

# State of Hawaii

## Department of the Attorney General



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## Goals and Objectives

pursuant to Act 100, Session Laws of Hawaii 1999,  
as amended by Act 154, Session Laws of Hawaii 2005

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## SECTION 1: INTRODUCTION

This report is required by Act 100, Session Laws of Hawaii 1999, as amended by Act 154, Session Laws of Hawaii 2005.

The Department of the Attorney General comprises sixteen legal services divisions and four public services divisions, as well as an Investigations Division, which conducts investigations relating to the department's civil, criminal, and administrative cases, and an Administrative Services Office, which provides fiscal, personnel, information technology, library, messenger, and reception services to the department. This report describes departmental goals and objectives, and the goals and objectives of the Legal Services and Public Services Divisions. Division supervisors are given flexibility to structure division goals and objectives according to respective division management plans.

The Department undertakes legal actions to generate and collect revenue for the State, and defends the State against costly legal actions. The Department provides advice and counsel that enable the State to implement revenue-generating and money saving programs while avoiding costly legal challenges. Additionally, the Department obtains federal and other grant funds for the State.

### THE DEPARTMENT UNDERTAKES LEGAL ACTIONS TO GENERATE AND COLLECT REVENUE FOR THE STATE

The Department generates millions of dollars for the State each year in judgments, settlements, and collections. In recent years, the Department has collected judgments and settlements for the State totaling the following approximate amounts:

FY 2009	\$26,700,691
FY 2008	\$21,682,803
FY 2007	\$23,231,561
FY 2006	\$32,766,046
FY 2005	\$60,448,000
FY 2004	\$21,351,000

The Department also represents the State on appeal from lower court judgments. In many cases the Department obtains affirmances of judgments favorable to the State, and in many other cases the Department obtains reversals of adverse judgments, including awards of attorneys' fees against the State. The State benefits not only from the immediate savings in particular cases, but also from repetitive future savings by avoiding the long-term effects of adverse precedent.

Following are recent examples of the Department's actions in generating and collecting funds for the State. While this is not a comprehensive list, it illustrates the variety and extent of the Department's revenue-generating activities.

In April 2006, the Department brought claims against 44 drug manufacturers, alleging that they inflated the price of prescription drugs when reporting the "average wholesale prices." The average wholesale price for a drug is determined by the drug's manufacturer and is a significant factor in determining the amount of money that Medicaid will pay for a drug. Investigation by the State of Hawaii, other state attorneys general, and the U.S. Department of Justice has revealed that the reported average wholesale price frequently has little relationship to the actual price paid for the drug and that inflated or false average wholesale prices is widespread in the prescription drug industry. The Department has achieved significant settlements in this litigation.

- The Department enforces the state tobacco tax laws. In FY 2009, twenty-one successful tobacco tax prosecutions resulted in criminal fines of \$177,000 and restitution of \$703,794. Additionally, the Department enforces the Tobacco Master Settlement Agreement (MSA),

which obligates certain tobacco manufacturers to make payments to the settling states. From 1999 to 2009, the State received \$439,474,841 in MSA payments.

- The Department prosecuted more than 30 tax fraud cases in FY 2008, involving \$1,939,171 in fraud. In FY 2007, the Department prosecuted more than 40 tax fraud cases, involving \$2,047,157 in fraud. In FY 2008, the Department successfully prosecuted 54 defendants, involving \$1,525,000 in fraud. In 2007, the Department successfully prosecuted 37 defendants, involving \$1,667,903 in fraud. By aggressively prosecuting the cases, the Department helps deter fraud against the State.
- The Department administers the state asset forfeiture program, which provides for the seizure and forfeiture of assets used or acquired in connection with criminal activities. Forfeited assets, including proceeds from the auction of forfeited property, are used by state and county law enforcement agencies to fight crime. In FY 2009, the estimated value of the property seized under this program was approximately \$1.3 million.
- The Department assisted in the federal prosecution of four Honolulu airport employees for conspiracy to commit mail fraud. A deputy attorney general served as one of two lead prosecutors. The jury returned guilty verdicts against all defendants on all counts. The defendants received jail sentences ranging from 60 to 108 months and were ordered to pay restitution totaling \$4.6 million.
- The Department enforces state tax claims (delinquent taxes or tax liens) in bankruptcy cases in Hawaii and other states. From July 1, 2008 to December 31, 2009, the Department collected \$1,505,121 in these cases.
- The Department asserts the State's tax lien rights in judicial and non-judicial foreclosure actions filed in state courts by lenders, and in federal courts by the Internal Revenue Service. From July 1, 2008 to December 31, 2009, the Department collected \$57,824 in these cases.
- The Department represents the State in tax appeal cases arising from state tax assessments of any kind. From July 1, 2008 to December 31, 2009, the Department collected \$21,520,292 in these cases.
- The Department represents the State in various other tax actions, including quiet title proceedings and interpleader actions filed by title companies where the State has a recorded tax lien. From July 1, 2008 to December 31, 2009, the Department collected \$305,716 in miscellaneous tax cases.
- Additionally, the Department has secured the dismissal of several tax appeals that could have resulted in payments to taxpayers from the general fund, and won cases in appellate courts that may allow for significant future tax collections.
- The Department administers and enforces the state charity registration law. In 2009, the Department collected \$213,866 in fees, fines, and penalties related to this program.
- The Department enforces the state antitrust laws. In FY 2009, the Department collected more than \$116,000 through antitrust enforcement activities.
- The Department collected \$138,951 in FY 2008 and \$107,084 in FY 2009 in third party liens on workers compensation liens for the Department of Education and the Department of Human Resources Development.
- The Department collected \$5,766,774 in FY 2008 and \$3,486,801 in FY 2009 in delinquent accounts (more than one year old) for the Hawaii Health Systems Corporation. The

Department is able to handle delinquent collections at a much lower cost than commission-based private collection agencies.

- The Department collected \$5,331,690 in FY 2009 in Medicaid third party liens, home property liens, and estate recovery liens for the Department of Human Services.
- The Department collected \$1,590,751 in FY 2008 and \$3,400,490 in FY 2009 in delinquent lease rents, salary overpayments, and property damage claims at the airports, highways, and harbors for the Department of Transportation.
- The Department's Civil Recoveries Division collected \$156,084 in FY 2008 and \$155,331 in FY 2009 in miscellaneous collections, such as salary overpayments, loans, and reimbursements for damage to state property.
- The Civil Recoveries Division collected \$1,095,528 in FY 2008 and \$943,372 in FY 2009 in child support and Financial Institution Data Match cases for the Child Support Enforcement Agency. Additionally, in 2009, the Department's Family Law Division recovered approximately \$152,783 in arrearages owed to custodial parents and to the State as reimbursement of TANF payments. The Family Law Division also recovered approximately \$150,000 in judgments against non-custodial parents.
- Since May 2008, the Department's Deadbeat Parent Unit has collected approximately \$212,565 in child support from delinquent parents. These cases are considered difficult to prosecute because these parents often hide assets to avoid paying child support, and the payments may be many years in arrears.
- The Department files actions to establish paternity, which results in payments to custodial parents and reimbursements to the State for welfare expenditures.
- In environmental and other enforcement actions on behalf of the Department of Health, the Department brought \$593,531 in fines and penalties into the State treasury in FY 2009. An additional fine of \$950,000 in an enforcement case was deposited in August 2009. Other environmental enforcement action penalties include \$55,000 relating to Tesoro (underground storage tank violations), and \$148,050 relating to Marisco (hazardous waste management violations).
- In the Department's enforcement actions relating to child care provider licensing violations, fines of \$8,475 were assessed in FY 2009.
- The Department petitions for conservatorship for vulnerable adults on behalf of the DHS Adult Protective Services Branch. In the past, DHS contracted with private attorneys for this work. By providing this service, the Department saves the State the cost of private attorneys.
- In the period from July 1, 2007 through June 30, 2009, the Department collected \$711,893 on behalf of the Department of Labor and Industrial Relations in occupational safety and health penalties, unpaid wages and wage standard penalties, disability compensation penalties and reimbursements, and overpaid unemployment benefits.
- The Department represents the State in condemnation actions to protect the State from paying more than fair just compensation for the property condemned.
- The Department established the State's ownership of a 170-acre parcel of valuable and historic woodland in *State v. The Nature Conservancy*. In addition to preserving ownership of State lands, this result clears the way for pursuit of \$1 million in fines for illegal logging.

- The Department obtained a \$300,000 settlement for coral damage in the *Kai Anela* case. Kai Anela, a boat engaged in taking tourists to the rich coral beds at the Molokini Shoal Marine Life Conservation District, sank atop the coral reef at Molokini. The initial impact and salvage efforts damaged or destroyed some 192 square meters of dense and valuable coral. Similarly, we obtained a \$130,000 settlement for coral damage in *the Kai Nani* case.
- In the Pineridge Farms case, the Department filed a collection action on a promissory note. After the lawsuit was filed, Pineridge paid the State approximately \$200,000 for the use of land under Department of Transportation jurisdiction.

## THE DEPARTMENT DEFENDS THE STATE AGAINST COSTLY LEGAL ACTIONS

The Department saves the State millions of dollars in money damages and other costly outcomes by defending the State against lawsuits and other legal actions. The Department is often able to obtain the dismissal of cases that would otherwise result in monetary judgments against the State, or result in injunctive orders requiring the State to undertake expensive and burdensome actions. In other cases, the Department may be able to limit the State's liability or negotiate fair settlements. While it is not possible to precisely quantify these savings, the following recent examples illustrate how the Department's legal work helps avert costly consequences.

- In *Maunalua Bay v. State of Hawaii*, the Intermediate Court of Appeals reversed the portion of a circuit court judgment that would have required the State to pay compensation for future accreted beachfront lands, saving State hundreds of millions of dollars in compensation for future accreted land.
- In *Hawaii Insurers Council v. Lingle*, the Hawaii Supreme Court held that that assessment of regulatory fees against insurers was not an impermissible tax. Lower courts had ruled against the State. One ICA judge had noted that a ruling against the State would implicate approximately \$1.9 billion in special and revolving funds.
- In *Awakuni v. Awana*, the department obtained a favorable ruling from the Hawaii Supreme Court, validating the decisions of the Hawaii Employer-Union Benefits Trust Fund in determining the health benefits plan for State and county employees.
- The Department secured a reversal in the Hawaii Supreme Court of an award of \$4.2 million against the Department of Human Services based on DHS's implementation of the Randolph-Sheppard Vending Stand Act, and successfully defeated a petition to challenge that decision before the United States Supreme Court.
- In *Cho v. State of Hawaii*, a lawsuit potentially worth millions of dollars, plaintiffs alleged that they had sustained injuries or illnesses caused by long-term exposure to lead, mercury, and arsenic during their ten-year occupancy of a government leased cottage on the grounds of a public intermediate school. The Department prevailed at trial, and the Intermediate Court of Appeals affirmed. The plaintiffs then appealed to the Hawaii Supreme Court. The Hawaii Supreme Court affirmed the judgment in favor of the State.
- The Department obtained the Hawaii Supreme Court's dismissal of a circuit court determination that the CSEA breached its fiduciary duty to obligees whose child support payments were held in "uncashed check" or "bad address" accounts. The court specifically held that the "financial management of CSEA has significantly improved." The court also vacated large portions of the judgment against the CSEA and reversed an attorneys' fee judgment.
- In *AlohaCare v. DHS* (U.S. District Court), the Department represented DHS against a health plan that bid unsuccessfully for a Medicaid managed care contract for the new QExA program. The new program provides health services for Hawaii's aged, blind, and disabled

population through managed care instead of on a fee-for-service basis. It improves care coordination, which allows necessary services to be delivered more efficiently and economically. The State pays for the services based on a capitated rate rather than reimbursing individual providers, which again is more economical. Plaintiff moved to enjoin the QExA program from proceeding, but the case was dismissed. Plaintiff's appeal to the Ninth Circuit Court of Appeals was unsuccessful. The Department also obtained expeditious dismissal of AlohaCare's related administrative appeal.

- In *Hawaii Coalition for Health v. DHS* (U.S. District Court), the Department defended DHS against an additional attempt to stop the implementation of the QExA program. The case was dismissed.
- The Department negotiated a settlement in *Kapiolani Medical Center v. Koller*, ending intense litigation in a potentially high-cost case. In 2005, a Medicaid beneficiary had undergone a liver biopsy at Kapiolani Medical Center to be evaluated for a transplant. Subsequently, her treating physicians had difficulty stopping the bleeding at the site of the incision, and a hematologist recommended the use of an extremely expensive drug that is approved by the FDA for hemophiliacs. This patient was not a hemophiliac. Kapiolani continued to treat her with this drug for six weeks. She was still receiving the drug when she was transported to a mainland health facility for further evaluation for a liver transplant. Within three days of her arrival there, the use of this drug was discontinued and the bleeding was controlled by conventional means. DHS disputed the use of the drug, specifically, whether it was medically necessary. The initial claim was for approximately \$6 million. The case was settled for approximately \$2 million.
- The Department represented DOH and DHS in *Summer H. vs. DOH and DHS* (U.S. District Court), which challenged the 15% reduction in community-based services made by DOH for the Medicaid developmentally disabled population. After the early stages of litigation, Plaintiffs dismissed the case. The reductions are proceeding, with each affected individual given the opportunity to contest them in the administrative forum.
- The Department defends DHS in administrative appeals to the circuit court where DHS has reduced or terminated a public assistance recipient's general assistance or food stamp benefits because the recipient no longer qualifies for those amounts. The Department does the same for the MedQUEST division's determination of eligibility for Medicaid assistance.
- The Department negotiated a settlement on behalf of the State MedQUEST division, resolving a medical transportation provider's late-filed claims and ensuring that future claims would be submitted on a timely basis. The Department's legal advice and representation helped the DHS to avoid a threatened legal action for payment.
- The Department represented the MedQUEST division in a challenge to its determination that an applicant was ineligible for Medicaid coverage. The applicant wanted Medicaid to cover her long-term care costs. The hearing officer upheld MQD's determination that the applicant was ineligible for Medicaid assistance because the value of her assets exceeded the allowed limit, even after she tried to transfer her assets to a family member.
- In *Ann Kimball Wiles, et al. v. DOE* (U.S. District Court), the parents of a special education eligible student sought \$9.5 million in damages, alleging that DOE discriminated against their child under Section 504 of the Rehabilitation Act by failing to provide him all of the services specified in his Individualized Education Program (IEP). After a 4½ week trial, the jury returned a verdict for DOE, finding no liability and no damages. Plaintiffs filed an appeal to the Ninth Circuit Court of Appeals; the court later granted Plaintiffs' request for a voluntary dismissal of the appeal.

- In *Patricia N., et al. v. LeMahieu, et al.* (U.S. District Court), the parents of a special education eligible student sought more than \$1 million in damages, alleging that DOE failed to provide her all of the services specified in her IEP. The U.S. District Court remanded the case for an administrative hearing on issues that Plaintiffs failed to exhaust. The hearing officer rendered a decision requiring DOE to pay only \$49,400.
- In *Mark H., et al. v. LeMahieu, et al.* (U.S. District Court), the parents of two special education eligible students sought millions of dollars in damages, alleging that DOE failed to provide their children with all of their services specified in their IEPs. The U.S. District Court granted the State's Motion for Summary Judgment and denied Plaintiffs' Motion for Partial Summary Judgment.
- In *Alaka'i Na Keiki, Inc. v. Patricia Hamamoto, et al.*, Plaintiffs filed suit for money damages, alleging the wrongful denial of Plaintiff's response to a request for proposal for intensive instructional support services pursuant to HRS chapter 103F. The First Circuit Court granted the State's motion dismiss the complaint or alternatively for summary judgment.
- The Department represents the State in numerous administrative hearing cases relating to special education services. In most instances, the parents of special education eligible students seek either the provision of services or private placement at public expense.
- In *Brown v. State et al.*, the Department obtained summary judgment in federal court on behalf of the former chief of the State Historic Preservation Division for a first amendment retaliation claim. Plaintiff had sought more than \$1 million in damages.
- The Department obtained reversal in the Hawaii Supreme Court of a lower court judgment of damages in the amount of \$3.67 million plus \$600,000 attorneys' fees against the Department of Human Services in a case involving claims of licensed blind vendors.
- In *Kemp v. Child Support Enforcement Agency*, the Department obtained a reversal in the Hawaii Supreme Court of a \$500,000 judgment for attorneys fees and costs against the State.

THE DEPARTMENT PROVIDES ADVICE AND COUNSEL THAT ENABLE THE STATE TO IMPLEMENT REVENUE-GENERATING AND MONEY-SAVING PROGRAMS WHILE AVOIDING COSTLY LEGAL CHALLENGES

The Department provides advice and counsel to the Legislature, the Judiciary, and Executive branch agencies in thousands of legal matters every year.

The Department drafts, reviews, and provides advice on proposed legislation. The Department analyzes every bill introduced during each legislative session, and provides testimony to the Legislature regarding legal and constitutional issues to avoid future losses. For example:

- During the 2009 regular legislative session, the Department advised the Legislature and the Executive Branch as to compliance with the provisions of *Hawaii Insurers Council v. Lingle*, regarding the transfer of moneys from various non-general funds to the general fund. In *Hawaii Insurers Council*, the Hawaii Supreme Court established criteria regarding when such transfers would be permissible. The 2009 transfers from the various non-general funds to the general fund were needed in the State's efforts to balance the FY 2009 budget.

The Department drafts, reviews, and provides advice on administrative rules; and prepares, reviews, and approves as to legality contracts and other documents that enable the State to implement programs and prevent legal challenges. For example:



- The Department prepares and reviews leases, licenses, revocable permits, right-of-entry agreements, and other documents affecting airports, highways, and harbors. Additionally, the Department prepares land patents, deeds, leases, grants, revocable permits, easements, public auction commercial leases, and other conveyances of public land or interest in public land. In FY 2009, the Department reviewed and prepared 793 documents and 500 contracts for the Departments of Transportation and of Land and Natural Resources. These agreements generate revenue for the State.
- The Department prepares and reviews documents relating to construction, sales, development agreements, leases, rights of entry, permits, and licenses for revenue-generating programs in Department of Housing and Hawaiian Home Lands and the Hawaii Public Housing Authority. Recent examples include various Department of Hawaiian Home Lands commercial leases, the Hawaii Public Housing Authority's efforts to sell and redevelop certain projects, and efforts to shift the financial burden of custody and maintenance of property to others.
- The Department recently reviewed numerous contracts needed to implement substantial amounts of federal money for wastewater and drinking water programs.

The Department provides other advice and counsel that enable the State to implement programs and avert legal challenges. For example:

- The Department advised the Department of Accounting and General Services regarding an issuance of certificates of participation used to finance the retrofit of ten state buildings to lower utility costs. This project is estimated to have annual savings of approximately \$3.2 million.
- In the six-month period from July to December 2009, the department assisted in the issuance of bonds in the amount of \$723,620,000.
- In a case from Kauai, Hawaii Disability Rights Center (HDRC), representing a young adult male and his parents/co-guardians, threatened to sue if DOH's Adult Mental Health Division did not allow the young man to participate in AMHD's Clubhouse for seriously mentally ill adults in Lihue. It appeared that appropriate services might be more available on Oahu, but the parents/co-guardians would not agree to relocation. The young man had developmental disabilities and had also been diagnosed with mental illness, though the second diagnosis seemed to have been made solely to obtain State services from AMHD. HHSD deputies helped negotiate a settlement with DOH's Adult Mental Health and Developmental Disabilities divisions, the DHS vocational rehabilitation program, HDRC, and the parents/co-guardians whereby the young man was able to receive appropriate services on Kauai. The threatened lawsuit was avoided.
- In a second case from Kauai, Hawaii Disability Rights Center threatened to sue on behalf of an elderly woman known only as "Ah Doe" when the Adult Mental Health Division ceased payment for her care in the long term care unit of Samuel Mahelona Hospital. Up to that point AMHD had paid for her care for about four and a half years, at a cost of almost \$500,000. But upon re-assessing the case, AMHD concluded that the woman did not qualify for AMHD services because she suffered from amnesia and dementia, not a serious mental illness. Everyone thought that no Medicaid or Medicare funds could be accessed because the woman had no social security number and no proof of identity. In fact, prior applications for Medicaid had been denied. National and international inquiries were made to try to find Ah Doe's true identity using fingerprint and DNA data bases, to no avail. The deputy representing AMHD researched how the guardian of the person might obtain a social security number for Ah Doe and communicated that information to HDRC. A social security number was issued to Ah Doe and her applications for federal benefits were then submitted for

processing. AMHD no longer pays for her care, and Mahelona receives payment from the federal benefits to which Ah Doe is now entitled.

- The Department helped the DOH and DHS establish the hearing process for developmentally disabled recipients of Medicaid funding for community-based services when the recipients were notified of planned 15% cuts in their funding for those services. Recipients who showed that the reductions would harm them did not have their services reduced. The reductions have been upheld in appropriate cases, saving the State's share of the cost.
- The Department advises DHS and DOH programs with respect to subpoenas in order to avoid liability for unauthorized disclosure of confidential information.
- The Department advises the DHS food stamp (SNAP) program to avoid federal sanctions.
- The Department advises the DHS TANF, Medicaid, and child care programs to ensure compliance with federal requirements so that federal funding continues.

#### THE DEPARTMENT OBTAINS FEDERAL AND OTHER GRANT FUNDS FOR THE STATE

The Department has a critical role in the State's efforts to obtain funding from sources outside the State.

The Department applies for and administers millions of dollars in federal grant funds every year – approximately \$12.5 million in FY 2009. The Department conducts several annual solicitation processes to sub-grant federal formula funds to State and county criminal justice agencies and nonprofit service providers. Presently, the Department is administering approximately 130 sub-grants, in all four counties, totaling millions of dollars.

