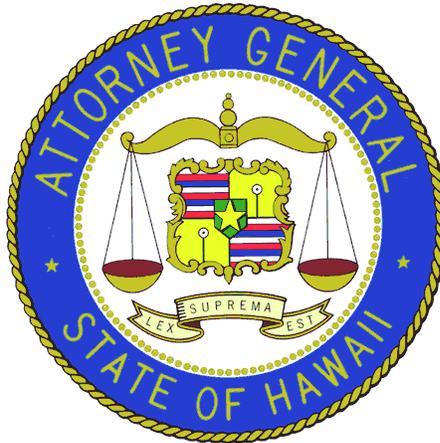


State of Hawaii
Department of the Attorney General



Annual Report
Fiscal Year 2001
Pursuant to Section 712A-16(6), HRS

PROCEEDINGS UNDER THE HAWAII
OMNIBUS CRIMINAL FORFEITURE ACT

Submitted to
The Twenty-first State Legislature
Regular Session of 2002

TABLE OF CONTENTS

INTRODUCTION	1
I. HISTORY OF ASSET FORFEITURE	3
II. ASSET FORFEITURE UNDER STATE LAW.....	5
III. ADMINISTRATIVE FORFEITURE	6
IV. DISTRIBUTION OF PROCEEDS	8
V. ASSET FORFEITURE: FY 2001	9
A. Total Seizures.....	9
B. Forfeiture Actions Filed	11
C. Total Number of Claims and Petitions for Remission or Mitigation	12
D. Property Forfeited	12
E. Property Distributed.....	14
F. Criminal Forfeiture Fund	15
G. Criminal Forfeiture Fund Expenditures	15
VI. ASSET FORFEITURE DEVELOPMENT AND TRENDS	19
VII. CONCLUSION	20

INTRODUCTION

In 1988, the Legislature enacted Chapter 712A, Hawaii Revised Statutes ("HRS"), the Hawaii Omnibus Criminal Forfeiture Act ("Chapter 712A"). 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. Pursuant to section 712A-10, HRS, the Department of the Attorney General processes petitions for administrative forfeiture of personal property valued at less than \$100,000.00, or of any vehicle or conveyance regardless of value, but does not handle forfeiture of real property. A prosecuting attorney commences judicial forfeiture proceedings concerning real property or personal property valued in excess of \$100,000.00 by filing a petition for forfeiture in the circuit court. In a case initiated as an administrative forfeiture, a person who owns or otherwise has a legal interest in seized property can obtain judicial review of a case by timely filing a claim and bond with the Attorney General.

Pursuant to section 712A-16, HRS, the Attorney General distributes administratively or judicially forfeited property, and the sale proceeds thereof, to law enforcement agencies and other local or state government entities for law enforcement purposes. Forfeited currency and the proceeds of sales of forfeited property are distributed according to a specific formula. The agency that seized the property and the prosecutor that filed the petition each receive a 25% share. The remaining 50% is deposited into the Criminal Forfeiture Fund administered by the Attorney General. The Attorney General expends monies from the Criminal Forfeiture Fund to defray administrative expenses incurred in processing forfeiture cases, to maintain and store property seized, to train law enforcement officers, to provide

grants to law enforcement agencies, or to accomplish other purposes more specifically outlined in section 712A-16(4), HRS.

Originally enacted for a two-year trial period, Chapter 712A was extended for three years in 1990 and again in 1993. Act 104, Session Laws of Hawaii 1996, made Chapter 712A permanent with an effective date of June 12, 1996.

In order to evaluate the effectiveness of Chapter 712A, the Attorney General, pursuant to section 712A-16(6), HRS, is required to report to the legislature "on the use of the Hawaii omnibus criminal forfeiture act during the fiscal year preceding the legislative session." The report is to include the following information:

- (1) The total amount and type of property seized by law enforcement agencies;
- (2) The total number of administrative and judicial actions filed by prosecuting attorneys and the disposition thereof;
- (3) The total number of claims or petitions for remission or mitigation filed in administrative actions and the dispositions thereof;
- (4) The total amount and type of property forfeited and the sale proceeds thereof;
- (5) The total amount and type of property distributed to units of state and local government;
- (6) The amount of money deposited in the criminal forfeiture fund; and
- (7) The amount of money expended by the Attorney General from the criminal forfeiture fund under subsection (5) and the reason for the expenditures.

This report conforms with the above requirements and also explains the use of asset forfeiture as a law enforcement tool. In addition, information regarding fiscal years ending June 30, 1999 and 2000 ("FY 99 and FY 00") is presented for comparison purposes.

I.

