

JUDICIARY OVERVIEW

MISSION: The mission of the Judiciary, as an independent branch of government, is to administer justice in an impartial, efficient, and accessible manner in accordance with the law. As the third branch of Hawaii's State Government, it is invested by Article VI of the State Constitution with powers coequal to those of the Legislative and Executive Branches.

Within the Judiciary, the major program categories are court operations and support services. The programs in the court operations category serve to safeguard the rights and interests of persons by assuring an equitable and expeditious judicial process. These include the Courts of Appeal (JUD 101); and the First, Second, Third, and Fifth Circuits (JUD 310, 320, 330, and 350, respectively). Programs in the support services category enhance the effectiveness and efficiency of the judicial system by providing the various courts with administrative services such as fiscal control and direction of operations and personnel, and fall under the title of Administration (JUD 601). Within Administration are the Offices of the Administrative and Deputy Administrative Director of the Courts, and four departments – Intergovernmental and Community Relations, Policy and Planning, Support Services, and Human Resources. Further details on the functions and activities of the programs in each of the categories can be found in Table 2.

ECONOMIC IMPACT: The Judiciary is keenly aware of the current economic and fiscal conditions affecting the nation and the State, and the State's projected budget deficit for the fiscal biennium. These conditions, and the actions taken as a result of these conditions, have already had severe effects on the Judiciary – that is, on its funding situation, on its employees, and on its ability to provide complete, timely services to its clientele and to the public. Specifically, as you know, the Judiciary's budget base for FY 2010 was reduced by 7.6%, or \$11.5 million, relative to FY 2009, and 79 positions, or 4 percent of its authorized permanent staffing, were eliminated. As a result, the Judiciary had to take various cost cutting measures, including significantly reducing expenditures in such areas as purchase of service (POS) contracts (a \$3.5 million reduction or 26% of prior year expenditures in this area), guardian ad-litem/legal counsel services (a \$1.5 million reduction), temporary hire positions (a \$1.1 million reduction), overtime, repair and maintenance, and the use of per-diem judges. In addition, the Judiciary imposed two-day-per-month furloughs for all its HGEA employees, beginning November 6, 2009 for the rest of FY 2010 and likely for FY 2011 as well. These actions will lapse \$4.8 million to the general fund in FY 2010 and another \$7.6 million in FY 2011.

The impact of these budget and personnel reductions, together with the two-day-per-month furloughs, is being felt throughout the Judiciary and Hawai'i, especially considering that the Judiciary has no control over its workload and must now accommodate that workload with less financial resources, people, and work days. Significant trial and hearing scheduling problems have arisen as fewer days are available for scheduling, and because prosecutors, public defenders, and sheriffs do not all have the same furlough days as each other or the Judiciary. With fewer days, court calendars are becoming overcrowded and in some cases, jumbled with all different types of cases. The loss of staff positions has resulted in the remaining staff having to supervise/monitor much larger caseloads. For example, the Adult Client Services Branch, First Circuit lost 24 positions, many of which were in the Sex Offender and Domestic Violence Units. The loss of these positions has meant some of the remaining staff have caseloads as high as 180 to 1 for high and medium risk offenders, well in excess of

the American Probation and Parole Association caseload standards of no more than 50 to 1 for these type of offenders.

As mentioned above, POS contract funding was cut in the Judiciary by an overall 26 percent. Some programs were eliminated; some others were significantly reduced. These cuts severely impacted treatment courts and resulted in fewer services being available and fewer clients served, and longer waits to access services resulting in less adherence to program goals and a slow-down in admittance. They also contributed to the loss of ten or more staff in direct service to victims and perpetrators of domestic violence, resulting in a decrease in parenting groups, crisis intervention services, victim support, and batterers treatment; a 14 to 18% reduction in cases closed, cases opened, temporary restraining order (TRO) clients served at various sites, and victim services delivered; a 20 to 40% reduction in safety planning services and services to children exposed to domestic violence; an increase in wait time for batterers trying to enter services from 1 to 2 weeks in the best case, and 2 to 5 months in the worst case, which means more untreated batterers residing in communities, decreasing the safety of their victims and the community in general; a decrease in the number of sites available to obtain services for batterers, victims, or children – on the Neighbor Islands this often means that services are unavailable unless the person seeking services has access to a car and is able to drive many miles; increases in requirements and fees for fee-for-services, making programs unavailable to those who cannot pay; a decrease in supervised visitations to 1.5 hours a week per family; a reduction in staff work hours; and waitlists for almost all services, including waitlists for TRO support and filings. Some of the people who will now not be served by these programs may remain incarcerated or may harm themselves or others, while those with a dual diagnosis of substance abuse and mental illness will likely not be served at all. The Oahu Adult Drug Court, which purchases residential and mental health community based treatment services for its clients, has only \$100,000 left for FY 2010 for these services as of December 8, 2009, which will result in the suspension of referrals to these levels of care and the loss of 24-hour structured treatment for these individuals.