The Department's legal divisions provide advice and counsel to ensure that State programs are eligible to receive federal funds and comply with federal requirements; and review and approve as to legal form the State's contracts and other documents relating to grant funds.

The Department's Grants and Planning Branch assists other government and nonprofit agencies to obtain federal grants – for example, the branch assisted the Department of Public Safety in its successful application for a \$706,000 grant to implement Hawaii's Victim Notification System. The branch also provides training workshops on applying for and managing grant funds.

The Department's Research and Statistics Branch provides data that State agencies use to apply for funding and implement money-saving programs – for example, the branch designed data collection systems that were used to develop the Judiciary's HOPE alternative probation program, which now serves as a model program on an international level.

Additionally, the Department obtains federal and other funds for its own projects. Recent examples include multiple competitive grants totaling more than \$2 million for the Juvenile Justice Information System, and grants totaling more than \$90,000 for the Missing Child Center.

With regard to the American Reinvestment and Recovery Act (ARRA) of 2009, the Department helped draft the various versions of the bill that become Act 150, Session Laws of Hawaii 2009. This legislation enabled the State to encumber and expend ARRA funds expeditiously within the time frames required by ARRA. Act 150 created temporary exemptions in procurement and rule making statutes for programs, services, and benefits using funds allocated to the State by ARRA, and created a legislative oversight commission to ensure transparency and accountability. This legislation enables the State to encumber and expend ARRA funds expeditiously within the time frames required by ARRA.

The Department applied for and received more than \$8.5 million in ARRA grants. Almost all of these funds have been or will be sub-granted to other state and county law enforcement agencies and nonprofit victim service providers, in all four counties. ARRA funds will be used for statewide public safety

programs administered by the Department, including the Sex Offender Registry and the Internet Crimes Against Children Task Force.

In 2009, the Department helped organize statewide, mandatory training for State agencies that administer ARRA funds. The training is intended to prevent waste, fraud, and abuse of these funds. The Department worked with the State Procurement Office to plan the training, coordinated with mainland-based U.S. Department of Justice presenters, and conducted training sessions. Approximately 1,500 state workers from all four counties attended the training. The Department is working with the State Procurement Office to plan further training for 2010.

The Department helped organize training in January 2010 on ARRA fraud prevention and detection, to be presented by federal Inspectors General and mainland-based trainers from the FBI and the U.S. Department of Justice. This training will cover the investigative process, prosecutions, and antitrust issues.

The Department also conducted mandatory internal training for attorneys, paralegals, and other Department staff who handle ARRA matters.

The Department provides expedited advice and counsel to State programs that seek or receive ARRA funds. For example, the Department worked on legislation to ensure that Hawaii's Drinking Water and Wastewater State Revolving Funds were eligible to receive ARRA funds, and worked with the DOH Clean Air Branch to meet the requirements for receiving and distributing \$1.7 million of ARRA Diesel Emission Reduction Act funds to the Department of Education and the University of Hawaii.

The Department has conducted expedited legal reviews of State contracts for ARRA funds totaling millions of dollars. For example:

- Four DOH contracts for the DOH Executive Office on Aging. The contracts fund EOA's county partners to provide congregate and home-delivered meals to adults 60 years or older who meet certain criteria. (\$485,000)
- Altres staffing for the school seasonal flu vaccination program (\$443,222)
- Three DHS contracts for food stamp outreach (\$114,350)
- Wailuku-Kahului Wastewater Reclamation Facility Tsunami Protection revolving fund loan (\$2,387,759)
- Kihei Road Waterline Replacement revolving fund loan (\$768,923)
- Vineyard Street Waterline Replacement revolving fund loan (\$1,430,000)
- West Olinda Tank Replacement revolving fund loan (\$1,469,000)
- Waimalu Sewer Rehabilitation/Reconstruction revolving fund loan (\$7,438,075)
- Queen Liliuokalani Large Capacity Cesspool Replacement revolving fund loan (\$1,019,928)

#### HAWAII CRIMINAL JUSTICE DATA CENTER

The State ID program collects fees and is self-supporting. Criminal History Record Check Unit collects fees to support the enhancement and maintenance of the criminal history information system. HCJDC is in the process of updating its administrative rules to increase State ID and Criminal History Record fees.

In addition, HCJDC collects fees from National Crime Information Center system users (qualified state, county, and federal criminal justice agencies) to maintain Hawaii's connectivity to the FBI system. HCJDC also charges an hourly programming fee to non-criminal justice agencies that request CJIS-Hawaii statistics.

In 2009, HCJDC applied for and received two ARRA grants, totaling \$1.4 million, to support investigator and prosecutor positions related to the sex offender registry, and to maintain AFIS.

#### CHILD SUPPORT ENFORCEMENT AGENCY

In FY 2009, CSEA collected \$121,930,663 in child support funds. Of this amount, CSEA collected \$4,781,346 for the State, \$5,960,406 for the federal government, and \$111,188,910 on behalf of custodial parents. Some of these custodial parents might otherwise require State welfare support.

On average, CSEA annually generates approximately \$12 million in federal funds for the State. This is because the U.S. Department of Health and Human Services (DHHS) provides matching funds at a rate of two federal dollars for every one State general fund dollar spent by CSEA. DHHS also provides incentive funds to state child support enforcement agencies that perform well in certain categories established by DHHS. On average, CSEA annually earns approximately \$1.4 million incentive funds.

Additionally, CSEA is generating ARRA funds for the State. In the past, in addition to the matching funds described above, DHHS provided two additional dollars of matching funds for every dollar of incentive funds that a state earned and spent, but Congress eliminated these additional matching funds at the end of federal FY 2007. An ARRA program temporarily restores these additional matching funds. By spending previously-earned federal incentive funds between July 1, 2009 and September 30, 2010, CSEA expects to generate \$2.8 million in ARRA matching funds.

## **SECTION 2: DEPARTMENT GOALS AND OBJECTIVES**

### MISSION

- To provide excellent legal and public services in a timely manner.

### CORE VALUES

- We believe in the bedrock principle of the rule of law, and the primary guiding role that principle plays in the operation of this Department.
- We believe that the Department and its employees should strive to uphold the highest principles of ethics, honesty, and fair play, and to set an example consistent with the Attorney General's position as Hawaii's chief legal and law enforcement officer.
- We believe that the Department should operate on and treat employees based on the principle of merit.
- We believe that the Department should provide employees a safe, drug- and alcohol-free workplace and the support necessary for employees to do their best and accomplish their goals.

### GOALS

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

### OBJECTIVES AND POLICIES

- People's Representative: Safeguard the rights and interests of the people of the State of Hawaii by undertaking appropriate legal actions on their behalf.
- Litigation: Represent the State, its agencies, and its officers in civil proceedings in state and federal courts.
- Administrative Hearings: Represent the State, its agencies, and its officers in administrative proceedings.
- Criminal Prosecutions: Prosecute criminal offenses such as public corruption, bribery, fraud, environmental crimes, high technology crimes, and Internet crimes against children, and other crimes when necessary and appropriate.
- Legal Opinions and Advice: Provide legal opinions and advice to the Governor, the Legislature, judges, and state departments and officers.
- Rules and Legislation: Assist state departments and agencies in reviewing rules and legislation.
- Contracts: Draft, review, and approve as to form various legal documents.
- Law Enforcement: Enforce federal, state, and local laws, rules, and regulations; and monitor the operations of the Hawaii Career Criminal Program, the Witness Security and Protection Program, and the Victim-Witness Program.
- Investigations: Investigate criminal and civil matters as appropriate.
- Federal Funds for Crime Prevention Programs: Seek, apply for, and administer federal funds and other resources to enhance and expand the capabilities of criminal justice and juvenile justice programs.
- Policy Development for Criminal Justice Programs: Coordinate and assess information on a statewide basis for the development of policies to improve the criminal justice and juvenile justice systems and programs.

## SECTION 3: LEGAL SERVICES DIVISIONS

### Administration Division

The Administration Division is principally responsible for commercial and financial-related legal issues. The division provides legal advice and litigation support to various departments and offices, including the Office of the Governor; the Office of the Lieutenant Governor (including the Office of Information Practices, the Office of the Auditor, and the Legislative Reference Bureau); the Department of Accounting and General Services (including the State Foundation on Culture and the Arts, the Stadium Authority, the Campaign Spending Commission, the Office of Elections, and the State Procurement Office); the Department of Budget and Finance (including advice regarding bond matters and advice to the Employees' Retirement System, the Employer-Union Health Benefits Trust Fund, and the Office of the Public Defender); the Judiciary on all islands (including the Commission on Judicial Conduct, the Office of Disciplinary Counsel, the Judiciary Personnel Appeals Board, and the Judicial Selection Commission; other areas of the Judiciary are advised by the Education Division); the Hawaii State Land Use Commission, the Fatherhood Commission, the Wireless Enhanced 911 Board, the Hawaii Access Commission, the Hawaii State Commission on the Status of Women, and the Research Corporation of the University of Hawaii.

GOAL 1:        Develop cross-training of deputies in all subject matters handled by the division to improve depth capacity.

Objective 1:    Develop subject matter expertise in more than one deputy to increase depth and capacity of the division.

Action Plan:    Implement an assignment process that involves deputies to be partnered with deputies normally assigned to specialized areas of expertise to assist in the legal research and opinion writing to gain exposure and familiarity with matters affecting a variety of clients serviced by the division.

Process:        Partner deputies on assignments so that each deputy will gain exposure to assignments in areas other than their usual subject matter expertise.

GOAL 2:        Improve work performance of support staff.

Objective 1:    Identify concerns and impediments to work performance of support staff.

Objective 2:    Develop training and mentoring program to improve skills of support staff.

Action Plan:    Implement an attendance monitoring and reporting system to track attendance and provide for coverage in times of absences.

Process:        Keep log of attendance and regularly meet with staff to discuss problems, work conditions, and interpersonal concerns within the division.

GOAL 3:        Improve utilization of legal assistant support.

Objective 1:    Identify areas where legal assistant can handle work presently being performed by an attorney.

Objective 2:    Expand the areas of expertise of legal assistant.

Action Plan:    Immediately determine what matters can be assigned to legal assistant and determine whether training is necessary before assignment can be delegated.

Process: Survey deputies to identify matters that can be delegated to legal assistant and have deputy mentor, train, and supervise legal assistant until matter can be fully delegated.

GOAL 4: Provide quality, consistent, pro-active legal services to client agencies.

Objective 1: Continue to consult with clients to determine areas for improvement in the delivery of effective legal services.

Action Plan: Meet with clients to discuss areas that could use improvements.

Process: Circulate opinions issued by division with division attorneys so that attorneys are aware of issues involving client agencies.

GOAL 5: Improve division expertise in sunshine law matters.

Objective 1: Provide consistent advice to client agencies on matters relating to the sunshine law.

Objective 2: Improve attorney expertise on matters relating to the sunshine law.

Action Plan: Continue monthly brown bag sessions to discuss sunshine law issues affecting the division.

Process: Expose all division deputies on sunshine law issues.

GOAL 6: Improve division expertise in procurement, land use reform and negotiating and drafting of development agreements.

Objective 1: Develop expertise in land use reform.

Objective 2: Anticipate the need to handle negotiations in development agreements to meet the needs of various state agencies engaged in private/public joint efforts in major development and redevelopment projects.

Action Plan: Attend procurement training sponsored by State Procurement Office and focus internal training on procurement and development issue to gain expertise in subject matters.

Process: Identify seminars and training and send deputies to these training sessions to learn and network with experts in the field.

GOAL 7: Develop procedures for review of client documents, including email and electronic documents, that are subject to disclosure requests under HRS chapter 92F, for legal privileges.

Objective 1: Develop division understanding of the requirements of the law (HRS chapter 92F).

Objective 2: Develop division understanding of the law on legal privileges.

Objective 3: Develop division understanding of the computer technology (email system) to be able to review mass quantities of electronic documents.

Action Plan: Use past experiences to develop procedures to handle large scale document requests.

Process: Obtain technological training to establish some expertise with the email system used by the State. Conduct group meetings to discuss past issues and experiences, then develop procedures for required practices, including timeline issues and access to prior legal memos on issues such as privileges.

## Appellate Division

The Appellate Division has oversight responsibility for all state and federal appeals in the department. The division also serves as the primary contact point with other states for filing amicus briefs in the United States Supreme Court and other federal courts in pending cases that involve state issues. Many of the significant and/or difficult cases in the department eventually become the responsibility of the Appellate Division. The division's workload in the past several years has included the following:

- Cases defending Hawaiian rights and entitlements, including cases involving the State's administration of laws, lands, and trust moneys intended to benefit Hawaiians;
- Cases in which the State asserts sovereign immunity;
- Cases involving the assertion of the public trust doctrine against the State;
- Cases involving the absolute and qualified immunity of state officers named as defendants on civil rights claims;
- Cases involving legal disputes between the State and the Office of Hawaiian Affairs or other Native Hawaiian plaintiffs;
- Cases involving the discretionary function exception to state tort liability and cases involving the State's share of liability in joint tortfeasor cases;
- Cases alleging the unconstitutionality of any state statute or administrative rule or court rule;
- Cases involving constitutional claims asserted against the State, including for example the Eighth Amendment and the Privileges and Immunities Clause;
- Cases involving claims against the State for plaintiffs' attorneys' fees;
- Class action cases for unpaid benefits and for attorneys' fees asserted against the Employees' Retirement System and against the Hawaii Employer-Union Health Benefits Trust Fund (EUTF);
- Criminal cases involving novel issues;
- ERISA cases;
- DUI license revocation cases;
- Reviewing proposed legislation for potential constitutional defects;
- Ensuring continued public access to and control over beach lands;
- Cases involving funds allegedly improperly ported to unions before the formation of the EUTF;
- The Hawaii Insurer's Council v. Lingle case, in which the State successfully defended the insurance division's assessment from the insurers as constituting valid regulatory fees, and not unconstitutional taxes; and
- Assisting other divisions with appeals in their specialized areas.

### Overall Goal

To ensure and improve the quality of appellate advocacy on behalf of the State, and to promote the legal interests of the State and its officials generally.

### Objectives

- Continue to maintain contact with appellate divisions of all other states through the National Association of Attorneys General and particularly through the exchange of amicus briefs in cases with issues that affect numerous states (such as federalism and states' right issues).
- Continue to provide advice, review, and revision assistance to other attorneys within the department;
- Continue to serve on the appellate rules committee, which reviews and revises the Hawaii rules of appellate procedure.
- Continue to serve on internal department committees that critique written opinions, briefs, and oral argument, and that oversee complex litigation.
- Continue to serve on the department's contracts committee and various special project task forces.



### Action Plan

The goals and objectives are currently being implemented on an ongoing and continuous basis.

## Civil Recoveries Division

The Civil Recoveries Division pursues moneys owed to the State. Some examples of these claims are delinquent lease rents, third-party reimbursements, salary or benefit overpayments, loan delinquencies, tax delinquencies, Medicaid estate recoveries and home property liens, complex child support payments, delinquent hospital service payments, false claim actions, contract claims and construction claims. In addition, the division provides advice and counsel to the Department of Defense.

GOAL 1: To recover moneys owing to the State of Hawaii.

Objective: To provide timely and effective advice and legal representation to state agencies that require collection assistance.

Action Plan: Continue to work with existing client agencies and advise other agencies on collection potential. File actions on behalf of the State in false claims, reimbursement, and other plaintiff claims.

Process: Review agency delinquency reports and continue communications with agencies.

GOAL 2: To review state agency accounts for write offs.

Objective: To develop consistency in the write off of delinquent accounts while increasing the ability to retain income tax refunds to satisfy outstanding debts being written off, in those cases where such actions are feasible.

Action Plan: Teach, train, and monitor state agencies in the write off process pursuant to Administrative Directive No. 96-02.

Process: Monitor state agency reports submitted pursuant to Administrative Directive No. 96-02.

## HAWAII HEALTH SYSTEMS CORPORATION

GOAL 3: To provide efficient and effective representation to HHSC in the collection of its aged delinquent accounts (greater than one year old).

Objective: To increase account referrals and increase the amount collected for HHSC from delinquent accounts for services rendered.

Action Plan: Continue to work with HHSC staff to increase account referrals and coordinate the referral and collection process.

Process: Collections:  
FY 2004 \$1,229,923  
FY 2005 \$1,660,887  
FY 2006 \$2,500,813  
FY 2007 \$3,200,971  
FY 2008 \$5,766,774  
FY 2009 \$3,486,801

## CHILD SUPPORT ENFORCEMENT AGENCY

GOAL 4: To provide efficient and effective representation to CSEA in the collection of payments in difficult child support and FIDM cases.

Objective: To increase referrals and amounts collected for CSEA from the collection of payments in difficult child support and FIDM cases.

Action Plan: Continue to work with and encourage the CSEA staff to increase referrals.

Process: Collections:  
FY 2004 \$1,349,711  
FY 2005 \$1,457,434  
FY 2006 \$1,282,882  
FY 2007 \$1,276,958  
FY 2008 \$1,095,528  
FY 2009 \$ 943,372

## HUMAN SERVICES

GOAL 5: To provide efficient and effective representation to the Department of Human Services in the collection of its Medicaid third party liens, home property liens, and estate recovery liens.

Objective: To increase amounts collected for DHS from Medicaid third party liens, home property liens, and estate recovery liens.

Action Plan: Continue to work with DHS staff in coordinating the referral and collection process. Also, develop a program for the recovery of unreported and unpaid third party liens.

Process: Collections:  
FY 2004 \$5,253,848  
FY 2005 \$7,229,500  
FY 2006 \$7,059,500  
FY 2007 \$7,645,851  
FY 2009 \$5,331,690

## CONSTRUCTION AND CONTRACT CLAIMS

GOAL 6: To provide efficient and effective representation to state agencies that have major construction or contract claims and to prosecute appropriate false claims.

Objective: To increase the level of advice and representation offered to state agencies in their major construction or contract claims and to review false claims.

Action Plan: To train and work with DOT and DAGS staff to increase the recoveries and mitigate the claims from major state construction and contract claims.

Process: Extensive training to personnel in DOT and DAGS in contract management and revision of contract documents was carried out in 2003 and 2004. Training in contract management for the client agencies has been ongoing.

## HUMAN RESOURCES AND DEVELOPMENT AND EDUCATION

GOAL 7: To provide efficient and effective representation to DHRD and DOE in the recovery of third party liens on workers compensation liens.

Objective: To increase the amount collected from third party workers compensation liens.

Action Plan: To work with DHRD and DOE staff in coordinating the referral and collection process.

Process: Collections:  
FY 2004 \$138,576

FY 2005 \$220,000  
FY 2006 \$ 54,100  
FY 2007 \$ 65,102  
FY 2008 \$138,951  
FY 2009 \$107,084

## TRANSPORTATION

GOAL 8: To provide efficient and effective representation to DOT in the collection of its delinquent lease rents, salary overpayments, and property damage claims at the airports, highways and harbors.

Objective: To increase the amount collected for DOT in the collection of its delinquent lease rents, salary overpayments, and property damage claims at the airports, highways and harbors.

Action Plan: Continue to work with DOT staff in coordinating the referral and collection process.

Process: Collections:  
FY 2004 \$1,696,152  
FY 2005 \$2,805,939  
FY 2006 \$3,100,394  
FY 2007 \$3,200,971  
FY 2008 \$1,590,751  
FY 2009 \$3,400,490

## MISCELLANEOUS

GOAL 9: To provide efficient and effective representation to general funded departments in their collection of liquidated claims, such as salary overpayments, loans, and reimbursements for damage to state property.

Objective: To increase the amount collected for PSD, DOE, and DAGS in salary overpayments, loans, and reimbursements for property damage claims.

Action Plan: Use ProLaw to track collections, provide a legal assistant to organize the files and prepare demand letters and complaints, and continue to work with PSD, DOE, and DAGS staff in coordinating the referral and collection process.

Process: Collections:  
FY 2004 \$ 46,997  
FY 2005 \$149,998  
FY 2006 \$134,756  
FY 2007 \$156,205  
FY 2008 \$156,084  
FY 2009 \$155,331

## DEFENSE

GOAL 10: To provide advice and counsel to the Department of Defense/State Civil Defense.

Objective: To assist and enable the DOD to carry out its mission of providing for the defense of the State and its people from natural or man-made disasters, emergencies, or mass violence.

Action Plan: Continue to participate in and conduct training in areas which will prepare DOD and the State for natural and man-made disasters or emergencies and assist in additional Homeland Security readiness; to review contracts.

Process: Training and preparation has been increased since 9/11. This team continues to participate in and assist in providing training classes/workshops to DOD and State Civil Defense.

## Civil Rights Litigation Division

The Civil Rights Litigation Division provides legal defense to the State, its departments and agencies, and certain state employees in lawsuits or other claims that involve allegations of constitutional or civil rights violations. This defense includes, but is not limited to, answering legal complaints filed in court, investigating claims, conducting discovery, filing motions as determined to be necessary, and representing state interests at arbitrations, mediations, and trials.

### **GOAL 1: PROVIDE QUALITY LEGAL REPRESENTATION TO CLIENTS**

**Objective 1:** Provide assistance to division deputies with regard to issue identification and case strategies, and other aspects of case handling.

**Action Plan:** Facilitate discussion of case specific issues as requested. At the present time, deputies are encouraged to present issues and solicit input on their cases at weekly division meetings, or to request ad hoc meetings to discuss issues, as-needed. Informal one-on-one mentoring by more experienced deputies is also encouraged, and is occasionally mandated by specific case assignment.

