrators and staff on equal employment opportunity issues and disabilities issues including access to the courts for people with disabilities.
- Keeps current on new legislation and developments in disability law and employment discrimination law. Keeps relevant personnel informed as to the implications to the Judiciary; ensures that appropriate training programs and workshops addressing these areas are developed and administered.
- Investigates complaints of employment discrimination, harassment, retaliation; investigates court access concerns from court participants with disabilities.
- Answers and responds to inquiries from court clients/court participants with disabilities who want to access court programs, activities and services; facilitates

equal access, resolves complaints and addresses charges of discrimination under the ADA – Amendments Act and equivalent Hawaii Revised Statutes.

- Looks for areas of improvement and works with program directors to enhance the accessibility of the Judiciary programs, services and activities for persons with disabilities.
- Develops, maintains and files the statewide Equal Employment Opportunity Plan (EEOP) in support of the Judiciary's financial assistance and grants from the Justice Department. The EEOP tracks and demonstrates the Judiciary's efforts in providing equal employment opportunities. The EEOP is required documentation to support over \$600,000 in grants used to fund such programs as COPS Methamphetamine Initiative, Mental Health Court Implementation Project, Children's Justice Center technology project, and STOP Violence against Women formula grant program.
- Serves as the Judiciary's representative with community groups and organizations and other interest groups relating to anti-discrimination, anti-harassment, equal employment opportunity and ADA. Coordinates and meets with state, City and County, UH, DOE, DCAB, and other relevant groups in similar fields to strengthen and improve the Judiciary's affiliated programs and services.

#### Risks associated with Program Elimination

- Decline in responsiveness to disability requests from court participants and a possible failure to provide timely and effective solutions to disability related court access requests.
- Delay in decisions on reasonable accommodation requests for Judiciary employees.
- Federal and State laws require timely investigation of discrimination complaints.
- Often the most effective defense in employment related litigation is the timely completion of an objective internal investigation of alleged discriminatory practices; internal investigations conducted by court staff (close to the complaint and/or alleged perpetrator) may be perceived as biased or lacking credibility.
- Increased litigation exposure and related costs.
- Risk of fines or other measures imposed by the EEOC, HCRC or DOJ.

The Judiciary, FB 2009-11 Program Justification

Program ID: JUD 601

Program Title: Administrative Staff  
Attorney

Dept. Contact: Lynn Inafuku

Phone No. 539-4990

Mission or Program Objective: Provides legal counsel to the Administrative Director of the Courts, the divisions and programs within the Judiciary administration, and on a limited basis, the courts.

Program Budget:

MOF: General Fund

FTE(P): 4.0

FY09 Allocation: \$363,400

Statute/Constitution: None

Performance Measures: N/A

**JUSTIFICATION:**

The Staff Attorneys help Judiciary employees perform their duties properly. The Judiciary could be faced with a multitude of legal problems without a Staff Attorney's Office.

**The Staff Attorney's Office provides advice that helps prevent lawsuits.**

Example 1: The Staff Attorneys give advice to employees that enable them to provide appropriate services to the public. The Staff Attorney's Office has issued opinions to the Office of the Public Guardian (OPG) that clarify their authority to take action for the benefit of their wards. OPG staff may have ideas to help their wards in difficult situations, but they do not always have the authority to carry out those ideas. The Staff Attorneys assist OPG in determining what they can and cannot do in their capacity as guardians. The Judiciary may be subject to a lawsuit if OPG exceeds its authority.

Example 2: The Staff Attorney's Office assists administrators in making appropriate decisions on matters that affect employees. Recently, court administrators consulted with the Staff Attorney's Office in planning for the Kapolei courthouse. Court administrators were looking into the possibility of using an undeveloped area of the property for employee parking. The Staff Attorneys answered questions on liability issues regarding the use of this space for employee parking.

Example 3: The Staff Attorney's Office assists staff in responding to requests for information pursuant to Hawaii Revised Statutes (HRS) chapter 92F, the Uniform Information Practices Act. Many Judiciary employees need guidance in determining whether or not particular records may be disclosed. Without assistance from the Staff Attorneys, it is possible that records that should be made public may not always be

disclosed in accordance with the provisions of HRS chapters 92F. This would subject the Judiciary to lawsuits.

**The Staff Attorney's Office provides assistance that prevents cases from being retried.**

Example 1: The Staff Attorney's Office provides assistance on matters that can have an impact on court cases. Over the past two years, the Judiciary has been converting its jury pool into an electronic management system. During the initial phase of the project, it was necessary to identify and validate all of the processes involved in selecting jurors. The Staff Attorneys provided assistance during the review of these processes. This legal review was important because a judgment rendered in a case may be vacated if an appellate court were to determine that the jury selection process did not comport with legal requirements.

Example 2: Probation officers make sentencing recommendations for the judge to consider in criminal cases. The Staff Attorneys assist probation officers in interpreting sentencing statutes. With this assistance, probation officers are better able to make appropriate sentencing recommendations. This in turn helps prevent the imposition of illegal sentences upon defendants.

**The Staff Attorney's Office assists with purchasing and other areas of fiscal management.**

Example 1: The Judiciary enters into over 300 contracts each year to purchase goods and services. The Staff Attorneys review all contracts to ensure that the terms and conditions comport with applicable laws.

Example 2: The Staff Attorney's Office has assisted court fiscal officers with collecting forfeited bail from sureties. Monies that are collected from the sureties are deposited into the State general fund.

Example 3: During the past year, court staff asked the Staff Attorneys to assist in reviewing the schedule of court fees under HRS sections 607-4 and 607-5. As a result, court staff determined that they are authorized to collect additional court fees in certain cases. Court fees are deposited into the State general fund.

**The Staff Attorney's Office is involved in employee-management issues.**

Example 1: The Staff Attorneys provide legal guidance when the Judiciary conducts internal investigations. In some cases, a Staff Attorney is assigned to perform the investigation.

Example 2: The Staff Attorneys draft, or provide assistance in drafting, important workplace policies



**HALE HO'OMALU JUVENILE DETENTION HOME (DH)  
& HOME MALUHIA (SHELTER)  
PROGRAM JUSTIFICATION**

DIVISION: Family Court

CONTACT PERSON: Glennard Fong

PHONE NUMBER: 539-4400

MOF: General Funds

**I. DETENTION HOME AND HOME MALUHIA**

The Hawaii Judiciary's Family Court is statutorily conferred with responsibility for handling a wide-range of juvenile matters, including disposition of juveniles who commit status offenses (e.g., runaways and truancy) as well as law violations. Hawaii's Juvenile Detention Home and Shelter, both presently located on Alder Street, are statutorily established (Hawaii Revised Statutes (HRS) Sections 571-32 and 571-33) to provide secure physical restriction (DH) and shelter (Home Maluhia) to children prior to formal adjudication.

The DH on Alder Street is the only secured detention facility in the State and serves all circuits and all islands. The Detention Home is needed for juveniles awaiting trial on status offense or law violations and for whom appearance at court proceedings is a demonstrable risk. The nonsecured shelter at Home Maluhia is available for juveniles who do not require secured detention but for whom appropriate out-of-home placement is difficult to secure. Home Maluhia offers placement that is a "stepping stone" to out-of-home placement. Interim services by Home Maluhia support a juvenile's transition to returning home or being placed in foster care or a residential treatment program.

Contingent upon funding, the creation of a juvenile detention alternatives services center is being considered to replace the current old and deteriorated DH, and to improve the coordination of services provided by juvenile probation, social services, mental health and law enforcement agencies, which are designed to divert juveniles from secured detention, appropriate to public safety. Such sites currently exist on the mainland and are being supported by the Annie Casey Foundation's (ACF) Juvenile Detention Alternative Initiative ("JDAI"). The First Circuit Family Court recently received a grant of \$75,000 from ACF to promote reform of Hawaii's juvenile detention system.

Attachment "A" provides statistics of juveniles admitted into DH and Home Maluhia.

**II. IMPACT OF SIGNIFICANT BUDGET CUTS TO EITHER DH OR HOME MALUHIA**

Among other issues, public safety, financial issues, and constitutional safeguards could be implicated if DH and/or Home Maluhia were not available. Without Home Maluhia, juveniles could be confined to a more incarceration-type of placement in DH or be released to a family and community who may be ill-equipped to effectively handle them. Without DH or

Home Maluhia, a juvenile might be held at police cell block, which could present constitutional objections and jeopardize the State's receipt of federal funds. Significant federal funds are based on the State preserving sight and sound separation between juveniles and adults.

Placing juveniles at the Hawaii Youth Correctional Facility (HYCF) is not a viable option as HYCF is a facility for *adjudicated* juveniles with serious law violations that warrant a jail like setting. The DH is for *pre-adjudicated* juveniles being held for court or alternative placement. Juveniles held at DH are often being held on less serious offenses or held on valid court orders for non-compliance with the terms of probation frequently involving curfew violations, running away behaviors, truancy, etc. It is clearly not in the best interest of these juveniles to be housed with the HYCF population. Such placement would also be contrary to state and federal laws as well as both the State and federal constitutions thereby placing the state in jeopardy of a federal lawsuit which may in turn lead to a much costlier federal consent decree (with control taken away from the state as the expenditure of such state funds).

As noted above, Hawaii was recently awarded a grant by the Annie E. Casey Foundation. This Foundation has graciously deemed Hawaii a state worthy of its interest in replicating sites involved in the Juvenile Detention Alternative Initiative – a juvenile justice reform that has swept the country with both its positive reforms and achievements. A decreased budget to Hawaii's DH or shelter may signal to the AECF that Hawaii lacks the initiative to truly produce the reforms that we are committed to making, and could jeopardize AECF's interest in our state in the future.

Most significantly, any significant budget reduction for either DH or Home Maluhia is likely to have implications for the conditions of confinement (through diminished physical space, staffing, supervision, programs and physical and mental health services.) As we can learn from any number of states in the Mainland, operating a secure detention facility that does not meet constitutional standards is likely to result in state or federal litigation, including the possibility of a resultant federal consent decree (such as New Jersey and Oregon) which would have consequences in terms of significant outlays of funding by the state and significant lack of control by the state. This would be disastrous in terms of financial outlay, state control of our own programs, public safety and most important, our responsibility to youth entrusted to our care.

### III. TOTAL PROGRAM COSTS

The operating budget for DH and Home Maluhia for Fiscal Year 2008 – 2009 is \$4,848,637. The breakdown is as follows:

A. Personal Services	\$4,350,763
B. Other Current Expenses	497,874
C. Equipment	0
<b>TOTAL EXPENDITURES</b>	<b>\$4,848,637</b>

Attachment "B" provides a detailed breakdown of expenditures for the above categories. Attachment "C" shows the number of permanent and non-permanent positions assigned to DH and Home Maluhia. Note: Administrative/Support Services Staff are involved with both facilities.

January 23, 2009

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**TO:** Christine Miwa-Mendoza  
Program Specialist

**FROM:** Janis Kamimura  
Research Statistician

**SUBJECT:** Hale Ho'omalua and Home Maluhia Admissions for  
Calendar Years 2007 and 2008 (REVISED)

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**HALE HO'OMALU ADMISSIONS 2007 TO 2008**

Total Hale Ho'omalua (Secured Detention Facility)  
Juvenile Admissions  
Calendar Year 2007

Juvenile Breakdown	Total Admissions	Percent of Total Admissions	Total Individual Juveniles Detained	Percent of Total Individuals Detained
Female	438	35%	217	34%
Male	802	65%	422	66%
Total	1240	100%	639	100%

Average length of stay 2007: 10.67 days.  
Average age of juvenile 2007: 16 years old.  
100, 104, 106 and 169 days were the longest length of stay for individuals in 2007.  
HPD & 1<sup>st</sup> Circuit were the referring agencies for 1<sup>st</sup> Circuit  
2<sup>nd</sup> Circuit was the referring agency for 2<sup>nd</sup> Circuit.  
3<sup>rd</sup> Circuit was the referring agency for 3<sup>rd</sup> Circuit.  
5<sup>th</sup> Circuit was the referring agency for 5<sup>th</sup> Circuit.

Attachment "A"

Total Hale Ho'omalū (Secured Detention Facility)  
Juvenile Admissions By Circuit  
Calendar Year 2007

Circuit	Total Admissions	Percent of Total Admissions
First Circuit	1065	86%
Second Circuit	35	3%
Third Circuit	111	9%
Fifth Circuit	29	2%
Total	1240	100%

Total Hale Ho'omalū (Secured Detention Facility)  
Juvenile Admissions  
Calendar Year 2008

Juvenile Breakdown	Total Admissions	Percent of Total Admissions	Total Individual Juveniles Detained	Percent of Total Individuals Detained
Female	402	37%	206	34%
Male	690	63%	402	66%
Total	1092	100%	608	100%

Average length of stay 2008: 10.07 days.

Average age of juvenile 2008: 16.03 years old.

117 and 126 days were the longest length of stay of juveniles in 2008.

HPD & 1<sup>st</sup> Circuit were the referring agencies for 1<sup>st</sup> Circuit

2<sup>nd</sup> Circuit was the referring agency for 2<sup>nd</sup> Circuit.

3<sup>rd</sup> Circuit was the referring agency for 3<sup>rd</sup> Circuit.

5<sup>th</sup> Circuit was the referring agency for 5<sup>th</sup> Circuit.

Total Hale Ho'omalū (Secured Detention Facility)  
Juvenile Admissions By Circuit  
Calendar Year 2008

Circuit	Total Admissions	Percent of Total Admissions
First Circuit	965	88%
Second Circuit	28	3%
Third Circuit	73	7%
Fifth Circuit	26	2%
Total	1092	100%

**HOME MALUHIA ADMISSIONS 2007 TO 2008**

Total Home Maluhia (Shelter Facility)  
Juvenile Admissions  
Calendar Year 2007

Juvenile Breakdown	Total Admissions	Percent of Total Admissions	Total Individual Juveniles Detained	Percent of Total Individuals Detained
Female	95	49%	65	47%
Male	100	51%	73	53%
Total	195	100%	138	100%

Average length of stay 2007: 12.29 days.  
 Average age of juvenile 2007: 15.72 years old.  
 76 and 106 days were the longest length of stay of juveniles in 2007.  
 HPD & 1<sup>st</sup> Circuit were the referring agencies for 1<sup>st</sup> Circuit  
 2<sup>nd</sup> Circuit was the referring agency for 2<sup>nd</sup> Circuit.  
 3<sup>rd</sup> Circuit was the referring agency for 3<sup>rd</sup> Circuit.  
 5<sup>th</sup> Circuit was the referring agency for 5<sup>th</sup> Circuit.

Total Home Maluhia (Shelter Facility)  
Juvenile Admissions By Circuit  
Calendar Year 2007

Circuit	Total Admissions	Percent of Total Admissions
First Circuit	194	99%
Second Circuit	0	0%
Third Circuit	1	1%
Fifth Circuit	0	0%
<b>Total</b>	<b>195</b>	<b>100%</b>

Total Home Maluhia (Shelter Facility)  
Juvenile Admissions  
Calendar Year 2008

Juvenile Breakdown	Total Admissions	Percent of Total Admissions	Total Individual Juveniles Detained	Percent of Total Individuals Detained
Female	110	57%	84	58%
Male	83	43%	61	42%
<b>Total</b>	<b>193</b>	<b>100%</b>	<b>145</b>	<b>100%</b>

Average length of stay 2008: 12.99 days.

Average age of juvenile 2008: 15.97 years old.

169 and 190 days were the longest length of stay of juveniles in 2008.

HPD & 1<sup>st</sup> Circuit were the referring agencies for 1<sup>st</sup> Circuit

2<sup>nd</sup> Circuit was the referring agency for 2<sup>nd</sup> Circuit.

3<sup>rd</sup> Circuit was the referring agency for 3<sup>rd</sup> Circuit.

