



The Judiciary, State of Hawai'i

Testimony to the Twenty-Fifth Legislature, Regular Session of 2009

House Committee on Judiciary
The Honorable Jon Riki Karamatsu, Chair
The Honorable Ken Ito, Vice Chair
Thursday, February 12, 2009, 2:05 p.m.
State Capitol, Conference Room 325

by
Thomas R. Keller
Administrative Director of the Courts

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 2008 and 2009. 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,



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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 during the upcoming 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. This is \$658,847 less than our biennium budget request for FY 2010 and \$901,891 less than the biennium budget 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, due to recent decreases in costs for electricity. It should be noted that the Judiciary 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, thereby resulting in a decrease to the Judiciary budget base for these two fiscal years. These reductions are shown in Attachment 1 to this testimony.

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, and 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 on 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 GAL/legal counsel cases 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



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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 less clients be served and less services be provided, 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 remember 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 all, 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 of 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 converting to online resources, the Library saved \$417,000 over the past 10 years, and \$160,000 annually going forward. Resources are provided by the Library to 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 are deposited into the general fund. In the probation area, there are 132 adult probation officers statewide averaging 150 cases each, which is 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. Arizona lists 35 juveniles on active probation as their standard caseload per probation officer 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 \$50,005, a savings of \$40,305. 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 \$3.4 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 and at \$50 per day for foster care, the Family Drug Court would have saved \$698,475 in foster care payments for the 139 children served in FY 2008. If for some reason these children would have been incarcerated, the savings by being in the drug court would exceed \$13 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 \$98,000, or for 20 offenders, about \$1.96 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 exceed \$2.5 million on an annualized basis. Project HOPE (allocation of \$1.245 million) offers an alternative to incarceration through swift and certain sanctions for probation violation. 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 \$126 per day to incarcerate prisoners, the current savings resulting from this program are astronomical considering that there are 1,369 active participants (a daily savings of \$170,000). 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, over 90,000 individuals would be without assistance in initiating action to resolve their financial and personal concerns, and other court services such as those performed by filing clerks, calendaring clerks, and court clerks and their valuable time would be severely impacted.

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 \$30,000 per client per year for a total cost of almost \$5 million. In consideration of the FY 2008 Maui Drug Court Program costs of about \$1.1 million, the monetary savings to the state was almost \$3.9 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 for a total amount of \$494,000. In consideration of 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 \$100 per day in incarceration costs is being avoided for each person, or about \$4.2 million annually for all 116.

In the Fifth Circuit, the Kauai 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 \$100 per day in prison costs so if it is assumed that all 51 clients would have been incarcerated for one year, the Drug Court has avoided prison costs of about \$1.86 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, drug court graduates had higher wages and worked more time than non-drug court participants, and they paid higher taxes and used less public benefits than non-drug court probationers. It also noted that health care costs were lower and mental health services were used less by drug court graduates. Also, 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 operation 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



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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; Judicial 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) provides 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, approximately 1,000 cases of alleged child abuse were provided services by this Program. This constitutes a cost savings of over \$1 million. The CJC Program's annual budget of approximately \$1.2 million has been insufficient to respond to child abuse cases and the special needs of child witnesses. Thus, other sources of funding have been tapped: CJC receives approximately \$70,000 as an accredited member of the National Children's Alliance and receives approximately \$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-profits 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 were not to be maintained, the Judiciary would be noncompliant with federal, state, and constitutional mandates. The Judiciary would 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 Judiciary 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 states to provide teachers who are highly qualified in their subject area. JHC's teacher training programs assist the Department of Education in meeting this requirement.



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Last year, JHC generated \$94,000 worth of professional development for Hawai'i's teachers. At no cost to the Judiciary or state, teachers attended JHC workshops to earn credits for reclassification and highly qualified status. Textbooks require replacing every few years. Teachers need continuing education, and during the past year, JHC has provided \$160,650 worth of curricula and teacher training at no cost to the State.

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 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 Kauikeaouli 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.

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	-Preceeding 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
Total		A	34,208,995	34,563,074	35,175,839	35,915,387	36,666,357	37,441,346	38,236,862	39,053,593

The Judiciary, FC 2009-11 Program Justification

Program ID:

Program Title: Court Annexed
Arbitration Program (CAAP)
Phone No.: (808) 534-6001

Dept. Contact: Frances Yamada

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
TOTALS	19,267	31,580	12,757	26,685



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

Thomas R. Keller
ADMINISTRATIVE DIRECTOR

Walter M. Ozawa
DEPUTY ADMINISTRATIVE DIRECTOR

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?