**Objective 2:** Continue to improve the level of competence of all division staff with regard to their specific job responsibilities.

**Action Plan:** Explore the availability of training opportunities, including in the areas of trial advocacy, computer skills, legal writing and legal research, and encourage staff to take advantage of all such opportunities, as fiscal resources will allow. Continue to make efforts toward establishing a system of in-house training as time permits, drawing upon the expertise of division members and other department personnel.

**Objective 3:** Facilitate positive relationships with division clients.

**Action Plan:** Encourage the identification and implementation of improved means of communication with clients. Reinforce with division deputies the importance of keeping clients apprised of significant case events, particularly regarding potential settlement or other case resolution. Additional efforts will be made to ameliorate the concerns of state employees sued in their individual capacities, especially employees who are being sued for the first time and are not familiar with the litigation process. With the change in the federal rules relating to electronic discovery (e-discovery) and the obligations of the departments and its employees to avoid spoliation issues, the deputies will meet with the appropriate agency employees at the earliest possible opportunity when there is potential litigation or a lawsuit is filed to ensure compliance with e-discovery requirements.

**Objective 4:** Assist with client training and special projects, as requested.

**Action Plan:** Participate in client training upon request of the client. This includes the provision of informal advice over the phone or in person, and participation in formal training. CRLD also provides staff to assist with special client projects, as requested. CRLD and TLD deputies continue to participate in the training of deputy sheriff recruits at the request of the Department of Public Safety.

**Objective 5:** Promote the use of informal, mini Litigation Review Committees (LRCs).

**Action Plan:** In addition to the weekly division meetings, CRLD continues to routinely utilize informal, mini LRCs as a means of discussing case-specific issues, such as issues relating to liability, case strategy, and case value. Depending on the issue being presented, the participation of deputies from other divisions who may have relevant expertise is often sought. This practice improves the level of service CRLD is able to provide to its clients

because the deputies have the benefit of group discussion and group knowledge on important case issues.

**Objective 6:** Reduce the number of meritless or frivolous lawsuits.

**Action Plan:** Emphasize to the deputies the need to immediately identify legally unsupportable claims and file dispositive motions at the earliest opportunity. Take a firm line with respect to settlements to send a message to the plaintiff bar and the courts that unless compelling reasons exist, cases will not be settled when the State has no liability.

**GOAL 2: INCREASE THE LEVEL OF KNOWLEDGE OF DIVISION DEPUTIES AND LEGAL ASSISTANTS IN SUBSTANTIVE CIVIL RIGHTS LAW**

**Objective 1:** Continue to identify sources of relevant information.

**Action Plan:** Encourage the use of current business tools, such as the Internet, as a foundation of continuous learning. Explore the availability of speakers, seminars, videotapes, and workshops relating to current civil rights issues. Facilitate interaction between CRLD deputies and deputies from other divisions who handle cases involving civil rights issues (e.g., ADA, Section 504).

**Objective 2:** Facilitate the acquisition of relevant materials.

**Action Plan:** Continue efforts to obtain treatises and other publications of specific relevance to the division, such as treatises regarding prison litigation or civil rights law. This includes obtaining materials disseminated at relevant seminars, held locally and on the mainland.

**GOAL 3: PROMOTE A POSITIVE WORK ENVIRONMENT**

**Objective 1:** Encourage open communication among all division staff members.

**Action Plan:** Continue to include clerical staff in meetings as appropriate, to improve communication and increase participation of all CRLD personnel in matters of concern or interest to the division. The division supervisor will also continue to have an open-door policy and invite input or comments from all division staff regarding day-to-day concerns and input on how the division can be improved.

**Objective 2:** For support staff, increase their understanding of the overall legal process (i.e., how their work "fits in" with the handling of a case).

**Action Plan:** As time permits, encourage staff members (legal assistants and legal clerks) to attend trial sessions and hearings in order to facilitate a better understanding of the overall legal process and the integral part they play in CRLD's handling of a case. It is anticipated that this practice will facilitate positive morale and increase staff members' pride in their work. This past year, staff members again attended depositions, court hearings and arbitration proceedings.

**Objective 3:** Seek and accept assistance from volunteers and externs.

**Action Plan:** We have worked with the legal assistant program at Kapiolani Community College in past years and have had legal assistant externs volunteering with CRLD and TLD as part of their practical experience requirement for their degrees. The volunteers are given work in a variety of areas and assist with substantive matters (e.g., doing legal research and drafting deposition summaries). They also assist with various aspects of case preparation, such as compiling and marking exhibits. We have had positive feedback from all our legal assistant student volunteers and hope to continue our mutually

advantageous relationship with the Kapiolani Community College legal assistant program.

**GOAL 4:**      **MAXIMIZE USE OF DEPARTMENTAL/OTHER TECHNOLOGY**

**Objective 1:** Facilitate increased proficiency among division staff in the use of ProLaw, iManage, and the departmental intranet.

**Action Plan:** Encourage sharing of information and expertise among division staff, and take advantage of any training opportunities available in-house or from outside resources. TLD and CRLD have created a databank of expert depositions and expert information in iManage to replace the databank that started on Summation. A training session was held to explain how the databank can be accessed and searched. Deputies and legal assistants are encouraged to attend training on Westlaw in an effort to strengthen their legal research skills and provide increased assistance to their assigned deputies.

**PROCESS:** Assessment will depend in large part on input and comments from clients, as well as self-assessment through internal discussion and observation of staff morale and other indicators of progress, such as increased work pace and productivity.



## Commerce and Economic Development Division

The Commerce and Economic Development Division (CED) provides legal services and litigation support to the Department of Commerce and Consumer Affairs (including the professional and vocational licensing boards), the Department of Business, Economic Development, and Tourism (including the Aloha Tower Development Corporation, the Hawaii Strategic Development Corporation, the Hawaii Tourism Authority, the High Technology Development Corporation, and the Natural Energy Laboratory of Hawaii Authority), and the Department of Agriculture (including the Agribusiness Development Corporation. The division also enforces the antitrust laws, administers the laws providing for the commissioning of notaries public, and provides legal services to the Board of Trustees of the State's Deferred Compensation Plan and to other state agencies involved in administering tax deferral programs.

CED has three separate missions.

1. Provides a full range of legal services including advice and counsel; document, rules, and legislation review; and advocacy in litigation in administrative and judicial arenas for its client departments. (The division provides legal services to the Department of Commerce and Consumer Affairs, the Department of Business, Economic Development and Tourism, the Department of Agriculture, and their attached agencies. The division also advises agencies with tax deferring benefit programs including deferred compensation and tuition savings programs.)
2. Enforces the antitrust laws. In this role, the division reviews mergers, investigates complaints of anticompetitive behavior, and participates with other states and federal agencies in investigations and litigation to require compliance with antitrust laws.
3. Administers chapter 456, Hawaii Revised Statutes, which involves the commissioning and regulation of notaries public.

Given these distinct responsibilities, this report is organized into two parts, with the first addressing the duties of the division as legal counsel and antitrust enforcement and the second discussing its operational role regarding the notary program.

### **PART 1: LEGAL SERVICES TO CLIENT AGENCIES**

OVERALL GOAL: Provide legal services that are timely, effective, efficient, and of high quality, to all client agencies.

GOAL 1: Improve on using existing knowledge, expertise, and resources within the division to deliver services to all clients.

Objective 1. Develop resource bank for common issues, have team meetings to discuss recurring issues and problems, and cross train attorneys.

Objective 2. Meet regularly with key staff at client agencies to obtain their views on their legal needs currently and in the future, any concerns regarding the provision of legal services.

Objective 3. Assess need for adjustment of assignments within CED to cover services to clients either as primary or to provide attorneys as backup.

Objective 4. Develop resources to handle anticipated increase in litigation workload.

Action Timetable: Throughout the year.

GOAL 2: Monitor distribution of workload and timeliness of output for each attorney in the division.

Objective 1. Conduct case review meetings with each attorney in the division on a regular rotating basis.

Objective 2. Review timesheets regularly to assess workload distribution.

Objective 3. Adjust assignments so that each major client has both a primary and a secondary attorney to ensure continuity of service during leaves or at times of excess workload.

Objective 4. Develop system for tracking receipt of legal documents for review and for monitoring timeliness of return of documents to client.

Action Timetable: Objectives will be addressed on an ongoing basis throughout the year.

GOAL 3: Develop mechanisms to obtain feedback from directors of client departments and other key staff on routine basis.

Objective 1. Maintain practice of monthly meetings with the director of the Department of Commerce and Consumer Affairs to discuss pending matters, upcoming issues, and any areas of concern.

Objective 2. Contact directors of other client departments to ascertain what method for scheduled communication is desirable for them.

Action Timetable: Both objectives are ongoing projects.

GOAL 4: Enhance the division's involvement in antitrust enforcement, multistate initiatives such as those involving the National Association of Attorneys General, and improve response to consumer complaints.

Objective 1. Maintain communication between the division and other agencies (such as the Office of Consumer Protection, the Regulated Industries Complaints Office, the Public Utilities Commission, the Insurance Division, the Securities Enforcement Unit, and other private and federal entities) so that consumer complaints are appropriately and quickly referred for handling.

Objective 2. Improve relationship and coordination between the division and federal agencies with overlapping jurisdiction (U.S. Department of Justice and Federal Trade Commission).

Objective 3. Establish guidelines for prioritizing use of resources in responding to requests for participation in National Association of Attorneys General multistate efforts and in-house antitrust efforts.

Objective 4. Train attorneys providing advice and counsel to state agencies in antitrust issues so that they are sensitive to the antitrust implications of their clients program initiatives.

Action Timetable: Great strides have been made in meeting this objective particularly in coordinating multistate initiatives between the division and the Office of Consumer Protection. Ongoing communication and interaction between the division and federal agencies are developing as each new case arises.

Guidelines for prioritizing our resources are being applied and modified as necessary.

**GOAL 5:** Improve technology skills for staff and attorneys.

Objective 1. Train staff to improve skills and efficient use of new technology.

Action Timetable: This is an ongoing process throughout the department.

## **PART 2: OPERATING THE NOTARY PROGRAM**

**GOAL 1:** Modernize and upgrade the regulation of notaries public.

Objective 1. Continue to educate notaries public and users of their services regarding the administrative rules implementing the current law governing the regulation of notaries.

Objective 2. Develop a hearings process to adjudicate cases involving notary misconduct.

Objective 3. Acquire the equipment and implement the computerization of the recordkeeping function of the notary program to replace the current manual filing system and to permit microfiching or other electronic storage of records.

Objective 4. Develop a system for computerization of processing notary applications.

Action Timetable: All objectives are ongoing.

**GOAL 2:** Increase revenues and improve staff support for the notary program.

Objective 1. Implement new fee schedule through administrative rules.

Objective 2. Integrate new staff position into the program's functions.

Action Timetable: These activities are ongoing.

## **PROCESS FOR MEASURING PERFORMANCE**

The division supervisor is charged with overseeing the implementation of these goals and objectives and will make a review of progress on a quarterly basis.

## **Criminal Justice Division**

The Criminal Justice Division performs prosecutorial functions on behalf of the State in areas such as welfare fraud, tax fraud, unemployment fraud, unauthorized practice of law, and public corruption. The division is also responsible for prosecuting Internet crimes against children, high technology crimes, Medicaid fraud and elder abuse, violations of state tobacco laws, drug nuisance, environmental crimes, cold homicide cases, and conflict cases from the four county prosecutors' office.

The division includes a core unit that handles many of the division's general responsibilities, and six specialized units that handle cases specific to their subject matter jurisdiction. The Investigations Division provides investigative support.

The Core Unit prosecutes crimes committed against the State, crimes committed by state employees; cases investigated by the Sheriffs Division of the Department of Public Safety; conflict cases from county prosecutors; cases involving complex white collar fraud, public corruption, environmental crimes, cold case homicides, sex offender registration violations, and refusal to provide DNA specimens; and other cases related to the enforcement of state criminal laws. The Core Unit also assists in the coordination of state and county law enforcement efforts, provides legal support to state departments on criminal justice issues, and works to improve state criminal laws and the criminal justice system through legislative advocacy.

The six specialized units are as follows:

The Asset Forfeiture Unit administers the state Asset Forfeiture Program. It reviews and makes decisions on petitions submitted by the various county prosecutors seeking seizure of property tied to illegal activity. It is responsible for the storage, maintenance and auction of forfeited property. It also handles the distribution of forfeited assets. The unit processes approximately \$1,000,000 in forfeitures each year. Forfeiture proceeds are used, in part, for training and education of law enforcement personnel and purchase of equipment for law enforcement purposes.

The Drug Nuisance Abatement Unit files civil petitions for injunctive eviction of persons associated with illegal drug activity. The unit uses the civil process to remove these individuals from the real property used for their illegal operations.

The Hawaii High Technology Crimes Unit investigates and prosecutes Internet crimes against children, white-collar computer fraud cases and other computer related crimes. The unit also provides computer forensic services to state, county, and federal law enforcement agencies.

The Medicaid Fraud Control Unit investigates and prosecutes provider fraud involving medical assistance programs as well as patient abuse and neglect statewide.

The Tobacco Enforcement Unit is responsible for enforcement of tobacco tax laws and implementation of the Tobacco Master Settlement Agreement. It is funded by tobacco tax revenues pursuant to the Tobacco Master Settlement Agreement.

The Wire, Oral, and Electronic Communication Surveillance Review Unit is responsible for reviewing applications for interception of wire, oral, or electronic communications prior to their submittal to a designated judge. An attorney will review the application in a timely manner and recommend any necessary additions or changes. A written memorandum recommending approval or disapproval will be submitted with the application to the designated judge. The unit works with local law enforcement officers and prosecutors from each of the counties to establish standards and procedures to ensure continuity and conformity with the applicable law.

## DIVISION GOALS

- Vigorous prosecution of crimes against the State; crimes committed by State employees; conflict cases referred to the division by county prosecutors; cases involving complex white collar fraud, public corruption, environmental crimes, cold case homicides, sex offender registration violations, and refusal to provide DNA specimens; and cases arising under the jurisdiction of the division's specialized units.
- Further development of the Wire, Oral, and Electronic Communication Surveillance Review Unit.
- Further improvement of case-management and data integration within the division.
- Further implementation of "direct filing," sentencing reform, sex offender registration, DNA database, and other laws and constitutional amendments that promote efficient law enforcement.

## DIVISION OBJECTIVES

- Greater efficiency and utilization of resources to effectively manage the division's caseload, which is increasing in size and scope.
- Implement more time-management guidelines and data capture capability to improve case management within the division.
- Continue to support legislation that is beneficial to the law enforcement community, including the Law Enforcement Coalition.

## DIVISION ACTION PLAN

- Continue to develop and implement division-wide policies that promote consistency in treatment, prosecution, plea negotiation, and sentencing.
- Coordinate written and oral testimony with the Hawaii Prosecuting Attorneys' Association and the state Law Enforcement Coalition to give guidance to the legislature concerning law enforcement issues.

## Asset Forfeiture Unit

The Criminal Justice Division administers the state Asset Forfeiture Program pursuant to Chapter 712A, HRS. Chapter 712A provides for the forfeiture of property used or acquired in connection with the commission of certain criminal offenses and for the distribution of the property, or its proceeds, to law enforcement agencies for law enforcement purposes. The goal of the program is to deprive criminals of the financial benefit of their criminal activities and the means by which they commit crimes, and to use the proceeds and forfeited property to provide law enforcement with additional training and equipment to help fight crime. The unit manages the administrative forfeiture process, and stores, maintains, and auctions the property.

### GOAL 1: Continue to improve operations of the state asset forfeiture unit.

Objective 1: Update operations manual for asset forfeiture program.

Action Plan: Modify operations manual based on any changes to procedures.

Performance Indicator: Current and updated Asset Forfeiture Manual.

Objective 2: Cross-train other division staff, who can then assist with unit in the absence of a member of the unit.

Action Plan: Provide training to division staff members on the forfeiture process.

Performance Indicator: A minimum of one division staff member will be trained each year.

Objective 3: Continue to improve data management system to allow for more efficient and effective generation of data reports.

Action Plan: Review of the data management system by a specialist and implementation of suggested improvements.

Performance Indicator: Generation of at least two efficient and effective data reports.

Objective 4: Promulgate rules, policies and procedures pursuant to chapter 712A for more efficient operations.

Action Plan: Review collection of rules from other jurisdictions and work on proposed rules.

Performance Indicator: Draft of proposed rules.

### GOAL 2: Continue to meet or exceed historical norms in next fiscal year.

Objective 1: Continue to coordinate efforts between deputy and program staff.

Action Plan: Continue asset forfeiture unit meetings to discuss, review, and implement procedures to efficiently process documents (orders, petitions, training requests) for approvals in a timely manner.

Performance Indicator: A minimum of three asset forfeiture unit meetings per year.

Objective 2: Continue to monitor storage space needs.

Action Plan: Seized/Forfeited Property Manager will continue to work with counties, negotiate with landlords regarding storage space and needs. If necessary, locate larger facility or consider option of having counties store and maintain their own property.

Performance Indicator: Storage space sufficient to store property and timely distribution of forfeited property.

GOAL 3: Provide training to law enforcement regarding forfeiture process.

Objective 1: Coordinate efforts between seizing agency, county prosecutors, and asset forfeiture unit.

Action Plan: Asset forfeiture unit will provide training to the various county prosecutors and law enforcement personnel. County prosecutors and law enforcement personnel will identify issues prior to training.

Performance Indicator: Asset forfeiture Unit will provide a minimum of two training sessions by the end of the year.

## **Drug Nuisance Abatement Unit**

The Drug Nuisance Abatement Unit will continue to assist other law enforcement agencies and Hawaii's communities in closing down drug houses and disrupting the distribution and manufacture of drugs in Hawaii. The unit's major goals include:

**GOAL 1:**        Improve coordination with and sharing of resources with other county, state and federal law enforcement agencies

To effectively close down drug houses, coordination and sharing of resources with other law enforcement agencies are a paramount priority. Coordination is essential so that law enforcement agencies do not duplicate work or compromise another agency's ongoing investigations.

Presently, the Unit has an informal agreement with the Honolulu Police Department, the Hawaii County Police Department, and the Hawaii County Office of the Prosecuting Attorney. The Unit also has a memorandum of understanding with the Kauai County Office of the Prosecuting Attorney and the Maui County Department of the Prosecuting Attorney, which sets out the policy relating to sharing of information and coordination of criminal and civil nuisance abatement lawsuits. These agreements have contributed to the sharing of information. The Unit will continue to work to improve coordination with other law enforcement agencies and streamline the process for the sharing of information and investigative reports.

**GOAL 2:**        Decrease the Backlog of Complaints

Due to the Unit's success in closing down drug houses and educating the public, the Unit has received a large number of complaints. Specifically, since July 2003, over 1,667 complaints (as of August 29, 2008) about drug houses and illegal drug activity have been made to the Unit.

The Unit has also been using warning letters on a more frequent basis. In appropriate situations, where the investigator believes that there is sufficient evidence that a drug nuisance is occurring on private property, the Unit has sent letters to landlords informing them of the condition, advising them to take corrective measures, and warning of the possibility of forfeiture. A similar procedure is used by other local law enforcement agencies. The investigator then monitors the case to see if the landlord abates the drug nuisance. This procedure has been used sparingly due to concerns about its effectiveness. However, in order to decrease the backlog, the Unit will use warning letters on a more frequent basis. The Unit will monitor the plan to analyze the effectiveness of the warning letters.

**GOAL 3.**        Increase the number of drug nuisance abatements

Decreasing the backlog in the Unit directly relates to increasing the number of drug nuisances abated. Therefore, the Unit expects that its implementation of the solutions described above will also result in increased closings of drug houses and nuisances. In addition, the Unit may be able to improve its effectiveness and increase the closure of drug houses and nuisances by raising community awareness about the drug nuisance abatement process.

In a substantial percentage of the complaints received by the Unit, other law enforcement agencies have been unable to obtain sufficient evidence in order to obtain a search warrant to search a suspected drug house. In a related operation, law enforcement agents informally contact suspects in a suspected drug house. The purpose of this operation is to put suspected drug dealers on notice that their activities are being monitored. We expect that this operation will allow the unit to become more proactive in dealing with complaints of illegal drug activity. The Unit will look at this tool and reviewing the general plan and procedures of the Unit to determine how its resources can best be used to assist communities in closing down suspected drug houses.

The Unit's investigators have successfully used personal contact with landlords to quickly solve complaints of suspected drug dealing out of rental units and residences. By dealing with the landlords



directly and in an informal manner, the investigators have been able to quickly investigate many complaints and resolve problems more quickly and avoid the more lengthy process of a civil lawsuit and criminal investigations.

GOAL 4:           Raise Communities' Awareness of the Drug Nuisance Abatement Process

Since the formation of the unit in July 2003, the department has used several methods to inform the community about the nuisance abatement process: (1) information on the department's Web site; (2) presentations at neighborhood board meetings; and (3) presentations through other community and professional groups.

To continue to raise public awareness of the drug nuisance abatement process, members of the unit will continue to make presentations to community and professional groups. For example, in August 2008, the Unit participated in the National Night Out program, which is designed to heighten crime and drug prevention awareness, for the fourth year in a row. In March 2008, the Unit participated in a panel conducted by the Community Associations Institute, Hawaii Chapter, and made a presentation on the issue of abating drug activity in our communities. All of these events were well attended.

The unit is also working with other government agencies to make presentations to community groups on other islands.

The unit is working to improve its ties to the neighborhood boards. The unit may be able to raise awareness of its drug nuisance abatement program by giving updates to the appropriate neighborhood boards about drug nuisance abatement lawsuits filed against residences in their neighborhood.