The work has not decreased in the Judiciary, yet the funding and personnel resources and days available to do that work have. With less time and people to do that work as well as the additional work required to adjust schedules, trials, and hearings, stress, fatigue, and frustration have increased significantly among court staff, which has led to errors, the inability to meet certain timeframes, and an overall decrease in morale. The public has also been deeply affected as waiting times to be serviced have doubled in some cases and less days are available for the public to do business with the Judiciary.

While certainly there is an immediate economic impact from these reductions, much of the impact might not be felt until later years and will be borne by other agencies as well. For example, the treatment capacity of the Oahu Adult Drug Court dropped from 160 to 130 clients because of the budget reductions, with 30 people now on a wait list. Assuming these 30 people are not admitted to the drug court program and are incarcerated at \$139 per day each (\$50,735 per defendant per year), this would cost the State \$1.5 million for one year, or over \$600,000 more than the cost of the entire Oahu Drug Court operation for one year. If we were to experience future budget cuts that necessitated the closure of all the adult drug courts, and if we used the same formula and applied it to the 387 defendants currently enrolled in the adult drug courts statewide, it would cost about \$19.6 million to incarcerate everyone for one year, as compared to the entire adult drug court appropriation for FY 2010 of just over \$3 million. These potential costs to the State would multiply even more if further cuts meant closing our juvenile and family drug courts. Or, to cite another example, if the

Judiciary had to discontinue the Project HOPE program due to lack of funds, where the average cost to supervise an individual on probation is \$1.82 per day, and instead incarcerate the 1,483 active probationers at \$139 per day, it would cost the State \$75.2 million (1,483 X \$139 per day X 365 days), as compared to the total FY 2010 allocation of just under \$1 million for Project HOPE.

Recidivism (re-offense) and its effects and economic impacts also would not be felt until sometime in the future. Recidivism rates since inception for adult drug court clients range from 3.5% on Kauai to 16% on Maui, or an average low of 9.6% statewide, as compared to over 50% recidivism within three years for persons released from prison (per Bureau of Justice reports). Thus, for the majority of defendants who are incarcerated without the benefit of the drug court program, the doors of the courthouse and prisons become revolving doors with all the attendant costs that are incurred. Clearly, diverting defendants to drug treatment through our drug court programs, whether they be adult, juvenile, or family drug courts, potentially saves millions of dollars.

In summary, further cuts to staffing and treatment providers that service these specialty courts will result in vastly increased costs to the prison, welfare, law enforcement, social services systems, and judicial communities. Further reductions in these services will have an enormous impact on the ability of our community to remain safe and avoid an increase in crime and child abuse and neglect by repeat offenders. The increase of long-range social costs due to the inadequate provision of services and diversion options for children and youth is immense as these children and youth – if not worked with early – develop educational and behavioral problems and are more likely to matriculate to the adult criminal system.

ALTERNATIVES CONSIDERED:

Generating Additional Revenue - The Judiciary has submitted a bill with its legislative package to increase the traffic abstract fee from \$7 to \$10. Based on the first four months of abstract fee collections for FY 2010, each \$1 increase in this fee could contribute as much as an additional \$500,000 to the general fund annually so a \$3 increase could result in an additional \$1.5 million of revenue for the State each year. This fee was last increased in 1996.

The Judiciary's legislative package also includes a bill to increase the Administrative Drivers License Revocation Office hearing fee from \$30 to \$50, an increase which would result in an additional \$48,000 annually being deposited in the State general fund. The hearing fee has not been adjusted since 2000, and we believe this is a fair adjustment to reflect the increase in virtually all operating costs during these past 10 years.

