

State of Hawaii
Department of the Attorney General



**REPORT OF THE
DRUG NUISANCE ABATEMENT UNIT**

**Pursuant to Section 76, Act 178,
Session Laws of Hawaii 2005**

*Submitted to
The Twenty-Third State Legislature
Regular Session of 2006*

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INTRODUCTION

The Drug Nuisance Abatement Unit was established in the Department of the Attorney General in July 2003 by section 28-131, Hawaii Revised Statutes, enacted by Act 63, Session Laws of Hawaii 2003. The purpose of the Unit is to provide for the effective enforcement and prosecution of the nuisance abatement laws under part V of chapter 712, Hawaii Revised Statutes, relating to offenses that involve the distribution or manufacture of drugs. Section 76 of the General Appropriations Act of 2005, Act 178, Session Laws of Hawaii (SLH) 2005, requires a report by the Unit “outlining priorities, projected expenditures, possible alternative sources of funding, actions taken, and unit performance” to be submitted no later than twenty days prior to the convening of the regular session of 2006.

BACKGROUND

The Unit primarily abates drug nuisances by (1) directly and informally working with the owners of buildings to remove drug dealers; and (2) filing civil lawsuits that seek to prohibit drug dealers from remaining in drug houses. In many cases, the investigators have contacted and worked with property owners in removing drug dealers from their property. These owners, after having been informed of the problem, have self-abated the drug nuisances through evictions and similar means.

In other cases, after an investigation has been completed, the Unit has filed lawsuits that seek to prohibit drug dealers from remaining in the drug houses. The civil complaints specifically request the courts to permanently prohibit the drug dealers from being at the drug houses. The goal is to close down the drug house and disrupt the distribution and manufacture of drugs by keeping drug dealers out of the drug houses. In addition, the Unit has utilized temporary restraining orders to immediately remove the drug dealers from the drug houses while the lawsuits are pending. This is the greatest strength of the nuisance abatement law. The nuisance abatement suit can be used to close down a drug house faster than through a conventional criminal prosecution.

The nuisance abatement law, part V (sections 712-1270 through 712-1280) of chapter 712, Hawaii Revised Statutes, authorizes the Attorney General, the Prosecuting Attorney of the respective counties, or any citizen of the State to file a civil lawsuit to abate a nuisance. The law may be utilized to abate public and private nuisances that exist in any building, premises, or place used for the purpose of violating laws pertaining to prostitution, pornography, and the distribution and manufacture of drugs. Specifically, the law authorizes courts to permanently enjoin individuals, who are causing, maintaining, aiding, abetting, or permitting a drug nuisance, from entering or residing in the building, premises, or place, where they are causing, maintaining, aiding, abetting, or permitting a drug nuisance to exist.

The Drug Nuisance Abatement Unit’s use of civil lawsuits and temporary restraining orders is what generally differentiates it from the local vice divisions and other law enforcement agencies. While the Unit coordinates and cooperates with other

federal, state, and county law enforcement agencies, its primary focus is not directed towards a criminal prosecution. Its focus is on closing down the drug house and disrupting the distribution and manufacture of drugs in our communities.

Additionally, the Unit's investigation differentiates from other law enforcement agencies because its investigation also focuses on the knowledge and observations of people in the community. Evidence of the general reputation of the building, premises, place, or people is admissible in the civil lawsuit for the purpose of proving the existence of the drug nuisance.

At present, the Unit is composed of one deputy attorney general, one full-time investigator, based on Oahu, and one half-time investigator, based on Hawaii. The half-time investigator, based on Hawaii, is assigned to investigate all complaints on the island of Hawaii. The full-time investigator, based on Oahu, is assigned to investigate complaints on all of the other islands. However, the investigators will work together on a case-by-case basis. For example, both investigators assisted in the service of a drug nuisance abatement lawsuit, filed by the Department of the Attorney General, on the island of Hawaii on February 11, 2005. As there are no Unit investigators living on the other islands, the Drug Nuisance Abatement Unit also has entered into an agreement with the prosecutors' offices for Kauai and Maui counties to share information.