Goal 5:           Review the General Policies and Procedures of the Unit to Maximize Results

The unit will review its general policies and procedures. The purpose of this review is to maximize the unit's efforts in assisting other law enforcement agencies and our communities in closing down drug houses and disrupting the distribution and manufacture of drugs in Hawaii and to determine whether general policies and procedures need to change in order to accomplish those goals.

PERFORMANCE INDICATORS

Number of closed cases in relation to total amount of complaints  
Number of drug nuisance abatement lawsuits  
Number of presentations and estimated number of attendees

## **Hawaii High Technology Crimes Unit**

**GOAL 1:** To increase the effectiveness and efficiency of investigations and prosecutions of computer related crimes in Hawaii.

Objective 1: Continue to increase the investigative capabilities of local law enforcement officers in the detection, investigation, and apprehension of computer related crimes.

Objective 2: Increase the number of computer related cases being investigated by the State.

Objective 3: Maintain our multi-agency task force response to computer related crimes in Hawaii and increase participation.

Objective 4: Maintain and increase our public awareness and prevention programs.

### **PROJECT DESIGN/STRATEGY AND TIMELINE**

With respect to Objective (1), we will continue to obtain and provide specialized equipment to properly investigate and prosecute computer related crimes, provide presentations and training to local law enforcement officers that address investigative techniques (proactive/undercover and reactive) related to computer crimes, and provide law enforcement agencies with the technical assistance and training needed to properly investigate computer related crimes.

With respect to Objective (2), we will continue to provide the task force with trained investigators, qualified computer forensic examiners, technical assistance/support, and the specialized equipment to properly investigate and prosecute a computer based crime. Each task force participant will be allowed use of equipment and personnel to complete or assist with computer related investigations.

With respect to Objective (3), we will continue to provide a structured forum between State, county and federal law enforcement agencies to coordinate investigations and prosecutions, maximize sources of technological and investigative expertise, training and education, and forensic resources. To date, we have 26 law enforcement agencies from federal, State, and county law enforcement agencies participating on our task force in Hawaii, and 12 government agencies in Guam, Saipan, and the Northern Mariana Islands. Many of these agencies were targeted from the beginning as a critical component of this coalition and have been supportive of unit's efforts. These law enforcement agencies consist primarily of investigators, computer forensic examiners, and prosecutors. Formal task force meetings are being conducted semi-annually.

With respect to Objective (4), we will continue to provide outreach education, awareness, and prevention programs to children, parents, educators, and community groups as well as maintain and update our informational website at [www.hicac.com](http://www.hicac.com) and [www.hitechcrimes.com](http://www.hitechcrimes.com). In July 2008, we designed a project entitled "Your Identity is Your Kuleana" to develop and bring to Hawaii train the trainer courses concerning awareness and prevention of identity theft.

## **Hawaii Internet Crimes Against Children Task Force**

**GOAL 1:** To increase the effectiveness and efficiency of investigations and prosecutions of ICAC offenses.

**GOAL 2:** To increase public awareness and prevention of ICAC offenses.

Objective (a) Continue to increase and expand the investigative capabilities of law enforcement officers in the detection, investigation, and apprehension of ICAC offenses through training, assistance, and education.

Objective (b) Conduct and assist in proactive and reactive ICAC investigations.

Objective (c) Increase the number of ICAC offenses being investigated and prosecuted by the State.

Objective (d) Maintain our multi-agency task force response to ICAC offenses in the State and increase participation.

Objective (e) Maintain and enhance our nationwide participation and response to ICAC offenses.

Objective (f) Increase and expand our ICAC public awareness and prevention programs.

#### PROJECT DESIGN/STRATEGY

With respect to Objective (a), we propose to continue to obtain specialized equipment to properly investigate and prosecute ICAC offenses, identify and provide presentations and training to law enforcement officers that address investigative techniques related to ICAC offenses, and provide law enforcement agencies with the technical assistance and training needed to properly investigate ICAC offenses. We continue to work with the ICAC Director of Training and Technical Assistance, SEARCH, NCMEC, and other training organizations to bring ICAC trainings to Hawaii.

With respect to Objective (b), we propose to conduct and assist in undercover Internet operations in traveler and child pornography cases, and respond to ICAC offenses locally and nationally (e.g., NCMEC Cybertip referrals).

With respect to Objective (c), we propose to provide the task force with trained investigators, qualified computer forensic examiners, and the specialized equipment to properly investigate and prosecute ICAC offenses. Honolulu Police Department has assigned detectives to assist in investigating ICAC offenses. This agency employs the largest number of law enforcement officers in the state and receives the majority of the public reporting incidents. Accordingly, we believe that more active involvement with this task force member is a considerable step in the right direction to sustainability with zero cost to the grant. Our federal counterparts have been approached to increase investigation of ICAC offenses as a result of Project Safe Childhood. Administrative meetings are ongoing to strategize on increasing joint investigations and prosecutions. This is another positive step as administrators begin to understand the depth, scope, and importance of ICAC crimes. In 2008, Hawaii enacted laws that impose a mandatory ten year jail term for Electronic Enticement in the First Degree and established the new offense of Indecent Electronic Display to a Child. These recent enactments reflect a growing understanding and appreciation of the seriousness of ICAC offenses and will assist us in increasing prosecutions.

With respect to Objective (d), we propose to continue to provide a structured forum between State, county and federal law enforcement agencies to coordinate investigations and prosecutions, maximize sources of technological and investigative expertise, training and education, and forensic resources. To date, we have 26 law enforcement agencies from federal, state, and county law enforcement agencies participating on our task force in Hawaii, and 12 government agencies in Guam, Saipan, and the Northern Mariana Islands. As a result of the decrease in computer forensic examiners in Hawaii and the increase in the number of forensic examinations being requested, a reexamination of approaches to triage forensic issues has been a priority. As a recipient of the COPS Child Sexual Predator grant program, we are negotiating training for task force members in Hawaii on identifying, preserving, and recovering evidence, and forensically triaging ICAC cases, to better equip investigators when they examine suspects, and to help prosecutors charge illegal computer activity more quickly.

With respect to Objective (e), we propose to continue to participate, collaborate, and integrate with existing ICAC task forces, the National Center for Missing and Exploited Children, and federal, state, and county agencies.

With respect to Objective (f), we propose to continue to provide outreach education, awareness, and prevention programs to children, parents, educators, and community groups, and maintain and update our informational website at [www.hicac.com](http://www.hicac.com). With the assistance of our task force members, we have

increased the number of presentations to community and school groups each year. We presently average about six presentations each month, in addition to media requests (e.g., newspaper, local print publications, television, radio) about one or two times each month. Recently, we worked with a distinguished local film producer to produce a public service announcement informing the public that person convicted in ICAC traveler cases will receive a ten-year prison sentence. We will work again with this producer to produce more public service announcements and a piece on child sex tourism, child pornography, and other related topics. We have also reached out to the Department of Education, Missing Child Center – Hawaii, Children’s Justice Centers, Boys and Girls Clubs, private schools, and Internet service providers to discuss other avenues of collaboration with respect to community awareness. Lastly, as a result of the COPS Child Sexual Predator grant program, we will create an Internet safety train-the-trainer presentation to increase public awareness.

## **Medicaid Fraud Control Unit**

GOAL 1:        To investigate and prosecute provider fraud.

- Objective 1:    Continue to increase cooperation and collaboration with the Medicaid program's state administrator (MedQuest).
- Objective 2:    Expand investigation and litigation of False Claims Act health care fraud cases.
- Objective 3:    Foster working relationships with other states' Medicaid Fraud Control Units and the Federal government involved in multi-jurisdictional provider health care fraud.
- Objective 4:    Improve working relationships with federal law enforcement agencies - the Office of Inspector General, Federal Bureau of Investigations and United States Attorney's Office – in all aspects of provider health care fraud.

GOAL 2:        To investigate, prosecute and increase public awareness of abuse and neglect by health care programs and individual providers of the elderly and dependent adults.

- Objective 1:    Further expansion of intakes of Adult Protective Service, Department of Human Services complaints and intakes.
- Objective 2:    Increase the cooperation and collaboration with local county police and prosecutors in the area of investigations and prosecution of abuse and neglect of the elderly dependent adults. Assist these law enforcement agencies in all aspects of the criminal prosecution.
- Objective 3:    Increase investigations and prosecutions, statewide, of cases of elderly dependent adult abuse and neglect.
- Objective 4:    Continue to develop ways to increase public awareness of this severely under-reported crime by participating in, and/or sponsoring training seminars and conferences on this topic.

GOAL 3:        To recover Medicaid and Medicare money unlawfully or improperly obtained by providers of health care programs.

- Objective 1:    Work with Federal investigators and prosecutors in the ongoing cases of provider health care fraud.
- Objective 2:    Continue to prosecute cases against health care providers under the Hawaii False Claims Act.
- Objective 3:    Improve communication and coordination with MedQuest and the state fiscal intermediary. Improve and implement information technology between the division and state fiscal intermediary.
- Objective 4:    Strive to efficiently resolve and settle disputes without excessive expenditures of personnel and financial resources.

GOAL 4:        To strengthen state and local law enforcement in all aspects of fraud and abuse against elderly dependent adults and patients of health care facilities who receive payment of program funds.

- Objective 1:    Initiate multi-jurisdictional case-driven task forces and information exchange work groups such as Governor's Committee on Elder Abuse, Executive Office on Aging, Office of Inspector General and United Government Services.

- Objective 2: Support legislation and policy-making efforts by various agencies and government committees.
- GOAL 5: Deter individuals and organizations from committing fraud, or patient abuse and neglect.
- Objective 1: Aggressive investigation and prosecution of all cases of fraud and abuse and neglect.
- Objective 2: Secure just punishment and other sanctions, including imprisonment in those cases that warrant such punishment.
- Objective 3: Seek damages against corporations and individuals who are found liable under the Hawaii False Claims Act or of Dependent Elder Abuse (H.R.S. § 28-94), including restitution, fines and applicable costs.

### ACTION PLAN

The unit's short-term plans include realization of all stated objectives with an emphasis on continued and improving relations with relevant federal, state and county organizations. The unit already maintains working relationships with local county police departments and state agencies involved in this area by jointly working cases, and conducting training and seminars. The unit will continue to foster stronger working relationships with independent organizations like the United Government Services and the State's Medicaid fiscal intermediary.

The unit will maintain and expand upon its review of all Adult Protective Services complaints and intake matters. The unit will further improve upon a recently implemented case management system to promote more interoffice and intra-office efficiency. The unit will continue to be goal and objective oriented in its prosecution of fraud and abuse cases. We will implement policies that foster timely case (objective) closures and greater casework efficiency utilizing teams that consist of a deputy attorney general, investigator and auditor.

The short-term plans also include the continued prosecution of statewide cases of abuse and neglect. The unit will also continue prosecution of Medicaid fraud against providers of health care. For the long-term, the unit will attempt to organize a multi-disciplinary task force responsible for enforcing regulations, rules and statutes in an effort to prevent severe patient-neglect abuse type cases. The unit already assists with and will continue to become more involved in the area of financial exploitation of the elderly dependent adults within the unit's jurisdiction.

The unit will also continue to support legislative and policymaking efforts by various governmental agencies and committees to protect the vulnerable elderly and dependent adults.

## **Tobacco Enforcement Unit**

The Tobacco Enforcement Unit was formed on July 1, 2000, in response to the Attorney General's obligation to enforce the Master Settlement Agreement (MSA), the state Tobacco Liability Act (chapter 675, Hawaii Revised Statutes), and the Cigarette Tax and Tobacco Tax Law (chapter 245, Hawaii Revised Statutes).

**Objective:** To ensure that State laws are followed with regard to the taxation, importation, and sale of tobacco products, and that the State receives a full measure of all present and future tobacco settlement payments and taxes to which it is entitled.

### **Action plan:**

#### **I. Enforcement of the MSA and chapter 675.**

**GOAL:** To vigorously enforce the MSA, chapter 675, chapter 486P, and related statutes.

**Objective 1:** Investigate and enforce when appropriate suspected violations of the MSA and TLA.

- Action plan:**
- 1) Seek out NPMs<sup>1</sup> who have a presence in Hawaii.
  - 2) Monitor NPMs compliance with TLA.
  - 3) Vigorously police the local tobacco industry for compliance with the MSA, chapter 675, and related statutes.
  - 4) Enforce NPM obligations under TLA including payment of funds into escrow accounts.
  - 5) Ensure continued compliance by the tobacco industry with advertising restrictions.
  - 6) Investigate and monitor gray market activities (including military and Internet sales).
  - 7) Conduct investigations into Internet sales.

**Objective 2:** Monitor issues affecting the MSA.

- Action plan:**
- 1) Monitor the tobacco industry's sales numbers and other factors that may adversely affect payment amounts under the MSA.
  - 2) Evaluate and respond to attacks on the MSA.
  - 3) Track and assess all amendments to the MSA.

**Objective 3:** Refine reporting requirements and gather information from tobacco product manufacturers in order to enforce the terms of the MSA, TLA, and related statutes.

- Action plan:**
- 1) Seek out NPMs who have a presence in the State and send notices to NPMs to establish escrow accounts.
  - 2) Police the local tobacco industry for compliance with the MSA, chapter 675, and related statutes.
  - 3) Monitor the tobacco industry's sales numbers and other factors that may adversely affect payment amounts under the MSA.
  - 4) Educate tobacco product manufacturers of reporting requirements (i.e., filing of Jenkins Act Reports with the Attorney General).
  - 5) Monitor compliance with Jenkins Act reporting requirements.
  - 6) Keep abreast of reporting requirements in other states.
  - 7) Further develop and update a directory as required by chapter 486P.

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<sup>1</sup> Non-Participating Manufacturer: a tobacco manufacturer who did not participate in the MSA.

- Objective 4: Identify nonparticipating tobacco manufacturers selling in the state, notifying nonparticipating manufacturers of the requirements of the TLA, and further refine protocol for noncompliance with TLA.
- Action plan:
- 1) Seek out NPMs who have a presence in the state and send notices to NPMs to establish escrow accounts.
  - 2) Police the local tobacco industry for compliance with the MSA, chapter 675, and related statutes.
  - 3) Monitor the tobacco industry's sales numbers and other factors that may adversely affect payment amounts under the MSA.
- Objective 5: Review statements from the Independent Auditor with regard to initial and annual payments. Where appropriate challenge the findings of the Independent Auditor with regard to the calculation of initial and annual payments.
- Action plan:
- 1) Monitor the payment amounts under the MSA.
  - 2) Review information received from NAAG and the Independent Auditor.
  - 3) As appropriate, provide information to the Departments of Budget and Finance and Health.
- Objective 6: Assist, advise, and cooperate with federal, state, local agencies, and NAAG to protect and promote the interests of the State with regard to the MSA.
- Action plan:
- 1) Receive information and updates.
  - 2) Evaluate and respond to the attacks on the MSA.
  - 3) Track and assess all amendments to the MSA.
  - 4) Track tobacco related issues occurring in other states.
  - 5) Develop a close working relationship with the Department of Health and other state, federal, and local agencies.
- Objective 7: Study the operation of laws in other jurisdictions affecting the implementation and enforcement of the MSA and recommend to the governor and the legislature new laws and amendments of laws in order to protect the State's interests with regard to its portion of the Tobacco Settlement Funds.
- Action plan:
- 1) Track legislation in other states.
  - 2) Track tobacco related issues in other states.
  - 3) Track reporting requirements in other states.
- Objective 8: Respond to MSA related lawsuits.
- Action plan:
- 1) Vigorously protect the State's interests.
  - 2) Receive information and updates from NAAG and other states.
- Objective 9: Act as liaison to the Legislature and local interest groups.
- Action plan:
- 1) Provide reports to the legislature in a timely manner.
  - 2) Coordinate local actions with national program
  - 4) Provide information as to how other states are allocating their proceeds.
  - 5) Ensure that correct information about the MSA is disseminated to the public.
  - 6) Answer questions regarding the MSA.
  - 7) Act as liaison with the news media.

## **II. Enforcement of the Tax Stamp Law.**



GOAL: To provide a proactive regulatory environment designed to provide a means to assess, collect, and enforce the cigarette and tobacco tax requirements of chapter 245. Enforcement of this law has the added benefit of promoting the health and well being of the people of Hawaii by curtailing the cigarette black market. Cheaper, untaxed cigarettes will be less available, particularly to Hawaii's youth.

Objective 1: Work closely with the Department of Taxation.

Action plan: 1) Regarding compliance, develop a close working relationship with the Department of Taxation.  
2) Advise the Department of Taxation in areas of Tax Stamp enforcement.  
3) Vigorously enforce the Tax Stamp law.  
4) Review proposed rules and regulations.  
5) Implement the tax stamping program as outlined in chapter 245.

Objective 2: Educate the community and businesses about the requirements of the Tax Stamp Law and Retail Tobacco Permit requirements and record keeping.

Action plan: 1) Answer questions concerning the Tax Stamp Law.  
2) Ensure that correct information is disseminated to the public.  
3) Act as liaison with the news media.  
4) Work with the Department of Taxation in educating the business community of the requirements and timing of the Stamp Tax law and Retail Tobacco Permit requirements (i.e., disseminate information by way of press release, tax information release, and letters to major distributors and wholesalers notifying those businesses of the Tax Stamp law and its requirements).

Objective 3: Investigate and as necessary prosecute violations of the State Tax Stamp Law and other related statutes.

Action plan: 1) Vigorously enforce the Tax Stamp laws.  
2) Identify violators of the Stamp Tax Law.  
3) Identify and define the extent of black market cigarette activity.  
4) Identify and define the extent of gray market cigarette activity.  
5) Identify and define the extent of counterfeit cigarette stamp tax activity.  
6) Identify Internet sites selling cigarettes into Hawaii who provide cigarettes that are not taxed to Hawaii residents and prosecute as appropriate.  
7) Identify sources of cigarettes that do not appear on the Directory as required by chapter 486P and prosecute as appropriate.  
8) Assist in educating the business community of the laws' requirements.  
9) As necessary inspect and examine all records, including tax returns and reports as permitted by law of any person engaged in the business of wholesaling or dealing cigarettes and cigarette products to ensure compliance with the Tax Stamp laws and tobacco licensing requirements.  
10) Develop a close working relationship with the county prosecutor's offices and other law enforcement agencies to investigate and prosecute violations of the law.  
11) Work closely with the U.S. Customs and Postal Inspectors in enforcing the relevant requirements chapter 245.  
12) Work with Investigators and expert witnesses in developing cases.  
13) As necessary review search warrants and requests for administrative subpoenas.  
14) Appear and represent the State in hearings and proceedings related to enforcement of the Tobacco Stamp Laws.  
15) Determine the relevance and suitability of witnesses and prepare such witnesses or testimony as required in the interest of the State.  
16) Prepare and submit the necessary pleadings and motions on behalf of the State.

- 17) Conduct grand jury inquiries, preliminary hearings, and utilize information charging as warranted.
- 18) Strive to do justice in any criminal prosecution.

Objective 4: Assist, advise, and cooperate with federal, state, local agencies, and NAAG to address the problems associated with gray and black market tobacco sales.

- Action plan:
- 1) Receive information and updates.
  - 2) Track tobacco related issues occurring in other states.
  - 3) Identify and define the resale market for tax-exempt cigarettes that are purchased from military or federal outlets and sold to the general public.

Objective 5: Prepare reports to the Legislature prior to the convening of the Legislature in 2008 and 2009.

- Action plan:
- 1) Detail the unit's activities including expenses, fines, and penalties collected, and forfeitures.
  - 2) Respond to inquiries from the Legislature.

Objective 6: Study the operation of laws in other jurisdictions pertaining to gray and black market sales of cigarettes and recommend to the Governor and the Legislature new laws and amendments of laws pertaining to gray and black market cigarette sales.

- Action plan:
- 1) Track legislation in other states.
  - 2) Track tobacco related issues in other states.
  - 3) Track reporting requirements in other states.

Objective 7: As necessary provide client training; attend training programs and division meetings; and be involved in programs of the Department of the Attorney General, as may be assigned.

- Action plan:
- 1) Respond in an appropriate manner as required.

Objective 8: Provide assistance in the area of MSA enforcement.

- Action plan:
- 1) Respond in an appropriate manner as required.

### **Measures of Effectiveness:**

Expected results include but are not limited to the following:

- NPM identification reporting and fulfillment of escrow obligations.
- Timely and comprehensive tobacco manufacturer reporting and analysis of data.
- Timely and comprehensive tobacco wholesaler reporting and analysis of data.
- Compliance with tax stamping at all levels of sale.
- Compliance with cigarette contraband statutes at all levels of sale and distribution.
- Increased cigarette tax revenues.
- Effective civil and criminal prosecution for violations of tobacco statutes.
- Diligent enforcement of the MSA, chapter 675, and related statutes.
- Effective defense of challenges that state not diligently enforcing the MSA, chapter 675, and related statutes.
- Continued receipt of MSA payments.
- Effective and timely reaction to issues affecting the state's receipt of cigarette tax revenues and MSA payments.
- On-going compliance with tobacco statutes at the retail and wholesale level through diligent enforcement.

## **Wire, Oral, and Electronic Communication Surveillance Unit**

The Wire, Oral, and Electronic Communication Surveillance Unit is responsible for timely reviewing all applications for interception of wire, oral, or electronic communications under chapter 803, Hawaii Revised Statutes, prior to their submittal to a designated judge. The unit reviews the applications, recommends any necessary changes, and prepares a written memorandum recommending approval or disapproval which is submitted with the application. The Attorney General shall establish standards and procedures for timely review of the applications to ensure continuity and conformity with applicable law.

### GOAL 1: Update standards and procedures manual.

Objective 1: To keep standards and procedures manual updated based on modifications, if any.