5<sup>th</sup> Circuit was the referring agency for 5<sup>th</sup> Circuit

Total Home Maluhia (Shelter Facility)  
Juvenile Admissions By Circuit  
Calendar Year 2008

Circuit	Total Admissions	Percent of Total Admissions
First Circuit	193	100%
Second Circuit	0	0%
Third Circuit	0	0%
Fifth Circuit	0	0%
Total	193	100%

c: Thomas Keller, Administrative Director;  
Glennard Fong, Chief Court Administrator;  
Wendell Kikuchi, Deputy Chief Court Administrator;  
Garrett Amimoto, Supervising Research Statistician



DETENTION SERVICES SECTION  
BUDGET FOR FISCAL YEAR 2008-2009

A - PERSONAL SERVICES

1 2001	REGULAR PAY - PERMANENT POSITION	3,025,575
2 2002	REGULAR PAY - NON PERMANENT POSITION	884,088
3 2003	ORDINARY OVERTIME PAY - PERM POSITION	275,000
4 2004	ORDINARY OVERTIME PAY - NONPERM POSITION	24,000
5 2005	HOLIDAY OVERTIME PAY - PERMANENT POSITION	72,000
6 2006	HOLIDAY OVERTIME PAY - NONPERM POSN	12,000
7 2011	NIGHT SHIFT DIFFERENTIAL - PERM POSITION	29,000
8 2012	NIGHT SHIFT DIFFERENTIAL - NONPERM POSN	3,600
9 2013	TEMPORARY ASSIGN PREMIUM - PERM POSITION	1,500
10 2016	STANDBY DUTY PREMIUM	24,000
	TOTAL PERSONAL SERVICES	4,350,763

B - OTHER CURRENT EXPENSES

2 3003	MEDICAL AND HOSPITAL SUPPLIES	6,000
3 3101	REPAIR AND MAINTENANCE SUPPLIES	1,800
5 3203	PRINTED FORMS	300
6 3204	DUPLICATING SUPPLIES	2,500
8 3206	DATA PROCESSING SUPPLIES	2,000
9 3209	OTHER STATIONERY AND OFFICE SUPPLIES	4,000
10 3301	FOOD SUPPLIES	150,000
11 3401	JANITORIAL SUPPLIES	9,000
12 3402	LAUNDRY SUPPLIES	1,200
13 3403	CLOTHING AND SEWING SUPPLIES	700
14 3406	RECREATIONAL SUPPLIES	200
15 3408	BEDDING, LINENS, AND MATTRESSES	500
16 3430	OTHER MATERIAL AND SUPPLIES	15,000
17 3502	SUBSCRIPTIONS	400
18 3609	OTHER FREIGHT AND DELIVERY CHARGES	300
19 3701	POSTAGE	100
21 3809	OTH TELEPH, TOLLS, CABLES, & RADIOGRAM CHG	600
23 4101	CAR MILEAGE - EMPLOYEES	2,000
33 4701	MOTOR POOL CARS	12,500
34 5001	ELECTRICITY	60,000
35 5101	GAS	10,000
36 5201	WATER	5,500
37 5301	SEWER	7,000
41 5801	OFFICE FURN AND EQUIP REPAIR & MAINT	5,000
42 5802	AIR-CONDITIONING REPAIR AND MAINTENANCE	3,000
43 5804	CENTRAL ALARM SYSTEM & SECURITY R & M	3,000
44 5805	BUILDINGS AND STRUCTURES R & M	12,974
45 5807	MOTOR VEHICLES REPAIR AND MAINTENANCE	200
46 5809	DATA PROCESSING EQUIPMENT R & M	100
47 5820	OTHER REPAIRS AND MAINTENANCE	24,000
58 6609	PURCHASE OF SERVICES CONTRACTS	51,000
68 6730	WORKER'S COMP PAYMENTS	90,000
86 7186	REFUSE SERVICES	10,000

Attachment "B"

**DETENTION SERVICES SECTION  
BUDGET FOR FISCAL YEAR 2008-2009**

	PERMANENT POSITIONS		NON-PERMANENT POSITIONS		TOTAL	
	NUMBER	AMOUNT	NUMBER	AMOUNT	NUMBER	AMOUNT
ADMINSITRATIVE/SUPPORT SERVICES	12	\$535,596	7	\$303,697	19	\$839,293
	1 Superintendent 1 Dep. Superintendent 1 Secretary 2 Clerk Typist		1 Dep. Superintendent 1 clerk typist 2 RN IVs			
HALE HO'OMALU JUV. DETENTION HOME (DH)	42	\$1,794,244	14	\$521,041	56	\$2,315,285
			13 Juv. Detention Wkrs.			
HOME MALUHIA FACILITY	15	\$695,735	4	\$59,350	19	\$755,085
TOTAL POSITIONS	69	\$3,025,575	25	\$884,088	94	\$3,909,663

## The Judiciary, FB 2009-11 Program Justification

**Program ID:** JUD 601

**Program Title:** Children's Justice Program/Center's Justice Centers (CJCs) of Hawaii

**Dept. Contact:** Jasmine Mau-Mukai, Statewide Director (534-6701)

### **Mission or Program Objective:**

HRS Chapter 588 establishes the CJCs to "provide for the special needs of children who are alleged victims of sexual or serious (felony) physical abuse and/or witnesses to crime. This Program coordinates the appropriate investigation, treatment and legal processes, thereby reducing and preventing unnecessary trauma to children and ensuring justice for children and their families." The CJC Program safeguards the integrity of investigations, particularly the forensic interviews of children, by ensuring they are conducted in a neutral and fact-based manner, thus resulting in a fair and expeditious judicial process.

### **Program Budget:**

**MOF:** General Fund      **FTE(P):** 15.0      **FY09 Allocation:** \$1,257,364

### **CJC Program Operations:**

The Children's Justice Program, statutorily established in 1986, has vastly improved a child sexual abuse system that was once disorganized, fragmented and clearly not optimally responsive to the needs of the children it served. Prior to the CJCs, problems plaguing the child sexual abuse system included: (1) a systemic lack of coordination and cooperation among agencies; (2) children subjected to multiple interviews by unskilled interviewers; (3) professionals lacking the necessary training and resources to deal appropriately with child victims; and (4) children further victimized by a system unable to adequately protect them.

Amendments to HRS Chapter 588 in 2001 expanded the Children's Justice Program to include coordination for appropriate investigation, treatment, and legal processes in serious physical abuse cases (felony) and for child witnesses to crime. The CJC Program also facilitates, in an impartial manner, the professional gathering of information by agencies for court proceedings

### **CJC Program Highlights/Justification:**

The CJC Program serves the entire State with five Centers on Oahu, Maui, Kauai, East Hawaii and West Hawaii. Children on Molokai and Lanai are served by the Maui CJC. Children on Niihau are served by the Kauai CJC.

- The CJC Program’s child appropriate/child friendly Centers provide for the physical and psychological safety of children. The CJC’s are available 24 hours a day/7 days a week. During the past 20 years, approximately 18,500 children between the ages of 18 months to 17 years were interviewed at a CJC. Prior to the establishment of the Hawaii CJC’s, children were routinely interviewed in their homes where the abuse may have occurred. Children were also generally interviewed in the presence of caretakers who may have been either the perpetrators of abuse or unable to protect the children entrusted to their care. Children were also likely to have been interviewed in police stations, in the same rooms used to interrogate adult suspects. This often led to children believing that they were being “investigated” or that they had actually done something “wrong” or “illegal.” This perception was antithetical to appropriate response and seriously undermined subsequent healing.
- The CJC Program provides forensic interviews that are recorded and conducted in a neutral, fact-finding, coordinated and research-based manner. The availability of recorded interviews minimizes the number of times children must recount their abuse and facts that are obviously traumatic. The digital recorded interviews may be used in civil and criminal court proceedings. At Family Courts, use of the recorded child interviews avoids the need for children having to testify in court, which is also a significant stressor. In criminal cases, recorded interviews are used in pre-court preparation. This evidence often leads to plea agreements, resulting in cases resolving without the need for trial. This saves money for the state and avoids children victims having to testify about their abuse in proceedings open to the public. It also speeds the process by which children can “move on” and receive therapy and services crucial to the healing process.
- Prior to the CJC Program in Hawaii, Interview Guidelines/training to interview children was not formally developed. Children having to recount their abuse multiple times to numerous professionals led to inconsistencies between investigators and failed to adequately safeguard the children victims or assess the culpability of alleged perpetrators. The on-going enhancement of the CJC’s forensic interviewing guidelines supports the civil and criminal justice systems in the pursuit of truth and justice.
- The CJC Program coordinates a Multidisciplinary Team (MDT) response to child abuse/child witness cases. This includes law enforcement (county police, state and federal law enforcement, including the Army, Navy, Marines, Coast Guard and Air Force), Department of Human Services/Child Welfare Services, Legal, Medical and Mental Health. The CJC’s track cases from police/CWS report through disposition in the civil/criminal systems.
- Over the past 20 years, approximately 28,000 cases, involving infants to adolescents, were tracked by the CJC’s. Primarily, these involved cases of sexual abuse. Other cases involved serious (felony) physical abuse (including burns, broken/fractured bones/skulls, other head trauma and attempted strangulation). The youngest victim was

five weeks old (broken bones). Witness cases have involved children who witnessed abuse or assaults, (e.g., a father killing his wife in front of their children.) The CJsCs have provided training for professionals in dealing with the complex dynamics involved in child abuse, especially intra familial sex abuse (i.e., abuse perpetrated by a family member). Thousands of professionals have attended training events sponsored/coordinated by the CJsCs. This has resulted in a far more efficient and effective system response.

- Community/Other Support: Abused children and their families may also receive services from one of the five CJC's non-profit partners, and federal grants support the CJsCs and the children they serve. In 2007, about 3,000 children and families received such services.
- The CJsCs save money for the state. One national study showed that a child abuse investigation using a CJC model cost an average of \$2,902 per case. An investigation not using a CJC model cost about \$3,949 per case. This constitutes a savings of more than \$1,000 per case.
- Child abuse/maltreatment has serious and long-term negative impacts on children's mental and physical health, and is associated with myriad social problems, including juvenile delinquency and adult criminal acts.

Aside from the financial component, the emotional impact upon children if the CJsCs were not available is incalculable.

# Hawai'i Children's Justice Center

## Maui Program

Report Re: Molokai

February 20, 2009

The Maui Children's Justice Center (CJC) services the island of Molokai. The ways this is done include:

- Conduct monthly interagency meetings via VCC, utilizing the CJC VCC on Maui and the Family Court VCC on Molokai;
- Training investigators with the Maui Police Department and the HI Department of Human Services-Child Welfare Services, on the best ways to respond to reports of child sexual abuse and serious physical abuse;
- Training medical providers on performing competent forensic medical exams;
- Training, on island, human service providers on various topics, including General Dynamics of Child Sexual Abuse; cultural issues; and interventions. We are working on a workshop focused on offenders.
- Arranging, with assistance from the Maui County Children's Justice Committee (not the CJC), to pay transportation costs for human service professionals to fly to Maui and elsewhere in HI for appropriate training.
- Arranging, through the Friends of the Maui CJC (FCJC), to pay for a caregiver to accompany each child/adolescent victim/reported victim to Maui for an interview at the CJC. In addition, the FCJC help arrange and pay for, if necessary, ground transportation and food during the day that the child and caregiver are on Maui, while they wait for their return flight in late afternoon.
- To help provide alternatives to flying the child and caregiver to Maui, the CJC submitted a grant to the National Children's Alliance for a portable interview recording unit that is basically the same system used in the CJC, except portable. This grant has been approved and the purchase is in process. The equipment, training and related costs brought the grant amount to almost \$15,000. Arrangements are being worked on to identify a child friendly location on Molokai to conduct interviews, along with creating the best process for performing these interviews. Generally, they will be done by a detective from Maui, who will fly over, conduct the interview, arrange a medical exam if needed and perform related investigation actions. There might be occasions where the detective on Molokai does much of this work, including the child interview, after we train that detective.
- We make available monthly training from the NCANet on topics related to child abuse. These two-hour trainings are conducted via ISDN lines or web streaming, whichever the receiving site prefers. The charge (\$200) for the ISDN connections is paid by the MCCJC. There is no charge for the web streaming. These trainings are generally top notch. However, thus far they have not been taken advantage of very often by Molokai folks, even though arrangements have been made to use the Family Court VCC when it's available for these trainings.

Submitted by Pat Singsank, Maui CJC Program Director

## The Judiciary, FB 2009-11 Program Justification

Program ID: JUD 601

Program Title: Office of Public Guardian (OPG)

Dept. Contact: Moira T. Chin

Phone No.: 534-6101

Mission or Program Objective: Serve as court-appointed guardians of the person for incapacitated adults who do not have anyone willing and able to serve.

Program Budget:

MOF: General Fund

FTE(P): 14.0

FY09 Allocation: \$793,282

Statute: Chapter 551A, Hawaii Revised Statutes; Established by Act 223, Session Laws of Hawaii 1984, to meet a serious community need to provide guardians for incapacitated adults who are unable to take care of themselves and are unable to make rational and responsible decisions regarding their daily lives including end of life decisions.

### JUSTIFICATION:

- OPG serves as guardians of the person for approximately 750 statewide clients with a staff of 10 social workers, one social service assistant, one accountant and one director. OPG staff is available on a 24 hr/7 day-a-week basis.
- 55% of clients are developmentally disabled and former Waimano Training School and Hospital patients who reside in community-based programs.
- 35% of clients, with an average age of 85, were identified in the community as having been victims of financial exploitation, self neglect and or abuse through Adult Protective Services (APS) intervention. Acute care facilities and residential health-care facilities have also provided referrals to OPG. These incapacitated elderly patients were identified as having no families or friends willing or able to serve as decision makers for medical treatment, finances, and/or for discharge planning purposes.
- 10% of OPG clients have been identified as severely mentally ill by APS, acute care facilities, mental health treatment programs or family members.
- The demand for legal guardianship for the elderly will continue to increase as the general population ages and more of the elderly over 85 become incapacitated. Note: From the 2007 publication prepared by The Center on the Family, University of Hawaii, entitled "Hawaii's Older Adults: Demographic Profile," Hawaii's population is expected to grow by 21% between the years 2000 and 2030. The number of adults 60 years and older is expected to increase by 93.8% and those 85 years and older will increase by 174.7% during the same period. OPG also serves as successor guardians for aging parents who are no longer able to serve as guardians for their incapacitated adult children.
- On Oahu, average case loads range from 80 to 100 cases per guardian. National standards as determined by the National Guardianship Association (NGA)

recommend a caseload which will allow one visit per month for each client and regular contacts with service providers. Given OPG's high case load, this standard is impossible to attain. Annual visits are the norm. When crisis situations occur, onsite visits with care givers, providers, physicians, and other service agencies are provided so that an informed decision can be made.

- It is estimated that a case load between 50 – 60 clients will permit quarterly visits.
- OPG cases represent the most difficult and challenging situations where family members cannot be located or may exist but are alienated. In some instances, OPG is appointed at the recommendation of state agencies despite the protest of family members who may be suspected of neglect and or exploitation. In other situations, family members, including adult children and spouses, refuse to serve as guardians of the person for such reasons as being too busy, burdened or fearful of financial responsibilities.
- OPG appropriations cover office operations and personnel expenses. No funds from OPG appropriations are used to cover costs to support the client's care, education, health or welfare. Assigned guardians access the client's resources or apply for, manage and coordinate all benefits and services received or utilized by the client (e.g., Medicaid, Supplemental Security Income, and Food Stamps).
- New intakes reflect growing numbers of incoming cases involving clients with sizable assets or property matters which will require OPG to seek the services of a court-appointed conservator. The increasing complex nature of such property and financial matters continue to challenge the role of the guardian.
- Complex tasks from intake to ongoing duties and responsibilities, pursuant to Sections 560:5-314 and 560:5-315 of the Hawaii Revised Statutes, are made on a daily basis affecting every major event in the lives of each client. Every effort is made to become familiar with clients, their history, their likes, dislikes, preferences and values. If family and friends are involved, input is sought to the extent possible and or information is shared.
- Appointment of OPG is the last resort. Once appointed and in spite of high case loads, each client is treated with dignity and respect utilizing best practices as developed by the National Guardianship Association's Standards of Practice and Code of Ethics. The majority of OPG clients are unable to express their thoughts or communicate with their guardians, many of whom have long-term relationships. For the public guardians, their reward can be a shy smile or sometimes a robust acknowledgment of their presence during onsite visits. An unsolicited letter to the Director of OPG from a family member expresses their sentiment about the impact of the public guardian on their loved one's life with the following quotation:

I want to thank you and the State of Hawaii so very much for allowing [guardian] to be a part of our momma's final journey here on this earth especially for being her friend and ours. [Guardian] has made a difference in our momma's life for the good and we express our gratitude for [guardian].



## The Judiciary, FB 2009-11 Program Justification

Program ID: JUD 601

Program Title: Public Affairs  
Office (PAO)

Department Contact: Marsha Kitagawa

Phone No.: 539-4909

### Mission or Program Objectives:

- Assist and inform the Judiciary's varied publics, including litigants, lawyers, students, and the general public, about court processes and procedures and how the judicial system operates.
- Increase access to court services, information, and records, particularly for parties who do not have a lawyer, cannot afford legal assistance, cannot understand English or the legal process, or have an ADA-covered disability.
- Help courts improve services and operate more efficiently and effectively.

### Program Budget:

MOF: General Fund

FTE(P): 3.0

FY09 Allocation: \$184,451

MOF: Special Fund

FTE(P): 1.0 (Webmaster)

FY09 Allocation: \$54,966

State Constitution: Not applicable.

### Performance Measures:

#### Hawai'i State Judiciary Website

1,360,000 visits a year, or 4,061 visits a day, were made to the Judiciary's Internet website in 2008.

85% of the visitors were new or infrequent users who visited the website once or less a month. Visitors stayed on the site for an average of 5:44 minutes.

15,270 web pages were accessed on an average day, amounting to more than 5.5 million "hits" or web pages opened.

1,114 visits a day were made to the "Search Court Records" page and to the two online databases of case records, Ho'ohiki and CourtConnect. The three pages are the Judiciary's most-visited web pages by far. Other frequently-accessed online features include court forms, appellate opinions, contact information, employment and jury service sections of the website, as well as the traffic fine payment system.