Shifting General Funded Operational Costs to Non-general Funds - To complement scarce State general fund resources, the Judiciary's Probation Services Special Fund (PSSF) provides the resources to assist in monitoring, enforcing, and collecting fines, restitution, and other monetary obligations owed by defendants. Funds are also used to administer other terms and conditions of probation for low risk offenders. Authorization to expend these special funds is provided by the legislatively authorized ceiling appropriated each year. In order to better fulfill First Circuit's mission without increasing the use of scarce general fund resources, the Judiciary has submitted a budget request to increase the existing \$300,000 PSSF expenditure ceiling by \$125,371 to \$425,371, to provide one permanent Social Worker IV to handle all matters pertaining to the Interstate Compact via which

probationers and parolees are transferred between states, and to authorize a sufficient expenditure ceiling to ensure that employee fringe benefits can be paid.

Over the years, the cost of activities supported by the PSSF has grown to the point where program requirements will exceed the existing \$300,000 annual expenditure authorization. This situation has been exacerbated by general fund budget cuts implemented during the last legislative session which resulted in Adult Client Services (ACS) in the First Circuit losing 12 permanent positions. The lack of general fund resources has resulted in ACS using alternative means, including the PSSF, to help perform its required probation duties. In the past, general funded ACS staff fulfilled its duties relating to the Interstate Compact "by committee," with staff personnel performing such duties in addition to their regular assigned probation duties. However, with the significant reduction in staffing, remaining general fund staff resources must focus on the unit's basic mission of ensuring public safety through essential probation monitoring activities. It is no longer possible to adequately monitor probationers and continue to perform essential Interstate Compact duties as well. The request to raise the ceiling of the PSSF to permit hiring of a full-time Interstate Compact Coordinator to handle all Interstate Compact matters relating to the transfer of probationers and parolees between states would enhance public safety by ensuring that this essential function is performed. For the 190 probationers and 58 parolees currently supervised by ACS, a full-time coordinator is essential to handle all correspondence between Hawai'i and the mainland, as Interstate Compact matters are time-sensitive and need quick, timely processing to ensure Hawai'i fulfills its obligations under the rules of Interstate Compact. It is imperative to have someone overseeing the transfer of felons between states, especially when transfers involve probationers who have previously been convicted of violent offenses. Hiring a full-time coordinator would also benefit public safety by freeing up ACS probation officers to fulfill their essential monitoring activities for their assigned probationers. It is also noted that Act 172/08 provided for "one full-time coordinator position for the supervision of adult offenders." The Judiciary, however, has never had the resources to appoint such a full-time position to perform Interstate Compact duties, and cuts to the Judiciary's general fund appropriation base have left the ACS with no other options.

Outsourcing Activities Performed by Eliminated Personnel – No activities have been outsourced as a result of eliminated positions or personnel.

Consolidation/Elimination of Programs – The Judiciary eliminated the lunch and learn the law program, and the size of the Public Information Office and the Internal Audit Office have been significantly reduced.

With the opening of the Kapolei Court Complex in Spring 2010, the Waianae District Courthouse will be closed and its functions moved to Kapolei. The Puna District Courthouse on the Big Island was closed on August 1, 2009 and its cases were transferred to the new Hilo Court Complex.

Also, since the loss of a significant number of positions during the last legislative session, programs have been trying to do more with less. One approach has been to consolidate programs/functions, restructure, maximize staff resources, re-establish/regroup to provide services, etc. In this regard, seven staff reorganizations have occurred and three are in progress.

This concludes the overview section of our testimony. It should be noted that the 16 tables requested by the December 7, 2009 Budget Briefing Instructions follow this overview section.



January 2010

The Judiciary

FY 2010-11 Supplemental Budget

MISSION

THE UNIFIED COURT SYSTEM OF HAWAII

- Appellate Courts
 - Supreme Court
 - Intermediate Court of Appeals
- General Jurisdiction Courts
 - Circuit Courts
 - Family Courts *
- Limited Jurisdiction Courts
 - District Courts, including Traffic Courts
 - Specialty Courts