Action Plan: Update policy and procedures manual based on required modifications.

Performance Indicator: Current Wire, Oral, and Electronic Surveillance Review Manual.

Objective 2: Continue to meet with law enforcement officers and county prosecutors from each of the four counties to discuss statewide application of the Wiretap law.

Action Plan: Organize and conduct meetings with law enforcement officers and county prosecutors.

Performance Indicator: Approximately three meetings per year.

### GOAL 2: Coordinate and provide statewide training on Wire, Oral, and Electronic Surveillance Procedures based on identified needs and availability of funding

Objective 1: Identify training needs and provide training to law enforcement officers and prosecutors.

Action Plan: Based on availability of funds, provide statewide training for law enforcement officers and prosecutors based on identified areas of the Wire, Oral, and Electronic Surveillance law.

Performance Indicator: Statewide training within one year.

### GOAL 3: Continually improve the application process.

Objective 1: Continue to coordinate efforts between law enforcement officers, prosecutors, and judiciary.

Action Plan: Meet with participating agencies to ensure a timely and effective review process between, police, prosecutors, Attorney General and the court.

Performance Indicator: Evaluation by law enforcement officers, prosecutors, and judiciary.

## Education Division

The Education Division provides legal advice and support to the Department of Education, the Board of Education, the Charter School Review Panel, the Charter School Administrative Office, and the Charter Schools. Other clients include the Hawaii State Public Library System and the Hawaii Teacher Standards Board.

<u>Goal 1:</u>	<u>Provide quality and timely legal services to clients.</u>
Objective 1:	Continue to improve the skills and efficiency of each individual in the division.
Action Plan:	Short-term and long-term: Continue to meet on a weekly basis with deputies, legal assistants, and secretaries to discuss specific cases and analyze specific issues; Continue to work on the development of the division manual for reference and to assist new employees.
Process:	Meet weekly with division and have deputies identify and lead discussions on specific issues relating to their cases. Continue to assign various pieces of the division manual to various individuals.
Objective 2:	Continue to build capacity within the division to have every deputy competent to advise any client serviced by the division on any matter identified.
Action Plan:	Short-term: Implement a system that allows deputies to work in pairs or groups, to include deputies with experience in the area and deputies who have no experience in the area, on certain issues and matters. Short-term and Long-term: Share advice letters and other written documents produced by the division with all deputies via email or at the weekly meetings.
Process:	Assign a deputy with experience on a particular issue with a deputy who has not previously worked on the issue. Circulate advice letters and other matters produced by the division.
Objective 3:	Continue to consult with clients to identify areas for improvement in the delivery of legal services.
Action Plan:	Short-term and Long-term: Continue to meet with clients to discuss areas that they identify as needing improvement.
Process:	Set up meeting with various individuals in the client base and/or use of informal surveys to obtain feedback and suggestions.
Objective 4:	Ensure timely responses to clients.
Action Plan:	Ongoing: Continue refining the tracking system for all assignments received and their due dates.
Process:	Keep track of all assignments, due dates, and completion dates.
Objective 5:	Continue to proactively work with the clients to better perform their duties and reduce the potential for mistakes and liability.
Action Plan:	Short-term and Long-term: Continue to provide training and retraining of clients regarding laws that affect their work in order to build technical competence.
Process:	Schedule trainings with clients to address common areas of concern.

Objective 6: Work more closely with the client on specific matters and utilize client expertise to have them assist on individual cases.

Action Plan: Short-term: Have a specific individual from the client district assigned to work directly with the deputy on each case. Long-term: Continue implementation of the process and refine as appropriate.

Process: Have identified individuals from the client districts work directly with the assigned deputy from inception of a case to the conclusion of the case. The same individual identified by the client will attend witness preparation meetings and act as the client representative at the hearings.

Goal 2: Improve utilization of legal assistants.

Objective 1: Continue to work on developing legal assistant capacity to assist deputies and maximize efficiency.

Action Plan: Short-term: Expand the types of assignments given to legal assistants. Long-term: Provide continuous training to legal assistants through various deputies with appropriate expertise in specific areas.

Process: Provide guidance on new matters until legal assistants are competent in the area to complete assignments on their own.

Goal 3: Improve capacity to address legislative matters.

Objective 1: Continue to provide consistent review of legislation and consistent response to legislative matters.

Action Plan: Short-term and Long-term: Provide refresher training regarding legislative matters to all staff prior to the opening of the legislative session.

Process: Meet with the deputies and staff to prepare them for the legislative session. Assign bills of similar subject matter to one deputy.

Objective 2: Effectively and efficiently track bills assigned to our division.

Action Plan: Short-term: Continue to refine the system for tracking bills during the legislative session.

Process: Set up an electronic tracking system that is accessible by the division.

Goal 4: Improve division expertise in sunshine law matters.

Objective 1: Provide consistent advice on sunshine law issues.

Objective 2: Improve expertise on sunshine law issues.

Action Plan: Short-term and Long-term: Have discussions at our weekly meetings relating to sunshine law issues.

Process: Have deputies who face issues relating to sunshine law inform other deputies of the issue during our weekly meeting and discuss how best to respond to the issue.

## **Employment Law Division**

The Employment Law Division provides legal representation and advice to the Department of Human Resources Development and to all state departments and agencies on employment-related issues. The division represents all state employers in mandatory arbitration hearings, administrative agency hearings, and civil litigation involving disputes over employment matters with the State's employees.

**GOAL 1: Provide quality legal representation to all State clientele in all areas of Employment Law.**

- Objective 1:** Improve the legal knowledge of the attorneys and legal assistants.
- Objective 2:** Ensure effective communication with clients.
- Action Plan 1:** Provide training, training seminars, videotapes, brown bag lunches and in-house training (department and division wide).
- Action Plan 2:** Provide cross-training within the division utilizing attorneys and legal assistants with specialties in certain areas.
- Action Plan 3:** Establish a uniform procedure for addressing employment law claims.
- Action Plan 4:** Establish a mini-LRC within the division to assist lead counsel.
- Action Plan 5:** Improve communications with clientele by timely responding to requests for assistance or by providing a time frame for a response.
- Action Plan 6:** Encourage clientele to confer with Employment Law staff prior to making questionable or unprecedented management and personnel decisions.
- Action Plan 7:** Establish regular meetings with clientele to discuss concerns in general.

The division has continued to cross train deputies by assigning a wide variety of cases to each deputy teaming experienced counsel in certain areas as back up or second chair to less experienced deputies. E-filing in federal court is now well established, and all support staff are fully capable of e-filing. We are completing our second year of standardized procedures with the Department of Education, especially in Workers Compensation. A Deskbook concerning procedures for all areas of our practice is about 80 percent complete and should be finished early next year. It is designed to be used by ourselves and our clients.

We have made a point of making ourselves available to clients for meetings in advance of taking action or making decisions. We have met with the directors or deputies of DAGS, B&F, DBEDT, DOE, DOH, DDHS, DLIR, DLNR, DHRD, PSD, DOT, and RCUH.

**GOAL 2: Initiate preventive law measures.**

- Objective 1:** Reduce employment law claims.
- Action Plan 1:** Identify State clientele that demands the most time and attention.
- Action Plan 2:** Provide preventative training to State clientele in subject areas that dominate litigation and administrative hearings.
- Action Plan 3:** Coordinate training for clientele with other divisions within the Department as well as with other State agencies.

**Action Plan 4:** Develop a system of categorizing and inventorying court and administrative decisions for use by legal staff and clientele.

**Action Plan 5:** Develop a system to consistently inform clientele of major court and administrative decisions and trends in employment law.

We have identified two areas where we believe we can provide preventative training. One is to train workers compensation adjusters in DHRD in case presentation before the Disability and Compensation Division of the Department of Labor. The other is a general offer to a number of departments to assist in training/advising employees assigned to do personnel investigations.

## **Family Law Division**

The Family Law Division handles all state litigation under the jurisdiction of Family Court, such as child and adult protection, guardianships, truancy, adolescent mental health cases, and involuntary civil mental commitment hearings. Clients include the Department of Health, the Department of Human Services, the Department of Education, and the Office of the Public Guardian. The division also provides support to the Child Support Enforcement Agency, including establishment of paternity, defense of administrative appeals, and enforcement of child support orders.

**Goal:** Provide high quality legal representation in Family Court to our various clients.

**Objective 1:** Improve the basic legal knowledge of the attorneys and legal assistants.

### Action Plan 1:

Year 1: Continue to have trainings on substantive and procedural issues. These trainings will ideally be statewide using the State's videoconferencing capabilities. Take advantage of statewide trainings provided by the Court Improvement Program and our various clients.

Years 2-5: Continue to evaluate what training is needed for new and continuing staff. We recently established a mentor and trial review system by grouping newer and more experienced deputies for regular trial planning.

### Action Plan 2:

Years 1-5: Continue to update and keep the office manuals current.

### Action Plan 3:

Years 1-5: Continue to update the network memo bank.

### Action Plan 4:

Years 1-2: As the construction of a new Family Court facility in Kapolei is almost complete, and should open within the next few months, continue to negotiate for a move to office space near the courthouse. The new Family Court facility in Hilo opened in the early summer of 2009. Work with the ASM to facilitate a move for the FLD office to the State Office Building, which used to house the Court. Continue to work with the ASM and CSEA to determine an appropriate co-location of the CSEA Hilo Branch and the Hilo FSU office.

Year 1-2: Facilitate the move to Kapolei.

Year 2-3: Work with the court to transition into the new facility in Kapolei.

### Action Plan 5:

Years 1-5: Continue to meet regularly with the court to deal with problems and improve practice. This occurs on a monthly basis for Juvenile cases with the Senior Judge, and on a quarterly basis with the lead Judge for the Special Division which does TROs, Adult Guardianships, Paternity cases, and Involuntary Hospitalization cases. This also occurs on the neighbor islands. Because the present Senior Judge on Oahu is retiring effective November 1, 2009, work with the incoming Judge to continue this important dialogue.

### Action Plan 6:



Years 1-5: All of our deputies, including those most recently hired, do their cases from beginning to end including contested hearings, and appeals. We have restructured the Division to rotate the deputies through the various types of cases from CWS cases to the “specialty” calendar. They spend about a year on the specialty calendar and then rotate back to the CWS calendar. On an ongoing basis, continue to evaluate how this is working.

Action Plan 7:

Years 1-5: Hold staff meetings at least monthly to keep up to date on practice and policy changes within our office, and within that of our client. Meet regularly with the unit supervisors to discuss issues of concern to their units.

Action Plan 8:

Years 1-5: Continue regular post-court briefings to discuss current problems and anticipate future problems.

Action Plan 9:

Years 1-5: Work on cross training of the legal assistants.

Action Plan 10:

Years 1-5: Reevaluate the statistics from the various areas to ensure that we are clear on what outcomes we are looking for.

**Objective 2:** Foster effective communication and understanding with all clients.

Action Plan 1:

Years 1-5: Continue client training for all the agencies we represent.

Action Plan 2:

Years 1-5: Continue to meet with clients on a monthly basis. The supervisor has been attending meetings with the Child Support Enforcement Agency (CSEA) executive staff on an occasional basis. These occur every other month and include the unit supervisors from Oahu, Hawaii Island, and various departments within CSEA, some by telephone conference to save money.

Action Plan 3:

Years 1-5: Maintain good communication with the client so that emergencies can be handled expeditiously. Our Lotus Notes has been invaluable in keeping us all in touch.

**Objective 3:** Ensure that effective coordination is maintained with other legal services divisions who provide legal advice and counsel to the clients we represent in Family Court.

Action Plan 1:

Years 1-5: Meet with appropriate deputies to discuss the problems.

Action Plan 2:

Years 1-5: Maintain rapport with the advice and counsel deputies so that problems that need to be litigated will be clearly understood by the deputy doing the litigation.

**Objective 4:** Ensure that appropriate legislation is introduced to address problems encountered at Family Court.

**Action Plan 1:**

Years 1-5: Be aware of problems that arise in Family Court or new federal legislation that may require changes in our state statutes.

**Process:** Continue to monitor through evaluation of attorneys, through meetings with clients and court, and through our statistics whether we are meeting our goals and objectives.

## Health and Human Services Division

The Health and Human Services Division provides the principal legal services and support to the Department of Health and the Department of Human Services. The division enforces the State's environmental laws, provides legal advice to all Department of Health and Department of Human Services programs, takes appeals to circuit court from administrative decisions, defends actions against the State in both State and federal court, and handles some appeals in both the State and federal appellate systems.

### GOAL 1: INCREASE OUR ABILITY AND EFFICIENCY IN LITIGATION

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#### **Objectives and policies to achieve this goal:**

- Continue to assign experienced litigators to work on cases with less seasoned deputies (lead/secondary teams).
- Take advantage of formal litigation training when available and as funds permit.
- Feature discussions of case-specific litigation strategy at division or team meetings.
- Transfer hard-copy case files to electronic format for efficient storage and retrieval; assign one individual to scan, organize, and index closed case files and others we want to convert to electronic format.
- Increase our facility in using the department's electronic database to preserve and locate useful litigation samples and substantive materials.

#### **Progress in this area to date:**

- Consistent use of lead/secondary teams on existing and new administrative and court actions.
- Our lead litigator works closely with program deputies to (1) defend numerous actions against the State in both state and federal courts and (2) improve program operations to better comply with relevant laws.
- We discuss case-specific strategies in small-group team meetings.
- We continue to work on converting files to electronic format and need to do more in this area. To some extent, this is a department-wide issue and will require departmental training and coordination.
- We continue to handle environmental litigation on both the administrative and judicial levels.

### GOAL 2: PROVIDE TIMELY, EFFECTIVE LEGAL ADVICE TO OUR CLIENT PROGRAMS

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#### **Objectives and policies to achieve this goal:**

- Continue to develop our knowledge of client programs through periodic meetings between deputies and program heads and by attending clients' training sessions.
- Continue to provide training to program staff on legal issues.
- Continue cross-division consultation.
- Continue to use the department's computerized tracking system to monitor turnaround time on document review and on other projects.
- Stay current on developments in the law through formal training and conferences (as funds permit) and periodic substantive discussions in relevant areas.
- Establish regular division training sessions.
- Continue to be pro-active in providing legal assistance to our clients, identifying and resolving legal problems as early as possible.
- Develop division resource manuals on recurring substantive issues such as confidentiality laws, claims for attorneys' fees, sovereign immunity law, and others.
- Develop a manual of practice areas that our division covers, so that all division members and clients know who works in which areas and we have a guide to the critical legal issues, statutes, and case law in those areas.

- Enhance in-house training on document management and case tracking programs, and encourage outside training on essential computer skills.
- Establish a division management committee to oversee training, division manuals, organization and storage of files, and the like.

**Progress in this area to date:**

- All deputies meet regularly with their clients.
- We have provided training to DHS on contract drafting and on the provision of services to clients whose proficiency in English is limited.
- We have been more proactive in assisting DOH and DHS to avoid legal problems that could result in lawsuits. Our clients have been very helpful in this process, as has teamwork between our lead litigator and program deputies.
- Frequent collaboration with staff in other divisions has led to better problem-solving and enhanced our substantive knowledge.
- We have used our assignment tracking system to monitor and follow up on due dates on contracts in particular. Monthly monitoring has improved turnaround time.
- Deputies have attended seminars or conferences on public benefits law the rules of evidence, discovery of electronically stored information, health facility licensing, and other environmental matters.
- Collaboration between deputies in similar substantive areas has provided consistent opportunities for learning and growth, and deputies working in the same areas (public benefits law, behavioral health law, public health law, and environmental law) meet regularly with the division supervisor to discuss projects on which they are working and developments in the law.
- We continue to work closely with the DHS Ho'opono program to resolve conflicts and complaints before they develop into grievances or litigation.
- We need to do more training within the division and establish a division management committee.

**Process to measure performance:**

- Annual deputy evaluations
- Reviews of workload and assignments in periodic discussions between each deputy and the division supervisor (twice a year, in addition to annual evaluations)
- Variance reports
- Regular monitoring of assignments in computerized tracking system
- Feedback from clients

## Labor Division

The Labor Division provides legal services and litigation support, including agency appeals, to the Department of Labor and Industrial Relations and boards and agencies administratively attached to that department, including the State Fire Council, Office of Community Services, and Office of Language Access. In connection with its enforcement of the various labor laws, the division also collects penalties, fines, and reimbursements.

**GOAL 1: SUSTAIN QUALITY AND TIMELY LEGAL SERVICES TO CLIENT DEPARTMENT AND AGENCIES.**

Objective 1: Continue to improve the skills and efficiency of the division.

Objective 2: Continue to meet internal deadlines for responses to requests for legal services.

Objective 3: Continue to provide clients with regular status reports on matters handled on their behalf.

### Action Plan:

- Provide and make available relevant training for the division.
- Review and update all division training manuals as necessary.
- Annually review department legal services manual on legislation.
- Continue in-house division training, utilizing discussions on current cases.
- Identify training programs outside of department and seek funding to attend such programs.
- Create or update forms as necessary.
- Establish timetable for drafts of responses and track completion dates.
- This is an ongoing and continuous process.

### Process:

- Collect statistics regarding the completion of legal services requests, number of training sessions, number of forms updated or created, and number of sections of training manual completed.
- Review variance reports and evaluations.

**GOAL 2: ASSIST CLIENT DEPARTMENT AND AGENCIES IN THEIR EFFORTS TO DILIGENTLY ADMINISTER OR ENFORCE THE STATE'S LABOR LAWS ON A FAIR AND CONSISTENT BASIS AND IN AN EFFICIENT MANNER BASED ON INTEGRITY.**

Objective 1: Provide legal advice and counsel on impact of decisions resulting from cases in which we defend or prosecute on behalf of the Department and make recommendations when appropriate.

Objective 2: Provide legal advice and counsel on proposed legislation and rule proposals. Whenever possible, make recommendations for legislative or rule proposals to help the client administer the laws fairly and more efficiently.

### Action Plan:

- Continue to apprise clients about court decisions and make appropriate recommendations.
- Keep a log of issues that arise throughout the year that can be corrected by legislation or the adoption of rules.

### Process:

- Review advice and recommendations made to clients.

GOAL 3: ANTICIPATE POTENTIAL PROBLEMS FACING THE CLIENT DEPARTMENT AND AGENCIES AND WORK TOGETHER TO FORMULATE A PLAN FOR RESOLUTION.

Objective 1: Nurture and encourage early consultation by the clients to avoid or minimize future problems.

Objective 2: Assist clients with the development of processes or forms to help address recurring legal issues.

Action Plan:

- Be accessible to meet as needed with clients.
- Foster open communication with the clients.
- Identify recurring questions and evaluate possibility of establishing a procedure to systematically address such issues.

Process:

- Review the frequency of contacts made with the clients and number of areas the division is able to assist with establishing procedures.

GOAL 4: UTILIZE THE TECHNOLOGY IN THE DEPARTMENT (PROLAW, IMANAGE, LOTUS NOTES, DEPARTMENTAL INTRANET, INTERNET) TO THE FULLEST POTENTIAL.

Objective 1: Ensure that each member of the division is proficient in the use of technology to increase efficiency and sharing of information.

Objective 2: Continue to use the calendaring and reminder systems.

Objective 3: Identify information to post on the Departmental Intranet in order to share knowledge within the Division and Department.

Action Plan:

- Train each member of the division on an ongoing basis, taking advantage of training offered in-house, as well as by sharing knowledge on an informal basis.
- This is an ongoing and continuous process.

Process:

- Track the use of storing and accessibility of documents in iManage.
- Review ProLaw to see whether matters are being calendared.
- Post information on the Intranet.

## Land/Transportation Division

The Land/Transportation Division provides legal services to both the Department of Land and Natural Resources (DLNR) and the Department of Transportation (DOT). These assignments include serving all divisions of the DLNR (Aquatic Resources, Boating, Conservation and Resources Enforcement, Forestry and Wildlife, Land, State Historic Preservation, State Parks, and Water Resource Management) and the DOT (Airports, Harbors, and Highways). The division also provides services to the following attached commissions, boards, or agencies: Kaho'olawe Island Reserve Commission, Natural Area Reserves System Commission, Bureau of Conveyances, the four Island Burial Councils, Hawaii Historic Places Review Board, Hawaii Invasive Species Council, Commission on Transportation, State Highway Safety Council, and Medical Advisory Board. Most tort litigation involving the DLNR or the DOT is handled by another division, but the Land/Transportation Division handles a number of cases involving the State as a landlord and as a source of permits or as regulator. The division is responsible for all quiet title actions involving the State and virtually all state eminent domain actions, the bulk of which are done on behalf of the state highways program. The division prepares land disposition documents for the DLNR and the DOT and prepares office leases for the Department of Accounting and General Services when state agencies rent private property as tenants. The division reviews for legality its clients' contracts and administrative rules. The litigation that the division handles includes enforcement actions for violations of the State Historic Preservation law and the law governing land use in conservation districts and actions for damage to natural resources of the State. The division is working on several of the DOT's complex construction cases.

### GOAL AND OBJECTIVES:

Over the years since 1999, the Division has worked to implement one goal and six objectives. The goal and the six objectives are the following:

GOAL: To Provide High Quality, Timely Legal Services on a Sustained Basis.

SIX OBJECTIVES:

1. Improve the quality of written work
2. Improve litigation skills
3. Attain and sustain optimum efficiency in the provision of legal services
4. Sustain good relations with clients
5. Eliminate backlog of assignments
6. Increase and improve training for deputies and support staff.

The goal and objectives continue to be appropriate for the Division.