#### Information Dissemination

40 news releases and other announcements were issued in 2008 to notify the public of free seminars on divorce, landlord-tenant issues, etc., and to solicit public comment on judicial nominees and rule changes.

20 brochures and pamphlets are available for distribution by the PAO in hardcopy or electronic form to help inform the public about probate, mediation, where to file a complaint about a lawyer, etc.

7 different videos on various topics were produced by the PAO, and air, for example, on public access cable television, at juror orientations, or at Family Court's divorce education program.

500 external email addressees receive the monthly eCourt Briefs newsletter and other Judiciary informational announcements.

#### Public Feedback

Dozens of phone calls are fielded each day by the PAO from persons needing help.

The PAO receives and responds to several email inquiries which are submitted each day through an online feedback form on the Judiciary's Internet website requesting assistance or information, or complaining about the court.

## **Media Relations**

PAO plays a vital role in helping the public learn more about the court system through the media. In 2008, PAO assisted the local and national media in covering several high profile court cases including: The Sierra Club v. Hawai'i Superferry, Inc., State of Hawaii v. Kirk Matthew Lankford, and State of Hawaii v. James H. Pflueger.

PAO also works with the media statewide to publicize developments at the Judiciary that affect the public. In 2008, this included Judiciary initiatives to provide access to justice for all Hawaii residents, to improve traffic fine collection, via a collection agency, and to automate and digitize the process of serving bench warrants.

## **Justification:**

### **Inform the public about court processes and procedures and how the judicial system operates**

The legal and judicial systems may be intimidating or confusing to the public. Many who go to court do not have an attorney representing them and lack the needed information. As a result, motions or pleadings may be rejected, court hearings may be delayed, and cases may be continued. Delays, rescheduling, and re-doing documents causes additional costs to be incurred by the parties, the public, and the State.

To inform the public and especially unrepresented litigants about court processes, PAO produces and distributes informational brochures, booklets, and videos; posts information on the Judiciary website on various legal topics and on court processes and procedures; staffs the statewide Judiciary information and complaint line and responds to callers requesting information or assistance; and puts on free informational programs such as the "Lunch 'n' Learn the Law" and "Divorce Law" programs.

### **Increase public access to the courts**

PAO also helps those who have difficulties availing themselves of court services because the location is either too far away, legal services and other costs are too high, the process is too complex, or they have special needs or cannot understand English, by making information forms available at court and state public libraries, and on the Internet. Online services eliminate the need to visit a courthouse to conduct business. For example, a Big Island resident unable to download the online forms may have to drive for hours to pick up court forms from the courthouse in Hilo or Kona. PAO helped draft policy guidelines to ensure public requests for court records and information are handled efficiently and consistently, and assists with making court forms and instructions more user-friendly, easier to understand, and easily accessible.

### **Help the courts improve its service to the public**

PAO solicits and receives input and feedback which it uses to help gauge the effectiveness of various court programs and to identify areas needing improvement. PAO utilizes several tools to obtain public comments, including an online feedback form on the Judiciary website, a statewide telephone information and complaint line, public satisfaction survey forms located in all Judiciary offices, and news releases soliciting public input on proposed rule amendments and judicial nominees.

### **Assist the courts in operating more efficiently and effectively**

As previously mentioned, a primary function of PAO is to educate and inform the public about court procedures and processes. Informed court users require less assistance from court staff who are then able to provide needed services elsewhere. PAO is responsible for the Judiciary's website, which is playing an increasingly important role in making court information, records, and services more accessible. Providing these services online also reduces staffing needs and promotes environmental sustainability. PAO also conveys ideas and suggestions for improvement from the public to court administrators and works with administrators to help make court services more accessible and user-friendly.

## The Judiciary, FB 2009-11 Program Justification

**Program ID:** JUD 601  
Resolution

**Program Title:** Ctr. for Alt. Dispute

**Dept. Contact:** Elizabeth Kent      **Phone No.:** 539-4238

**Mission or Program Objective:** Make alternative dispute resolution (ADR) broadly available in Hawaii. ADR offers opportunities for early, party-driven, efficient, and fair solutions. This is the only office in state or local government that promotes ADR through education, research, training, and informational materials.

### Program Budget

**MOF:** General Fund

**FTE(P):** 5.0

**FY09 Allocation:** \$780,285

**Governing Statute:** Hawaii Revised Statutes, Chapter 613

**Performance Measures:** Evaluations of training sessions, number of training sessions, number of forums, evaluations of appellate mediation sessions.

**JUSTIFICATION:** Often, the best option for people in conflict is staying **out** of court. The Center for Alternative Dispute Resolution (Center) helps build skills so that people can work together to find solutions to their problems and solve them early. Often, the solutions people find on their own are more satisfying and more likely to be complied with than court ordered adjudication. The Center also oversees a statewide infrastructure so that the public can access affordable mediation services, and helps design ADR programs, such as the mediation program in the appellate courts.

The Center is the **only** organization that provides training on ADR-related subjects for state and county employees and designs ADR programs for local government **at no cost**. With the looming economic crisis, government employees will need to “do more with less.” Government employees must have the necessary skills and techniques to allow them to work collaboratively and efficiently in serving the public. State and county departments have already cut back training funds, and further cuts are likely. If the Center is not funded, training opportunities in mediation, meeting facilitation, negotiation, and conflict assessment will probably be eliminated for state and county staff, which will have an adverse impact on the public.

Through the Center’s administration and oversight of the Judiciary’s POS contract with the mediation centers (the community mediation centers are located in Hilo, Honolulu, Kaunakakai, Lihue, Wailuku, and Waimea), last fiscal year

- 1,679 District Court cases (mostly from Small Claims Court) were mediated (53.5% settlement rate, plus 178 conciliated agreements),

- 603 domestic cases (divorces, paternity actions, and the like) were mediated (57% settlement rate at The Mediation Center of the Pacific, Inc.),
- There was a total of 2,237 referrals from the justice system (55.3% settlement rate, plus 202 conciliated agreements),
- At least 7,550 people received direct assistance in finding solutions out of court, with about 68% of the clientele reporting an income level of \$41,250 or less.

Mediation usually is less expensive than going to court. For example, mediation at Small Claims Court and for residential landlord-tenant cases is free. Because the Judiciary underwrites the cost of mediation and because the mediators are volunteers, the cost is affordable (and waived or reduced for people who cannot afford them). Private sector mediators may charge more than \$150 per hour, which would deny many from access to mediation services, and leave mediation as an option only for those who can afford it.

In tough financial times, people are more prone to argue about things that they might otherwise “let go.” Diminished access to mediation services means:

- Divorcing couples have fewer options to work out their problems and file for an uncontested divorce, resulting in more cases going to trial
- Neighbors may not have an informal venue to work out their differences, resulting in more TRO filings
- Merchants and consumers will not be able to turn to the mediation centers for assistance, resulting in more court cases

In short, there will be fewer avenues for people to find satisfying solutions. That, in turn, may produce increased stress, lost time at work, a decrease in work productivity, and dissatisfaction with the “system.”



Program ID: Contract # J08054  
Kauai Teen Court  
Dept. Contact: David Lam, JCFSB Administrator  
482-2378

Program Title:  
Tele. No.: (808)

History, Mission or Program Objective:

Since the inception of Kauai Teen Court (KTC) in 1998, run and coordinated by Hale Opio, Inc., during a one year period, there are at least 24 Teen Court sessions, each session lasting well over an hour. Besides those minors who are referred (via the Kauai Police Department, Prosecutor's Office and Juvenile Client & Family Services Branch), they have not only secured volunteers (Per Diem Judges, Public Defendant, etc) but they also have graduates from KTC returning to be active participants (as jurors, bailiff, etc.). Hale Opio's KTC funding source up until to 2006 was Federal Block Grant funds and some funds/assistance from the County Prosecuting Attorney's Office.

KTC is a diversion program. It was primarily established for first time juvenile offenders who are diverted from entering the Family Court judicial system. Voluntarily going through the KTC program, when referred, "their side of the story" is heard, they are counseled and if they admit to the allegation(s), are "sentenced" mainly by their peers.

Through KTC's diversion program, over 300 juveniles each year have been diverted from Family Court. These juveniles therefore have no official record with the court.

Program Budget: In 2007, the Family Court of the Fifth Circuit entered into a POS Contract with Hale Opio's KTC program. The awarded POS Contract was for \$60,000.00.

Performance Measures: From July 2007 to June 2008, Hale Opio's KTC program graduated/diverted 328 juveniles from the Family Court. From July 2008 to December 2008, the Teen Court has already graduated 137 juveniles. For our small island, this is a substantial number of cases that were diverted from the Court and therefore did not clog up the Court calendar. Thus, the Court Officers were able to work on more serious/demanding cases.

Justification To Retain Funding Hale Opio's KTC Program: If the POS Contract for Hale Opio's KTC was to be reduced/terminated, those 300 plus juveniles will need to be absorbed by the Juvenile Client & Family Services Branch Court Officers, and will place an additional load on the Family Court Calendar and our single Family Court Judge.

In 2007, information provided to the Family Court as justification to consider entering into a POS Contract with Hale Opio's KTC was that it would cost a similar program like theirs approximately \$480.00 per youth as compared to approximately \$1,635.00 for that same youth going through juvenile court, varying of course from jurisdiction to jurisdiction.

It should be noted that the Fifth Circuit Court has one dedicated Family Court Judge who presides over the juvenile and adult Family Court, TRO, Custody, Contested Divorce, Guardianship, HRS 587 CWS Abuse & Neglect, Drug Court, and other cases. The Juvenile Client & Family Services Branch has six (6) permanent Court Officers and two (2) working Supervisors (in that they also carry a minimal caseload of juvenile cases). An additional 300 plus cases would tax our abilities to properly supervise all cases assigned, as well as possibly contributing to burn out.

HAWAII GIRLS COURT  
PROGRAM JUSTIFICATION  
FB 2009-11

PROGRAM ID #: JUD 310

PROGRAM TITLE: HAWAII GIRLS COURT

DIVISION: FAMILY COURT

CONTACT PERSON: Adriane Abe, Coordinator

PHONE NUMBER: 534-6152

MOF:  
State General Fund

FTE(P) 0

FTE(T) 7

FY 09 Allocation \$389,048

SW V 00500183  
SW IV 00500191  
SW IV 00500594  
SW IV 00500395  
SW IV 00500190  
CT III 00500192  
SSA 00500426

STATUTE/CONSTITUTION: HRS 706-605.1 "The judiciary shall implement alternative programs that place, control, supervise and treat selected defendants in lieu of a sentence of incarceration."

Hawaii passed legislation ("Parity for Female Offenders," Act 258 of the 2006 Legislative Session) that emphasizes the need for parity for female offenders. The bill reads, in relevant part, "Female offenders need gender responsive services that address substance abuse, family relationships, vocational education, work, prior victimization and domestic violence." *The Hawaii Girls Court directly and successfully addresses the Legislature's concern, as expressed through Act 258.*

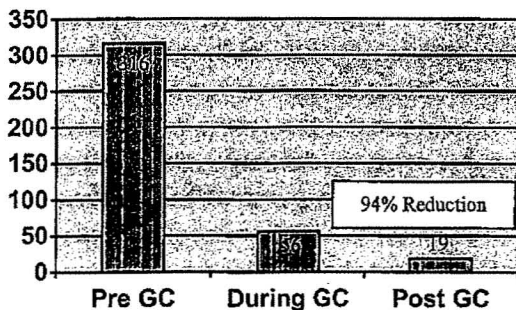
PROGRAM OBJECTIVES:

- 1) Develop a comprehensive continuum of gender-responsive, strength based intervention for adjudicated girls and their families
- 2) Prevent and reduce female delinquency
- 3) Export successful techniques developed and tested in the program to the wider population of girls in the juvenile justice system and the community

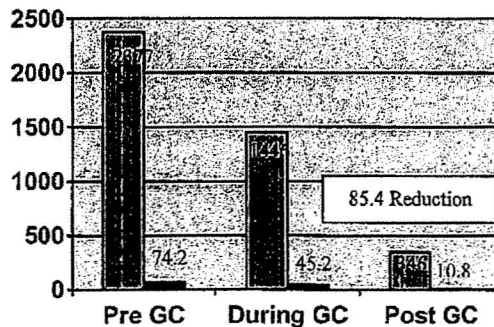
**Reaching the Unreachable.** ....Hawaii Girls Court (HGC), the first court of its kind in the country, continues to demonstrate success, providing gender responsive programming to meet the needs and develop strengths in female juvenile offenders and their families. Word has spread about this innovative and unique program and its promising outcome data. The HGC website [www.girlscourt.org](http://www.girlscourt.org) has been an effective way of sharing program information. Inquiry has been received from around the country and as far away as Canada, Taiwan, and Japan.

The following charts are the preliminary findings of program evaluator, Janet Davidson, PhD. They demonstrate outcomes for Girls who completed HGC as of December 31, 2008:

Number of Runaways – Cohort 1-3



Number and Average Runaway Days – Cohort 1-3



Additional data include:

- 89.3% reduction in law violations
- 69.6% reduction in shelter admits
- 39.3% reduction in days held in shelter
- 71% reduction in detention home admits
- 66.3% reduction in days held in Detention Home

Since inception, the HGC has not committed any girl to the Hawaii Youth Correctional Facility.

- Saving achieved through youth not being placed in HYCF – no daily cost number is available at this time.

Evaluator Lisa Pasko stated in her report: “Given that the Girls Court group had fewer arrests, court time, and DH and HYCF admissions, this not only translates into improvements in the girls’ lives, but in real cost savings for Family Court, in the way of reduced courtroom time, paperwork, and space needed for girl offenders.” **The HGC designs programming with the goal of preventing girls from further penetrating the justice system later in their lives as adult offenders, domestic violence victims, and CPS mothers, creating future cost savings.**

Research shows the vast majority of girls entering the justice system have been victimized and traumatized at some point in their lives. *Raped; beaten until bones broke; sexually exploited and prostituted; abused and neglected; witness to domestic violence; witness to murder; loss of parents through death, incarceration, abandonment, and substance abuse....* These are real trauma histories of girls being served in the HGC. Their experiences overwhelmed their ability to cope, and their coping responses (running away, family conflict, truancy, substance abuse, and involvement in minor law violations) landed them in court, not as threats to the community, but as children in need of mental health treatment. *These are girls whose needs the traditional probation system is not designed to meet.*

Girls often arrive in the system so wounded that they are full of fear and mistrust, making them difficult to work with. Gender responsive programming takes into account female development and a girl’s pathway into the system, and responds to the realities of her life, addressing all relevant issues. The HGC is committed to continued collaboration and partnership with other state agencies and private providers who have mobilized to deliver trauma informed care for our girls and families. Much of this effort has resulted in services provided to our girls and families at no added cost to the State. Private insurance, grant awards, and volunteerism and goodwill from the community have provided a host of mental health care and program activities.

Healed family relationships, cessation of substance use, graduation from high school, college enrollment, gainful employment, discovery and development of talents, and birthing of healthy babies are additional examples to the evaluation data above of the transformative events in the lives of girls served. **Currently 27 girls and 46 family members are being served. Another 11 girls and families are waitlisted and scheduled to begin the program in February 2009. A total of 123 girls and family members were served by the HGC in 2008. Since inception HGC has served 265 girls and family members.**

Girls entering HGC receive: monthly court hearings; intensive supervision; individual, family and family group therapy; healthy relationship classes; life skills training; random drug testing, and referrals for treatment, creative and literary arts programs, mentoring, recreational activity, service learning opportunity, cultural activities, and an array of other services. Parents are included as parties to the case, therefore legally requiring their active participation in the program.

During the past fiscal year HGC staff provided support groups applying the Girls Circle model at the Hale Hoomalu Detention Facility and in the Wahiawa community. Another group is slated to be provided at Kawanakoa Middle School as part of HGC’s prevention efforts. Exportation of successful techniques takes place through information sharing, facilitation of quality training to those working with girls within juvenile justice and other agencies, and the HGC website.



Evaluators interviewed HGC participants and these are the sentiments expressed in the girls' own words:

- Saved my life
- Girls Court gave me permission to be good
- I was a year behind in school. Now I'm three credits from getting caught up and graduating next year. I got a job. They [Girls Court] just do so much encouraging things.

The future of Hawaii's most at-risk girls is at stake. Without continued funding of the HGC, the result will be the loss of a proven and effective service for female juvenile offenders and their families, and significant setback to gender responsive programming for the entire state of Hawaii. The HGC has contributed greatly to the state's capacity to provide effective gender responsive youth programming. With continued state resources, the Judiciary will be able to allow the Girls Court Program to continue its proven success to impact girls involved with or at risk for involvement with the juvenile justice system, assist all of Family Court in providing essential resources and to assist other state agencies and community groups in gender-specific and strength based programming. **The Hawaii Girls Court Works!**

The Judiciary, FB 2009-11 Program Justification

Program ID: JUD 310  
Dept. Contact: Louise Crum

Program Title: Mental Health Court (MHC)  
Phone No. 539-4573

Mission or Program Objective: To reduce incarceration and recidivism while working with community providers to provide supervision and effective treatment options instead of the usual criminal sanctions for offenders with mental illness. In doing so, the MHC improves public safety, reduces burdens on the island's criminal justice system, saves money by shortening incarceration time for clients and enables participants to be productive members of our community.