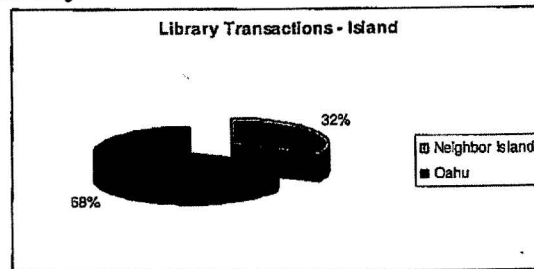
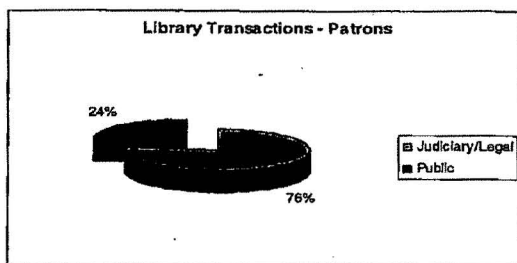
Mission: The Hawaii State Law Library System (SLLS) provides primary and secondary legal resources that are needed for the practice of law by the Judiciary and the community. Additionally, SLLS provides **access to justice** for the public by making its collection and information services available throughout 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.¹ 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

¹ABA Journal (2008). (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 Boston² to Phoenix.³ 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

² *Boston Globe* (2009). (http://www.boston.com/news/local/massachusetts/articles/2009/01/04/check_it_out/)

³ *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
TOTAL EXPENDITURES	\$4,848,637

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

**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)**

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 & 1st Circuit were the referring agencies for 1st Circuit

2nd Circuit was the referring agency for 2nd Circuit.

3rd Circuit was the referring agency for 3rd Circuit.

5th Circuit was the referring agency for 5th 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 & 1st Circuit were the referring agencies for 1st Circuit

2nd Circuit was the referring agency for 2nd Circuit.

3rd Circuit was the referring agency for 3rd Circuit.

5th Circuit was the referring agency for 5th 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 & 1st Circuit were the referring agencies for 1st Circuit

2nd Circuit was the referring agency for 2nd Circuit.

3rd Circuit was the referring agency for 3rd Circuit.

5th Circuit was the referring agency for 5th 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%
Total	195	100%

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%
Total	193	100%	145	100%

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 & 1st Circuit were the referring agencies for 1st Circuit

2nd Circuit was the referring agency for 2nd Circuit.

3rd Circuit was the referring agency for 3rd Circuit.

5th Circuit was the referring agency for 5th 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

Attachment "C"

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 CJs 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 CJs. 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 CJs and the children they serve. In 2007, about 3,000 children and families received such services.
- The CJs 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 CJs were not available is incalculable.

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.”

The Judiciary, FB 2009-11 Program Justification

Program ID: Contract No.J08125

Program Title: YWCA Hawai'i Island Teen Court

Dept. Contact: Lester D. Oshiro, Chief Court Administrator

Phone No.: 808 961-7435

Mission or Program Objective: The mission of the YWCA Hawai'i Island Teen Court is to provide an effective (peer) jury system that applies balanced and restorative justice values of accountability, competency development and public safety to help participants increase law abiding behaviors and reduce the risk of recidivism.

Program Budget for YWCA Hawai'i Island Teen Court

MOF	FTE(P)	FTE(T)	FY09 Allocation
General	0	0	\$218,505.00

Statute/Constitution: N/A

The YWCA of Hawai'i Island Teen Court is a diversion program for first-time juvenile misdemeanor and status offenders and has been hearing cases in Hilo since April of 1992 and as of 2006, has expanded and the program now serves a majority of Hawai'i County youth. The principle of peer sentencing has been an effective tool in reducing the number of second-time offenders by holding each youth "respondent" accountable for their actions.

Performance Measures:

During fiscal year July 1, 2007 to June 30, 2008, a total of 330 misdemeanor and petty misdemeanor cases for first time offenders were referred to Teen Court. Teen Court successfully completed 162 referrals. This is 162 juveniles that do not have a formal juvenile record. The recidivism rate for youth within one year of completing the program averages 8 percent with the highest rate of 12 percent and the lowest rate of 0 percent in the last two years.

JUSTIFICATION:

This is also 162 cases less for four juvenile intake workers who already carry an average of 50 cases. Another way of looking at this is that it's providing the services of 3 additional juvenile intake workers or about \$122,400.

Program ID: Contract # J08054
Kauai Teen Court
Dept. Contact: David Lam, JCPSB 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:	FTE(P) <u>0</u>	FTE(T) <u>7</u>	FY 09 Allocation \$389,048
State General Fund		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.”

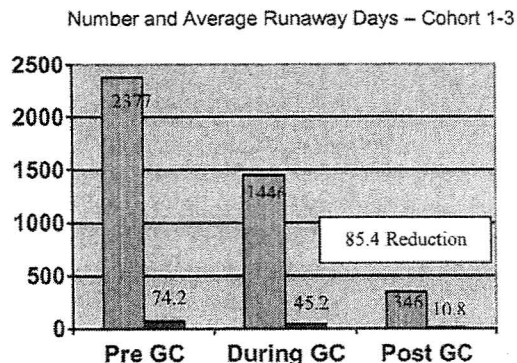
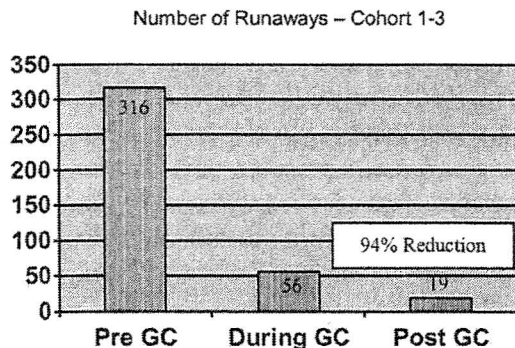
Hawaii passed legislation (“Parity for Female Offenders,” Act 258 of the 2006 Legislative Session) that emphasizes the need for parity for female offenders. The bill reads, in relevant part, “Female offenders need gender responsive services that address substance abuse, family relationships, vocational 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 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:



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.