In 1999, along with the goal and objectives the division submitted in its first annual report, we presented an action plan to show how we expected to implement each objective in one, two, and five years. We have satisfactorily completed our one and two year action plans for all of the objectives except the fifth objective (Eliminate Backlog). Nevertheless, in FY 2008 we did clear out a good portion of the backlog. For example, our plan for eliminating backlog called for the completion of 10 eminent domain cases, and we closed out 3 in FY 2008.

We do not believe it is necessary at this time to change our action plans for any of our six objectives.

In our annual report for FY 2002, we presented the following modified action plan for Objective No. 5:

"New Action Plan for Objective No. 5:

Objective 5 was Eliminate Backlog of Assignments. We have had some success in this area but need to do more. Our revised action plan for this objective is as follows:

FIRST YEAR (2003)

- a. Complete 10 eminent domain cases in backlog.
- b. Completed or closed out 77 opinion requests during FY 2003 from a backlog of 141 opinion requests pending on June 2002.

SECOND YEAR (2003-2004)

- a. Complete additional eminent domain cases in backlog.
- b. Complete or close out additional opinion requests in backlog.

FIFTH YEAR (2008)

- a. Complete remaining eminent domain cases in backlog.
- b. Complete or close out remaining opinion requests in backlog.”

In FY 2009, we closed 7 eminent domain cases. With respect to backlogged opinions and legal advice requests, we closed out 108 of a total of 229 requests in this category.

In 2005, the Division added the objective described as, "Increase and improve training for deputies and support staff." The action plan to help the Division achieve this goal consisted of the following:

“Action Plan for Objective No. 6:

FIRST YEAR (2004)

- a. Assign deputies to do training in areas they know well.
- b. Identify other training resources.
- c. Identify new topics for training by consulting with deputies and staff and others.

SECOND YEAR (2005)

- a. Continue above.
- b. Involve as many people in the division as possible trainers.
- c. Consult with clients about training need of deputies and possibility of clients helping to pay for training in areas where training is not readily available.
- d. Plan procedural manuals for deputies, staff. Find ways to assure they are kept current (may be a departmental project).

FIFTH YEAR (2006)

- a. Continue above.
- b. Have completed manuals in use.”

We have existing manuals for quiet title actions, eminent domain cases, land court procedures, and reading maps and charts. We still need to develop a contested case manual. As preparation for this, we are working with DLNR to revise and update its rules of practice and procedure. Presently, public hearings on these rules have been held. We will work on the manual as the rules evolve. We hope to complete other manuals as workloads permit.

Training: In FY 2008, L/T D deputies attended seminars locally and on the mainland as follows:

Date of Training	Number of Attendees	Training Information
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7/8-11/07	1	46 <sup>th</sup> Annual Workshop on Transportation Law presented by Transportation Research Board of the National Academies, Philadelphia, Pennsylvania. DOT funded.
8/15-18/07	1	ALI-ABA Land Use Institute: Planning/Regulation/Litigation/Eminent Domain/Compensation. San Francisco, CA. DOT funded.
10/3-6/07	1	Land Trust Alliance 20 <sup>th</sup> Annual National Land Conservation Conference. Denver. CO. DLNR funded.
10/18-19/07	2	Natural Resource Damages Litigation Seminar at DLNR Kalanimoku Bldg. DLNR funded.
2/29/08	3	National Business Institute Real Estate Law: Advanced Issues and Answers, Ala Moana Hotel. DLNR funded.

PROCESS FOR MEASUREMENTS:

Our 1999 report included a statement of the process we would use to evaluate the effectiveness of our program plan. We indicated that we would use the following measures of effectiveness:

- a. annual written evaluation of deputies by supervisor,
- b. client's evaluations, and
- c. departmental variance reports.

We plan to continue to use these measures. Additionally, the new computer program, ProLaw, efficiently produces clear, useful statistics on workload and accomplishments. The new printouts have helped us achieve more accurate workload data and thus facilitate bringing our pending workloads up-to-date.

## Legislative Division

The Legislative Division provides legal services on matters pertaining to legislation and to proposed administrative rules. The division coordinates the preparation and review of all legislative bills proposed by the executive branch agencies and coordinates the review, monitoring, and evaluation of all legislative bills during and after each session of the Legislature. In addition, the division coordinates, monitors, and reviews the preparation of administrative rules of the Department of the Attorney General. This division also performs the final review of the formal opinions issued by the Attorney General and performs the initial review of complaints involving the Sunshine Law.

**GOAL 1:            Coordinate the legal services review of legislative proposals of the Executive Branch.**

**Objective 1:**        Ensure the timely review of legislative proposals by divisions possessing pertinent subject matter expertise.

**Objective 2:**        Ensure the accurate and effective review of legislative proposals by the divisions to which the proposals were referred.

**Action Plan:**        **Years One and Two:** Continue to refer legislative proposals to divisions possessing pertinent subject matter expertise; continue to set internal staggered deadlines for the review of legislative proposals by the divisions and maintain the manual and computerized logging methods that have been used to keep track of hard copies of legislative proposals sent to divisions for review; continue to attach to legislative proposals checklists to assist divisions in the review of legislative proposals; and continue to review and double-check the legislative proposals reviewed by the divisions.

**Year Five:**        Seek sufficient funding and data processing staff support to implement procedures to provide for the distribution, review, and editing of legislative proposals in electronic form instead of hard copies (if approved by the Attorney General at that time) through a local area network instead of through the use of hard copies.

**Process:**            Maintain records of performance of the divisions in meeting internal and Governor's Office deadlines and report the information to the Attorney General.

**GOAL 2:            Coordinate the legal services review of legislative bills pending before the Legislature.**

**Objective 1:**        Ensure the effective review of pending legislative bills by divisions possessing pertinent subject matter expertise.

**Objective 2:**        Assist in the reporting of problems discovered during the review of legislative bills by preparing a list of bills to be tracked, determining whether hearings have been scheduled for the bills with problems, ensuring that appropriate testimony is prepared, and reviewing testimony and legal advice letters on those bills.

**Action Plan:**        **Years One and Two:** Continue to obtain, copy, and distribute bills and legislative committee reports in hard copy form and, when necessary, in electronic form or by links to online webpages to divisions possessing pertinent subject matter expertise needed to effectively review specific bills; continue to maintain the Legislative Bill Tracking System on the ProLaw Information Management System to provide information on the referrals of bills and to provide necessary reports; and continue to maintain manually prepared problem bill lists.

**Year Five:** Seek to establish revised procedures to refer to divisions for review legislative bills and legislative committee reports only in electronic form or by links to online webpages and to incorporate into the new legislative bill tracking system problem bill indicators that will allow computer-generated lists of problem bills.

**GOAL 3:** **Coordinate the legal services review of passed legislative bills referred by the Governor for review.**

**Objective 1:** Ensure the timely review of passed legislative bills by divisions possessing pertinent subject matter expertise.

**Objective 2:** Assist in ensuring the accurate and effective review of passed legislative bills by the divisions to which the proposals were referred.

**Objective 3:** Ensure the timely and accurate preparation of suggested veto documents for the Governor.

**Action Plan:** **Years One and Two:** Continue to coordinate the review of passed bills with the Policy Team of the Office of the Governor to attempt to have a reasonable bill review schedule; continue to set internal staggered deadlines for the review of passed bills by the divisions before the deadlines set by the Office of the Governor and distribute hard copies of the passed bills to divisions possessing the pertinent subject matter expertise to effectively review the bills; maintain computerized records of referrals and deadlines; continue to review and double-check the bills and the reports prepared by the divisions before the reports to the Governor are sent to the Office of the Attorney General for approval; and continue to review, edit, and transmit suggested veto documents to the Governor in electronic form.

**Year Five:** Seek to establish procedures to verify hard copies of passed bills presented to the Governor with copies available in electronic form for referrals to divisions for review of the passed legislative bills with pertinent legislative committee reports in electronic form or links to online copies instead of hard copies; and review, edit, and transmit reports on passed bills to the Governor in electronic form only instead of both electronic and hard copies.

**Process:** Maintain records of the performance of the divisions in meeting the internal and Governor's Office deadlines and in preparing accurate and complete reports to the Governor on passed bills; and prepare a report to the Attorney General listing the performance information.

**GOAL 4:** **Provide to government officials of the Executive, Legislative, and Judicial Branches appropriate legal services on legislative matters and matters pertaining to administrative rules.**

**Objective 1:** As specifically assigned by the Attorney General or the First Deputy Attorney General, continue to provide timely and accurate legal advice on legislative matters and matters pertaining to administrative rules.

**Objective 2:** Ensure that the administrative rules of the Department of the Attorney General are prepared and adopted in accordance with the administrative rules format and the Hawaii Administrative Procedure Act.

**Action Plan:** **Years One and Two:** Continue to maintain access to computerized legal research services and to maintain a complete set of bills and pertinent committee reports for immediate reference twenty-four hours a day and prepare legal advice in hard copy

form; and continue to review hard copies of proposed administrative rules of the Department of the Attorney General.

**Year Five:** Perform legal research, review documents and rules, and prepare and deliver legal advice in electronic form to expedite research, preparation, and delivery.

**GOAL 5:**           **Assist in the promotion of uniform state laws.**

**Objective 1:**       Provide staff support and assistance to the Commission to Promote Uniform Legislation.

**Objective 2:**       Participate in and monitor the activities of the National Conference of Commissioners on Uniform State Laws.

**Action Plan:**     **Years One, Two, and Five:** Continue to prepare meeting notices, agendas, and minutes for the Commission to Promote Uniform Legislation in compliance with the Sunshine Law; assist in seeking legislative appropriations of funds for the payment of Hawaii's dues for the National Conference of Commissioners on Uniform State Laws and for the payment of the registration and travel expenses for Hawaii's commissioners to attend the National Conference's annual meetings; continue to prepare bills to enact uniform laws for introduction by legislators; and continue to annually prepare for the Commission to Promote Uniform Legislation reports to the Legislature on the activities of the National Conference and the Commission to Promote Uniform Legislation.

## **Public Safety, Hawaiian Home Lands, and Housing Division**

The Public Safety, Hawaiian Home Lands, and Housing Division provides legal services and litigation support to the Department of Public Safety and its attached agencies and commissions (which include the Hawaii Paroling Authority, the Correctional Industries Advisory Committee, the Corrections Population Management Commission and the Crime Victim Compensation Commission), the Department of Hawaiian Home Lands, the Hawaii Housing Finance and Development Corporation, the Hawaii Public Housing Authority and the Hawaii Community Development Authority. This division handles a significant amount of non-tort related litigation and administrative claims involving issues such as the Americans with Disabilities Act, contracts, construction, fair housing, evictions, foreclosures, quiet title, and inmate claims (Rule 40 and habeas corpus petitions). This division also provides advice and counsel on a variety of issues, processes pardon applications, prepares extradition requests, and drafts and reviews leases and other conveyance documents, development agreements, financing instruments, and contracts.

### **Goal 1: Provide quality advice and legal representation to the clients we represent.**

**Objective 1:** Provide division with the resources necessary to support quality work product.

#### **Action Plan:**

- A. Partnering of attorneys to provide needed support, expertise, and backup.
- B. Continuing Legal Education, including in-house training, must be ongoing and relevant. Our continuing goal is to have each person attend some form of continuing legal education at least twice per year. Attendees of such training in turn educate others in the division on the materials received and knowledge gained.

In-house training is addressed in monthly divisional meetings through the sharing of cases and in specific training topics. Training is also offered from time to time by other departments and agencies and staff is encouraged to attend these sessions as well.

- C. Refer to and collaborate with in-house expertise and resources to assure appropriate and consistent advice and representation.
- D. Add to and maintain division form bank and instructional manuals in electronic format.
- E. Increase staff skill level in use of existing information technology and resources.

**Process for measuring success:** Review with deputies the time spent on various assignments to determine whether the appropriate knowledge base and resources are possessed, maintained, or appropriately developed.

**Objective 2:** Render legal services in a more efficient way.

#### **Action Plan:**

- A. Prioritize necessary legal work. Legal deadlines, the need to address issues to avoid lawsuits and claims, and the priorities of the client will dictate the prioritization of legal work. This process will be improved through communication with our clients.
- B. Client Training and Outreach: Standardize client procedures and conduct training to encourage consistency of clients work product. Maintain good communication with client on a regular basis.
- C. Establish and maintain consistent procedures and forms to be used with clients.
  - a. Add to and maintain division form bank.

- b. Bimonthly division and unit meetings to ensure communication and consistency in knowledge.
- D. Emphasize proactive action planning, involving more people, for bigger projects. Establish a model for mobilizing the staff needed to plan and implement an action plan for a given case.
- E. Maintain calendaring system, updated and monitored daily. Maintaining established calendaring system is an ongoing effort to enable better planning for anticipated workload.
- F. Use existing information technology to its fullest potential. Ensure that each member of the division is proficient in the use of available technology to increase efficiency and sharing of information, not only within our division, but also with clients.

**Process for measuring success:** Periodic review of division's ability to maintain manageable workload and accomplish work objectives in the time required.

**Goal 2: Support professional development of division employees.**

**Action Plan:**

- A. Encourage professional development. Division members are encouraged, on an ongoing basis, to actively participate in community events and forums as leaders, trainers, participants. Continuous training addresses this goal as well.
- B. Encourage continual outreach with clients and client communities.
- C. Continual ethics training.

**Process for measuring success:** Rate of success in court and administrative proceedings, rate of success in settling issues before they result in lawsuits or administrative claims.

**Timeline and Progress to date:** While all of the foregoing items are already practiced to some degree, the division is reviewing present practices and procedures and considering improvements that can be implemented in all areas to optimize efficiency.

## Tax Division

The Tax Division provides legal representation and advice to the Department of Taxation and other state departments and agencies, primarily in the areas of tax litigation, legislation, rules, investigations, and opinions and advice. The division contains an informal bankruptcy unit devoted to handling all bankruptcy cases for the Department of Taxation, and occasionally assists other agencies in bankruptcy matters. The division oversees and enforces laws pertaining to charitable trusts, public charities, public benefit corporations, and private foundations. The division is responsible for the registration of charitable organizations that solicit contributions, for professional solicitors and professional fundraising counsels under HRS chapter 467B, and for enforcement of Hawaii's charitable solicitation laws. The division is the custodian of certifications by charities that issue charitable gift annuities under HRS § 431:204(b).

### I. TAX ADMINISTRATION

**GOAL 1:** Provide professional advice and legal representation to the Department of Taxation ("DOTAX") and assist in its efforts to diligently administer and enforce the State's tax laws fairly, efficiently, and with integrity for all taxpayers.

**Objective 1:** Diligently prosecute or defend cases in the Tax Appeal Court involving taxes administered by DOTAX, with appropriate consideration for the issue, amount and circumstances.

**Action Plan:** Supervise and monitor litigation of Deputy Attorneys General (DAGS) including:

- Periodic status reports on case status and strategy (discovery, dispositive motions, trial) and resolution.
- Seek guidance from AOR or Complex Litigation Committee whenever necessary or appropriate.
- Periodic reports to client on case status.

**Process:** Continue the report card from the DOTAX. Review annually how the Tax Division has met this objective. Provide appropriate feedback to deputies on the handling of their cases.

**Objective 2:** Protect and defend the State's tax claims (whether secured or unsecured) in the U.S. Bankruptcy Court, foreclosure suits, and interpleader actions with appropriate consideration for the size of the claim, assets available to satisfy the claim, and other relevant factors.

**Action Plan:** Supervise and monitor other litigation of DAGs including:

- Periodic status reports on case status and strategy (discovery, dispositive motions, trial) and resolution.
- Seek guidance from AOR or Complex Litigation Committee whenever necessary or appropriate.
- Periodic reports to client on case status.

**Process:** Continue the report card from the DOTAX. Review annually how the Tax Division has met this objective. Provide appropriate feedback to deputies on their cases.

**Objective 3:** Provide legal advice and counsel to DOTAX on proposed legislation, regulations, and interpretations. Whenever possible, the division shall also provide recommendations to DOTAX on possible legislation to close unintended loopholes or to improve tax administration.

- Action Plan:** Supervise and review each legislation, regulation, and case.
- Process:** Review annually how the Tax Division has met its objectives.
- Objective 4:** Be sensitive to and aware of less than quality service to the public.
- Action Plan:** Encourage and foster frank communications with the DOTAX, professionals (attorneys, accountants, and tax professionals), the business community and the public regarding how the tax system can be improved and specific instances of alleged abuse or less than quality service to the public. Assist taxpayers with legitimate complaints about how they have been treated in getting a satisfactory and reasonable solution to their complaint.
- Process:** Review annually how the Tax Division has met this objective.
- Objective 5:** Vigorously protect the privacy of taxpayer tax returns and return information made confidential by HRS §§ 235-116 and 237-34.
- Action Plan:** Represent the Department in defending subpoenas and other requests for confidential taxpayer information.
- Process:** Review annually how the Tax Division has met this objective.
- GOAL 3:** **Improve the quality and timeliness of legal services provided to or on behalf of the DOTAX.**
- Objective 1:** Ensure that legal services provided by the division are high quality and timely.
- Action Plan:** Monitor litigation of DAGs including periodic cases audits to discuss strategy, development, and resolution. Provide continuing training whenever possible or resources permit. Seek guidance from AOR or the Complex Litigation Committee whenever necessary or appropriate.
- Process:** Provide appropriate feedback and evaluation of legal work performed by DAGs. Review annually how the Tax Division has met this objective.
- Objective 2:** Improve the quality and timeliness of advice and counsel to the DOTAX on the legal aspects of proposed legislation, regulations, and cases.
- Action Plan:** Review each legislation, regulation, and case. Coordinate as appropriate with the Legislative Division.
- Process:** Review annually how the Tax Division has met this objective.
- Objective 3:** Improve communication with DOTAX at all levels.
- Action Plan:** Encourage and foster open and timely communication with DOTAX.
- i. Meet frequently, formally and informally, with the Director, and Deputy Director.
  - ii. Encourage all Tax Division DAGs to keep DOTAX informed of developments in major cases or issues affecting other taxpayers.
  - iii. Provide periodic status reports to the client.



**Process:** Continue to have an annual report card from the DOTAX. Review annually how the Tax Division has met this objective.

**Objective 4:** Improve the working relationship with DOTAX at all levels.

**Action Plan:** Encourage formal and informal interaction with DOTAX.

- i. Encourage joint participation in in-house seminars and meetings.
- ii. Encourage the sharing of resources to the extent possible.
- iii. Encourage cross training by AG and DOTAX professionals.

**Process:** Review annually how the Tax Division has met this objective.

**GOAL 4:** **Develop and keep the respect of the public including the judiciary, the public and the legal community-for a reputation of competence, integrity, diligence, and fairness.**

**Objective 1:** Provide for the professional development and growth of all Tax Divisions deputies through training and relationships with tax practitioners and the public.

**Action Plan:** Efficiently allocate resources to Tax Division DAGs cases and encourage them to expand their practices and train and teach the less experienced Tax Division DAGs; provide the less experienced Tax Division DAGs the opportunity to work on increasingly challenging cases; and encourage all DAGs to develop and grow professionally. Provide positive feedback for work well done. Make the Tax Division an enjoyable and rewarding environment in which to practice law. Hold periodic meetings of Tax Division DAGs for problem solving.

**Process:** Review annually how the Tax Division has met this objective.

**Objective 2:** Encourage and foster education and training by third-parties and among each other.

**Action Plan:** Promote education and training by outsourcing, for example, attending seminars, and by in-house training sessions, for example, brown bags.

**Process:** Review annually how the Tax Division has met this objective.

**Objective 3:** The supervisor and senior DAGs should strive to set good examples of integrity, diligence, and fairness for the less experienced DAGs.

**Action Plan:** Be prepared, professional, timely, courteous, accessible, and prepared. Meet deadlines. Strive to continuously improve the quality of legal services and representation. Timely return calls and written communication.

**Process:** Review annually how the Tax Division has met this objective.

**GOAL 5: Integrate and maximize the new technology in the Tax Division.**

**Objective 1:** Maximize the new technology in the Tax Division including electronic filing in the U.S. Bankruptcy Court, the Department's, intranet and the Department's document management system.

**Action Plan:** Learn and maximize the benefits of the new network system for all attorneys and staff in the Tax Division, where we can communicate within the Department and Tax Division.

**Process:** Review annually how the Tax Division can improve and integrate technology within the Tax Division, DAG and with the DOTAX.

**II. CHARITABLE TRUSTS, PUBLIC CHARITIES AND NONPROFITS**

**GOAL 1: Vigilantly supervise charitable trusts, public charities, and nonprofit entities, including private foundations, to ensure that such organizations are properly fulfilling their charitable purposes and acting in a manner consistent with their governing documents.**

**Objective 1:** Create a charities enforcement unit with the Tax Division to represent the Attorney General in his capacity as *parens patriae* in proceedings relating to charitable trusts, provide ongoing oversight of charitable trusts and public charities, and, if warranted, commence an investigation or take appropriate action related to such charitable trusts and nonprofit entities.

**Action Plan:** Implement new positions authorized by Act 174, SLH 2008, to review registration statements and complaints from the public regarding possible violations of Hawaii's charitable solicitation law and concerning charities that have or have not registered with the department.

**Process:** Assess after the effective implementation of the new positions.

**Objective 2:** Professionally administer and enforce chapter 467B, and section 431:1-204, Hawaii Revised Statutes, requiring the registration and bonding of professional solicitors and professional fundraising counsel, and annual certification by charities issuing charitable gift annuities and begin enforcement of registration requirements.

**Action Plan:** Develop an Internet based registration, bonding and certification forms, develop a searchable online database of registered solicitors and fundraising counsel and enforce requirements against un-registered fundraisers.