	Program Budget		
MOF	FTE (P)	FTE (T)	FY09 Allocation
State General Funds	0	3	\$250,000
		500173 SW V	
		500060 SW IV	
		500455 SW IV	

Statute/Constitution: HRS 706-605.1 "The judiciary shall implement alternative programs that place, control, supervise and treat selected defendants in lieu of a sentence of incarceration." Act 120, Session Laws of Hawaii, 2006 – provides line item funding for this program

**Mental Health Court reduces incarceration costs for the State of Hawaii while providing persons in the system with Serious Mental Illness (SMI) treatment, accountability and a future through strong partnerships with the Executive Branch and treatment providers that increase the likelihood of long term success. Research performed during the planning phase for this court indicated that diverting 30 nonviolent offenders with mental illnesses to treatment could save the jail system on Oahu \$90,882 in one year as well as provide better outcomes for persons with SMI and the community by significantly reducing recidivism.**

**Other highlights and savings include:**

- 75% of our participants petitioned into MHC from OCCC.
- 75% of our participants petitioned in on a Track 4 (probation revocation).
- All participants have a severe and persistent mental illness and most have illegal substance use issues.
- February of 2008 was the first graduation - all graduates have had no incidents of recidivism and continue to be employed or are in stable housing and treatment for the first time in their adult life.
- 10 participants are on the graduation track for 2009.
- \$6,945 in restitution have been collected from our current participants. Currently there is no outstanding restitution owed.

Performance Measures: Length of jail time served, Recidivism, Cost Savings, Rewards & Sanctions, Clean & Sober Days, Housing, Employment, Quality of Life Indicator (QOLI) Time in each Phase, Number of Graduates, Admission to Completion Time, Mental Health & Substance Abuse Diagnosis, Services and Treatment, Percentage of Case Manager Participation

The Hawaii MHC works with felony clients who have severe and persistent mental illness to ensure that proper services are received so that once they graduate, they do not re-enter the criminal justice system. The outcome is clients that no longer pose a threat to public safety and are able to be productive members of the community. Untreated and lacking access to long-term care, people with mental illnesses often end up with symptoms and behaviors that result not only in jail time but

also in longer jail stays than those for non mentally ill felons that commit the same crime. About 5% of the general U.S. population suffers from a SMI, and roughly 16% of the U.S. prison and jail population does (U.S. Department of Justice). Jails and prisons, in fact, have been characterized by some as the replacement for the mental health hospitals of pre-deinstitutionalization days. Many of our clients, if unsuccessful, face open five-year terms at OCCC, which at a cost of more than \$100 per day (not including any special supervision or treatment for mental illness) would cost the state significantly more than the budget for the MHC. Researching a random sample of case files revealed that in the First Circuit, as is true in other states, recidivism among offenders with SMIs is high: recidivism results in more court time and more incarceration, and diminishes public safety. The best information available through case files for the court's target population suggests that even if clients do not serve the full open five year term most are sentenced to: Circuit Court offenders spent 221 days in jail, District Court offenders spent 6 days in jail, and Family Court offenders spent 72 days in jail.

Almost half of the persons with SMIs who are in prisons are there for nonviolent crimes, and they often were charged with more serious crimes than others who were arrested for similar behaviors (U.S. Department of Justice). They also are more likely to become victimized because of their heightened vulnerability, the lack of medication and treatment (both medical and psychological), and the absence of sound therapeutic facility design. Inmates with SMIs also tend to stay in prison longer than other inmates as they are more likely to get into fights, be charged with additional infractions, and be sanctioned under those charges. In fact, OCCC has been under federal investigation since 2005 for inadequate mental health care policies and practices. Only recently has OCCC agreed to changes in its mental health care policies and practices to address the U.S. Justice Department's concerns.

In short, persons with SMIs are not getting the treatment they need and thus are contributing to the overcrowding of prisons. As a response to these issues, communities around the U.S. are establishing MHCs to direct persons with SMIs from the criminal justice system—the “system of last resort”—to the community-based treatment they need for long-term health. The first MHC began in Broward County, Florida, in 1997; more than 100 such courts now exist all over the nation. Though most of these courts are not old enough to have completed long-term evaluations, preliminary results are promising.

- Broward County MHC has saved the county jail system at least \$1 million each year
- King County MHC in Washington—the nation's second oldest—reports that its graduates experienced a 76% decline in recidivism and a 91% decrease in jail time.
- Santa Clara MHC saved its county jail system an estimated \$1.3 million during its first two years of operation.
- And the most recent study from the RAND Corporation (2007) found that MHCs in Pennsylvania saved taxpayers \$3.5 million over a 2-year period.

MHC participants have a close relationship with the MHC court personnel and the MHC probation officer who ensure adherence to drug regimens, treatment protocols, terms and conditions of probation and achievement of recovery. The MHC uses its strong partnerships with the Adult Mental Health Division (AMHD) of the Department of Health to develop and provide treatment, housing and oversight for its clients and has developed excellent working relationships with the community to provide creative treatment regimens, sanctions and rewards to achieve success. As well as the highlights noted above, other points of interest include:

- Hawaii's MHC began accepting clients in May of 2005.
- Due to the challenges of this population, the ratio of probation officer to participant is 1:30.
- Currently, MHC has 31 participants, with four scheduled to petition in this month and six referrals scheduled for screening. All have been charged with a felony.
- The MHC has developed a well defined system of rewards and sanctions to encourage compliance.
- The MHC has four phases for the participant's progression with lessening degrees of oversight and a test between phases to assure completion of short term goals and court requirements.

Without the support and guidance of the MHC, these clients would probably continue to be in and out of the system for most of their life. The MHC has saved the state system hundreds of thousands of dollars in incarceration, hospitalizations, and other costs as well. The MHC has changed participants' lives by helping them reach recovery and become contributing and responsible citizens to the state of Hawaii. In the words of one of our graduates, "I used to get up in the morning and think of a hundred reasons to use drugs and now I get up and think of a 100 reasons not to."

The Judiciary, FB 2009-11 Program Justification

Program ID: 310

Program Title: Family Drug Court

Dept. Contact: James Lutte

Phone No. 534-6600

Mission or Program Objective: To ensure child safety by providing the opportunity to assist family members to become healthy, sober and positive parents through the provision of a seamless continuum of holistic, effective, culturally appropriate care for all life issues.

MOF	FTE (P)	FTE (T)	FY 2009 Allocation
State General Funds	5	1	\$626,320

Statute/Constitution: HRS 706-605.1 "The judiciary shall implement alternative programs that place, control, supervise and treat selected defendants in lieu of a sentence of incarceration." Act 120, Session Laws of Hawaii, 2006 – provides line item funding for this program

Performance Measures: Court Dates, Time to Permanency, Time to Family Supervision, Incentives, Sanctions, Chemical Dependency Treatment and Levels of Care, Drug testing, Clean days, Ancillary Services, Employment, Education, Recidivism, Cost Savings

**Oahu Family Drug Court uses creative evidence based approaches to combat the drug abuse, child endangerment, and domestic violence epidemic in Hawaii resulting in a better life for families and children and a significant savings in State tax dollars spent on foster care and other long term consequences of this epidemic.**

Key benefits of the Family Drug Court (FDC) are listed below followed by a short narrative that explains them more fully.

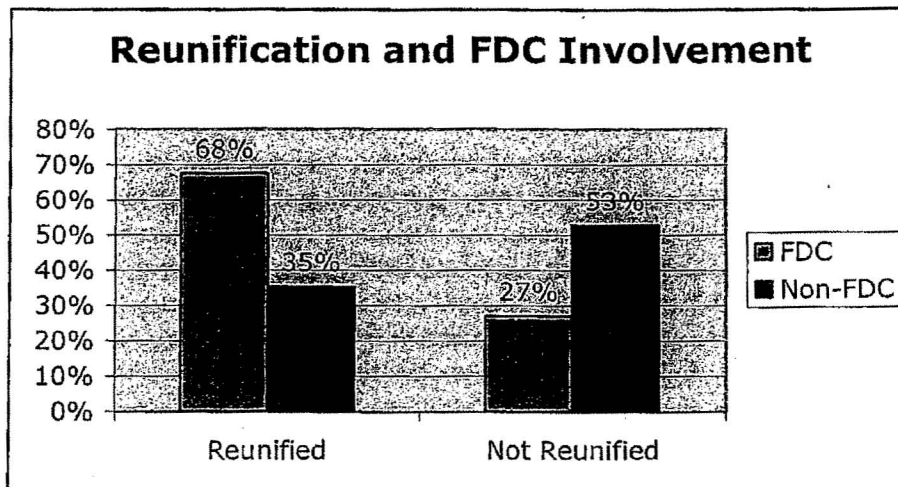
**Key Benefits to the State of Family Drug Court**

- **Children reunified with parents faster resulting in less social and emotional trauma that contributes to learning problems (68% families in FDC reunified as opposed to 53% not in FDC)**
- **Faster reunification results in significant savings in Foster Care costs (Savings FY 07/08 were estimated at \$698,475)**
- **Parents learn skills and demonstrate their ability to remain drug free**
- **Parents demonstrate**
  - **appropriate and improved parenting skills leading to greater family success and less educational and other problems**
  - **a decreased reliance on welfare**
  - **improved educational attainment or job skills related to gainful employment**
  - **secure adequate housing for their families**

The ultimate goal of the Oahu FDC is to enable an individual to achieve lasting abstinence and reduce recidivism with Child Welfare Services (CWS), while the immediate goals are to reduce drug abuse, minimize the medical and social complications of drug abuse and addiction, and improve the client's ability to function as a responsible, productive parent and member of society. The Court focuses on changing behaviors to promote healthy life styles which include appropriate parenting, education and employment.

The FDC provides, along with its partner agencies and groups (CWS, Department of Health, Guardians ad litem (GAL's) and private treatment providers), a blend of both a therapeutic approach and a judicial approach to the topic of child welfare (which necessarily includes aspects of child endangerment and child safety). A national crisis in foster care coupled with increases in drug abuse, domestic violence, homelessness, and poverty necessitated in the minds of many, both in Hawaii and elsewhere, a more creative approach to child-protection cases. The Oahu FDC is designed to help abused and neglected children by addressing parental substance abuse within the context of family court child-protection cases. These cases deal with custody and visitation disputes, abuse, neglect, domestic violence, dependency matters; and with petitions to terminate parental rights.

Adults and cases involved with FDC were more likely to be reunified with their children than those not involved with FDC.



As stated previously, reunification is one of the key objectives of the FDC program. More importantly, to have achieved reunification indicates improvement in multiple other areas, prerequisite to families regaining claim to their children. These include demonstration of: (a period of) abstinence from drugs and alcohol, appropriate or improved parenting skills, decreased reliance on welfare, improved educational attainment or job skills related to gainful employment, and the ability to secure adequate housing- also objectives of FDC.

This comprehensive approach is designed to not only help parents break the cycle of addiction, domestic violence, and child abuse and neglect, but also shortens out of home placement through ongoing intensive case monitoring by the case managers, CWS Social Workers, and GAL's. The preliminary data for FY 2007-2008 shows the following:

- Number of graduates: 18
- Number of children served: 139
- Average length of stay in FDC: 12 months
- Average number of day's children are in foster care with FDC: 225.5 days
- Average number of day's children are in foster care Non- FDC 326 days
- $225.5 \text{ days in foster care} \times \$50.00 \text{ per day} \times 139 \text{ children} = \$1,567,225.00$
- $326 \text{ days in foster care} \times \$50.00 \text{ per day} \times 139 \text{ children} = \$2,265,700.00$

**Total cost savings to the state in foster care placement: \$698,475.00**

The FDC provides the state with an extremely cost effective program to dramatically increase the success of families which results in a savings to the state as a result of a decreased need for foster care and further/more expensive services in the future.

## The Judiciary, FY 2009 – 11 Program Justification

Program I.D.: 320                      Program Title: Maui/Molokai Family Court Drug Court  
Dept. Contact: Michelle Schroeder                      Phone No.: (808) 244-2884

### ***Mission or Program Objective:***

The mission of the Maui/Molokai Family Court Drug Court (FCDC) is to act quickly to protect children, reunite families, and promote safe and sober parenting by providing more comprehensive services, in a more expeditious manner, than the regular Child Welfare Services (CWS) calendar. This results in an increased chance for successful reunification within the mandated timelines of the Federal statute (Adoption and Safe Families Act), reduces recidivism, and reduces the costs associated with foster care placement.

### ***Program Budget:***

MOF: General Funds                      FTE(P) 2                      FTE(T) 0                      FY09 Allocation: \$328,976.00  
1-SW V #500136  
1-SW IV #59126

Statute/Constitution: HRS 706-605.1 "The judiciary shall implement alternative programs that place, control, supervise and treat selected defendants in lieu of a sentence of incarceration."

### ***Performance Measures:***

Prevent new drug/alcohol conviction or subsequent removal of children

- 0% recidivism within 6 months of graduation
- 0% recidivism within 1 year of graduation
- 5.8% recidivism within 2 years of graduation
- 100% of graduates have not been convicted of a new drug/alcohol offense or had their children removed within 1 year
- 94% of graduates have not been convicted of a new drug/alcohol offense or had a subsequent removal of their children within 2 years
- 80% of graduates that were admitted in Foster Custody status would have most likely gone to permanency without FCDC
- 66% of graduates that were admitted in Family Supervision status would have most likely resulted in foster custody without FCDC

### ***Justification:***

The FCDC serves the most challenging families, 80% of which would likely have ended in permanent custody with the state; thus increasing state expenditures for foster care placements. Goals include assisting participants in providing a safe family home, learning appropriate parenting skills, becoming productive members of the community, re-establishing positive sober relationships, and facilitating long lasting behavior change. In this way, the program helps reduce recidivism, and by extension pro-actively saves the state additional funds. CWS focus is child safety; FCDC focus is child safety and recidivism. This enhanced focus results in less CWS services, criminal justice services, and state sponsored medical care.



***Rehabilitation:***

The best course of treatment for those suffering from chemical dependency is to participate and successfully complete substance abuse treatment. FCDC provides a collaborative team approach, by integrating substance abuse treatment, intensive family therapy, parenting education, domestic violence services, and other community resources. This approach reduces/avoids duplication of services, and incorporates therapeutic incentives and sanctions to quickly reverse negative behaviors. Participants are closely monitored by the Court and appear before the Judge frequently to help ensure success.

***Cost Effectiveness:***

- The program has been able to avoid permanency and prolonged foster custody, thereby resulting in substantial savings in foster care placement expenditures and related costs. Foster care costs per child are over \$500 per month and over \$1000 per month for special needs children. Related costs include miscellaneous child needs, (clothing, school supplies, etc.) and supervised visitation services.
- The attorney costs associated with FCDC are only \$500 total for the length of a client's participation. The attorney costs for a regular CWS case ranges from \$2,500-\$5,500 from onset to termination.

***Why this drug court:***

- Participants are provided with an opportunity to enter into a successful recovery and create a sober support system for themselves and their children.
- FCDC accelerates the reunification process, so that children are not languishing in foster custody, bringing families together and saving the state money.
- FCDC averages 2 weeks or less between issuance of order for treatment/services and commencement of same. Regular CWS cases average 4.5 months between issuance of order for treatment/services and commencement. (This delay may also result in some parents not engaging in services at all or requiring additional treatment).
- FCDC assessment is more comprehensive and involves collateral interviews. This results in identification of issues that may not have been identified or identified much later, thus delaying reunification and case closure. This early identification allows for targeted early intervention/planning, thus enhancing the clients' chances for success. CWS assessments are brief and based on self report.
- Intensive family therapy, in the home or community, including nights, weekends and holidays, allows clients to engage and better utilize services. These specially trained therapists work with the client and their extended families to heal relationships, promote sober living, and interrupt the cycle of generational substance abuse.
- Participants are able to access substance abuse services quickly, when motivation is high.
- The program is holistic, not only focusing on substance use, parenting, and recidivism, but overall lifestyle changes. Employment and higher education are stressed throughout the program. Currently, 40% of program participants are attending college or working on their GED. These individuals not only have increased employment opportunities but also attain higher salaries and are able to be removed from the welfare system.
- We're out to build a recovery environment within our society. FCDC focuses not only on program participants as individuals, but as being part of a family system and the community.

Program ID/Title: Hawaii Drug Court Program  
Dept Contact: Janice Bennett Phone No: 441-8901

Mission or Program Objective:

To channel nonviolent, pretrial and post-conviction defendants, who would otherwise be incarcerated, into a comprehensive and integrated system of judicial and treatment services. The Program supports the goals of the Judiciary by enhancing public safety and ensuring the equitable and expeditious resolution of cases. The Hawaii Drug Court Program is based on the belief that addiction is chronic and individuals are prone to relapse. However, individuals must be held accountable for their behaviors. Interventions must correspond to the offender's risk to the community without compromising public safety.