PRIORITIES

The Department has conducted a review of the Drug Nuisance Abatement Unit's performance since its creation in July 2003, in order to identify areas where improvement can be made. The Department has already implemented measures to better streamline and speed up the drug nuisance abatement process. For example, a database was created to document complaints and track case progress.

The Unit's priorities for fiscal year 2005-2006 will focus on these areas of concern: (1) securing a stable source of funding and increasing funding for the future of the Unit; (2) improving coordination with and the sharing of resources with county, state, and federal law enforcement agencies; (3) decreasing the backlog of complaints; (4) increasing the number of drug nuisance abatements; and (5) raising the community's awareness of the drug nuisance abatement process.

Securing Stable Source and Increasing Source of Funding

Act 178, SLH 2005, appropriated the sum of \$150,000 out of the general fund for fiscal year 2005-2006. However, no funding has been appropriated for fiscal year 2006-2007.

In order to accomplish its mission of closing down drug houses, the Drug Nuisance Abatement Unit needs to have a stable source of funding in order to attract and employ experienced law enforcement professionals. These professionals must possess strong investigative skills, an up-to-date understanding of criminal law, and a willingness

to think beyond standard criminal investigation techniques. Because much of the work of the Drug Nuisance Abatement Unit is on the cutting edge of the law and its cases are establishing a first impression for Hawaii's courts, its personnel must be experienced and be innovative in developing its cases. To keep experienced law enforcement professionals in the Unit, the Unit's funding should come from a stable source, such as the general fund.

In addition, in order to increase the number of drug house closings and decrease the backlog, funding for the Drug Nuisance Abatement Unit will have to be increased so that additional personnel can be hired. At present, the Unit's investigation personnel consist of one full-time Investigator V based on Oahu and a half-time Investigator V based on the island of Hawaii. The Drug Nuisance Abatement Unit needs, at least, one additional full-time Investigator VI and one half-time Investigator V to reduce the case backlog.

The additional investigation positions are needed for a number of reasons. A significant number of the nuisance abatement complaints have been left pending further investigation as the Unit has been forced to place its priority on more "solid" cases where the county police departments have already executed search warrants and initiated criminal investigations. These cases are generally easier and quicker to close because criminal investigations have already been conducted and can be used as a resource by the investigators and as evidence in civil lawsuits. If the Drug Nuisance Abatement Unit receives additional investigators, the Unit will be able to implement a plan of action to decrease the backlog of cases immediately.

Because of its limited resources, the Drug Nuisance Abatement Unit relies heavily on investigative reports from the respective police departments. An increase in personnel would increase the Unit's ability to conduct independent investigations, which would increase the closing down of drug nuisances and decrease the backlog.

Presently, the investigator based on Oahu is responsible for investigating all cases on Oahu and in Kauai and Maui Counties. If an additional full-time investigator based on Oahu is hired, one of the two full-time investigators will be specifically assigned to investigate cases in Maui County while the other is assigned to investigate cases on Kauai. This would allow the Unit to be more proactive in investigating these cases rather than having to rely on information from the respective county police departments.

An additional half-time investigator assigned to the island of Hawaii would immediately increase the efficiency of investigations. Presently, the Hawaii based investigator must investigate complaints throughout the island. Because of the large geographical nature of the island, the half-time investigator must drive to the Kona coast from Hilo to investigate complaints. For example, a round trip from Hilo to Kona takes approximately four hours (two-hours each way) and the round trip mileage is nearly 200 miles. Travel time to Waimea is about one hour, Honoka'a is about forty-five minutes, Kea'au is about twenty minutes, and Pahoia is about thirty minutes. An additional

investigator assigned to and based on the Kona coast would decrease the loss of work time due to travel and increase the efficiency of investigations and response time.

The addition of an Investigator VI position would also increase the efficiency of the Unit, as the Investigator VI would be assigned to oversee and supervise the Unit's investigators as well as investigate drug nuisance complaints.

In addition, the Drug Nuisance Abatement Unit needs one Clerk-Typist III assigned to the Unit. Conservatively, at least thirty percent of our full-time investigator's time is devoted to clerical type duties such as reviewing complaints that have been received, entering case data into the drug nuisance database and corresponding to landlords, government officials, and other government agencies. If a clerk-typist position were approved for the Unit, this individual would be assigned the above-described duties, which would free up the investigators to conduct investigations.