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

* A division of the Circuit Courts

OTHER LIMITED JURISDICTION SPECIALTY COURTS/PROGRAMS

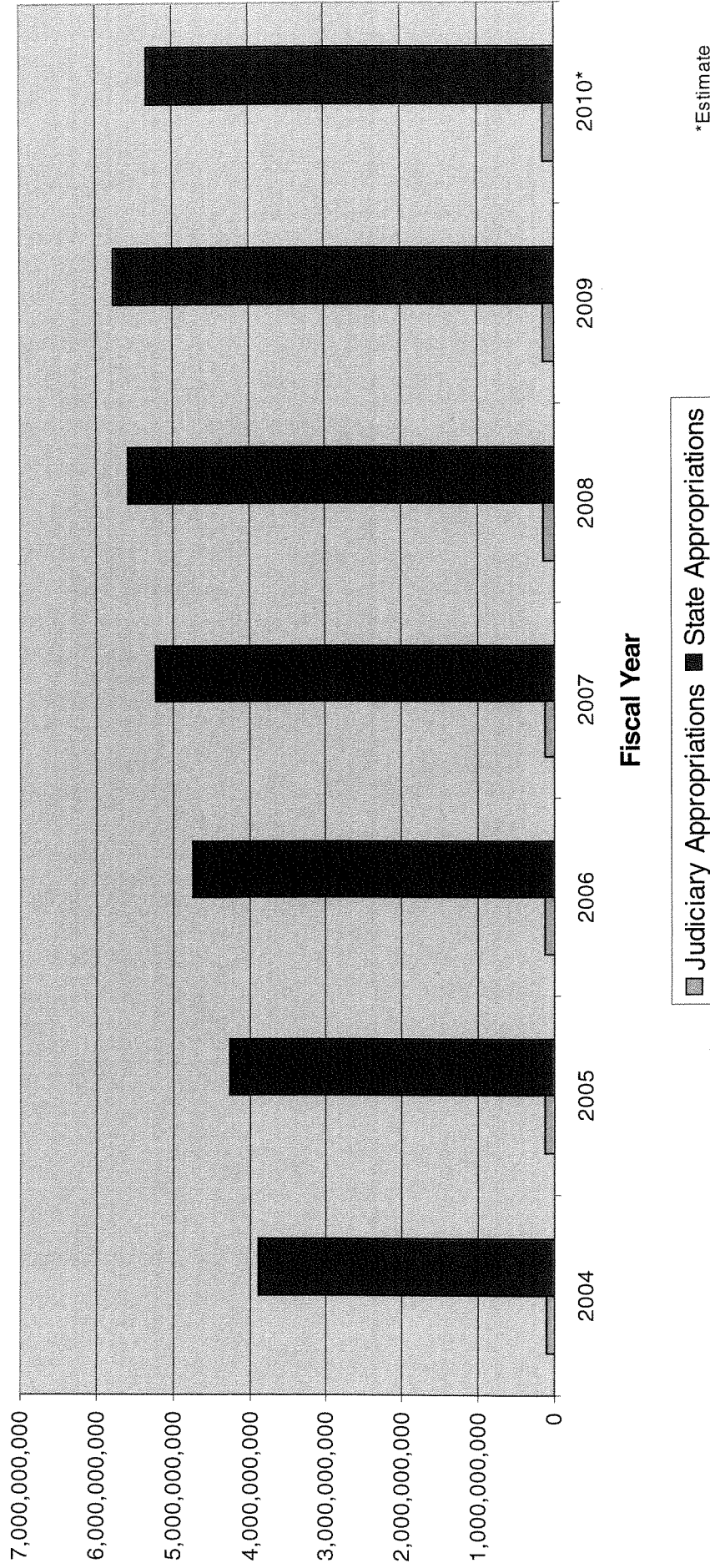
- Adult Drug Courts (4)
- Family Drug Courts (2)
- Juvenile Drug Court (1)
- Adult Mental Health Court (1)
- Girls Court (1)
- Teen Courts (2)
- Juvenile Sex Offender Unit (1)
- Project Hope (1)
- CAAP (3)