MOF: State General Funds FTE(P)12 FTE(T) 3 FY09 Allocation \$991,036.00

Position #	Position Title	FTE
59440	Section Administrator - SR26	1.0
59484	Program Supervisor - SR24	1.0
59475	Treatment Counselor - SR22	1.0
59476	Treatment Counselor - SR22	1.0
59478	Treatment Counselor - SR22	1.0
59479	Treatment Counselor - SR22	1.0
59529	Treatment Counselor - SR22	1.0
59561	Treatment Counselor - SR22	1.0
59480	SW/Supervising Officer - SR22	1.0
59481	SW/Case Manager - SR22	1.0
59486	Social Service Assistant - SR11	1.0
59568	Social Service Assistant - SR11	1.0

Temporary Positions - Dual Diagnosis Treatment Track

500175	Social Service Aide - SR9	1.0
500176	Social Worker - SR22	1.0
500177	Social Worker - SR22	1.0

Statute/Constitution: Act 25 of 1995 Special Legislative Session

Performance Measures: Take from annual report or refer to changes in LSI-R scores noted in text.

Justification: See below.

Why? The Hawaii Drug Court Program is a collaborative effort between the Executive, Legislative and Judicial Branches, and the Honolulu Police Department to address the immediate and extensive needs of substance abusing felony offenders. According to The National Association of Drug Court Professionals Facts on Drug Courts (2008), Drug Courts bring the full weight of all interveners (judges, prosecutors, defense counsel, substance abuse treatment specialists, probation officers, law enforcement and correctional personnel, educational and vocational experts, community leaders and others) to bear, forcing the offender to deal with his or her substance abuse problems. The premise for establishing the Program is that the existence of an effective drug court program allows the criminal courts to process drug-related cases more effectively, thus allowing non-drug cases involving custody defendants to be disposed of in a more timely manner, thereby further reducing the length of pre-trial confinement for violent offenders.

As a unique service within the Judiciary, the program provides both immediate access to the courts through the dedicated drug court judge and immediate access to substance abuse and mental health treatment, in-community supervision, and intensive case management through in-house counselors and case managers. It is the only non-residential substance abuse treatment program for offenders that provides treatment for 18 to 24 months with no wait list. The program also provides legal benefits such as dismissal of charges, expungement of arrest, and early release from probation to successful graduates.

The alternative to participation in the Program would be probation supervision with a referral to a community-based substance abuse treatment program. The most significant differences between the drug court program and community-based treatment are: 1) the drug court program does not have a wait list, the admission process is initiated by defense counsel or probation officers, and treatment begins the day after the petition hearing; 2) successful completion means the dismissal of charges and expungement of arrest, or early release from probation; and 3) drug court participants remain in treatment even if they relapse which allows them to continue to address their substance use and criminal behavior.

#### The problem?

According to information provided by American University (2008), incarceration of drug using offenders costs between \$20,000 and \$50,000 per person, per year. The capital costs of building a prison cell can be as much as \$80,000. In contrast, the Hawaii Drug Court Program costs about \$4,000 per offender, per year, when fully staffed.

1. In 2008, Adult Client Services reported 6,779 felony probationers. About 1,700 were considered high risk for criminal recidivism and about 50% of these (850) are estimated to have substance abuse problems.
2. About 40% (340) of those with substance abuse problems also have a co-occurring mental health disorder ranging from schizophrenia and bi-polar disorder, to clinical depression and post-traumatic stress related to domestic violence and other trauma.
3. Unlike community-based programs, the drug court program is designed to provide not only substance abuse treatment, but also address the offender's criminal thinking and mental health needs.

#### What's in it for me? Benefits of continuing the program?

Since inception, the program has admitted 857, graduated 577 (65% completion rate), and terminated 195. In FY 2008, there were 85 active cases and the program collected more than \$33,000 in fines, fees, and restitution. As of December 2008, there are 92 active cases and 68 cases pending possible admission. At the time of graduation, 100% of the client are in stable, clean, and sober housing, and are employed or in school. These and other positive changes are captured in the reassessment scores. At admission, the average risk score for criminal recidivism is 27 (high risk) and the average protective score is 13 (low). At the end of 18 months, the average risk score has been reduced by 48% (13), and the protective score has increased by 43% (30). In contrast, were these cases in the general probation population, a risk score of 13 and a protective score of 30 would qualify the case for banking, the lowest form of supervision.

#### How do I do this?

1. Drug Courts Work! The Hawaii Drug Court Program takes high risk offenders and provides 18 to 24 months of intensive substance abuse treatment and supervision using a cognitive-behavioral approach that result in changes so dramatic that many cases would qualify for banking, the lowest form of probation supervision.

2. The drug court program is designed to be a one stop shop. No other substance abuse treatment program provides such a diverse and intensive array of services:

- Intensive outpatient substance abuse treatment which also addresses the offenders' criminal thinking and criminal behavior,
- Intensive case management which includes employment and vocational assistance, referrals to and monitoring of clean sober housing, and the monitoring of payments regarding court-ordered fines, fees, and restitution,
- In-community supervision through voice identification curfew monitoring, electronic monitoring devices, and frequent and random testing for drug and alcohol use, and
- Close judicial supervision with immediate access to court-ordered sanctions for relapse or criminal behavior.

3. The Hawaii Drug Court Program was established by Act 25 of the 1995 Special Legislative Session. It has been in continuous operation since then.

4. Eliminating the Hawaii Drug Court Program would result in:

- 160 felony offenders (treatment capacity of the program when fully staffed) being sentenced to probation or prison. If sentenced to probation, they would still need treatment, thus flooding the community-based providers. If not sentenced to probation, these individuals may be sent to prison, thus adding to the problems of overcrowding and overtaxing of the limited substance abuse treatment resources in custody facilities.
- 12 lost positions. The Program is currently staffed by one administrator, one supervisor (vacant/frozen), six counselors, one social worker/case manager, one social worker/supervising officer, and two social service assistants. 50% of the clinical staff are State Certified Substance Abuse Counselors and as such, provide the Judiciary with substance abuse treatment expertise.

## The Judiciary, FB 2009 - 11 Program Justification

Program I.D.: 320

Program Title: Maui/Moloka'i Drug Court

Dept. Contact: Barbara-Ann Keller, Administrator Phone No.: (808)442-3851

### ***Mission or Program Objective:***

The mission of the Maui/Moloka'i Drug Court Program (MDC) is to channel non-violent pre-trial and post-conviction substance-abusing defendants, who would otherwise be incarcerated in Hawaii's correctional system, into a comprehensive and integrated system of judicial and treatment services effective with substance-abusing offenders.

### ***Program Budget***

MOF: General Funds FTE(P) : 14 FTE(T) 0 FY09 Allocation: \$1,556,524

1 - SW VI, #500015

2 - SW V #s500179, 1 New, # not yet assigned

2 - Drg Crt SAC IV, New, # not yet assigned

5 -Drg Crt SAC III, Pos.#s 59746, #500099,

#500138,#500185,#500269

2 - Drg Crt SAC II, Pos. #s 59747, #500098

2 - Jud Clk II, #s500104, 1 new, # not yet assigned

**Statute/Constitution :** HRS 706-605.1 "The judiciary shall implement alternative programs that place, control, supervise and treat selected defendants in lieu of a sentence of incarceration."

### ***Performance Measures***

- Reduce recidivism and drug use
- 84% of graduates (including those who have graduated since 2001) have not been convicted of another offense. This statistic is based upon continuing review of Judiciary criminal justice data to maintain accuracy and validity.
- MDC statistics show that the average amount of time that graduates had negative testing results has been 584 days.
- Assist clients to become productive members of the community, re-establish supportive relationships with their families, and complete their court ordered obligations to the community and victims. Prior to graduation, all clients are required to:
  - Complete a minimum of 30 hours of service within the community/communities where the graduate committed the crime or in the victims' community.
  - Maintain full-time (35 hours or more) payroll employment or be attending college full-time (12 credits or more) for a minimum of 12 weeks prior to graduation.
  - Attain a minimum of a high school diploma or high school equivalency if not already having one.

- Complete all outstanding probation obligations in full including restitution unless a free-standing order is approved by the Court. The MDC statistics show that graduates in FY 2008 paid over \$27,000 in fines and fees which went into the State of Hawai'i General Fund.

**Justification:** "The Judiciary's usual way of doing business has not been as effective as drug courts with substance using criminal offenders"

√Crime:

- The MDC has a 16% recidivism rate. This includes close to 300 graduates since the first graduation in 2001. Recidivism is defined as conviction of any other criminal offense.
- The State Attorney General's Office recently disclosed that the recidivism rate for those on probation or parole has been more than 50%.
- Based upon the above comparison, the Judiciary's usual way of doing business is not as effective as drug courts.

√Rehabilitation:

- MDC has a completion rate of 60%, individuals receive on average treatment for 546 days.
- Nationally, the rate of completion of outpatient substance abuse treatment is 36% with individuals receiving an average rate of 46 days of treatment (SAMSHA, *Treatment Episode Data Set [TEDS 2005] Discharges from Substance Abuse Treatment Services*).
- Based upon the above comparison, the usual way of sending individuals to treatment is not as effective as drug courts.

√Cost effectiveness:

- Drug courts cost about one-fifth of the amount of keeping an individual in-custody. Incarceration costs almost \$30,000/year per individual.
- The average length of drug court is less than 2 years vs. an average 5 years of probation.
- Based on the information above, the Judiciary's usual way of doing business is not as cost effective as drug courts.

√What's special about the Maui/Moloka'i Drug Court vs. other drug court programs:

- MDC is the largest drug court within the entire state of Hawai'i. The program has maintained a wait list of individuals of 80 - 110 individuals consistently, even though being the largest in the State.
- The program continues to admit individuals that are severely mentally ill, those that have failed at all other programs, and those with the greatest needs.
- Employment and higher education are stressed throughout the program. Currently, 24% of program participants are attending college. These individuals not only have increased employment opportunities but also attain higher salaries. Only payroll employment is accepted. Often, individuals find themselves working their first non-cash paying job. With these payroll positions come payment of State and Federal taxes providing funds back into our communities.
- MDC focuses not only on program participants as individuals, but as being part of a system. Currently, 100 children are parented by program participants. The program continues to have a total of 80 or more adults (not current program

participants) attending bi-monthly "Friends and Family" group sessions to attain education and support, and to decrease the occurrence of generational substance use.

- Healthy lifestyles are concentrated on including smoking cessation, attaining health insurance, and regular physical and dental check-ups so long-term health costs decrease.

The Judiciary, FB 2009-11 Program Information

Program ID:330 (JUD 1009) Program Title: Big Island Drug Court, Third Circuit (Hilo and Kona)

Department Contact: Warren Kitaoka  
Drug Court Coordinator

Phone Number: 808 938-6466

MOF  
State Funding

FTE(P): 10  
Adult  
00059743 SW VI  
00011995 SW V  
00500111 SW IV  
00500110 SW IV  
00500112 SW IV  
00500025 SW II  
00500010 Clerk III  
00059742 Clerk III  
Juvenile  
00500113 SW IV  
00500012 SW IV

FY 2009 ALLOCATION:  
\$712,515

**PROGRAM OBJECTIVE:** The mission of the Big Island Drug Court (BIDC) is to help address societal problems related to substance abuse in order to minimize their societal and economic costs, and to protect the Big Island community by providing timely and effective treatment for drug offenders with appropriate sanctions and incentives.

**LEGISLATION**

In December of 1999, Senate Concurrent Resolution No. 26, S.D. 1, requesting the Judiciary to Study the Feasibility of Establishing Drug Court on the Island of Hawaii (Big Island), was adopted. The Concurrent Resolution noted the significant increase in the number of drug courts nationwide, recognized the success of Hawaii's current drug court program, and identified an immediate need to expand Hawaii's Drug Court Program beyond the City and County of Honolulu to address drug use in other areas of the State. The Concurrent Resolution further acknowledged that establishing Drug Court on the Big Island would help to address the growing number of substance abuse cases in the county.

On January 28, 2000, the Chief Justice of the State of Hawaii, Ronald T. Moon, signed a Supreme Court Order of Appointment creating a Drug Court Coordinating Committee to assist in planning and enhancing drug courts throughout the State.

The Court was established in part to comply with Hawaii Revised Statutes 706-605.1 "The judiciary shall implement alternative programs that place, control, supervise, and treat selected defendants in lieu of a sentence of incarceration."



## OVERVIEW OF DRUG COURTS ACROSS THE NATION

Two-thirds of all adults arrested test positive for illicit drugs at arrest and the national recidivism rate for drug offenses is nearly 67%. According to SAMHSA 2007, 22.6 million Americans abuse or are dependant on alcohol and/or illicit drugs.

- 2,000 drug courts in existence or being planned across the nation. In 2005, more than 20,000 clean, sober, and law-abiding clients graduated from drug courts across the country.
- Treatment Research Institute at the University of Pennsylvania concluded that, to put it bluntly, we know that drug courts outperform virtually all other strategies that have been used with drug-involved offenders.
- Columbia University's historic analysis of drug courts concludes that drug use and criminal behavior are substantially reduced while offenders are participating in drug court.
- The U.S. Government Accountability Office (GAO) concludes after an extensive review that drug court programs substantially reduce crime by lowering re-arrest and conviction rates among drug court graduates well after program completion.

## OVERVIEW OF THE BIG ISLAND DRUG COURT

The BDC program is unique as it provides a so-called One Stop Drug Court Concept that services adults, juveniles, and their families. BDC implemented operations island-wide (Hilo and Kona) in October 2002 (adults) and March 2005 (juveniles). The BDC program is a one-year minimum for both adults and juveniles which provides a continuum of comprehensive services, substance abuse treatment, and intensive judicial supervision. The BDC adult program services a hundred (100) clients and the juvenile program services sixteen (16) clients island wide.

Both BDC adult and juvenile programs maintain the Core Goal of the Judiciary regarding quick disposition of criminal cases and immediate sanctions or warrants are issued for public safety concerns. Presently, both BDC adult and juvenile programs handle the most serious cases from both Circuit Court and Family Court judges. The majority of the adult referrals from Circuit Court judges are cases where a defendant's probation is being revoked and the defendant is given a so called last chance to turn their life around or be sent to prison. The Family Court judges also refer juveniles who are in need of more intensive judicial supervision, in secured detention facilities, or are facing commitments to these facilities (DH or HYCF).

## PERFORMANCE MEASURES

All adult and juvenile graduates have to obtained a CB, GED or high school diploma; establish stable living for 10-12 months; employed 3-5 months; paid off all fines, fees, and restitution; and are clean and sober.

### Program Outcomes:

- Adult clients graduated: 85
- Recidivism rate for adult graduates: 7.06%
- Juvenile clients graduated: 10
- Recidivism rate for juvenile graduates: 0%
- Drug free babies: 9

## COST SAVINGS AND REVENUES

- Unlike the national average of 50-60% recidivism rate for other criminal justice supervision programs, the BIDC program's recidivism rate of the 85 graduates is 7.06%. This is even more astonishing when you consider that the program is dealing with the most difficult offenders who are either facing a prison term or given a so-called last chance. This saves the State of Hawaii the high cost of imprisonment.
- Restitution and fines paid by clients: Over \$150,000

## JUSTIFICATION

Substance abuse continues to be a problem nationally and statewide. Research indicates that drug courts outperform virtually all other strategies that have been used with drug-involved offenders by the criminal justice system. Furthermore, the benefits of drug court programs are astounding in terms of saving money, reducing crime, and producing recovering tax-paying citizens. With over 2,000 drug courts nationwide, states are looking to ensure that drug courts exist as a hallmark of the criminal justice system rather than looking to eliminate them.

## ATTACHMENT 1 THIRD CIRCUIT DRUG COURT COMMUNITY SUPPORT

The BIDC program has a very active Friends of Big Island Drug Court (501c3 non-profit organization) which assists both adult and juvenile clients with financial loans and grants to assist with housing/rent payments, tools for employment, tuition, essential clothing, airfare for travel for emergencies, and incentives for the clients. Due to the BIDC success, the Friends has received funds from various community organizations and private individuals, and the County Council approved a grant from the County of Hawaii.

Due to the support of the community, the clients and alumnus of the BIDC program has been willing to give back to the community. BIDC program clients have performed community service projects such as cleaning and repainting of rural courthouses in the Puna and Kohala District, Kawaihae Homeless Shelter Project, Hawaii Island Food Bank collection, and assisting the PTSA of Konawaena High School with painting of the library.

### ACCOMPLISHMENT

1. Employment: BIDC clients have been awarded Employee of the Week, Month and Quarter, and also been promoted to supervisors and managers with local as well as nationally recognized business establishments.
2. Education: A BIDC client is a member of the Phi Theta Kappa, the National Honor Society of 2 year colleges for her outstanding academic recognition. Other BIDC clients have earned Honor Roll status at the community college and college level.
3. National Representation: A BIDC juvenile client was selected to represent that State of Hawaii at Washington D.C. for a National Network For Youth Symposium. The client did so well at the symposium that the congressional delegation that attended the symposium awarded her a Proclamation for her achievement and representation.
4. State Award: A BIDC juvenile client was a Honorable Mention selection for the 2008 Hawaii Spirit of Youth Award who has made great strides despite involvement with the juvenile justice system. This award acknowledges an individual who exemplifies the importance of the rehabilitative focus of the juvenile system, as well as the power of personal achievement.

