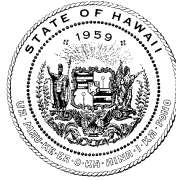


LINDA LINGLE
GOVERNOR



MARK J. BENNETT
ATTORNEY GENERAL

RUSSELL A. SUZUKI
FIRST DEPUTY ATTORNEY GENERAL

STATE OF HAWAII
DEPARTMENT OF THE ATTORNEY GENERAL
425 QUEEN STREET
HONOLULU, HAWAII 96813
(808) 586-1500

REPORT ON THE USE OF THE HAWAII OMNIBUS CRIMINAL FORFEITURE ACT

Fiscal Year 2009 - 2010

Submitted to the Twenty-Sixth State Legislature
Regular Session of 2011

Section 712A-16(6), Hawaii Revised Statutes, requires that “not less than twenty days prior to the convening of each regular session, the attorney general shall provide to the legislature a report on the use of the Hawaii omnibus criminal forfeiture act during the fiscal year preceding the legislative session.” Following is the report for fiscal year 2009-2010.

1. Total amount of property seized by law enforcement agencies

ESTIMATED VALUE¹ OF SEIZURES FOR FORFEITURE² IN FY 2009-2010 (BY SEIZING AGENCY)

<u>Seizing Agency</u>	<u>Vehicles</u>	<u>Currency</u>	<u>Misc. Property</u>	<u>Total</u>	<u>Percentage</u>
Honolulu Police Department	208,025	96,743	46,110	350,878	36%
Hawaii County Police Department	135,705	121,600	10,700	268,005	28%
Kauai Police Department	100,630	58,614	78,555	237,799	24%
Maui Police Department	28,830	78,778	0	107,608	11%
Narcotics Enforcement Division	0	8,120	0	8,120	1%
Department of the Attorney General	0	0	1,500	1,500	-
Total	<u>\$ 473,190</u>	<u>\$ 363,855</u>	<u>\$ 136,865</u>	<u>\$ 973,910</u>	<u>100%</u>

¹ Forfeited property, including contraband, is given an estimated value by the seizing agency. The sales proceeds of a particular forfeited property may not equal its estimated value. The total estimated value of seizures for forfeiture includes contraband (such as untaxed tobacco, firearms, and gambling machines) and property found to be unsafe or in poor condition that is eventually destroyed.

² “Seizure for forfeiture” means seizure of property by a law enforcement officer coupled with an assertion by the seizing agency or by a prosecuting attorney that the property is subject to forfeiture.” Section 712A-1, HRS.

ESTIMATED VALUE OF SEIZURES FOR FORFEITURE IN FY 2009-2010 (BY TYPE OF PROPERTY)

<u>Type of Property</u>	<u>Estimated Value</u>	<u>Percentage</u>
Vehicles	473,190	49%
Currency	363,855	37%
Miscellaneous Property	136,865	14%
Total	<u>\$ 973,910</u>	<u>100%</u>

2. Total number of administrative and judicial actions filed by prosecuting attorneys and the disposition thereof

In fiscal year 2009-2010, prosecuting attorneys³ filed 198 petitions for administrative forfeiture with the Department of the Attorney General. Of the 198 petitions, 50 were adjudicated and a final order was issued by the Department; 5 were dismissed with or without prejudice; 6 were voluntarily withdrawn by the prosecuting attorney; 1 was opened and closed for record-keeping purposes only; and at the end of the fiscal year, 126 were pending service, publication, statutory deadlines, outcome of judicial claim, or decision on petition for remission of mitigation, or had just been filed.

In fiscal year 2009-2010, the Department of the Attorney General processed a total of 238 cases. Of the 238 cases, 72 were filed in fiscal year 2009-2010, and 166 were pending cases from previous fiscal years. Of the 238 cases, 205 involved uncontested forfeiture (persons with an interest in the property did not respond to the notice of pending forfeiture), 27 involved petitions for remission or mitigation; 5 involved judicial proceedings; and 6 were voluntarily withdrawn by the prosecuting attorney.

3. Total number of claims or petitions for remission or mitigation filed in administrative actions and the dispositions thereof

In fiscal year 2009-2010, 11 claims seeking judicial review were filed in administrative forfeiture actions. These claims were referred to the respective prosecuting attorneys to determine whether, pursuant to section 712A-10(9), the claim should be honored or the forfeiture action should be brought to court for judicial resolution. At the close of fiscal year 2009-2010, 4 of these claims had been settled with the approval of the court or the Attorney General or voluntarily withdrawn by the prosecuting attorney, and 7 were still in litigation.

In fiscal year 2009-2010, 42 petitions for remission or mitigation were filed. At the close of the fiscal year, 24 of these petitions had been resolved and 18 were pending inquiry by the Department of the Attorney General pursuant to section 712A-10(6) and (7).