**Process:** Monitor development of forms and databases.

**Objective 3:** Educate the public about charitable trusts and nonprofit entities.

**Action Plan:** Upgrade the department's internet site to provide public information about Hawaii charities laws and regulations, registration data, and provide resources to nonprofits, and conduct outreach through presentations and interaction with the professional community and the public.

**Process:** Review annually how the Tax Division has met this objective.

**Objective 4:** Encourage and support education and training for Deputy Attorney Generals.

**Action Plan:** Promote education and training by outsourcing, for example, attending seminars, and in-house training sessions, for example, brown bags.

**Process:** Review annually how the Tax Division has met this objective.

## **Tort Litigation Division**

The Tort Litigation Division provides legal defense to personal injury lawsuits and claims made against the State and its departments and agencies. The division does not have primary responsibility for giving advice and counsel to any state department or agency, to provide representation in criminal matters, or to collect moneys owed to the State. In general, the services provided by the division include accepting service of legal complaints for the Attorney General, answering legal complaints made against state department and agencies, investigating claims, conducting discovery on claims, and representing state interests in arbitrations, mediations, and trials.

### **GOAL 1: PROVIDE QUALITY LEGAL REPRESENTATION TO ALL CLIENTS**

**Objective 1:** Take advantage of training opportunities, including trial advocacy, legal writing, and legal research.

**Action Plan:** TLD deputies are continuously encouraged to attend seminars and training sessions presented by the local bar association and other organizations, depending upon budgetary constraints. Division clerical staff are also encouraged to take advantage of training opportunities relevant to their job responsibilities. Continue to make efforts toward establishing a system of in-house training as time permits, drawing upon the expertise of division members and other department personnel. With the advent of and increase in “webinars,” more deputies are able to take advantage of training opportunities for less cost.

**Objective 2:** Facilitate positive relationships with division clients.

**Action Plan:** Encourage the identification and implementation of improved means of communication of clients. Reinforce with division deputies the importance of keeping clients apprised of significant case events, particularly regarding potential settlement or other case resolution. Additional efforts will be made to ameliorate the concerns of state employees sued in their individual capacities, especially employees who are being sued for the first time and are not familiar with the litigation process.

**Objective 3:** Assist with client training and special projects, as requested.

**Action Plan:** Participate in client training upon request of the client. This includes the provision of informal advice over the phone or in person, and participation in formal training. TLD also provides staff to assist with special client projects, as requested. Deputies continue to participate in the training of deputy sheriff recruits at the request of the Department of Public Safety. Staff from TLD provides assistance to the Department of Land and Natural Resources (DLNR) with regard to taskforces to address continuing rockfall and water safety issues.

**Objective 4:** Facilitate the use of informal, mini Litigation Review Committees (LRCs) for case evaluation and other purposes.

**Action Plan:** TLD routinely utilizes informal LRCs as a means of discussing case-specific issues, such as issues regarding liability, case strategy, and case valuation. Depending upon the issues being presented, deputies from other divisions who may have relevant expertise is also sought. This practice improves the level of service TLD is able to provide to its clients because the deputies have the benefit of group discussion and group knowledge on important case issues.

**Objective 5:** Reduce the number of meritless or frivolous lawsuits.

**Action Plan:** Emphasize to the deputies the need to immediately identify legally unsupportable claims and file dispositive motions at the earliest opportunity. Take a hard line with respect to settlements to send a message to the plaintiff bar and the courts that unless compelling reasons exist, cases will not be settled when the State has no liability, even for a nominal amount.

**GOAL 2: RISK MANAGEMENT**

**Objective 1:** Assist with State risk management efforts.

**Action Plan:** Encourage division deputies to provide pro-active advice and training to client agencies on ways to reduce their potential for tort liability. Continue compliance with Section 37-77.5, Hawaii Revised Statutes, which requires the Attorney General to advise client agencies regarding case resolutions and how to avoid future similar claims, by recommending corrective action that will eliminate or mitigate the factors contributing to the State's exposure. The division supervisor and deputies will also continue to maintain a cooperative and collaborative working relationship with the State Risk Management Office at DAGS. The TLD supervisor continues a dialog throughout the year with the Risk Management office to address unusual or unique insurance coverage and liability issues.

**Objective 2:** Actively participate in risk assessment working groups.

**Action Plan:** The TLD supervisor continues to be the designated risk manager for the Department of the Attorney General, and in that capacity participates in meetings with the State Risk Manager and risk managers for the other State departments when requested.

**Objective 3:** Facilitate prompt resolution of appropriate cases in order to minimize loss to the State.

**Action Plan:** The TLD deputies are encouraged to participate in alternative dispute resolution in appropriate cases, as approved by the Attorney General, in an effort to resolve cases in a timely manner and limit expenditure of costs. More and more cases are being successfully mediated.

**GOAL 3: PROMOTE A POSITIVE WORK ENVIRONMENT**

**Objective 1:** Encourage open communication among all division members.

**Action Plan:** Continue to include clerical staff in meetings as appropriate, to improve communication and increase participation of all TLD personnel in matters of concern/interest to the division. The division supervisor will also continue to have an open-door policy and invite input/comments from all division staff regarding day-to-day concerns and/or input on how the division can be improved. If a problem exists between particular division members, the involved personnel are encouraged to discuss and address the problem or concerns.

**Objective 2:** For support staff, increase their understanding of the overall legal process (i.e., how their work "fits in" with the handling of a case).

**Action Plan:** As time permits, encourage staff members (legal assistants and legal clerks) to attend trial sessions and hearings in order to facilitate a better understanding of the overall legal process and the integral part they play in TLD's handling of a case. It is anticipated that this practice will facilitate positive morale and increase staff members' pride in their work. This past year, staff members again attended depositions, court hearings and arbitration proceedings.

**GOAL 4: MAXIMIZE USE OF DEPARTMENTAL/OTHER TECHNOLOGY**

**Objective 1:** Facilitate increased proficiency among division staff in the use of ProLaw, iManage, departmental intranet, etc.

**Action Plan:** Encourage sharing of information and expertise among division staff, and take advantage of any training opportunities available in-house or from outside resources. TLD and CRLD have created a databank of expert depositions and expert information in iManage which is continually being updated with new experts and new information. Deputies and legal assistants are encouraged to attend training on Westlaw, in an effort to strengthen their legal research skills and keep up with newly available research tools.

**PROCESS:** Assessment will depend in large part upon input/comments from clients, as well as self-assessment through internal discussion and observation of staff morale and other indicators of progress, such as increased work pace, and productiveness.

## SECTION 4: PUBLIC SERVICES DIVISIONS

### Child Support Enforcement Agency

The Child Support Enforcement Agency provides assistance to children by locating parents, establishing paternity and support obligations (financial and medical), and enforcing those obligations. Its mission is to promote the well-being of children and the self-sufficiency of families, through the timely and accurate establishment and enforcement of child support, while providing excellence in customer service.

#### Goal #1: To Improve Performance Measures

Aside from meeting performance requirements for federal incentive payments and meeting compliance requirements to avoid penalties, these requirements are based on the underlying hypothesis that there is a correlation between level of performance in the identified areas and level of support to children and improved family self-sufficiency.

##### Target Outcomes:

1. Increased percentages in the five program areas measured by the federal office for incentive funding.
2. Maximized federal incentive funds.

**Objective #1** – To ensure that the agency's paternity establishment percentage meets or exceeds the required rate of 90% or higher by the end of the federal fiscal year, thereby attaining a 100% allotment of federal incentive payments for this activity.

##### Action Plan:

- ❖ To continue to monitor the progress of the 1115 grant project that promotes and facilitates the collaborative efforts between the agency and the TANF Agency to reach unwed parents prior to the establishment of a child support order.
- ❖ To continue to work closely with the Office of Vital Statistics to ensure the successful sharing of paternity data with Child Support.
- ❖ To periodically monitor the interim paternity establishment percentage and take corrective actions, if necessary.
- ❖ To increase marketing and outreach efforts to encourage parents to voluntarily establish paternity.

**Objective #2** – To ensure that the number of support orders established and current support collections exceed the past accomplishment by the end of the federal fiscal year, thereby attaining a 100% allotment of federal incentive payments for these performance measures.

##### Action Plan:

- ❖ To examine and improve the existing locate programs and look for alternative locate sources for optimal results in obtaining good addresses for non-custodial and custodial parents.
- ❖ To ensure the process server services are uninterrupted so the new orders will be successfully served.
- ❖ To review old converted cases and determine whether some of them should have been closed.
- ❖ To learn from the best practices of other Child Support Agencies around the country through the sharing of materials and ideas.
- ❖ To examine the order establishment process and introduce efficiencies so that orders can be established on a more timely basis.

**Objective #3** – To increase collections of cases with arrears balances to meet or exceed the required rate of 40% or higher by the end of the federal fiscal period, hereby attaining a 100% allotment of federal incentive payments for this activity.

Action Plan:

- ❖ To identify cases which consistently fail to make payments or fall behind in support payments and may require orders modification.
- ❖ To review old converted cases with arrearages that should have been closed.
- ❖ To ensure cases with arrearages have good address information in the system and all the enforcement measures are being run properly.
- ❖ To re-evaluate the license suspension process and ensure its effectiveness.
- ❖ To implement the OIW continuation statute.

## **Goal #2: To Provide Quality Customer Service**

The customer service program works to improve the quality and the responsiveness to the public through increased first line response using a call center, expanded customer service training throughout the agency, and building easier access to, and understanding, of child support services.

**Target Outcomes:**

1. The establishment of a pervasive customer service culture within the agency.
2. The implementation of a comprehensive training program for all levels.
3. The determination of customers' needs to create customer friendly processes.

**Objective #1** – To have a call center that will answer the customers' calls efficiently and effectively.

Action Plan:

- ❖ To train the call center staff to be knowledgeable in child support functions and to be effective on the phone with customers.

**Objective #2** – To develop an interactive website that the agency's customers can request, retrieve, and submit child support information and documents.

Action Plan:

- ❖ To work with eHawaii.gov on the development of the interactive website.



## Crime Prevention and Justice Assistance Division

The Crime Prevention and Justice Assistance Division coordinates statewide programs, activities, research, and grants for the improvement of the criminal justice system, crime victim services, and community crime prevention efforts. The Juvenile Justice Information System, which tracks youths from arrest to parole, is also a responsibility of the division.

### Goal 1: To provide user-oriented information to promote informed decision-making on crime-related issues.

Objective: Expand the way crime-prevention messages are delivered.

1. Develop criteria to determine the posting of crime prevention information on the AG website. Outcome: Year 1 - not completed. (Measure – List of criteria identified)
2. Assess feasibility and cost of hosting training sessions via webinars. Confer with department IT staff to assess feasibility and cost of webinars. Outcome: Year 1 - partially completed; conferred with IT staff. (Measure: report completed on needed equipment and costs)
3. Compile a list of individuals and groups to translate crime prevention information for Hawaii's immigrant population. Outcome: Completed; a list of individuals and groups willing to translate in various languages was compiled.
4. Produce a show on Olelo television on underage drinking. Outcome: Completed; in partnership with Hawaii Partnership to Prevent Underage Drinking, a show was televised and shown four times in May 2009.
5. Develop an Internet safety curriculum to train trainers of law enforcement personnel by 2010 and train personnel by 2011. Outcome: Year 1: In process; information, programs, and resources on Internet safety are being researched and compiled.

Objective: Improve access to grant solicitations and information

1. Develop internal procedures to disseminate and document grant information sharing. Outcome: Year 1 – partially completed; completion of the procedures was suspended because of work on ARRA grants.
2. Review and revise the process and procedures and incorporate it into the Grants and Planning branch manual. (Year 3 – Measure: Grants and Planning branch manual revised).
3. Review feedback from agencies on the process and revise as needed. (Year 5 - Measure: summarize efforts, gather feedback from agencies).

Objective: Career Criminal Prosecution and Victim Witness Assistance Program statistics will be made more usable for crime analysis

1. Review reporting method and identify areas needing improvement. Outcome: Year 1 – on hold. (Measure: Written analysis of needed improvements in data categories).
2. Work with prosecutors' staff to revise data categories. (Year 3 – Measure: list of new data categories, agencies revise their data collection methods).
3. Survey users on the usefulness of the career criminal and victim data. (Year 5 – Measure: majority of users find data useful)

Objective: Provide the public with information on the impact of federally funded projects on the criminal justice system.

1. Identify the projects and their accomplishments. Outcome: Year 1 – on hold because of work on ARRA grants. (Measure: list projects and information considered for dissemination).
2. Compile information on selected project accomplishments and lessons learned (Year 3 – Measure: number of projects with information posted on web).
3. Require each project to report its impact annually. (Year 5 – Measure: percent of projects completing annual impact statements, number of projects with information posted on Internet)

Objective: Provide pertinent juvenile justice research that can be used by Juvenile Justice Information System (JJIS) agencies for decision-making. Outcome: Year 1 – ongoing; juvenile sex offender recidivism statistics were completed and provided to the Juvenile Registration Subcommittee of the Adam

Walsh Act Compliance Working Group. Statistical report on Hawaii Youth Correctional Facility (HYCF) (1996-2007) was completed and used by the Office of Youth Services. Summaries of research reports requested by JJIS agencies were provided for their use.

Objective: Compile annual juvenile justice data book that includes police, court, and corrections data and selected trend analysis.

1. Outcome: Year 1 - in progress; drafts of the data book and county reports on arrest trends were completed.
2. Years 3 and 5 – annual data books and county reports focusing on various points in the juvenile justice system will be completed (Measure: publication of annual and county reports)

Objective: Partner with other agencies to provide training for law enforcement personnel on missing children issues. Outcome: Five training workshop sessions were held: “Technology & 21<sup>st</sup> Century Youth”, “Protecting Children Online”, “Online Domestic Minor Sex Trafficking” (two sessions), and “Protecting Child Victims of Prostitution”. Over 400 law enforcement personnel participated. These workshops were co-sponsored by the National Center for Missing and Exploited Children (NCMEC), the United States Department of Justice Child Protection Division, and the local criminal Justice Interdisciplinary Training Committee with minimal expenditure by the Missing Child Center – Hawaii (MCCH).

Objective: Provide education and training for social service agencies on current missing children issues. Outcome: not completed (Measure: number agencies, types of training).

Objective: To gather information from families of missing children on services needed. Outcome: With no-cost assistance from the NCMEC, a meeting was held in February 2009 with 11 families. Their comments and recommendations were compiled in a report for the families. Follow up completed on two concerns.

Objective: Support evidence-based criminal justice policy.

1. Survey criminal and juvenile justice system policymakers to assess criminological research needs every other year. Outcome: Year 1 – Not completed. (Measure: documentation of survey and feasibility assessment; identification of research to be undertaken.)
2. Conduct the Hawaii household crime victimization survey every other year. Outcome: Year 1 - Survey conducted and to be published in Year 2. (Years 3 and 5 – Measure: publication of the report).
3. Complete one of the studies identified in Year 1. (Year 3 – Measure: publication of report and agency response to usefulness of the report).
4. Publish a report on HOPE probation program research findings. (Year 3 – Measure: publication of report).
5. Publish comparative reports on Hawaii’s historical Uniform Crime Report and crime victimization survey data. (Year 5 – Measure: publication of 2 reports).

Objective: Expand and improve crime data accessibility.

1. Revise the research reports section of the Interagency Council on Intermediate Sanctions website. Outcome: Year 1 - partially completed; descriptions of reports were added to website.

Objective: Create an Identity Theft Statistics Tracking Program.

1. Establish reporting protocols and compile the data. Outcome: Year 1 – completed; reporting protocols and data compilation were finalized.
2. Publish annual statistical reports on identity theft in Hawaii. Outcome: Year 1 – partially completed; first draft was completed. (Year 3 and 5 – Measure: publication of annual report).

**Goal 2: To promote collaborative efforts among communities and agencies to address crime-related issues.**

Objective: Collaborate with new partners and maintain and support current partnerships in crime prevention efforts.

1. Partner with a new agency and organization on at least one new project/activity on the topic of crime prevention or underage drinking. Outcome: Year 1 –completed; in the Micronesian acculturation handbook, new partners were Office of Community Services (Department of Labor and Industrial Relations), Hawaii Parent Resource Information Center (Parents and Children Together), Department of Health, Nations of Micronesia, and Goodwill Industries. For the fraud guide, new partner was the Office of the Securities Commissioner (Department of Commerce and Consumer Affairs) (Measure: number of audience reached.)
2. Sponsor a McGruff Truck Program Company Recognition Award for participating companies that are doing the most for the program on each island. Outcome: Year 1 - not completed
3. Identify projects in which the Community and Crime Prevention branch can partner with law enforcement. Outcome: Year 1 - completed; a list of projects has been identified.

Objective: Community prosecution will be supported as a method of collaboration with communities.

1. Community prosecutors will identify what further collaborations can be done. Outcome: Year 1 – Completed; community prosecutors worked with the Honolulu Police Department and the Hawaii Public Housing Authority to address drinking in public areas of public housing (Act 34, SLH 2008). Three interagency meetings were held to clarify the response and tasks of the agencies.
2. New collaboration to address community concerns will be identified and implemented. (Year 3 – Measure: description of added collaboration and impact).
3. Two new collaborations to address community concerns will be identified and implemented. (Year 5 – Measure: description of added collaborations and impact).

Objective: The evidence-based Corrections Program Checklist (CPC) will be a standard vehicle to improve offender programs. (This is an objective of the Interagency Council on Intermediate Sanctions (ICIS). The Crime Prevention and Justice Assistance Division serves as a facilitator for ICIS.)

1. The CPC Team will conduct at least three evaluations each year. Outcome: Year 1 – completed; three assessments were completed for treatment programs for sex offenders, and substance abusers (a prison-based and a community-based intensive outpatient programs). One program received a “highly effective” score and two scored “needs improvement”.
2. CPC Teams will have conducted a total of nine assessments. (Year 3 – Measure: description of CPC evaluations done and summary results).
3. CPC assessments will be routinely done on a majority of treatment providers. (Year 5 – Measure: number and percentage of CPCs completed for treatment providers receiving State contracts.

Objective: Determine JJIS support of the “High Risk Juvenile” (HRJ) concept.

Outcome: Year 1 - in progress; the HRJ Indicator Policy was drafted by the Policy Subcommittee and is awaiting approval from the Juvenile Justice Information Committee (JJIC).

Objective: Promote information sharing among agencies working with juveniles. Outcome: Year 1 – in progress; an HYCF information sharing planning meeting was held in October 2008 to discuss barriers to information sharing, particularly with state statutes and federal laws.

Objective: Broaden child abduction and runaway prevention efforts.

1. Produce a video with brochure on risks that affect youth (running away, Internet safety, and child prostitution). Outcome: Year 1 – in process; focus was on getting more information on the issues and seeking funding to underwrite the program.
2. Continue to educate school administrators on the child prostitution problem in Hawaii. Outcome: Year 1 – in process; focus was on getting more information and communicating with police, courts, and service providers.

**Goal 3: To obtain and maximize resources to address crime-related issues.**

Objective: Explore and create opportunities for joint grant funding with partners.

1. Identify sources of grants to fund crime prevention efforts. Outcome: Year 1 - not completed. (Measure: number of grants applied for and awarded)

Objective: Increase applications for discretionary and other grants

1. Apply for or assist another agency to apply for a discretionary or additional grant. Outcome: Year 1 – completed; applications were submitted for a discretionary grant (Safe Havens), three American Reinvestment and Recovery Act (ARRA) grants (VAWA, Victims of Crime Act, and Edward Byrne Memorial Justice Assistance Grant (JAG)), and a new Sex Assault Services Program grant. Assistance was provided to another division that submitted an application (ARRA Community Oriented Policing Services).
2. Submit 3 discretionary grant applications, either directly or by assisting another agency by Year 3. (Measure: description of efforts and outcomes).
3. Submit 5 discretionary grant applications, either directly or by assisting another agency by Year 5. (Measure: description of efforts and outcomes).

Objective: Provide technical assistance to agencies.

1. Identify and prioritize the technical assistance needs of agencies. Outcome: Year 1 – completed; 4 workshops to assist project personnel in writing grant applications were held and 56 participated.
2. Provide two technical assistance efforts by Year 3. (Measure: description of technical assistance provided, impact, numbers, and evaluation by participants).
3. Provide four technical assistance efforts by Year 5. (Measure: description of technical assistance provided, impact, numbers, and evaluation by participants).

Objective: Improve the quality of JJIS data entered by user agencies.

1. Provide member agencies with reports of missing dispositions or missing charges. Outcome: Year 1 – ongoing; the disposition discrepancy report was modified to include only the last two years of discrepancies rather than those from a juvenile's first contact. This makes the report more manageable for the users.
2. Provide member agencies with more extensive reports that assist in finding duplicate juveniles. Outcome: Year 1 – ongoing; a monthly potential combined report for both intra- and inter-combines is distributed to agencies.
3. Provide member agencies with a new report to identify unmatched police report numbers between agencies. Outcome: Year 1 - not completed; although a new report was not created, unmatched police report numbers are identified in the Disposition Discrepancy Report as part of the "completeness" analysis.
4. Explore opportunities for grant funding for various JJIS program areas (for example, research, system improvement, geographic information system (GIS)) Outcome: Year 1 – ongoing; applications were submitted for ARRA JAG funds and to the Office of Youth Services for Office of Juvenile Justice and Delinquency Prevention funds. Approvals for these funding requests were pending at the end of the year.

Objective: Continue to seek other resources to meet the objectives of MCCH.

1. Research and apply for grants in the private sector. Outcome: Year 1 – completed; four private grant resources were identified and applications were made with the assistance of the Friends of MCCH. This resulted in \$16,000 to support the program, \$6,000 more than anticipated.

Objective: Expand the Research Branch's in-house research capacity.