Improving Coordination with Other Law Enforcement Agencies

In order to effectively close down drug houses, coordination and the 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 Drug Nuisance Abatement 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 Offices of the Prosecuting Attorney for Kauai and for Maui Counties, which sets out the policy relating to the sharing of information and coordination of criminal and civil nuisance abatement lawsuits. These agreements have contributed to the sharing of information. However, occasionally, requested reports have been slow in coming and when they arrived, essential reports have been found to be missing. The Drug Nuisance Abatement 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.

In addition, the Unit will work to improve its coordination with federal law enforcement agencies. The U.S. Attorney's Office, recently, announced that it is formulating a plan to use federal forfeiture laws to forfeit property tied to drug houses. The Drug Nuisance Abatement Unit will be working closely with the federal government to coordinate the drug nuisance program with the federal forfeiture process so that work will not be duplicated.

Decreasing the Backlog of Complaints

One of the biggest frustrations for members of the community is feeling that the government is not responding to their concerns. The backlog of cases is substantial. Since July 2003, over 832 complaints about drug houses and illegal drug activity have been made to the Unit. In that time, 274 of the cases have been closed, leaving the Unit with an existing backlog of 558 complaints. In addition, new complaints are made to the Unit's hotline each week.

The Drug Nuisance Abatement Unit will look into one possible short-term solution. The backlog can be decreased if the full-time investigator is able to focus more time on investigations. This will require that the investigator be relieved of the clerical type duties such as reviewing complaints that have been received, entering case data into the drug nuisance database, and corresponding with landlords, government officials, and other government agencies. In the past, the Department of the Attorney General has utilized volunteers. The Unit will look into obtaining volunteers who may assist the investigator by performing some of the clerical type duties.

The Unit will also look into 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 a letter to the landlords informing them of the condition, advising them to take corrective measures, and warning of the possibility of forfeiture. A similar procedure is utilized by other local law enforcement agencies. The investigator will then have to monitor 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 implement a plan to utilize warning letters on a more frequent basis. The Unit will monitor the plan to analyze the effectiveness of the warning letters.

Increasing the Number of Drug Nuisance Abatements

Decreasing the backlog in the Unit will directly relate to the increasing the number of drug nuisances abated. Therefore, the Drug Nuisance Abatement Unit's implementation of the solutions described above will hopefully also result in an increased closing 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 the awareness of our communities about the drug nuisance abatement process.

Raising Communities' Awareness of the Drug Nuisance Abatement Process

Since the formation of the Drug Nuisance Abatement Unit in July 2003, the Department of the Attorney General has utilized several methods to inform the community about the nuisance abatement process: (1) information on the Department of

the Attorney General's Website; (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 November 2005, the Unit is slated to make a presentation on the drug nuisance abatement process and information about drug houses at the Shriner's Hospital. The presentation will also be available to other members in the healthcare community through a video teleconference presentation.

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

The Unit will also work to improve its ties to the neighborhood boards on Oahu. The Unit may be able to raise awareness of the drug nuisance abatement program by presenting updates to the appropriate neighborhood boards about drug nuisance abatement lawsuits filed against residences in their neighborhood.

PROJECTED EXPENDITURES

In fiscal year 2005-2006, the Drug Nuisance Abatement Unit's projected expenditures include the salaries for one deputy attorney general position and one and one-half Investigator V positions. The current projected salaries for the Unit include:

One (1) Full-time Deputy Attorney General position -	\$66,000.00
One (1) Full-time and one Half-Time Investigator V positions -	\$50,325.34

The total projected expenditure for salaries for fiscal year 2005-2006 is \$116,325.34. This amount does not include any estimated expenditure for overtime payments. It is anticipated that future investigations in fiscal year 2005-2006 will require overtime pay. In fiscal year 2004-2005, overtime pay was \$502.56. It is anticipated that the actual expenses related to salaries will be more than the initial projected expenditure of \$116,325.34, due to projected overtime pay of \$1,500. In addition, the projected salary for the deputy attorney general position does not include any estimation as to any increase in salary for the fiscal year 2005-2006.