REVENUES AND CURRENT APPROPRIATION

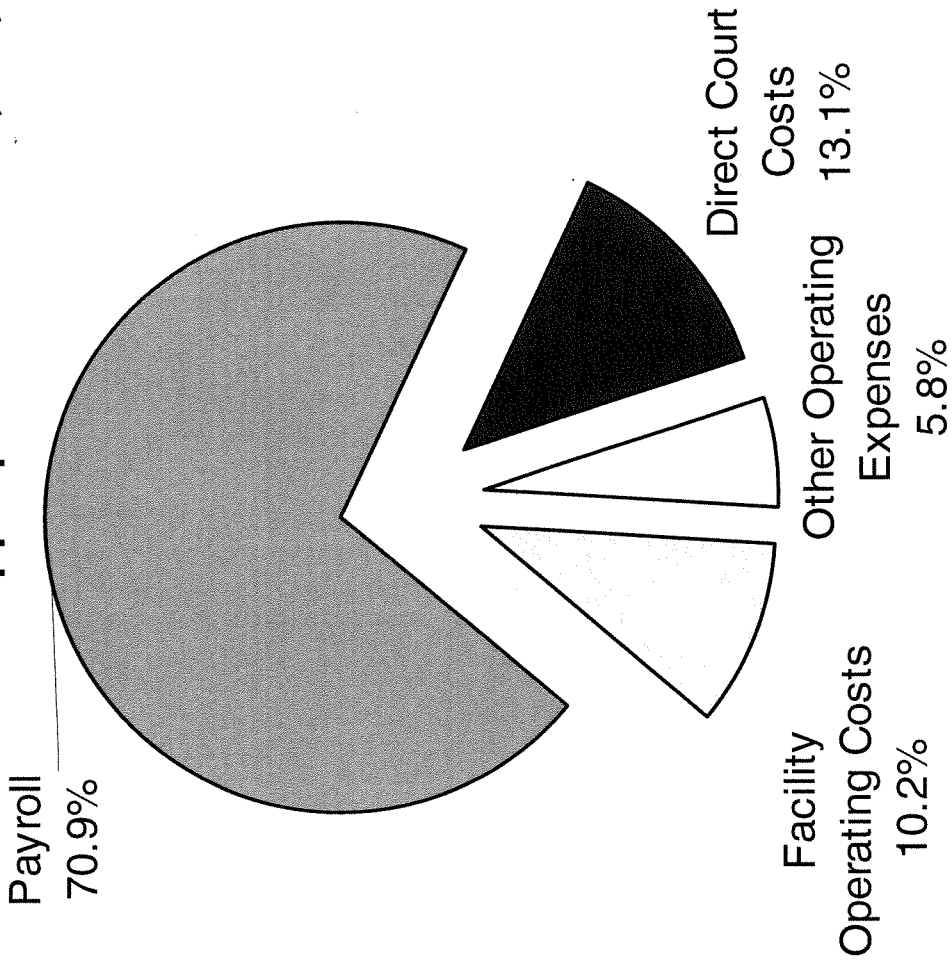
REVENUES

	<u>FY 2008</u>	<u>FY 2009</u>
General Fund		
Courts of Appeal	53,342	29,196
First Circuit	23,329,746	24,297,430
Second Circuit	4,287,181	3,930,331
Third Circuit	4,839,521	4,748,420
Fifth Circuit	1,676,275	1,675,829
Administration	<u>22,930</u>	<u>1,048,261</u>
Sub-total	34,208,995	35,729,467
Special Fund	<u>10,570,093</u>	<u>10,805,742</u>
TOTAL	<u>44,779,088</u>	<u>46,535,209</u>

Judiciary General Fund Appropriations Compared to State General Fund Appropriations



How the Judiciary's Base Appropriations are Expended
FY 2010 - Total Appropriations: \$139,000,000



**FY 2011
SUPPLEMENTAL BUDGET REQUESTS**

FY 2011 SUPPLEMENTAL BUDGET REQUESTS

- General Fund – No Requests
- Probation Services Special Fund – Ceiling Increase from \$300,000 to \$425,371
- Capital Improvement Program Funds – Total \$34,467,000
 - Administrative Services Building Kapolei (\$3,050,000)
 - Ka’ahumanu Hale – Roof, Lanai, Terrace Deck Improvements (\$4,215,000)
 - Ka’ahumanu Hale – Upgrade Elevator Systems (\$312,000)
 - Kauikeaouli Hale – Cooling Tower Piping Replacements (\$340,000)
 - Lahaina and North Kohala Roof/Wall Improvements (\$300,000 each)
 - Lump Sum – Judiciary Facilities Statewide (\$25,950,000)