³ "Prosecuting attorney" means the prosecuting attorney or deputy prosecuting attorneys of the various counties, or the attorney general or deputy attorneys general when engaged in the prosecuting of a criminal offense. Section 712A-1, HRS.

4. Total amount and type of property forfeited and the sale proceeds thereof

ESTIMATED VALUE OF FORFEITURES IN FY 2009-2010

<u>Jurisdiction</u>	<u>Currency</u>	<u>Vehicles</u>	<u>Misc. Property</u>	<u>Total</u>
City and County of Honolulu	\$ 191,006	\$ 150,940	\$ 82,447*	\$ 424,393
Hawaii County	224,106	147,430	580,895**	952,431
Kauai County	64,601	84,855	67,821	217,277
Maui County	131,532	36,640	850	169,022
Narcotics Enforcement Division	7,836	22,000	0	29,836
Department of Land and Natural Resources	3,416	0	0	3,416
Department of the Attorney General	0	0	1,500	1,500
Total	<u>\$ 622,497</u>	<u>\$ 441,865</u>	<u>\$ 733,513</u>	<u>\$1,797,875</u>

* Includes \$960.00 in tobacco which was subsequently destroyed.

** A judgment of forfeiture for real property valued at \$487,000 was issued in favor of the State, but a foreclosure action superseded the judgment. As a result, no moneys were received from the judicial forfeiture.

A portion of the forfeited vehicles and miscellaneous property was sold at public auctions.⁴

<u>Date of Auction</u>	<u>Net Proceeds</u>
September 12, 2009	28,105.75
December 12, 2009	68,642.25
June 19, 2010	111,025.55
Total	<u>\$ 207,773.55</u>

5. Total amount and type of property distributed to units of state and local government

Pursuant to the formula set forth in section 712A-16(2)(a) and (b), \$334,165 in forfeited currency and auction proceeds was distributed to the Honolulu, Kauai, Maui, and Hawaii County Police Departments and Prosecuting Attorneys' offices, and the Narcotics Enforcement Division of the Department of Public Safety. Forfeited property other than currency, including vehicles, televisions, a safe, firearm, and gambling machines (for training purposes) with an estimated value of \$99,789.98, was transferred to the Honolulu, Kauai, Maui, and Hawaii County Police Departments, the Maui Department of the Prosecuting Attorney, the Narcotics Enforcement Division of the Department of Public Safety, and the Criminal Justice Division of the Department of the Attorney General.

⁴ Contraband (including untaxed tobacco, firearms, and gambling machines) and property found to be unsafe or in poor condition may be destroyed and not auctioned.

6. Amount of money deposited into the criminal forfeiture fund

Pursuant to the formula set forth in section 712A-16(2)(c), \$662,658.51 was deposited into the Criminal Forfeiture Fund.

7. Amount of money expended by the Attorney General from the criminal forfeiture fund and the reason for the expenditures

<u>Reason</u>	<u>Notes</u>	<u>Amount</u>
Training	<ul style="list-style-type: none"> ▪ Medical Marijuana training ▪ NDAA Investigation and Prosecuting of Child Fatalities and Physical Abuse conference ▪ ICISF Training on Individual Crisis Intervention and Peer Support and Group Crisis Intervention Classes ▪ Touch DNA training ▪ NCIS Cold Case Seminar ▪ HPAA Trial Advocacy Training 2009 ▪ HPAA Trial Advocacy Training 2010 ▪ Airborne Law Enforcement Association conference ▪ 2009 National Tactical Officers Association Tactical Operations Conference ▪ Reid Interview and Interrogation Techniques 	64,038.50
Equipment for Law Enforcement	Dell XPS 630 computers (2); Dell Optiplex 330 mini Tower computers (14); Dell computers (10); DMUV-2300r-15 Prairie Dog-Portable multi-use IP Audio Video Day/Night camera system	62,446.71
Reimbursement of Service Fees to Agencies	Certified and regular mail	1,775.73
Upkeep and Storage of Forfeited Assets	Kauai case partial reimbursement	15,841.00
Newspaper Publication of Legal Notice	Notice of pending forfeiture	9,743.53
Upkeep and Storage of Forfeited Assets	Alarm system operation and utilities; towing of vehicles; equipment; real property upkeep	3,632.17
Auction Expenditures	Automotive repair and parts; overtime payments; shipping and towing of vehicles; auctioneer services	15,508.47
Lien Payment Expenditures and Compromise	Payments to financial institutions for release of lien placed on forfeited vehicles; fees and costs associated with the compromise of claims	31,911.63
Payroll Expenditures for the Asset Forfeiture Unit	Asset Forfeiture Program manager, legal assistant and secretary salaries; related payroll taxes	242,661.23
Other Operating Expenditures	Phone charges; office supplies; petty cash replenishment	5,385.09
Total		<u>\$ 452,944.06</u>