Additional projected expenditures for fiscal year 2005-2006 will include travel expenses incurred as a result of investigations and the litigation of cases in the jurisdictions outside Oahu. Travel expenses are difficult to estimate because the expenses are directly tied to a number of factors, including the number of active lawsuits in Hawaii, Maui, and Kauai Counties and the number of hearings in these cases.

At present, the Drug Nuisance Abatement Unit is actively litigating two civil lawsuits in Maui County and anticipates that hearings will be scheduled for a current civil case in Hawaii County during fiscal year 2005-2006.

Since the beginning of fiscal year 2005-2006, one civil case on Maui has had three hearings. The expenses for the three hearings on Maui include:

<u>Date</u>	<u>Flight Exp.</u>	<u>Car Exp.</u>	<u>Parking Exp.</u>	<u>Total Expenses</u>
8/12/05	\$158.00	\$34.39	\$10.00	\$202.39
9/02/05	\$174.71	\$34.39	\$10.00	\$219.10
9/21/05	\$158.00	\$34.39	N/A	\$192.39
Total	\$490.71	\$103.17	\$20.00	\$613.88

The Department of the Attorney General, like other state agencies, utilizes a special deal with Thrifty Rent-A-Car that costs \$34.39 for a one-day rental. The total cost of the rental includes the amount of gas used so that the state agency is not responsible for paying for an additional cost of gas.

In addition, in order to draft several documents for a court hearing on September 21, 2005, a transcript of an August 12, 2005, evidentiary hearing had to be requested. The cost for the transcript, consisting of 137 pages, is \$322.92. Estimating the projected expenditures for similar expenses is difficult because expenses related to each lawsuit differ from case to case.

In lawsuits filed in Maui and Kauai Counties, the Oahu based investigator may be required to assist in investigations, testify at court hearings, and serve court documents on civil defendants. This will require the Drug Nuisance Abatement Unit to incur flight, car rental, and parking expenses for each trip for the investigator.

When possible, the Drug Nuisance Abatement Unit has worked with county law enforcement agencies in order to serve court documents. This has kept the costs down because the Oahu based investigator did not have to travel off island to serve those court documents. However, this is not always possible.

An additional projected expense for fiscal year 2005-2006 will be mileage reimbursement. In order to investigate their assigned cases, the two Drug Nuisance Abatement Unit investigators often have to drive their personal vehicles. The current reimbursement cost is 36.5 cents per mile. Mileage reimbursement for fiscal year 2003-2004 was \$2,871.94. The projected mileage reimbursement for fiscal year 2004-2005 was estimated at \$5,400.00. The actual mileage expenditure for fiscal year 2003-2004 was low compared to the projected estimate for fiscal year 2004-2005 because the Unit, having only been formed in July 2003, became more active in its investigations as the year went by. The Oahu based investigator's monthly reimbursement for driving expenses was at least \$100 - \$120 per month for fiscal year 2004-2005. Similar expenses are projected for fiscal year 2005-2006. Due to the large geographic nature of the island of Hawaii, mileage reimbursement is difficult to estimate.

POSSIBLE ALTERNATIVE SOURCES OF FUNDING

Act 178, SLH 2005, appropriated the sum of \$150,000 out of the general fund for fiscal year 2005-2006. Additionally, Act 178, SLH 2005, provided that the sum of \$100,000 for fiscal year 2005-2006 may be expended from the Criminal Forfeiture Fund for the purpose of the Drug Nuisance Abatement Unit. However, based on the current status of the Criminal Forfeiture Fund, there is no additional funding available for the Unit for the fiscal year 2005-2006.

In fiscal year 2003-2004, \$944,677.32 was channeled into the State Criminal Forfeiture Program. Pursuant to statute, twenty-five percent of the revenue was distributed to the local law enforcement agency, which conducted the investigation and caused the seizure of property for forfeiture, twenty-five percent to the prosecuting attorney who instituted the action producing the forfeiture, and fifty percent to the criminal forfeiture fund. After expenses (operating the quarterly auctions, salaries for the program manager, paralegal, and secretary, fifteen percent of a deputy attorney general's salary, and other operating costs), the remaining revenue, approximately \$250,000 in discretionary funds, is already earmarked for law enforcement training and educational programs. The discretionary funds for this fiscal year's budget are already exhausted.