**CURRENT/POTENTIAL IMPACTS
OF
BUDGET REDUCTIONS/RESTRICTIONS**

CURRENT/POTENTIAL IMPACTS OF BUDGET REDUCTIONS/RESTRICTIONS

- Increased crime
- Higher recidivism
- Increased costs to the State
- Prison/juvenile facility overcrowding
- Increased risk to children/families
- Increased public safety concerns
- Scheduling problems
- Justice delayed
- Reduction in cases being assigned GAL/legal counsel
- Loss/reduction in certain types of treatment/counseling programs

IMPACTS (continued)

- Less time for supervision/monitoring, no training
- Unreasonable caseloads
- Public dissatisfaction/waiting
- Employee stress, tension, frustration, errors

DRUG COURT GRADUATES

	Adult	Juvenile	Family
Oahu	611	94	106
Maui	309	2	20
Hawaii	104	15	n/a
Kauai	74	5	n/a
Total	1,098	116	126

1,340 graduates since the first Drug Court was established in 1996.

DRUG COURT FY 2009 ACTIVE PARTICIPANTS

	Adult	Juvenile	Family
Oahu	120	50	64
Maui	106	n/a	6
Hawaii	107	11	n/a
Kauai	54	4	n/a
Total	387	65	70

522 active participants in Drug Court programs.

**COST COMPARISON
ADULT DRUG COURTS VS. INCARCERATION**

	Active	PSD/day	PSD/Yr	Total
Oahu	120	139	50,735	\$6,088,200
Maui	106	139	50,735	\$5,377,910
Hawaii	107	139	50,735	\$5,428,645
Kauai	54	139	50,735	\$2,739,690
Total	387			\$19,634,445

Adult Drug Court Operating Costs: \$3.1 million

**COST COMPARISON
JUVENILE DRUG COURTS VS. INCARCERATION**

	Active	HYCF/day	HYCF/Yr	Total
Oahu	50	278	101,470	\$5,073,500
Hawaii	11	278	101,470	\$1,116,170
Kauai	4	278	101,470	\$405,880
Total	65			\$6,595,550

Juvenile Drug Court Operating Costs: About \$1 million

DRUG COURTS RECIDIVISM RATES SINCE INCEPTION*

	Adult	Juvenile	Family
Oahu	12.20%	15.00%	6.08%
Maui	16.00%	n/a	4.50%
Hawaii	6.73%	0.00%	n/a
Kauai	3.49%	0.00%	n/a

* Oahu Adult is since FY 07.

POTENTIAL EFFECT OF PROGRAM SHUTDOWNS

Juvenile Sex Offenders Unit (program allocation - \$400,000):

If the program were shut down, the cost to place the 21 active participants in HYCF would be about \$2.1 million.

Mental Health Court (program allocation - \$175,000):

If the program were shut down, the cost to place the 37 active participants into incarceration would be about \$1.9 million.

Hawaii's Opportunity Probation with Enforcement (HOPE program allocation - \$1 million):

The average cost to supervise an individual on probation is \$1.82 per day while incarceration costs \$139 per day. The cost to transfer all 1,483 active probationers to incarceration would be about \$75.2 million.

Court Annexed Arbitration Program (CAAP program allocation - \$183,000):

The 10,125 First Circuit cases terminated by award since inception of the program in 1986 would have cost about \$32 million if they had gone to 3 day civil trial with jurors (\$3,200 per case).

TREATMENT COURT AND RELATED POS “WISH” LIST

Restore funding and seven positions for treatment courts - \$1.3 million

Restore funding for POS contracts for domestic violence - \$1.6 million

One Probation Officer position Big Island - \$46,000

One Social Worker position – Family Drug Court, Oahu - \$46,000

Additional \$160,000 in POS funds for:

Maui/Molokai Drug Court - \$90,000

Girl’s Court - \$60,000

Family Drug Court, Oahu - \$10,000

Order of Presentation

- Judge Steven Alm – Project HOPE
- Judge Karen Radius – Girl’s Court
- Judge Michael Wilson – Adult Drug Court
Mental Health Court
- Judge Bode Uale – Family Drug Court
- Judge Robert Browning – Juvenile Drug Court
- Jasmine Mau-Mukai – Children’s Justice Center
- Carol Lee – Hawaii State Coalition Against Domestic
Violence