### STATEMENT OF GRADUATES:

- From the moment I step into drug court, I knew it would change my life forever. Staff was sincere and wanted me to succeed but they wouldn't do it for me. I got sanctioned along the way, but that didn't make me want to go back to drugs.
- Drug Court saved me. I would have been in prison. I was like rock bottom. Now I'm on top.
- I'm just happy that there's drug court cause it's a positive thing. They're not there to catch you using drugs. They're here to help you.
- Drug Court not only kept me off drugs and alcohol, it rebuilt my life. If not, I'd be locked up, no job, no kids, no family.
- Drug Court is a good thing and changed my life. If I wasn't in Drug Court, I'd be still using and not have my life together and my family.

## The Judiciary, FB 2009-11 Program Justification

Program ID 350

Program Title: Kaua'i Drug Court

Department Contact: Alton Amimoto

Phone: 808-651-4502, 808-482-2365

Mission Objective: The mission of the Kaua'i Drug Court is to divert non-violent substance abusing offenders to treatment and rehabilitation as an alternative to incarceration by providing a cost effective system that keeps substance abusing offenders productive and reduces recidivism while involving the community in the process.

### Program Budget:

MOF	FTE (P)	FTE (T)	FY 09 Allocation
State Funds	Six	None	\$611,952
	5978 SW VI		
	500198 SW IV		
	500199 SW IV		
	59749 SW IV		
	500033 CSAC		
	59750 Clerk II		

Statute/Constitution: The Kaua'i Drug Court was established in 2004 to comply with Hawaii Revised Statutes 706-605.1 "The judiciary shall implement alternative programs that place, control, supervise and treat selected defendants in lieu of a sentence of incarceration."

Performance Measures: All Drug Courts have participated in data collection and analysis, this material is available upon request.

### Facts of the Kaua'i Drug Court:

- We have had 61 adult graduates. Of these 61, one has been re-convicted of a felony drug offense. We have had five juvenile clients graduate. None of the juveniles have been arrested for any felony level drug offense.
- Currently, we have 51 adult clients, with about four undergoing evaluation for program consideration. We have four juvenile clients.
- We have had at least four children born of parents while in the program, and have clients that are pregnant and/or have children.
- Each client that is not incarcerated (50+) saves about \$100 per day in prison expenses. So roughly, Drug Court saves \$5,000 per day in imprisonment costs. Every successful graduate saves the state untold thousands of dollars.
- If Drug Court were to be cut, our client population would be transferred to regular probation or incarcerated at a state facility. Both probation and jail are overcrowded.
- Additional information, clarification and references can be supplied if needed. Please contact program coordinator Alton G. Amimoto at (808) 651-4502 or at [Alton.G.Amimoto@courts.state.hi.us](mailto:Alton.G.Amimoto@courts.state.hi.us).

The Judiciary, FB 2009-11 Program Justification

Program ID: 310  
Dept. Contact: Joel A. Tamayo

Program Title: Juvenile Drug Court  
Phone No: 534-6588

Mission or Program Objective: To channel non-violent, adjudicated minors in the juvenile justice system who would otherwise be incarcerated in Hawaii's correctional system, into a comprehensive and integrated range of judicial and treatment service.

Program Budget

MOF	FTE(P)	FTE(T)	FY09 Allocation
State Funds	00500044 SW VI	05305 JC I	\$899,212
	00059656 SW V	05306 JC1	
	00500046 SW IV		
	00500047 SW IV		
	00500048 SW IV		
	00500049 SW IV		
	00500050 SW IV		
	00500051 SW IV		

Statute/Constitution: HRS 706-605.1 "The judiciary shall implement alternative programs that place, control, supervise and treat selected defendants in lieu of a sentence of incarceration."

Performance Measures:

- In a three year study (from July 2005 to June 2008), a recidivism rate of 16.7% has been documented for minors who graduated from the JDC program. A success rate of 83.3% is recorded.
- In a three year study (from July 2005 to June 2008), a recidivism rate of 33.33% has been documented for minors who were terminated from the JDC program. This is still a success rate of 66.67% who has not posted new convictions even after termination from the program!
- Since the inception of the JDC program on August 2001, a recidivism rate of 16% has been documented. That's a success rate of 84%!
- At the time of screening, almost all of the minors are neither in school or employed. All those screened need their High School Diploma or GED.
- At the time of graduation, 100% of them are either in school, in college or employed or has earned their high school diploma, GED, or CBase, or employed.

JUSTIFICATION: Success rates for JDC graduates are high, recidivism is low. Success rates for minors who were terminated from JDC appears high and recidivism rate is low (66.67% post no new convictions). It is apparent that they kept the positive skills they learned in the JDC program and used these skills even after termination from the program. The cost to put one minor in the JDC program is \$41 per day. The cost of

sending one minor to HYCF would be significantly higher although no daily cost for HYCF is available at this time. Therefore, a significant cost savings per client accrues to the state as a result of this program.

Since 2001, the Juvenile Drug Court Program provides early and consistent intervention for non-violent juvenile status offender and law violators who are drug abusers and diverts the juvenile from further involvement with the criminal justice system through a unique collaboration of judicial involvement and comprehensive treatment interventions.

Juvenile Drug Court is different and unique from other programs in a way that it combines both treatment and judicial services. The Juvenile Drug Court enables minors to pursue intensive judicial supervision and rehabilitation obtained during adjudication of status offenses and/or law violations. The drug court provides an invaluable alternative to lengthy court trials and incarceration of drug offenders, offers treatment that will prevent continued abuse and also serves as an example of the benefits of cooperation between government entities and the community in addressing a complex and vexing problem. JDC fosters and supports the integrity and collaboration of treatment and judicial services.

The aim of the Drug Court is to enhance the effectiveness of Hawaii's juvenile justice system and its substance abuse service delivery system and treatment through: 1) early intervention and increased diversion from incarceration to Hawaii Youth Correctional Facility and/or the adult prison system; 2) individualized assessment of drug problem; 3) increased access to continuum of drug treatment options – from routing urine testing to residential treatment and aftercare; and 4) judicial tracking and increased judicial involvement in monitoring treatment participation with the use of incentives for compliance and graduated sanctions for noncompliance.

- In a three year study (from July 2005 to June 2008); a recidivism rate of 16.7% has been documented for those who graduated. This is an 83.3% success rate.
- In a three year study (from July 2005 to June 2008); a recidivism rate of 33.33% has been documented for who were terminated from the JDC program. This is a success rate of 66.67% who has not posted new convictions even after termination from the program!
- Since the inception of the JDC program on August 2001, a recidivism rate of 16% has been documented. That's a success rate of 84%!
- Services provided by the Juvenile Drug Court program cost the state \$41 per day per minor, much less than if they were at HYCF.
- Currently, the JDC program has 20 minors who have been sentenced to HYCF via a stayed mittimus or who were incarcerated prior to entering the JDC program.

The JDC provides opportunities to juvenile offenders who abuse alcohol and other drugs to be treated in the community with minimal cost, decreasing the need for

incarceration. Successful intervention by the JDC is expected to have long term effects on prison overcrowding, probation and parole workloads, and case flow through the judicial system. The juvenile justice system also benefits. For the courts, there is the potential of earlier disposition of cases and fewer cases reaching trial status. For the correctional facility, fewer individuals will require detention or incarceration. Costs for these institutions are reduced and space can be used for those who truly require long term incarceration.

Cutting the JDC program may possibly transfer the cost to the core programs of Family Court – Intake and Probation Unit and Person In Need of Supervision Unit. With the possibility of a program cut, the minors will be transferred back to these core units. With this transfer back to the core units the integrity of the judicial services will be compromised. This will include an increase in the court calendar, an increase in the probation officer's caseload, and possible burden to the detention and prison facilities due to the high number of minors waiting for treatment placement in the community. This will also put a strain on the detention facility which would increase the cost to supervise the minors by increasing manpower and/or overtime pay. The detention facility would also lack the space to house these minors thus breaching a federal mandate to house minors in a suitable setting. Appropriate placement to the community resources may take a minimum of 2 weeks to be placed and possibly up to 2 months.

Immediate sanctions would also be compromised. It may take two to three weeks to have a minor calendared to appear before the Judge after committing an offense. It may take longer if the minor contests such offenses, thus postponing the sanction which demises the authority of the Judge and probation officer. Significant time and resources will have been spent before action will take place for the minor. With the JDC program, instant judicial and treatment services are addressed immediately and accordingly. This saves time and money and ultimately prison and detention space.

Immediate incentives and rewards are given, too to recognize good behavior at the JDC program. The JDC program follows evidence-based and best practices to ensure the minor responds accordingly. This provides a greater chance of success and achievement. Incentives range from verbal accolades to tangible incentives like gift cards. A minor in a "regular" court calendar only appears before the judge if an offense has been committed and is never calendared to appear before the judge if good behavior arises. Recognition for good behavior is desirable to increase the minor's achievement. When this is done, the cost is immeasurable. When a child is recognized for their achievements it benefits their parent(s), the school, the courts, and ultimately the community. The JDC program benefits from using this practice.

The Judiciary, FB 2009-11 Program Justification

Program ID

Program Title: Kaua'i Drug Court Juvenile Program

Department Contact: Alton Amimoto

Phone: 808-651-4502, 808-482-2365

Mission Objective: The purpose of the Kaua'i Drug Court Juvenile Program (KDCJP) is to reduce substance abuse and crime among juveniles, and to strengthen their 'Ohana by providing intensive judicial supervision with developmentally and culturally appropriate therapeutic interventions.

Program Budget:

MOF	FTE (P)	FTE (T)	FY 09 Allocation	
State Funds	Six	None	Payroll	\$431,952
			Other Funds	180,000

*Please note that funding for the juvenile program is incorporated in the adult budget; these are the same personnel doing both the adult and juvenile programs.*

Position Descriptions: Attached

Position Numbers:

Social Worker VI Position Number 59748

Social Worker 4 (3) Position Numbers 500198, 500199, 59749

Drug Court Certified Substance Abuse Counselor Position Number 500033

Judicial Clerk II Position Number 59750

Statute/Constitution : The Kaua'i Drug Court was established in 2004 to comply with Hawaii Revised Statutes 706-605.1(4)(a).

Performance Measures: All Drug Courts have participated in data collection and analysis, this material is available upon request.

Facts of the Kaua'i Drug Court Juvenile Program:

- We have had 5 juvenile clients graduate. None of the juveniles have been arrested for any felony level drug offense. We have 4 juvenile clients currently active.
- Frequent drug testing and intensive supervision are standard tenets of the Juvenile Program. School visits are regular, and are combined with GPS monitoring when deemed necessary.
- Working in conjunction with Family Court and the Mokihana Project (DOE, DOH), the Drug Court adds more enforcement into the treatment regimen specified by the team. Violations of rules mandated by the team can result in eventual detention. Positive behavior results in incentives such as gift certificates and movie passes being given to the clients. The incentives are provided by a non profit group, the Friends of the Kaua'i Drug Court.
- If we were to be cut, our client population would be transferred to regular probation, or incarcerated at a state facility, or set free.
- Additional information, clarification and references can be supplied if needed. Please contact program coordinator Alton G. Amimoto at (808) 651-4502 or at [Alton.G.Amimoto@courts.state.hi.us](mailto:Alton.G.Amimoto@courts.state.hi.us).



The Judiciary, FB 2009-11 Program Justification

Program ID: 310

Program Title: Juvenile Sex  
Offenders Unit

Dept. Contact: Russell Ho

Phone No.: 539-4473

Mission or Program Objective:

To ensure that sexually abusive youth are supervised and receive sex offender treatment to prevent future recidivism

MOF	FTE(P) 6	FTE(T)	FY09 Allocation
State General Funds	500201 SW V		\$385,888
	500202 SW IV		
	500203 SW IV		
	500204 SW IV		
	500205 SW IV		
	500206 SW IV		

Statute/Constitution: None

Performance Measures: None

JUSTIFICATION:

Scenes of explicit sexuality in theaters, television shows, and on the internet result in youth that sexually act out because they believe that these are behaviors and attitudes that are accepted in society. Youthful offenders that have gone untreated have become adult offenders that continue to prey on other victims in the community.

In the year 2000, juvenile sex related crimes appeared to be on the rise. This new area of dealing with sex offenders was a relatively new focus of concern and there was limited national literature on the dealing with these offenders in the juvenile arena. Two probation officers were assigned to begin work on these specific types of cases and to establish specific procedures to deal with sex offender cases in our court system. Their function would be to process these cases thru the Family Court judicial system, and to assess and evaluate the risks and needs for treatment of this population of juvenile sex offenders on Oahu. Research has indicated that juvenile offenders may be more responsive to treatment due to their emerging development, and they would benefit from the involvement of parents, care givers, and family members.

All the youth that have been referred for sex offenses participate in a clinical assessment. If deemed necessary, they are further involved in a psychosexual assessment to determine their risk of re-offending and/or whether they can be safely integrated into the community for treatment or if they require residential treatment. As a result, 80% have been determined to be in need of out-patient counseling and are supervised and treated in the community at a lower cost to the state.

Minors that are at risk and not amenable to services are sometimes committed to the Hawaii Youth Correctional Facility. To maintain these youths at the facility, the cost factor is approximately \$227 a day/\$18,000 annually. For youths that need residential treatment, Hawaii

utilizes two treatment facilities in this state: 1) Benchmark (locked residential treatment program) which has 10 beds at the cost of \$18,000 per juvenile (Note: This program is used by all juvenile circuits in the state and is always at capacity for the 10 month/24 month treatment.), and 2) Catholic Charities E Hou Hou Program (unlocked residential treatment program) which maintains 5 beds at a cost of \$15,000 per juvenile.

In 2004, a permanent unit was established to handle juvenile sex offenders. Two dedicated Family Court Judges and the specialized probation officers ensure compliance with therapeutic requirements and the evaluations have assisted the court to identify appropriate types and levels of care for this population. Juvenile Sex Offender cases are complex. Many times, the victims could be siblings, cousins, relatives, neighbors, or friends. Our statistics indicate that 50% of all our victims were 12 years-old and younger. Damage to these family dynamics are sometimes irreparable due to the family member victimization. Probation Officers not only try to assess and provide treatment to the offender, but are also involved with the family, neighbors, prosecutors, public defenders, outreach counselors in protecting the interests of the victim.

Probation Officer's work specifically with these cases and their families for a possible return after treatment to their home with an approved safety plan that ensures the protection of the victim, as well as the community. Presently, the four probation officers average 27 cases to supervise. Of the total, 14 cases are in residential placement.

**Geographic Composition (Since 2000):**

Gender:        Male - 267     Female - 6                    Total: 273 Juvenile Sex Offenders

**Residence of offender**

Central	Honolulu	Leeward	Windward	Total
49 (18 %)	66 (24 %)	123 (45 %)	35 (13 %)	273 (100 %)

**Age of offender**

10	11	12	13	14	15	16	17	Total
3 (1 %)	16 (6 %)	14 (5 %)	45 (16 %)	58 (21 %)	59 (23 %)	51 (18 %)	27 (10 %)	273 (100 %)

Based on the above, we would recommend the continuation of servicing cases with juvenile sex offenders. The specialized unit focuses on this special population but is not limited to only the offender. Safety of the community and the victim is always a standard that is considered when handling all cases.

Intensive supervision has proven successful in the development of the unit. 260 cases have been handled since 2000 with a 5% recidivism rate. This success rate rated favorably compared to the national norm which exceeded this number.

The Judiciary, FB 2009-2011 Program Justification

Program ID: Jud 310

Program Title: Probation Modification Project or  
Hawaii's Opportunity Probation with Enforcement  
(HOPE)

Department Contact: Janice Yamada

Phone #: 539-4527

Mission or Program Objective: HOPE offers an alternative to incarceration through swift and certain sanctions for probation noncompliance and effectively reduces the filings of Motions to Revoke Probation with underlying prison terms of up to 20 years. Support staff composed of probation officers, social service aides and part-time research aides have enabled the application of evidence based practices; random urinalysis testing; and the ongoing capacity to evaluate effectiveness. HOPE is applied to the highest risk of offender categories: sex offenders, domestic violence offenders, and high risk offenders who are failing on probation.