The state forfeiture program benefits local law enforcement agencies, small and big. The program has traditionally benefited local law enforcement agencies because the Criminal Forfeiture Fund's share of the revenue is used for the statewide training and education of local law enforcement agencies. Therefore, the state forfeiture program benefits local law enforcement agencies in two ways. The agencies receive a share of the revenues from the forfeitures it has initiated and law enforcement personnel, statewide, receive training and education, which is funded by the Criminal Forfeiture Fund.

If the Criminal Forfeiture Fund were to be used to fund the Drug Nuisance Abatement Unit, there would not be any available funds to support the training and educational programs, historically funded by the forfeiture fund. This action would likely lead local law enforcement agencies to use the federal forfeiture program, because the agencies would be able to receive a higher percentage of forfeiture revenue, which would not have to be shared with any other agency. This would likely lead to a substantial decrease in revenue available from the state forfeiture program and hurt the smaller agencies that benefit from the training and educational programs.

Even if the Criminal Forfeiture Fund had available revenue, it is not a stable source of funding. The level of revenue is directly related to the degree of forfeitures that are processed through the state forfeiture program. If the level of forfeitures that are processed through the state program decreases in any given year, available revenue for the following year will also decrease.

Section 712-1276, Hawaii Revised Statutes, permits the Department of the Attorney General to request reasonable attorneys' fees, costs, or expenses incurred in the closing of a nuisance. However, the majority of the civil defendants, who were the focus

of the Department's drug nuisance abatement lawsuits, had little assets and would not have been able to pay reasonable costs and fees. At present, one motion for costs and fees is still pending.

Additional funding through federal resources will be severely limited. In the current fiscal year, the federal government decreased the High Intensity Drug Trafficking Area (HIDTA) funds to the State of Hawaii and it is expected that this will be the trend for the foreseeable future.

However, the Department of the Attorney General will continue to look for alternative sources of funding for the Drug Nuisance Abatement Unit.

ACTIONS TAKEN

Since 2003, the Department of the Attorney General has received over 845 complaints from the community, of which 832 complaints were about illegal drug activities and drug houses. Of the 832 complaints, 274 cases have been closed for a number of reasons including (1) there was insufficient evidence to initiate a case; (2) the illegal drug activity was self-abated; (3) direct intervention by the investigator led to the suspected drug dealers being removed or evicted from the residence; and (4) a civil lawsuit was filed, which led to the removal of the suspected drug dealers from the residence.

BREAKDOWN OF COMPLAINTS BY COUNTY

(Statistics updated through August 15, 2005)

<u>COUNTY</u>	<u>COMPLAINTS RECEIVED</u>	<u>COMPLAINTS CLOSED</u>
Hawaii	97	59
Maui	62	23
Oahu	624	169
Kauai	53	26

BREAKDOWN OF COMPLAINTS ON OAHU BY POLICE DISTRICTS

(Statistics updated through August 15, 2005)

<u>AREA</u>	<u>COMPLAINTS RECEIVED</u>	<u>COMPLAINTS CLOSED</u>
D-1 Central Honolulu	58	23
D-2 Wahiawa & N. Shore	81	33
D-3 Pearl City	122	24
D-4 Kaneohe, Kailua & Kahuku	107	28

<u>AREA</u>	<u>COMPLAINTS RECEIVED</u>	<u>COMPLAINTS CLOSED</u>
D-5 Kalihi	63	15
D-6 Waikiki	22	9
D-7 East Honolulu	70	18
D-8 Waianae Ewa & Kapolei	101	19

As mentioned above, the Unit primarily abates drug nuisances by (1) directly and informally working with the owners of buildings to remove drug dealers; and (2) filing civil lawsuits that seek to prohibit drug dealers from remaining in drug houses.