1. Secure a probation information system connection to electronically collect data. (Year 3 – Measure: establish a probation data connection).
2. Apply for one research-based grant that is aligned with current research priorities. (Year 3 – Measure: submission of grant application).

**Goal 4: To promote and advance improvements to the criminal and juvenile justice systems' response to communities, victims, and offenders.**

Objective: Develop a comprehensive victim strategic plan

1. Establish a review process. Outcome: Year 1 – incomplete. (Measure: document review process to be used, timelines, and resources available).
2. Complete a draft of efforts to improve coordination and an outline of work to be completed. (Year 3 – Measure: written status report with next steps).
3. Complete the state plan. Year 5 – Measure: a plan is published and used for funding decisions).

Objective: Increase public access to juvenile justice information.

1. Post the notices of JJIC and user meetings and meeting minutes on the JJIS website. Outcome: Year 1 – not completed. (Measure: items posted on the JJIS website). Meeting notices are posted on the State of Hawaii website (Calendar of Events).
2. Post the results of the summary data requests using JJIS information on the JJIS website. Outcome: Year 1 – completed; data requests using JJIS information are posted on the JJIS website. The JJIS newsletter is also posted.
3. Post the JJIS policies on the JJIS website. Outcome: in progress; as policies are approved by the JJIC, they are posted.

Objective: Enhance the JJIS.

1. Determine whether additional agencies (non-juvenile justice) will share juvenile information through the JJIS. Outcome: Year 1 - not completed; a pilot project to improve information sharing at HYCF, which shares information with the Departments of Education, Health, and Human Services, is in process. Through a number of planning meetings, it was determined that the information shared is primarily paper-based and not available in electronic format. JJIS will monitor this pilot project to see how it progresses.
2. Determine the role of a GIS component in the Next Generation JJIS. Outcome: Year 1 – not completed; the GIS component is currently a stand-alone application that receives its data from JJIS. An integration plan has not been developed.
3. Define security architecture to support “need-to-know” security. Outcome: Year 1 - in progress, to be completed when technical design is completed.
4. Review the inclusion of victim information. Outcome: Year 1 - not completed; the issue was discussed at the JJIC subcommittee and full committee meetings.

Objective: Prioritize and schedule statistical reports in alignment with the ICIS Strategic Plan. (Year 3 – Measure: document priorities, schedule report timelines, complete reports).

## Hawaii Criminal Justice Data Center

The Hawaii Criminal Justice Data Center is responsible for the statewide criminal justice information system (CJIS-Hawaii), the statewide Automated Fingerprint Identification System (AFIS), the statewide sex offender registry, and the issuance of state identification cards, and serves as Hawaii's point of contact for the FBI National Crime Information Center (NCIC) program.

### I. GOAL:

To implement additional strategic phases of CJIS-Hawaii enhancements including additional functions for "Lights Out" real-time identification, additional automated interfaces with agency systems, Statewide Firearms Registration, and the Hawaii Integrated Justice Information Sharing (HIJIS) program.

### II. OBJECTIVES:

CJIS-Hawaii, the statewide criminal history record repository, was implemented in November 2002 and we are now focusing on new initiatives for criminal justice in Hawaii.

#### A. CJIS-Hawaii Enhancements

1. Implement additional functions for "Lights Out" real-time identification.
2. Test and implement the Statewide Firearms Registration drawer application to allow the four county police departments to access images of firearm registration forms housed at the Honolulu Police Department.
3. Modify CJIS-Hawaii to accept Hawaii Revised Statute codes that include subsection codes.
4. Implement modifications to execute court interfaces daily.
5. Implement process to generate CJIS-Hawaii rap sheets in the standard National Information Exchange Model (NIEM) format for electronic transmission to other states and the FBI.

#### B. Additional Processing

1. Expand paperless processing by integrating the booking module of the Maui County Police Department's (MPD) new Records Management System (RMS) with the integrated electronic booking system (Green Box).
2. Participate in the development of the MPD Records Management System (RMS) project.

#### C. NCIC Enhancements

1. Start-up planning and design phases for the integration of the Temporary Restraining Order/Protection Order (TRO/PO) database with the National Protection Order File maintained by the FBI.
2. Improve the existing audit processes and procedures based on guidance and recommendations provided by the FBI.

#### D. Hawaii Integrated Justice Information Sharing (HIJIS)

1. Establish the technology platform for the HIJIS program, in conjunction with the pilot project for the Prosecutor information exchange.
2. Pilot "single sign-on" with other state and county agencies using IBM's Tivoli Enterprise Single Sign-On (ESSO) software.
3. Establish and implement security for the HIJIS program.
4. Establish subscription notification and federated query information exchanges for the HIJIS program.

Objective	Action to Accomplish	Projected Year of Completion	Measure of Performance
<b>A.</b>	<b>CJIS-Hawaii Enhancements</b>		
1.	Implement additional functions for "Lights Out" real-time identification.	2010	Enable American Samoa to utilize livescans and the LOTC to participate in the automated Lights Out Identification process.
2.	Test and implement the Statewide Firearms Registration drawer application to allow the four county police departments to access images of firearm registration forms housed at the Honolulu Police Department.	2010	Firearm units at the county police departments access the images of registration forms through a link in CJIS-Hawaii.
3.	Modify CJIS-Hawaii to accept Hawaii Revised Statute codes that include subsection codes.	2010	Enable CJIS-Hawaii to accept and process charge codes that include the subsection code.
4.	Implement modifications to execute court interfaces daily.	2010	Enable court dispositions to be posted to CJIS-Hawaii within 24 hours of being issued in court.
5.	Implement process to generate CJIS-Hawaii rap sheets in the standard National Information Exchange Model (NIEM) format for electronic transmission to other states and the FBI.	2010	Information contained in CJIS-Hawaii will be in a national standard format allowing other conformant agencies to view the information with no problems.
<b>B.</b>	<b>Additional Processing</b>		
1.	Expand paperless processing by integrating the booking module of the Maui County Police Department (MPD) with the integrated electronic booking system (Green Box).	2010	All arrests captured in the new MPD RMS booking module are accessible in the Green Box server and available for download to the livescan units.
2.	Participate in the development of the MPD RMS project	2010	Provide consultative, operational, and technical support to the MPD and its vendor for their RMS project.
<b>C.</b>	<b>NCIC Enhancements</b>		
1.	Start-up planning and design phases for integration of the TRO/PO database with the National Protection Order File maintained by the FBI.	2010	Information from the statewide TRO/PO database is sent electronically to the National Protection Order File maintained by the FBI.
2.	Improve the existing audit processes and procedures based on guidance and recommendations provided by the FBI.	2010	Improved auditing of the processes and use of FBI resources.
<b>D.</b>	<b>Hawaii Integrated Justice Information Sharing</b>		
1.	Establish the technology platform for the HIJIS program, in conjunction with the pilot project for the Prosecutor information exchange.	2010	Information will be exchanged with the Honolulu Prosecutors Office using the technology platform that will be used for the HIJIS program.
2.	Pilot "single sign-on" with other state and county agencies using IBM's Tivoli Enterprise Single Sign-On (ESSO) software.	2010	Users will be able to use a single sign-on to access multiple disparate systems.
3.	Establish and implement security for the HIJIS program.	2010	Security standards will be documented and implemented for agency partners.

4.	Establish subscription notification and federated query information exchanges for the HIJIS program.	2010	Users will be able to request alerts across multiple agency systems.
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I. GOAL:

The goal of the Criminal Identification Section of the HCJDC is to provide the statewide law enforcement agencies with the ability to make accurate and timely identification of arrested individuals, latent (crime scene) fingerprints and palmprints, and applicants who require fingerprinting pursuant to local, state, and federal laws. Real-time positive identification of offenders and applicants is the ultimate achievement.

II. OBJECTIVES:

In order to accomplish this goal, a “phased” approach has been used to achieve the level of technical and operational integration required. The following describes these major objectives:

- A. “Lights Out” Processing
  - a. Implement additional functions for “Lights Out” real-time identification.
- B. Electronic exchange of identification and arrest/applicant information between the Federal Bureau of Investigation (FBI) and the statewide law enforcement agencies.
  - 1. Synchronize data from CJIS-Hawaii to the FBI’s Interstate Identification Index (III) now that we are a participating state.
  - 2. Coordinate and implement participation in the National Fingerprint File (NFF).
- C. Pilot Programs
  - 1. Provide DigiScan devices to courts, intake service centers, and correctional facilities to confirm positive identification via fingerprints at every phase of the criminal justice process. Complete pilot program with the HCJDC Criminal History Record Checks unit.
  - 2. Provide RapID devices to law enforcement officers in the field to allow real-time positive identification via fingerprints of contacts without the necessity of transporting them to a booking facility. Complete pilot program with the Attorney General’s Investigations Division.
  - 3. Provide Facial Recognition capability to law enforcement agencies.

Objective	Action to Accomplish	Projected Year of Completion	Measure of Performance
<b>A.</b>	<b>“Lights Out” Processing</b>		
1.	Implement additional functions for “Lights Out” real-time identification.	Sex Offender: 2009  American Samoa: 2010	Identification of sex offender registrants and American Samoa offenders using the “Lights Out” technology.
<b>B.</b>	<b>Electronic exchange of identification and arrest/applicant information between the Federal Bureau of Investigation (FBI) and the statewide law enforcement agencies.</b>		
1.	Synchronize data from CJIS-Hawaii to the FBI’s Interstate Identification Index (III) now that we are a participating state.	Ongoing	The SIDs that are in the III File as being from Hawaii are, in fact, in CJIS-Hawaii.
3.	Coordinate and implement participation in the National Fingerprint File (NFF).	Implement: 2009	Work with the FBI to assume ownership of <b>all</b> criminal history records for Hawaii offenders.
<b>C.</b>	<b>Pilot Programs</b>		
1.	Provide DigiScan devices to courts, intake service centers, and correctional facilities to confirm positive identification via fingerprints at every phase of the criminal justice process.	2010  HCJDC Pilot: 2009	Personnel at the courts, intake service centers, and correctional facilities confirm positive identification of their clients via the DigiScan devices.
2.	Provide RapID devices to law enforcement officers in the field to allow real-time positive identification via fingerprints of contacts without the necessity of transporting them to a booking facility.	2010  AG INV Pilot: 2009	Law enforcement officers in the field do real-time positive identification of contacts via the RapID devices.
3.	Provide Facial Recognition capability to law enforcement agencies.	2010	Law enforcement agencies have capability to scan and search a photograph against the Statewide Mugphoto System.

I. GOAL:

The goal of the Dissemination Services Section of the HCJDC is to provide timely criminal history record checks and current sex offender registration information to criminal justice agencies, agencies mandated by state statutes, and the public in a user-friendly manner.

II. OBJECTIVES:

- A. Improve the timeliness and accessibility of criminal history record information to authorized entities.
  - 1. Assist more non-criminal justice agencies to deploy livescan technology to capture and transmit applicant fingerprints to the State's AFIS and to the FBI's IAFIS with 24-hour turnaround responses.
  - 2. Assist agencies with legislation to obtain authorized access to state and national criminal history record information.
  
- B. Enforce the sex offender registry statute (Chapter 846E, Hawaii Revised Statutes (HRS)) and ensure that the most accurate, complete, and timely information on each sex offender on the registry is available to law enforcement agencies and the public by:
  - 1. Proactively tracking sex offenders who fail to comply with Chapter 846E, HRS.
  - 2. Working with the prosecutors and police departments to prosecute non-compliant sex offenders, including those who fail to register and those who fail to respond timely to the 90-day verification notices or in-person verifications.
  - 3. Working with the Criminal Justice Division to determine the status of each registered sex offender, and to make information on qualifying sex offenders available on the Internet and walk-in public access in a timely manner.

Objective	Action to Accomplish	Projected Year of Completion	Measure of Performance
<b>A.</b>	<b>Improve the timeliness and accessibility of criminal history record information to authorized entities.</b>		
1.	Assist more non-criminal justice agencies to deploy livescan technology to capture and transmit applicant fingerprints to the State's AFIS and to the FBI's AFIS with 24-hour turn around responses.	Ongoing	Decrease in the number of fingerprint cards scanned at the HCJDC for other state and non-governmental agencies.
2.	Assist agencies with legislation to obtain authorized access to state and national criminal history record information.	Ongoing	Increase in the number of authorized agencies/programs.
<b>B.</b>	<b>Implement and enforce the sex offender registry statute (Chapter 846E, HRS) and ensure that the most accurate, complete, and timely information on each sex offender on the registry is available to law enforcement agencies and the public.</b>		
1.	Proactively tracking sex offenders who fail to comply with Chapter 846E, HRS.	Ongoing	Increase the number and timeliness of cases referred to law enforcement and prosecutors for follow-up.
2.	Working with the prosecutors, AG Investigators and police departments to prosecute non-compliant sex offenders, including those who fail to register and those who fail to respond timely to the 90-day verification notices or in-person verifications.	Ongoing	Increase in the number of prosecutions and a decrease in the number of delinquent and non-compliant registrants.
3.	Working with the Criminal Justice Division of the Department of the Attorney General to determine the status of each registered sex offender, and to make information on qualifying sex offenders available on the Internet and walk-in public access in a timely manner.	Ongoing	Accurate and timely dissemination of sex offender registration information.

- I. GOAL:
- A. Continue to aggressively pursue community outreach initiatives for the State ID program and to improve convenient service to the public.
  - B. To implement provisions of the Congressional Real ID Act/PASS ID:
    - 1. SSOLV (Social Security On-line Verification)
    - 2. SAVE (Systemic Alien Verification for Entitlements)
    - 3. Establish a hub between the State ID System (SIS) and Hawaii Driver's License (HDL) System.
    - 4. All documents must be scanned and stored.
- II. OBJECTIVES:
- A. Provide services to communities with limited access to the program.
    - 1. Continue the visits to Molokai and Lanai, as necessary.
    - 2. Continue to arrange for quarterly on-site events directly into communities on Oahu or have Saturday openings at our downtown office.
    - 3. Continue to service senior residences and schools' special needs programs.
  - B. To increase the number of State ID applications received via the Internet, and to allow web applicants to schedule appointments for service.
  - C. To implement verification with Federal systems as required by the Real ID Act/PASS ID.

Objective	Action to Accomplish	Projected Year of Completion	Measure of Performance
<b>A.</b>	<b>Provide services to communities with limited access to the program</b>		
1.	Continue the visits to Molokai and Lanai, as necessary.	Ongoing	The number of cards issued.
2.	Continue to arrange for quarterly on-site events directly into communities on Oahu or have Saturday openings at our downtown office.	Ongoing	The number of cards issued. Since 2005, 17,926 cards were issued at these outreach events.
3.	Continue to service senior residences and schools' special needs programs.	Ongoing	The number of sites serviced and the number of cards issued.
<b>B.</b>	<b>Applications via the Internet</b>		
1.	Receive State ID applications via the Internet where the public can complete the application form, pay the fee and designate the location at which they are to be processed.	Ongoing	The number of applicants processed. As of 8/26/09, 6165 applicants have been processed.
<b>C.</b>	<b>Implement verification with Federal systems as required by the Real ID Act/PASS ID</b>		
1.	Set-up real-time verification with the Social Security Administration's Social Security On-line Verification (SSOLV) system.	2009	The number of verifications submitted, and compliance with this provision of the Real ID Act/PASS ID.
2.	Set-up verification with the U.S. Citizenship and Immigration Services to verify foreign born applicants are legally in the United States through their Systematic Alien Verification for Entitlements (SAVE) system.	2010	The number of verifications submitted, and compliance with this provision of the Real ID Act/PASS ID.

## **Office of Child Support Hearings**

Funded with State and federal moneys, the Office of Child Support Hearings provides a fair and impartial forum for the expeditious resolution of child support disputes. The office, once part of the Child Support Enforcement Agency, became a separate office in 1992. The office shares concurrent jurisdiction with the Family Courts in proceedings in which child support may be established, modified, or terminated, arrearages may be adjudicated, and medical insurance coverage may be ordered. Orders are issued by hearings officers who are licensed attorneys.

**OVERALL GOAL 1:** Provide quality, expedited resolution of child support disputes

**Short Term Goals:** Continue expedited disposition of cases, low number of appeals and satisfaction of participants (parties, attorneys, Child Support Enforcement Agency (CSEA)) with the current process

**Long Term Goals:** Adjust capacity to handle caseload received from the CSEA as necessary and, where possible, develop and implement a process to expedite resolution of cases prior to scheduled dates of hearings

**Objective 1:** Maintain, and where possible, improve upon the expeditious disposition of cases and low numbers of appeals

### **Action Plan-Year 09-11:**

- Develop and implement guidelines for prompt responses to pre-hearing requests
- Develop and implement guidelines for prompt resolution of hearing cases
- Develop and implement guidelines for prompt resolution of non-hearing cases
- Gather and analyze statistics to confirm that current disposition of cases remain expedited
- Gather and analyze statistics to confirm that the number of appeals from contested cases remains low

### **Action Plan-Years 10-14:**

- Develop and implement plans if and as necessary to meet expected caseload from CSEA
- Continue to resolve cases prior to scheduled dates of hearings as appropriate

### **Measurements of Performance:**

Success will be measured by statistics indicating whether the current expedited dispositions of cases and low appeal rates continue with changes in the caseload.

Success will be measured by statistics on the number of contested cases that are resolved prior to the scheduled hearings and by participant feedback surveys.

**Objective 2:** Maintain effectiveness of the administrative process.

### **Action Plan-Years 09-14:**

- Allow participants to provide feedback on the administrative process, including comments, concerns, compliments, and suggestions for improvements through the office's website and/or other survey methods;
- Implement improvements, as appropriate, to enhance efficiency and satisfaction with the administrative process.
- Continue re-evaluation of our mission, goals, objectives, and action plans through a strategic planning process involving OCSH, CSEA, private attorneys and hearing participants.
- Adjust our mission, goals, objectives, and action plans as appropriate.

### **Measurements of Performance:**

Statistics of the number of cases adjudicated, disposition time, number of appeals and user evaluation results are measurements of satisfaction and efficiency of the administrative process.

**OVERALL GOAL 2:** Build upon excellence in work performance

**Short Term Goals:** Strengthen our culture of individual and group learning and growth; Clarify office roles and functions; provide resources for personnel to follow when performing their duties

**Long Term Goals:** Develop and implement personnel-initiated action plans for maintaining and improving upon excellence in work performance

**Objective 1:** Provide internal and external training opportunities for all personnel

**Action Plan-Years 09-14:**

- Continue periodic office meetings (weekly) as necessary
- Continue in-house training of support staff
- Provide hearings officer training with DHRD and CADR as funds are available
- Provide hearings officers with training through the HSBA Annual Divorce Law Update as funds are available
- Provide training for at least one hearings officer per year to attend administrative hearing training through the National Judicial College, if funds are available
- Provide training for personnel as necessary, if funds are available
- Provide supervisor training, if funds are available

**Objective 2:** Provide updated resources for personnel

**Action Plan- Years 09-14:**

- Continue updating Hearings Officer Bench Book
- Continue to update memo banks and decision digests
- Continue updating office procedures manual
- Provide guidelines for timely work performance

**Objective 3:** Open doors for new ideas; evaluate for effectiveness

**Action Plan- Years 09-14:**

- Continue to encourage new ideas
- Develop and implement personnel-initiated action plans for improving excellence in work performance

**Measurements of Performance:**

Statistics of the number of cases adjudicated, disposition time, number of appeals and user evaluation results are measurements of excellence in work performance.

**OVERALL GOAL 3:** Encourage meaningful participation in the hearings

**Short Term Goals:** Provide informational classes to participants of the administrative process

**Long Term Goals:** Increase meaningful participation in the administrative process

**Action Plan-Years 09-14:**

- Plan, schedule and conduct informational class for hearing participants; obtain feedback on the classes; evaluate feedback; meet demand for more classes, if any; stop classes if demand dissipates
- Obtain feedback on the OCSH website and make improvements as appropriate
- Update the OCSH website and include a website version of the OCSH General Information Class
- Seek other training forums such as the Family Law Section of the HSBA, educational television programs, and public seminars
- Evaluate effectiveness of training, modify programs and expand or reduce delivery as appropriate
- Network with other conflict resolution entities such as the Center for Alternative Dispute Resolution and the Mediation Center of the Pacific to provide conflict resolution training opportunities for the public and other government entities

Measurements of Performance:

Success will be measured by surveys on whether participants in the administrative process obtained helpful knowledge from classes and the OCSH website and whether such knowledge helped them participate meaningfully in the hearings.

**OVERALL GOAL 4:** Improve quality of Neighbor Island hearings and telephone hearings in general

**Short Term Goals:** Improve the quality of voice connections from neighbor island hearing rooms

**Long Term Goals:** Develop audio-video alternatives through the internet, providing such alternatives are affordable and of sufficient quality; allow Hearings Officers to travel to Neighbor Islands to conduct hearings

Objective 1: Research costs of audio-video alternatives through the internet so that information will be available when funds are available

Objective 2: When funds are available, allow Hearings Officers to conduct hearings on the Neighbor Islands

Measurements of Performance:

Success will be measured by participant feedback surveys on the quality of voice connections; success will also be determined by the completion of research on alternate audio-video capabilities, and whether Hearings Officers have been allowed to travel to the Neighbor Islands to conduct hearings

**OVERALL GOAL 5:** Reduce costs and energy consumption wherever possible

**Short Term Goals:** Increase awareness of need to reduce, reuse, and recycle; implement changes wherever possible

**Long Term Goals:** Same as short term goals

Objective 1: Disseminate energy and cost cutting information as appropriate

Objective 2: Implement changes as appropriate

Measurements of Performance:

Records of costs for office expenditures