Program Budget:

MOF: Legislative appropriated funds

FTE (T): Position #: 500286 (Social Worker IV)  
Position #: 500287 (Social Worker IV)  
Position #: 500288 (Social Worker IV)  
Position #: 500289 (Social Worker IV)  
Position #: 500283 (Social Service Assistant IV)  
Position #: 500284 (Social Service Assistant IV)  
Position #: 500285 (Social Service Assistant IV)

PTE (T): Position #: 500297 (Research Aid)  
Position #: 500298 (Research Aid)  
Position #: 500297 (Research Aid)  
Position #: 500297 (Research Aid)

FY09 Allocation: \$1,245,118.00

Statute/Constitution: HRS 706-605.1 "The judiciary shall implement alternative programs that place, control, supervise and treat selected defendants in lieu of a sentence of incarceration."  
Act 120, Session Laws of Hawaii, 2006 – provides line item funding for this program

Performance Measures: Number of Clients in Program  
Number of Appointments Per Client  
Number of Appointments Missed  
Percent of Appointments Missed  
Missed Appointment Change Rate  
Number of Urinalysis Scheduled per Client  
Number of Positive Urinalysis  
Percent of Positive Urinalysis  
Positive Urinalysis Rate Change

## Justification:

Hawaii's Opportunity Probation with Enforcement (HOPE) has received national attention because it is an innovative way to keep the highest risk probationers (sex offenders, domestic violence offenders and high risk drug offenders) compliant with the terms and conditions of their probation. More importantly, HOPE has provided an effective alternative to costly incarceration through swift and certain sanctions for probation noncompliance and has effectively reduced the filings of Motions to Revoke Probation which could result in prison terms of up to 20 years. The cost savings to have a convicted individual supervised on HOPE probation as opposed to placement in prison is significant. In Hawaii, the average cost to supervise an individual on probation is \$1.82 per day while Public Safety expends \$126.00 per day to maintain someone in prison and provide institutional programming.

Preliminary data from a HOPE study being done by researchers at Pepperdine University and the University of California, Los Angeles (UCLA) show new arrests for probationers in the control group to be 110% higher than the HOPE group. It appears that probationers monitored on the HOPE program have many fewer new arrests resulting in extremely high cost savings for the State of Hawaii.

Public safety is a major issue in Hawaii and we are always striving to have our probationers become productive and responsible citizens. Since HOPE began in 2004, as a pilot project initiated by Judge Steven Alm, 1,648 probationers have gone through the program and 1,369 are currently active (see Attachment A). All probationers are given a warning hearing where they are told what is expected of them and the consequences of non-compliance. If a probationer misses an appointment, has a positive drug test, or fails to attend treatment, he/she faces a bench warrant, immediate arrest, and a court hearing within 48 hours. At the court hearing, he/she is usually given a short jail term as a swift and certain consequence. Those individuals who are employed are initially given weekend jail terms so they do not miss work. All HOPE clients have random drug testing and must call in to a hotline on a daily basis to learn if they need to provide a urine sample. This is a plus for employers to know that their employees are going to work drug free which in the long term will save them time and money.

Previous probation practices of addressing numerous violations in a revocation hearing were ineffective and did not significantly impact behavior changes. In a 42 month HOPE study done by the State of Hawaii Attorney General's Office of the High Intensity cases, the process of pairing the violation with an immediate consequence through a Motion to Modify showed a 92.1% reduction in missed appointments and a 96.1% reduction in positive drug tests. By contrast, the control group, composed of non-HOPE offenders, had only a 14.3% reduction in missed appointments and no change in positive urinalysis (see Attachment B). Attachment C shows that the HOPE High Intensity cases combined with the Domestic Violence cases showed a missed appointment reduction of 92.1% and a 96.1% reduction in positive drug tests.

These positive results suggest an increased effectiveness and accountability of the probation system. HOPE probation staff work more closely with their offenders using motivational interviewing and cognitive behavioral therapy to effect offender change.

By staying sober, working with their probation officer, and attending treatment, HOPE Probationers have a better chance to change their thinking and attitudes and thus promote long term change.

## HOPE Probation Study Groups "Hawaii's Opportunity Probation with Enforcement"

Source: Crime Prevention & Justice Assistance Division, Department of the Attorney General, State of Hawaii

Judge	High Intensity (HI)		Domestic Violence (DV)		Regular Probation			TOTAL	
	Active	Closed	Active	Closed	Active	Closed		Active	Closed
Judge Ahn	58	24	7	0	40	5	0	105	29
Judge Alm	384	110	57	8	123	11	2	564	129
Judge Border*	1	0	111	14	0	0	1	112	14
Judge Chan	69	17	2	1	17	1	0	88	19
Judge Lee	91	20	8	1	43	6	0	142	27
Judge Nishimura*	5	0	50	23	0	0	1	55	23
Judge Pollack	180	19	21	0	16	4	0	217	23
Judge Town	2	1	1	0	2	0	0	5	1
Judge Wilson	39	7	3	1	39	6	0	81	14
<b>TOTAL</b>	<b>629</b>	<b>158</b>	<b>260</b>	<b>48</b>	<b>280</b>	<b>33</b>		<b>1,369</b>	<b>279</b>
							<b>District Court Cases</b>	<b>167</b>	<b>37</b>

\*Circuit Court Judge w/ District Court Cases

Control Groups	Active	Closed	TOTAL
High Intensity (HI)	6	72	78
Regular Probation	137	25	162

Maui Probation	Active	Closed	TOTAL
HOPE Cases	102	0	102

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# HOPE Probation

## PO Appointments & Urinalyses, High Intensity Cases: Study Group vs. Control Group

Source: Crime Prevention & Justice Assistance Division, Department of the Attorney General, State of Hawaii

Study Group							Control Group							
6 Months	506	11,863	23.4	218	1.8	12.2	-85.0%	22.5%	7.1	8.7	80	13.3	915	69
12 Months	318	11,048	34.7	150	1.4	11.0	-87.6%	2.4%	5.8	5.9	79	24.6	1,330	54
18 Months	78	3,831	46.6	46	1.3	12.0	-89.5%	12.0%	5.3	6.0	93	35.5	1,561	44
24 Months	26	1,322	50.8	17	1.3	5.0	-74.5%	38.6%	4.5	6.3	81	44.6	1,293	29
30 Months	12	700	58.3	3	0.4	4.3	-90.0%	-0.7%	10.5	10.5	23	36.7	220	6
36 Months	8	457	57.1	1	0.2	3.6	-94.0%	-52.0%	22.2	10.7	13	40.7	122	3
42 Months	5	340	68.0	1	0.3	3.7	-92.1%	-14.3%	7.7	6.6	6	45.5	91	2
<b>Urinalyses</b>	<b># Clients</b>	<b># UAs Sched</b>	<b># UAs per Client</b>	<b># Pos UAs</b>	<b>% Pos UAs</b>	<b>% Positive (Pre-Study Baseline)</b>	<b>Positive UA Rate Change</b>	<b>Positive UA Rate Change</b>	<b>% Positive (Pre-Study Baseline)</b>	<b>% Pos UAs</b>	<b># Pos UAs</b>	<b># UAs per Client</b>	<b># UAs Sched</b>	<b># Clients</b>
6 Months	508	6,755	13.3	311	4.6	46.5	-90.1%	-3.9%	27.5	26.4	56	3.1	212	69
12 Months	318	6,315	19.9	229	3.6	41.1	-91.2%	-29.1%	27.9	19.8	64	6.0	324	54
18 Months	78	2,371	30.4	62	2.6	31.1	-91.6%	-31.8%	29.1	19.8	79	9.0	398	44
24 Months	26	764	29.4	17	2.2	25.7	-91.3%	-40.6%	25.0	14.9	41	9.5	276	29
30 Months	12	412	34.3	5	1.2	31.3	-96.1%	100.0%	0.0	5.1	4	13.0	78	6
36 Months	8	247	30.9	4	1.6	62.5	-97.4%	0.0%	0.0	0.0	0	12.3	37	3
42 Months	5	205	41.0	4	2.0	50.0	-96.1%	0.0%	0.0	0.0	0	13.5	27	2

Abbreviations: Appts = Appointments PO = Probation Officer Pos = Positive Sched = Scheduled UAs = Urinalyses

The blue-shaded cells indicate that, as compared to their counterparts in the Control Group, Study Group clients with 42 months of project exposure were on average scheduled for 49.5% more appointments, and 203.7% more UAs. It is also important to consider that UAs are scheduled randomly for the Study Group (clients receive only a few hours' notice) but in advance for the Control Group (clients receive approximately one month's notice). This arguably lends additional weight to the dramatic reduction in the rates of positive urinalyses for the Study Group (see the red-shaded cells).

Reductions in group size as project exposure durations increase reflect the loss of clients in the Control Group (due primarily to sentence expirations and transfers to the HOPE Project) and similar losses and, in particular, additions to the Study Group. The additions account for the comparatively larger proportions of Study Group clients with shorter project exposure periods (clients have not been added to the Control Group since the start of the project).

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# HOPE Probation

## PO Appointments & Urinalyses, HI & DV Study Groups Combined

Source: Crime Prevention & Justice Assistance Division, Department of the Attorney General, State of Hawaii

<b>HI &amp; DV Study Groups Combined</b>							
3 Months	745	9,860	13.2	270	2.7	13.6	-79.9%
6 Months	586	13,268	22.6	248	1.9	12.8	-85.4%
9 Months	451	13,637	30.2	225	1.6	12.0	-86.2%
12 Months	352	12,215	34.7	174	1.4	11.5	-87.6%
15 Months	260	9,980	38.4	124	1.2	10.3	-88.0%
18 Months	96	4,459	46.4	54	1.2	13.1	-90.8%
21 Months	53	2,691	50.8	30	1.1	11.4	-90.2%
24 Months	34	1,728	50.8	22	1.3	8.3	-84.6%
27 Months	22	1,279	58.1	17	1.3	8.7	-84.6%
30 Months	14	796	56.9	4	0.5	6.7	-92.5%
33 Months	9	482	53.6	1	0.2	3.6	-94.3%
36 Months	8	457	57.1	1	0.2	3.6	-94.0%
39 Months	7	438	62.6	1	0.2	3.9	-94.2%
42 Months	5	340	68.0	1	0.3	3.7	-92.1%
Urinalyses	# Clients	# UAs Sched	# UAs Sched per Client	# Pos UAs	% Pos UAs	% Pos (Pre-Study Baseline)	Positive UA Rate Change
3 Months	745	5,496	7.4	375	6.8	51.3	-86.7%
6 Months	586	7,603	13.0	339	4.5	48.4	-90.8%
9 Months	451	7,886	17.5	311	3.9	47.2	-91.6%
12 Months	352	7,049	20.0	249	3.5	42.8	-91.7%
15 Months	260	5,848	22.5	182	3.1	37.8	-91.8%
18 Months	96	2,923	30.4	77	2.6	35.2	-92.5%
21 Months	53	1,696	32.0	43	2.5	38.4	-93.4%
24 Months	34	1,046	30.8	25	2.4	40.0	-94.0%
27 Months	22	772	35.1	21	2.7	37.0	-92.7%
30 Months	14	489	34.9	8	1.6	31.3	-94.8%
33 Months	9	246	27.3	4	1.6	62.5	-97.4%
36 Months	8	247	30.9	4	1.6	62.5	-97.4%
39 Months	7	238	34.0	4	1.7	50.0	-96.6%
42 Months	5	205	41.0	4	2.0	50.0	-96.1%

**Abbreviations: Appts = Appointments PO = Probation Officer Pos = Positive  
Sched = Scheduled UAs = Urinalyses**

*Reductions in group size as project exposure durations increases reflect ongoing individual additions to the study group.  
The additions account for the comparatively larger portions of clients with shorter project exposure periods.*

Angela Hawken, Ph.D. and Mark Kleiman, Ph.D.\*\*

## Research Brief

### February, 2009

#### Evaluation of HOPE Probation

##### A Summary

Convicted drug-possession offenders (and low-level property and public-order offenders, many of them with illicit drug habits) are rarely given straight jail time; in most jurisdictions they are placed on probation. This places probation departments on the front lines of the struggle to reduce drug-related crime and drug abuse by offenders, but they face a tremendous challenge given resource restrictions and heavy case-loads. Rather than consistently sanctioning probation violations – illegal drug use, missing probation appointments and drug tests, missing required drug-treatment sessions — probation officers and courts typically allow repeated violations to go unpunished. When punishments are meted out, they tend to be lengthy (and costly) jail terms.

There are strong theoretical reasons to think that a probation system that consistently and swiftly punishes probation violations and uses mild rather than drastic sanctions would be more effective in inducing behavioral changes than the current much more haphazard system. A structured sanctions model in Hawaii has dramatically improved probationer compliance without draining department resources. The program, called HOPE (*H*awaii's *O*pportunity *P*robation with *E*nforcement), was first launched by Judge Steven Alm in 2004. In cooperation with probation officers, prosecutors, defense lawyers, and police agencies, he streamlined the process of enforcing probation requirements, introducing random rather than scheduled drug testing and immediate rather than delayed hearings. HOPE uses the threat of short jail stays (typically starting at a few days, servable on weekends for employed probationers, for the first violation and increasing thereafter, eventually escalating to periods of months in residential treatment) as a disincentive for non-compliance. Treatment is mandated only for those who repeatedly violate probation rules; for other probationers with drug problems it is available, but not required.

##### ABSTRACT

HOPE uses swift and certain, but mild, sanctions to motivate compliance with terms of probation. Preliminary findings show that probationers assigned to a HOPE caseload perform significantly better than probationers assigned to probation-as-usual in terms of drug use, no-shows for probation appointments, new arrests, and probation revocations.

---

\*\* Angela Hawken is a professor of economics and policy analysis at Pepperdine University and a research economist at the University of California, Los Angeles. Mark Kleiman is a professor of public policy at the University of California, Los Angeles. Investigators can be reached via email at [ahawken@pepperdine.edu](mailto:ahawken@pepperdine.edu) and [Kleiman@ucla.edu](mailto:Kleiman@ucla.edu)



## **Preliminary Findings**

Evaluations of HOPE, including a randomized controlled trial, are underway, with support from the Smith Richardson Foundation and the National Institute of Justice. Final evaluation results will be released in April, 2009. Preliminary results from HOPE show that HOPE probationers in the Specialized Probation Unit and in the General Probation unit have improved outcomes compared with probationers assigned to probation-as usual in terms of drug use, no-shows for probation appointments, new arrests, and probation revocations.

In the Specialized Probation Unit, comparing six-month follow up data to three-month baseline data, probationers assigned to HOPE showed:

- an 85% reduction in missed appointments
- a 91% reduction in positive urinalyses

By contrast, comparison probationers supervised in the Specialized Probation Unit but under probation-as-usual showed:

- a 23% increase in missed appointments
- no improvement on urinalyses

Other key outcomes from the Specialized Probation Unit:

- Arrest rates for comparison probationers were three times higher than HOPE probationers.
- The probation revocation rate was significantly higher for the comparison group compared with HOPE probationers (31% v 9%)

In the General Probation Unit, data is now available for probationers subject to the randomized controlled trial. Probationers assigned to the HOPE condition showed improved outcomes.

- Probationers in the control group had one-month notice of when their routine scheduled drug test would be administered, while HOPE probationers were subject to regular random testing. Despite advance warning, probationers in the control group were more than twice as likely to test positive on drug tests as probationers assigned to the HOPE condition (26% v 11%)
- Probationers in the control group were more than twice as likely to miss appointments with their probation officers (12% v 5%).
- Significant differences in arrest rates were found across groups. The control group's total arrests were 34% higher than HOPE probationers. For non-technical violations the control groups arrest rates were 111% higher than HOPE probationers.

Reduced recidivism in the HOPE group has important implications for arrest, conviction, and incarceration costs. Cost savings attributable to HOPE will be detailed in the April report.

Surveys of key stakeholder groups found positive general perceptions of HOPE. Judges and probation officers regard HOPE as an effective approach to improve probationer accountability and motivate positive behavior change. Probation officers report improved motivation and job satisfaction under HOPE.

**The Judiciary, FB 2009-11 Program Justification**

**Program ID:**

**Program Title:** Human Resources  
Department/Judicial  
Education Office

**Dept. Contact:** Sharen Tokura/  
Dawn Nagatani

**Phone No.:** (808) 539-4340

**Mission or Program Objective:**

Coordinate continuing legal education programs for judges and administer a statewide training and development program for Judiciary personnel.

**Program Budget**

MOF	FTE(P)	FTE(T)	FY09 Allocation
General Funds (A)	3.0 (#59495, EM 03) (#59496, SR 24) (#59296, SR 14)	0.0	\$176,089
General Funds (B)*			\$106,950
General Funds (B)**			\$ 35,000
<b>TOTAL</b>			<b>\$318,039</b>

\*Hawaii State Benchbook expenses

\*\*Conference/Symposium expenses

**Statute/Constitution:** Not applicable.

**Performance Measures:** (July 2007 – November 2008)

- Coordinated semi-annual judicial conferences, symposia, and specialized training sessions for 130 full-time and per diem judges (12 separate sessions).
- Designed four new staff education programs and presented 31 sessions attended by over 600 employees.
- Administered two federal highway safety grants for judges to attend out-of-state continuing education seminars, totaling approximately \$28,000.
- Released annual updates for each chapter of the Hawaii State Benchbook.

**JUSTIFICATION:**

- Administers a statewide continuing legal education program for eighty (80) full-time judges and fifty (50) per diem judges; administers a statewide training and development program for approximately two thousand (2,000) Judiciary employees.