Since the formation of the Drug Nuisance Abatement Unit in July 2003, the Department of the Attorney General has filed ten drug nuisance abatement lawsuits. Five lawsuits have been filed on Oahu, four on Maui, and one on the island of Hawaii.

The use of temporary restraining orders to remove drug dealers from the drug houses have contributed to the success of the Drug Nuisance Abatement Unit. In a typical case, when the civil complaint is initially filed, the Unit will also file a petition seeking a temporary writ of injunction. If granted by the civil court, the temporary writ of injunction is valid for ten days and will prohibit the targeted individuals from being at the drug house. Within ten days of the granting of the temporary writ of injunction, the civil court schedules a hearing. At this hearing, the State will seek to extend the temporary writ of injunction either through reaching an agreement with the opposing parties or by presenting sufficient evidence at the hearing. If the civil court finds that the State has presented sufficient hearing at the hearing, then the court will issue a preliminary injunction, which will continue to prohibit the individuals from returning to the drug house. The preliminary injunction will normally remain in effect until further court order or until the final disposition of the civil lawsuit. If an agreement is reached between the parties or if the State prevails in its civil lawsuit, then the civil court will issue an order of abatement that will permanently prohibit the individuals from returning to the drug house. If the defendants fail to respond to the lawsuit, the civil court will grant a default judgment and issue an order of abatement.

A synopsis of each lawsuit, as well as the current status of any criminal prosecution, is given below:

Stanley Street, Kalihi, Oahu

The drug nuisance abatement action commenced on September 17, 2003, with the filing of a civil complaint. On January 23, 2004, the civil court granted a default judgment and issued an order of abatement permanently prohibiting four individuals from being at the suspected drug house on Stanley Street.

Criminal prosecution for drug offenses commenced on September 3, 2003, against two individuals. The criminal court placed both on probation for a period of five years, and sentenced one individual to serve one year in jail while the other was sentenced to serve thirty days in jail.

Kaliponi Street, Wahiawa, Oahu

The drug nuisance abatement action commenced on January 7, 2004, with the filing of a civil complaint. During the period from January 20, 2004, through January 22, 2004, three individuals were served with a temporary writ of injunction, which prohibited them from being at the suspected drug house on Kaliponi Street. On June 18, 2004, the civil court granted a default judgment and issued an order of abatement permanently prohibiting the three individuals from being at the suspected drug house.

Criminal prosecution for drug offenses commenced on August 24, 2004, against two individuals. The criminal court granted both individuals a deferral of their pleas for a period of five years.

Mill Street, Lahaina, Maui

The drug nuisance abatement action commenced on March 3, 2004, with the filing of a civil complaint. On March 8, 2004, two individuals were served with a temporary writ of injunction, which prohibited them from being at the suspected drug house on Mill Street. On May 5, 2004, the civil court issued an order of abatement permanently prohibiting the two individuals from being at the suspected drug house. Subsequently, the civil court granted a default judgment and issued an order of abatement permanently prohibiting a third individual from being at the suspected drug house.

Criminal prosecution for drug offenses commenced on March 8, 2004, against all three individuals. One individual was sentenced to serve a ten-year term of imprisonment with a mandatory minimum term of one year and eight months. The second individual was sentenced to serve a five-year term of imprisonment with a mandatory minimum term of one year and eight months. The third individual was placed on probation for a period of five years and given credit for four days served in jail.

Pahu Street, Waipahu, Oahu

The drug nuisance abatement action commenced on April 1, 2004, with the filing of a civil complaint. During the period from April 7, 2004, through April 11, 2004, seven individuals were served with a temporary writ of injunction, which prohibited them from being at the suspected drug house on Pahu Street. On November 12, 2004, the civil court granted a default judgment and issued an order of abatement permanently prohibiting eight individuals from being at the suspected drug house.

Criminal prosecution for drug offenses commenced on April 28, 2004, against five of the eight individuals. At the time of preparation of this report, the criminal prosecution against the five individuals is pending trial.