HISTORY OF ASSET FORFEITURE

Forfeiture has been used, literally since ancient times, to take property wrongfully used or acquired. References to forfeiture in the Old Testament¹ and Greek² and Roman³ law indicate that its purpose was to exact a penalty against property which had been used or acquired in connection with some type of prohibited conduct. In modern times, forfeiture is used to protect the public from harmful products -- adulterated food, sawed-off shotguns, and the property of criminal enterprise.⁴

The first statute authorizing civil forfeiture, which provides for forfeiture of property whether or not there is any criminal prosecution, was enacted by Congress in 1789 as a sanction for the use of ships in customs violations.⁵ In 1978, Congress expanded the law to permit forfeiture of all money used in, or acquired from, the illegal drug trade⁶ and authorized the forfeiture of real property in 1984.⁷

¹ Exodus 21:28: "If an ox gore a man or a woman, that they die: then the ox shall surely be stoned, and his flesh shall not be eaten; but the owner of the ox shall be quit."

² Aeschines, quoted in O. Holmes, The Common Law (1881): "[W]e banish beyond our borders sticks and stones and steal, voiceless and mindless things, if they chance to kill a man; and if a man commits suicide, bury the hand that struck the blow afar from the body."

³ 7 Twelve Tables 1, translated in 1 Scott, The Civil Law, 69 (1932): "If a quadruped causes injury to anyone, let the owner tender him the estimated amount of the damage; and if he is unwilling to accept it, the owner shall . . . surrender the animal that caused the injury."

⁴ U.S. Department of Justice, Drug Enforcement Administration, Drug Agents Guide to Forfeiture of Assets 3 (1987 Revision and Supp. 1990).

⁵ Act of July 31, 1789, Sections 12, 36; 1 Stat. 39, 47.

⁶ 21 U.S.C. Section 881(a)(6).

⁷ 21 U.S.C. Section 853.

The first statutes authorizing criminal forfeiture, which require prosecution and conviction of a criminal defendant before property can be forfeited, were enacted by Congress in 1970⁸ and upheld by the United States Supreme Court as constitutional in 1974.⁹ Federal civil and criminal forfeiture statutes now reach substantially the same offenses and type of property. All fifty states and the District of Columbia now have some type of civil and/or criminal forfeiture statute in effect.¹⁰

These statutes have allowed law enforcement to expand its efforts beyond merely arresting and prosecuting criminals to allow it to seize the assets used in, and obtained from, the commission of criminal offenses. As a result, criminals are deprived of their working capital and their profits, thereby preventing them from operating even where traditional criminal sanctions have not otherwise deterred them. Forfeiture is particularly useful in attacking highly organized criminal enterprises where obtaining convictions means only mandatory retirement for the organization's leaders and promotion for the subordinates with no impact on the activities of the organization itself.

A secondary benefit of forfeiture laws is that forfeited property, or the proceeds of its sale, has been turned over to law enforcement and is used to fight against crime. While the purpose of forfeiture and the evaluation of a forfeiture law or program should never be based solely on the generation of revenue, it is only fitting that forfeited property be used to combat those who seek to profit from crime.

⁸ 18 U.S.C. Sections 1962 and 1963; 21 U.S.C. Section 848.

⁹ Calero-Toledo v. Pearson Yacht Leasing Co., 416 U.S. 663, 94 S. Ct. 2080, 40 L.Ed. 2d 452 (1974).

¹⁰ National Criminal Justice Association, Asset Seizure & Forfeiture: Developing and Maintaining A State Capability, App. A (1988).

II.

ASSET FORFEITURE UNDER STATE LAW

Before 1988, there was no uniform forfeiture law in the State of Hawaii. Instead, there were forfeiture provisions governing certain property and certain offenses in the Conservation and Resources Enforcement Program (section 199-7, HRS), Uniformed Controlled Substances Act (section 329-55, HRS), the Organized Crime statute (Chapter 842, HRS), and the Penal Code (section 701-119, HRS). Without uniform legislation, there was no uniform approach to forfeiture. Worse, the forfeiture statute was criminal only and cases could be closed only after completion of often long-delayed criminal proceedings. It was clearly unsatisfactory.

Civil forfeiture proceedings are preferable because they are instituted against the property, not its owner, and forfeiture is not dependent on the outcome of any criminal proceedings against the owner. Indeed, the property is the "defendant" in civil forfeiture proceedings because it has in some way facilitated the commission of an offense or constitutes the proceeds of one. For example, when a drug dealer or bank robber uses a get-away car, that car is subject to forfeiture because of its connection with the criminal activity.

In 1988, the Law Enforcement Coalition, consisting of the Attorney General and the four county prosecutors and police chiefs proposed that a new, uniform forfeiture law be enacted. The effort is now codified as Chapter 712A, HRS, and represents a combination of federal forfeiture law, the forfeiture act adopted by the State of Arizona in 1986, and the provisions of Hawaii's various laws relating to forfeiture. The purpose was to create a law which would be both procedurally and substantively comprehensive and, to the extent possible, uniform across the State. Chapter 712A provides for administrative forfeitures and

judicial forfeitures against individuals and property. Chapter 712A also provides for forfeitures of substitute assets from convicted criminals where the assets originally subject to forfeiture have been secreted or otherwise dissipated or disposed of.