- The community expects judges to quickly absorb and analyze information, to impartially apply the law, and to efficiently administer justice.
  - Judicial education programs help judges maintain these high standards by providing information about newly revised laws and trends in criminal, civil, and family law. They also afford judges opportunities to share experiences, techniques and courtroom practices.
  - Failure to provide continuing legal education services may affect the ability of judges to keep abreast of revised laws, sentencing/treatment options, and innovative courtroom practices that may reduce recidivism and better serve the public than traditional case management and adjudication methods.
- In-house judicial education programs provide cost savings by allowing a greater number of judges to attend multiple programs annually.
  - Failure to provide in-state training would necessitate judges traveling outside Hawaii to receive continuing legal education. Not including grant/scholarship subsidized travel, the Judiciary expended approximately \$41,000 for 22 judges to each attend one out-of-state education program in 2007.
  - In contrast, **all state judges** (including per diem judges) were offered **multiple in-state judicial education programs** at an approximate annual cost of \$35,000 for the conferences/symposia and an additional cost of \$83,000 for related expenditures (travel costs for neighbor island judges, per diem judge substitution, etc.).
- The JEO is the sole source of editorial and technical support for the Hawaii State Benchbook (HSB). The HSB allows judges to obtain immediate and practical guidance on how to proceed in certain courtroom situations. Failure to update the HSB may lead to decreased uniformity on the bench statewide in criminal and civil procedural matters, as well as reduced efficiency in the courtroom. Court users may experience delays in case adjudication as judges recess to research pertinent legal issues.
- Curricula are designed to assist Judiciary personnel in developing the skills and knowledge needed to effectively perform their job duties, and ensure that the courts employ competent, technologically literate, professional personnel.
  - Staff education programs provide court personnel with substantive and procedural knowledge specific to their job duties, including instruction in relevant legal terminology, concepts, and court procedures. They also provide opportunities to enhance supervisory, relational, and leadership skills in professional contexts to foster positive working environments, and develop in-house competencies for succession and career enhancement purposes.
  - Failure to provide adequate in-house training and development opportunities for court and administrative staff may result in court document processing delays, decreased efficiency, and reduced customer service.

## The Judiciary, FB 2009-11 Program Justification

**Program ID:** JUD 601  
**Dept. Contact:** Matt Mattice

**Program Title:** Judiciary History Center  
**Phone No.:** 539-4998

**Mission:** The King Kamehameha V Judiciary History Center is an educational institution created to inform and provide learning opportunities about the judicial process and Hawaii's legal history. As the largest provider of civic education to public and private schools in the state, the Center promotes public awareness and understanding of the courts by operating a legal history museum, preserving important court-related documents, and providing civic education to students, teachers, the general public, and tourists. No other organization in the state provides the civic education services, including three national curriculum programs, provided by the center.

**Program Budget:**

**MOF:** General Fund      **FTE(P):** 4      **FY09 Allocation:** \$243,773

**Statute:** Chief Justice William S. Richardson, concerned about the public's lack of civic knowledge, spearheaded the effort to create The Judiciary History Center to help citizens understand today's system of law.

The Center was established, pursuant to HRS chapter 6F, in 1990 to provide a "permanent institution with a professional staff, essentially educational in purpose ..." The Center was established in keeping with the legislature's recognition of "the importance of our judicial heritage as part of the historic and cultural heritage of the state." The legislature further recognized the need to "promote the educational, historical, and cultural interests of [our people] through an educational facility presenting the unique historical background of the Judiciary through exhibits and other activities."

Per HRS §6F-5, the Center's responsibilities include providing educational services to Hawaii's schools, conducting research in judicial history, and providing assistance to other public and private agencies involved in developing programs relating to the Judiciary.

**Performance Measures:** In FY 2008, over 34,000 visitors toured the Center, including 10,396 students. The Center was awarded approximately \$76,000 in federal funds to provide civic education programs and training to Hawaii's schools. Thirteen days of teacher training were provided to public and private school teachers free of charge. Hawaii's schools received 2,400 textbooks valued at \$41,696, also free of charge. A record 150 students participated in the *We the People* state tournament, a civic education program examining the U.S. Constitution and the Bill of Rights, and sixteen high schools competed in the Hawai'i State Mock Trial Tournament. Legal research resulted in the production of a short film documenting Martial law during WWII and its impact on Hawaii's youth. The first of two volumes of probate records from Kaua'i, dating 1853-1861, was translated from Hawaiian to English (constituting the 16<sup>th</sup> Hawaiian Kingdom court minute books so translated.)

**Justification:** According to the 2006 National Center for Education Statistics, only 22% of eighth graders and 27% of twelfth graders scored at the proficient level in Civics Assessment. A recent report by the Intercollegiate Studies Institute shows 71% adults tested on civic literacy failed. Compared to earlier generations of Americans, today's youth are less interested in public issues and feel alienated from formal politics. Young people are less likely to vote than older generations were at the same point in their lives.

The Judiciary History Center provides a crucial and unique role in providing civic education through a variety of programs. These programs demystify Hawaii's unique legal history and link the past to contemporary issues. The majority of the Center's civic education programs are federally funded, enabling the Judiciary to provide standards-based teacher training and textbooks to Hawaii's public and private schools at no cost to the State. The Center provides the following services:

- Free museum exhibitions and temporary exhibits.
- Free teacher workshops for public and private school teachers statewide.
- Free Professional Development Credits for public school social studies teachers.
- Free "High-Objective, Uniform State Standard Evaluation" credits for public school social studies teachers. (Used to obtain "highly qualified" certification.)
- Free textbooks for Hawaii's public and private schools.
- Films, curriculum, and publications documenting Hawaii's legal history and its relevance to contemporary Hawai'i.
- Preservation of historical court-related documents including translations of the Kingdom of Hawaii's court minute books from Hawaiian into English.
- Evening educational programs for Hawaii's visitors and the general public.
- Reference services for the researchers and the general public.
- Judiciary Speakers Bureau.

#### **Testimonials from Recent Beneficiaries of the Judiciary History Center:**

"It was very thoughtful of you guys to turn the courtroom into an education courtroom. I think that instead of learning history, we should play history. That way we have fun and have the story stuck in our heads." **Student at Kalakaua Middle School Student**

"More state courts should use the [Center] as a prototype for their own exhibits on the development of the court system." **Visitor from Seattle**

"I heard students using the language of democracy in their interactions outside of class. Students seemed more willing and able to discuss issues or problems and they seemed more confident. I enjoyed using the curriculum and I think that my students really learned about concepts and ideas they will use the rest of their lives." **Cindy Navarro-Bowman, Teacher at Honoka'a High and Intermediate School.**

## **Judiciary Program: VOLUNTEERS IN PUBLIC SERVICE (VIPS)**

The Judiciary, FB 2009-11 Program Justification

Program ID: JUD 601

Dept. Contact: Faith Matsuwaka, Program Manager (Phone: 539-4881)

### **VIPS Mission and Program Objective**

The legislature has recognized that “[t]he spirit of citizens volunteering their time and energy has been a fundamental ingredient to the birth of the democratic government.”

Through VIPS, volunteers assist and augment the services of the Judiciary to our citizenry. The VIPS Program facilitates and promotes opportunities for citizen involvement and participation within the Judiciary based on (1) Judiciary needs, and (2) the skills, talents, and interests of volunteers.

### **Program Budget:**

MOF: General Fund                      FTE(P): 4.0                      FY09 Allocation: \$185,959

### **Statutory Basis & Premises**

Hawaii Revised Statutes, Chapter 90:

Thirty years ago, the Legislature enacted Act 10, State Policy Concerning the Utilization of Volunteer Services. This law authorizes government agencies to recruit, train, and accept the services of volunteers and reimburse volunteers for expenses. In enacting Act 10, the Legislature recognized that “[v]olunteers can contribute . . . to ameliorating our social, environmental, economic, and human problems [and that the state] should “support effective and full use of volunteers.”

In enacting Act 10, the Legislature intended to “foster the continuing development of volunteer programs” based on premises that are clearly applicable to the VIPS Program at the Judiciary, particularly:

- (1) Volunteers provide an extra source of caring that cannot be evaluated in monetary or material terms;
- (2) Volunteering provides citizens with an opportunity to be responsive to and supportive of the state government.

### **VIPS Operations**

\* VIPS recruits, screens, orients, and places volunteers at the District, Circuit, Family, and Appellate Courts throughout the year in various positions.

\* Since 1971, high school and college students, unemployed/employed adults, retirees, and seniors serve in capacities such as docents, computer operators, clerical aides, probation case aides, advocates for victims of child abuse and neglect, facilitators for Kids First Program, proctors for law examinations, and other varied positions.

\* VIPS identifies needs of the Judiciary through requests from individual departments or supervisors.

\* VIPS presently provides assistance to more than 80 offices with volunteers.

\* Myriad Benefits to VIPS: 1) citizens have an opportunity to gain knowledge and involvement with the legal system; 2) the level of services to the community and Judiciary clients are enhanced; and (3) court orientations help educate students/teachers/adults about the legal system and provide an opportunity for the public to learn about court operations.

#### **Savings/Monetary Performance Measures:**

During FY 2007-2008, 610 volunteers contributed 30,000 hours, totaling \$215,000 in-kind contributions.

During the current Fiscal Year, 586 volunteers have thus far contributed 14,000 hours, totaling \$101,000 in-kind contributions.

VIPS is projected to save more than \$200,000 in salaries for in-kind contributions from volunteer services in FY 2008-2009.

#### **Non-monetary Performance Measures Germane to the Present Economic Crisis:**

As the present economic crisis worsens, and the hiring freeze continues, reliance upon VIPS may become more acute. As specified above, the Legislature clearly recognized the importance of volunteers in terms of both the benefit to those volunteering their services, and those offices who have had the benefit of volunteers.

Testimonials from Judiciary offices using VIPS support the legislature's perspective:

"[Our volunteers] perform their duties professionally so we can trust that it is done properly and accurately. . . Without them, our unit could not maintain the level of work that we put out each week - we would not be able to keep up with the pace here. They are more valuable now as we are short-handed due to the hiring freeze."

District Court, Adult/Juvenile Community Service and Restitution Unit.

"I don't know what I would do without my volunteers. They are responsible individuals who play a vital role in the office functions. Their duties are substantial and aid in our

caseload. . . . The relationship is mutual as they feel a part of this office and know their work is valuable."

--- Office of Public Guardian

"[One of our volunteers] was a college student who was valuable and extremely beneficial to the office. . . . At the same time, the volunteer himself, gained skills which would benefit him in his future social work career

--- Adult Client Services Division

"The volunteers are invaluable during the law examinations. They assist in providing the needed security during the testing and the integrity of conducting the exams."

--- Bar Examination Branch



Hawaii  
Immigrant  
Justice Center

(Formerly known as Na Loia)  
Serving Hawaii's Immigrant  
Families and Children

LEGAL AID  
SOCIETY OF HAWAII

VOLUNTEER LEGAL  
SERVICES HAWAII



TESTIMONY IN SUPPORT OF  
HB300 - RELATING TO THE JUDICIARY

February 11, 2009 11 a.m.

The Hawaii Immigrant Justice Center, the Legal Aid Society of Hawaii and Volunteer Legal Services Hawaii, together submits testimony in support of HB300 – Relating to the Judiciary and requests amendments.

In November 2007, the Access to Justice Hui released a report that included, “The 2007 Assessment of Civil Legal needs and Barriers of Low- and Moderate-Income People in Hawai'i.” This Assessment found that one out of every five low- and moderate-income Hawai'i residents were unable to receive needed legal assistance. The Assessment also found the capacity of legal services providers was limited to helping only one in three Hawai'i residents who needed assistance.

Collectively, the Hawaii Immigrant Justice Center, the Legal Aid Society of Hawaii and Volunteer Legal Services Hawaii helped **more than 34,000** impoverished Hawai'i residents receive protection from consumer fraud, access to public assistance; needed representation in family law cases; assistance to prevent homelessness, to eliminate legal barriers to employment, prevent child abuse and improve child outcomes; protection from domestic violence, human trafficking and sexual assault; and assistance with naturalization.

The legal services that our programs provide are without a home. Over the last four years, the legislature has provided a grant-in-aid to fund our programs through the Judiciary budget while we attempt to find the best home. While we continue to work on finding the best funding home for our programs, we request that our GIA requests be added to the budget as follows:

Hawaii Immigrant Justice Center	\$292,000
Legal Aid Society of Hawaii	\$720,000
Volunteer Legal Services Hawaii	\$400,000

As the economy worsens the need for legal services increases, the services provided by our three programs, among others, is critical to providing a safety net of legal services to ensure access to basic necessities. Please help us continue to help our growing number of impoverished Hawai'i residents.

Sincerely,

Robin Kobayashi  
Executive Director  
Hawaii Immigrant Justice Center  
536-8826

Nalani Fujimori  
Interim Executive Director  
Legal Aid Society of Hawaii  
527-8014

Moya Gray  
Executive Director  
Volunteer Legal Services Hawaii  
528-7051



The Children's Alliance  
OF HAWAII, INC.

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ALFRED J. HERRERA  
PRESIDENT

Alfred Herrera  
The Children's Alliance of Hawaii  
(808) 599-2955 x 215

Wednesday, March 11, 2009

Support of HB300, Relating to the Judiciary

The Children's Alliance of Hawaii is a non-profit organization dedicated to serving the needs of sexually abused children on Oahu and Kauai. The majority of the 700 victims we serve each year participate in, or are affected by the Hawaii Judicial System. The pain and suffering many of these children experience will be with them for many years. For them to receive the greatest opportunity for justice, and hopefully reduce some of their distress, it is imperative that the Judiciary function at its best.

These are very difficult and challenging times for everyone. All of us are making changes in how we live and conduct business in order to survive. The task you, your committee members and finance staff are tackling is enormous and often time unimaginable. We appreciate the amazing effort you are putting into it in order to create the best outcome possible. We support HB 300 Relating to the Judiciary and hope that the cuts necessary to survive will be as minimal as possible.

Since the beginning of 2009, on the island of Oahu, there have been 98 newly alleged child sexual assault cases. This is a very serious problem in our community. The number of cases continues to grow everyday. If there is some money available after the budget cuts are complete, we humbly ask that our Grant-in-Aid request be funded and placed in the Judiciary budget so that we may continue to help and heal this most vulnerable population.

Thank you for this opportunity to testify.

TESTIMONY OF THOMAS D. FARRELL  
FAMILY LAW SECTION, HAWAII STATE BAR ASSOCIATION  
IN SUPPORT OF HOUSE BILL 300

HOUSE OF REPRESENTATIVES  
THE TWENTY-FIFTH LEGISLATURE  
REGULAR SESSION OF 2009

COMMITTEE ON FINANCE

Thursday, March 11, 2009

Good morning Chairman Oshiro, and members of the committee. I'm Tom Farrell, an attorney specializing in Family Law. I'm here today on behalf of the Family Law Section of the Hawaii State Bar Association<sup>1</sup> as a member of its Legislation Committee, to testify in support of the Judiciary's Biennium Budget, as expressed in House Bill 300.

Budget requests for the new Kapolei courthouse complex are of particular interest to the hundreds of lawyers who practice in Family Court and the many thousands of our clients and pro se litigants whose cases are decided there, so let me address those parts of the proposal that relate to the new Family Court at Kapolei.

We note that additional positions have been requested for a few building maintenance personnel and groundskeepers for the new facility when it opens next Spring. Family Court is a very "high-traffic" area. Literally hundreds of people visit it every day. To open a new \$100 million courthouse and not have a few people to clean the bathrooms, pick up the trash and cut the grass just doesn't make sense. The courthouse on Punchbowl Street isn't going away, and it must continue to be maintained, so simply transferring existing positions isn't the answer. So while we are all acutely aware of the State's financial limitations and a desire to limit the creation of new positions, this particular request is logical and should be adopted.

We also support the request for utilities, maintenance and contract security costs for Kapolei. Security is particularly important at the Family Court, where we regularly deal with cases involving domestic violence, criminal conduct, and a high level of emotion - sometimes bordering on psychopathology. I have personally witnessed two physical altercations in the current Family Court. Fortunately, they did not involve weapons because everyone who comes

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<sup>1</sup> This testimony represents the views of the Family Law Section, but we do not speak for the entire Hawaii State Bar Association.

to the courthouse is screened through x-ray machines and metal detectors. We do this in all our courthouses, and we especially will need to do this at Kapolei.

Finally, we support the request for funding for a small amount for preliminary design and planning for the proposed administrative office building that will eventually become a part of the Kapolei court complex. This funding would also cover the cost of required environmental studies. As you may recall, the original design for Kapolei was considerably larger, but construction cost increases required the Judiciary to scale back the size of the court building. As a result, the probation office and other Family Court staff will not be accommodated when the new courthouse opens. Leasing office space in Kapolei has been assessed by the Judiciary as not cost-effective. For now, many of these court personnel will remain behind in downtown Honolulu, and will have to commute to Kapolei for court appearances or other functions (or the public will have to go to two places for Family Court services). We recognize that the State may not be able to fund construction of an office building at the Kapolei court complex in the coming biennium. However, a small amount for preliminary design and planning spent now will enable this project to move forward in a timely fashion when financial conditions improve.

Thank you for the opportunity to testify in support of House Bill 300.