Noelani Street, Pearl City, Oahu

The drug nuisance abatement action commenced on July 9, 2004, with the filing of a civil complaint. On July 15, 2004, four individuals were served with a temporary writ of injunction, which prohibited them from being at the suspected drug house on Noelani Street. The State reached a settlement with three of the four individuals. On September 17, 2004, the civil court issued an order of abatement permanently prohibiting two individuals from being at the suspected drug house. On May 10, 2005, the civil court issued an order of abatement permanently prohibiting a third individual from being at the suspected drug house. In August 2005, civil trial was still pending against one remaining defendant. However the Drug Nuisance Abatement Unit discovered that the owner of the residence on Noelani Street had arranged to sell the property to a third party unrelated to the defendants' family. The Unit confirmed that the family had moved out of the residence. Based on the fact that the drug nuisance had abated, the State filed a motion to dismiss the complaint, which was granted on August 30, 2005.

At the time of preparation of this report, no criminal prosecution has commenced against the four individuals.

North Street, Wailuku, Maui

The drug nuisance abatement action commenced on July 14, 2004, with the filing of a civil complaint. On July 16, 2004, two individuals were served with a temporary writ of injunction, which prohibited them from being at the suspected drug house on North Street. On January 13, 2005, the civil court granted a default judgment and issued an order of abatement permanently prohibiting the two individuals from being at the suspected drug house.

At the time of preparation of this report, no criminal prosecution has commenced against the two individuals.

Oahu Road, Pahoa, Hawaii

The drug nuisance abatement action commenced on February 7, 2005 with the filing of a civil complaint. On February 12, 2005, three individuals were served with a temporary writ of injunction, which prohibited them from being at the suspected drug house on Oahu Road. The State reached a settlement with the three individuals. On April 28, 2005, and May 5, 2005, the Court issued three separate orders of abatement prohibiting all three individuals from being at the suspected drug house.

At the time of preparation of this report, no criminal prosecution has commenced against the three individuals.

Kaanapali Beach, Kaanapali, Maui

The drug nuisance abatement action commenced on February 7, 2005, with the filing of a civil complaint. On February 15, 2005, one individual was served with a temporary writ of injunction, which prohibited him from visiting or being at a portion of Kaanapali. On May 13, 2005, the civil court issued a preliminary injunction prohibiting the individual

from visiting or being at a portion of Kaanapali. At the time of preparation of this report the lawsuit is still pending final disposition.

Criminal prosecution commenced on February 15, 2005, with the individual being served with a criminal complaint and summons charging him with two misdemeanors including one drug offense. The criminal court placed him on probation for a period of one year and ordered him to serve four days in jail.

Hala Place, Wailuku, Maui

The drug nuisance abatement action commenced on June 16, 2005, with the filing of a civil complaint. On June 21, 2005, one individual was served with a temporary writ of injunction, which prohibited her from being at the suspected drug house on Hala Place. On September 21, 2005, the Court denied the State's request to extend the temporary writ of injunction. At the time of preparation of this report, further disposition of the civil complaint is still pending in civil court.

Criminal prosecution was commenced on June 20, 2005 against the one individual. At the time of preparation of this report, the criminal case is pending trial.

Haaheo Place, Aiea, Oahu

The drug nuisance abatement action commenced on July 19, 2005, with the filing of a civil complaint. On July 27, 2005, one individual was served with a temporary writ of injunction, which prohibited him from being at the suspected drug house on Haaheo Place. On July 29, 2005, the civil court issued a preliminary injunction prohibiting the individual from being at the suspected drug house. At the time of preparation of this report, the lawsuit is still pending final disposition.

Criminal prosecution was commenced on September 7, 2005, against four individuals, who were present at the Haaheo Place residence on April 26, 2005, when the Honolulu Police Department Vice Division executed a search warrant. The group of individuals being criminally prosecuted does not include the one individual, who is the subject of the drug nuisance abatement suit.

Of the ten lawsuits filed, three of the actions were filed to coincide with the commencement of criminal prosecution. In these three cases, the Drug Nuisance Abatement Unit cooperated with the Office of the Prosecuting Attorney for Maui County to initiate the criminal prosecution at the same time as the filing of the civil lawsuit. The intent of the plan to commence criminal prosecution and civil litigation at the same time was to overwhelm the suspected drug dealers and resulted in the cessation of the drug nuisance.

