



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 2012 - 2013

Submitted to the Twenty-Seventh State Legislature
Regular Session of 2014

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 2012-2013.

1. Total amount of property seized by law enforcement agencies

ESTIMATED VALUE¹ OF SEIZURES FOR FORFEITURE² IN FY 2012-2013
(BY SEIZING AGENCY)

<u>Seizing Agency</u>	<u>Currency</u>	<u>Vehicles</u>	<u>Misc. Property</u>	<u>Total</u>	<u>Percentage</u>
Hawaii County Police Dept.	\$125,147.00	\$86,084.00	\$38,522.00	\$249,753.00	20%
Honolulu Police Dept.	\$345,586.00	\$178,960.00	\$207,614.00	\$732,160.00	59%
Maui County Police Dept.	\$102,992.00	\$15,000.00	\$2,300.00	\$120,292.00	10%
Kauai County Police Dept.	<u>\$43,528.00</u>	<u>\$85,350.00</u>	<u>\$3,000.00</u>	<u>\$131,878.00</u>	<u>11%</u>
TOTAL	<u>\$617,253.00</u>	<u>\$365,394.00</u>	<u>\$251,436.00</u>	<u>\$1,234,083.00</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 2012-2013
(BY TYPE OF PROPERTY)

<u>Type of Property</u>	<u>Estimated Value</u>	<u>Percentage</u>
Vehicles	\$365,394.00	30%
Currency	\$617,253.00	50%
Miscellaneous Property	<u>\$251,436.00</u>	<u>20%</u>
Total	<u>\$1,234,083.00</u>	<u>100%</u>

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

In fiscal year 2012-2013, prosecuting attorneys³ filed 230 petitions for administrative forfeiture with the Department of the Attorney General. Of the 230 petitions, 42 were adjudicated and a final order was issued by the Department; 36 were dismissed with or without prejudice; 10 were voluntarily withdrawn by the prosecuting attorney; and at the end of the fiscal year, 142 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 2012-2013, the Department of the Attorney General processed a total of 193 cases. Of the 193 cases, 42 were filed in fiscal year 2012-2013, and 151 were pending cases from previous fiscal years. Of the 193 cases, 144 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; 12 involved judicial proceedings; and 10 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 2012-2013, 12 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 2012-2013, 3 of these claims had been settled with the approval of the court or the Attorney General or voluntarily withdrawn by the prosecuting attorney, and 9 were still in litigation.

In fiscal year 2012-2013, 27 petitions for remission or mitigation were filed. At the close of the fiscal year, 16 of these petitions had been resolved and 11 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 FORFEITURE IN FY 2012-2013

Seizing Agency	Currency	Vehicles	Misc. Property	Total	Percentage
Hawaii County Police Dept.	\$126,615.00	\$128,100.00	\$2,200.00	\$256,915.00	30%
Honolulu Police Dept.	\$159,896.00	\$166,155.00	\$138,286.00	\$464,337.00	53%
Maui County Police Dept.	\$65,306.00	\$35,421.00	\$2,825.00	\$103,552.00	12%
Kauai County Police Dept.	<u>\$17,072.00</u>	<u>\$26,500.00</u>	<u>\$0.00</u>	<u>\$43,572.00</u>	<u>5%</u>
TOTAL	<u>\$368,889.00</u>	<u>\$356,176.00</u>	<u>\$143,311.00</u>	<u>\$868,376.00</u>	<u>100%</u>

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 1, 2012	\$64,823.25
December 8, 2012	\$87,919.65
April 6, 2013	<u>\$53,784.13</u>
Total	<u>\$206,527.03</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), \$309,307.55 in forfeited currency and auction proceeds were distributed to the Honolulu and Kauai, Maui, and Hawaii County Police Departments and Prosecuting Attorneys' offices. Forfeited property other than currency, including vehicles and a shipping container with an estimated value of \$157,397.00, was transferred to the Honolulu and Kauai, Maui, and Hawaii County Police Departments, and the Honolulu and Hawaii County Prosecuting Attorneys.

6. Amount of money deposited into the criminal forfeiture fund

Pursuant to the formula set forth in section 712A-16(2)(c), \$601,770.17 was deposited into the Criminal Forfeiture Fund.

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.

7. Amount of money expended by the Attorney General from the Criminal Forfeiture Fund and the reason for the expenditures

<u>Purpose</u>	<u>Amount</u>	<u>Explanatory Notes</u>
Reimbursement of Service Fees to Agencies	\$ 3,721.44	Certified and regular mail
Newspaper Publication of Legal Notice	\$ 19,672.39	Notice of pending forfeiture
Upkeep/Storage of Forfeited Assets	\$ 2,592.43	Alarm system operation and utilities; towing of vehicles; equipment; real property upkeep
Auction Expenditures	\$ 10,909.51	Automotive repair and parts; overtime payments; shipping and towing of vehicles; auctioneer services
Lien Payment Expenditures & Compromise	\$ 21,306.29	Payments to financial institutions for release of lien placed on forfeited vehicles; fees and costs associated with the compromise of claims
Payroll Expenditures for the Asset Forfeiture Unit	\$225,018.97	Asset Forfeiture Program manager, legal assistant and secretary salaries; related payroll taxes
Other Operating Expenditures	\$ 1,324.57	Phone charges; office supplies; petty cash replenishment
TOTAL:	<u>\$ 284,545.60</u>	