In three cases, the drug nuisance abatement lawsuit was filed before criminal prosecution was commenced. In one of the two cases, the criminal case commenced seven months after the civil case had been initiated, which led to the closure of the suspected drug house. In three cases, the civil lawsuit has resulted in either the closing down of a suspected drug house and cessation of illegal drug activity while criminal

prosecution is still pending. These cases demonstrate one of the greatest strengths of the nuisance abatement program. The nuisance abatement statute has been effective in closing down suspected drug houses faster and, in many ways, more effectively than a traditional criminal prosecution.

In addition, in a significant number of cases, the diligent work of the investigators has contributed to the abatement of drug nuisances through informally working with the owners of the property. In a typical case, once the owner of the property was informed that illegal drug activity was occurring on the owner's property, the owner abated the drug nuisance through eviction or similar methods.

UNIT PERFORMANCE

Overall, the work of the Drug Nuisance Abatement Unit has contributed to the closing down of drug houses and the cessation of illegal drug activities in our communities. In the cases in which suspected drug dealers were removed from the drug houses, either through the filing of a lawsuit or through the investigator working with the owners of the property informally, the end result has been that a community has experienced relief from the many problems associated with a drug house.

Most significantly, the Drug Nuisance Abatement Unit has assisted in the closing down of drug houses and the cessation of illegal drug activities in cases where criminal prosecution was or is still pending. The nuisance abatement statute has permitted the Unit to close down suspected drug houses faster than traditional criminal investigations and prosecutions. This has occurred because the drug nuisance abatement investigation is focused on finding a solution that will result in the closing down of the drug house and the cessation of illegal drug activity. On the other hand, the criminal investigation is geared toward a successful criminal prosecution, which may or may not result in the closure of the drug house. Typically criminal drug investigations are lengthy and months may pass before a law enforcement agency is ready to take action. When search warrants are finally executed and drug dealers are arrested, law enforcement will temporarily incarcerate them for short periods (to conduct further investigations, etc.) but the arrestees are eventually released. Those offenders will likely return to the drug house and continue their illegal drug activity. In these cases, the Drug Nuisance Abatement Unit has been able to assist in the closing down of the drug house, while criminal prosecution is still pending. The actions of the Drug Nuisance Abatement Unit complements rather than replaces the work of other local law enforcement agencies.

However, the success of the drug nuisance abatement lawsuits has ironically contributed to an increase in the workload for the investigators. In cases in which the courts have issued orders prohibiting individuals from being at drug houses, the investigators are now required to investigate reports that individuals are returning back to the residence or that drug users are still coming to the residence. Therefore, every drug nuisance abatement lawsuit that is filed contributes to an increase in the enforcement component of the investigators' daily workload.

Currently, there is a substantial backlog in the Unit. The backlog is primarily caused by two reasons, staff shortage and the difficulties in investigating these cases. The workload of the investigators is overwhelming based on the large number of complaints and the nature of the work. On any given day, the investigators must evaluate complaints that have come by way of the Unit's hotline, Internet website, letters, and referrals from other agencies, contact and respond to citizens who have made recent complaints, investigate cases that have been initiated, maintain a case management system to track case progress, serve court documents and orders, attend court hearings, and investigate complaints that people, who have been prohibited from being at a suspected drug house, have returned to the residence.

The nature of the complaints also contributes to the backlog. Drug houses are difficult to investigate because of their secretive nature. In addition, the best witnesses are often their neighbors, who are unwilling to testify in court because they fear retaliation. These difficulties, inherent in drug cases, contribute to the backlog.

The Drug Nuisance Abatement Unit, with its limited resources, has made a difference in many communities throughout the State. Its use of the nuisance abatement law has allowed it to close down drug houses faster than a traditional criminal prosecution could accomplish. In many cases, the Unit has accomplished its goal of closing down drug houses and disrupting the distribution and manufacture of drugs in situations where criminal prosecutions are still pending. The Drug Nuisance Abatement Unit and the nuisance abatement laws have shown to be effective in making our communities safer and will continue to work towards that goal.