Chapter 712A also significantly expands the number and kinds of offenses which give rise to forfeiture. At the same time, it provides explicit procedural and substantive rights to claimants, especially innocent owners. The Legislature also placed a ceiling of \$3,000,000 per year on the amount of forfeited property, which could be retained by law enforcement, with any excess going into the state general fund. Distribution of forfeited property up to the ceiling is administered by the Attorney General according to the specific criteria of section 712A-16, HRS. In 1990, the Legislature amended Chapter 712A to require an annual report on its use and the disposition of property forfeited pursuant to it. In 1996, the Legislature amended Chapter 712A through Act 104, Session Laws of Hawaii 1996, to make the state forfeiture law permanent.

III.

ADMINISTRATIVE FORFEITURE

Perhaps the most important advantage afforded by Chapter 712A is a provision by which forfeiture of personal property worth less than \$100,000, or forfeiture of any vehicle or conveyance, regardless of value, is administratively processed. Previously, all forfeitures were handled through judicial proceedings, resulting in the consumption of judicial resources even where the forfeiture was uncontested.

Under section 712A-10, HRS, a prosecuting attorney files a petition for administrative forfeiture of seized property with the Department of the Attorney General. Persons who own or otherwise have an interest in seized property ("claimants"), have thirty

days to respond from the date they receive notice of the pending forfeiture by publication, personal service, or mail, whichever occurs first. Claimants may file a Petition for Remission or Mitigation of Forfeiture, which does not challenge the sufficiency of evidence supporting the forfeiture or the actions of any government official. Instead, the petitioner asks the Attorney General to invoke the executive power to "pardon" the property, in whole or in part, because of extenuating or mitigating circumstances not otherwise amounting to a legal defense to forfeiture. Depending on the circumstances, the Attorney General may pardon the property in its entirety and "remit" (return) it to the claimants or "mitigate" the forfeiture by returning the property on payment of a fine.

Alternatively, the claimant can file a claim which asserts under oath that the property is not subject to forfeiture and which requests that the forfeiture be removed to court for judicial review. Except for persons who are indigent, claimants must also post a cost bond equal to 10% of the estimated value of the seized property or \$2,500, whichever is greater. The purpose of the cost bond is to ensure that, if the claimant frivolously removes the forfeiture action to court, expenses incurred by the State in judicially prosecuting the forfeiture will be borne by the claimant, with the bond serving as security.

Finally, the claimant may do nothing, in which case forfeiture is ordered after expiration of thirty days.

By these means, forfeiture proceedings can be disposed of administratively without unnecessary consumption of valuable judicial resources while still providing those who want their "day in court" the opportunity to challenge the forfeiture.

IV.

DISTRIBUTION OF PROCEEDS

Once property has been forfeited to the State through administrative or judicial proceedings, the Attorney General is charged with disposing of it pursuant to section 712A-16, HRS. Pursuant to section 712A-16(1), HRS, the Attorney General may transfer forfeited property, such as automobiles, to State and county agencies; may sell property by public sale; may pay valid claims against forfeited property; and, may destroy contraband or raw materials or equipment used to manufacture controlled substances.

Pursuant to section 712A-16(2), HRS, the Attorney General distributes a 25% share of forfeited currency and sale proceeds of forfeited property, if any, to both the agency which seized the property and the prosecuting attorney which initiated the administrative or judicial forfeiture proceeding. The remaining 50% of the forfeited currency, or sale proceeds, if any, is deposited into the Criminal Forfeiture Fund, which is administered by the Attorney General. Pursuant to section 712A-16(4), HRS, the Department of the Attorney General distributes money from the Criminal Forfeiture Fund to law enforcement agencies and prosecuting attorneys as requests are made.

Property and money distributed pursuant to section 712A-16, HRS, must be used for law enforcement purposes and may be used to supplement, but not supplant, funds regularly appropriated to law enforcement agencies. For example, strong emphasis has been placed on spending money from the Criminal Forfeiture Fund to meet the training and education needs of law enforcement personnel. In FY 01, a total of \$511,840.58, was earmarked from the Criminal Forfeiture Fund for 126 training requests for training in FY 02 or the latter part of FY 01.

V.

ASSET FORFEITURE: FY 2000

A. Total Seizures

"Total seizures"¹¹ in FY 01 were valued at an estimated \$2,094,667.¹² The type and amount of property comprising this total is listed by seizing agency in the following table:

TOTAL SEIZURES BY SEIZING AGENCY

Fiscal Year Ending 6/30/01

<u>Seizing Agency</u>	<u>Currency</u>	<u>Vehicles</u>	<u>Misc. Property</u>	<u>Total</u>
Hawaii Police Dept.	\$223,699	\$640,749	\$254,404	\$1,118,852
Honolulu Police Dept.	294,809	265,950	171,957	732,716
Maui Police Dept.	44,000	15,333	2,550	61,883
Kauai Police Dept.	81,748	10,000	4,041	95,789
Narcotics Enforcement	16,072	19,300	7,180	42,552
DLNR	<u>0</u>	<u>26,675</u>	<u>16,200</u>	<u>42,875</u>
Total	<u>\$660,328</u>	<u>\$978,007</u>	<u>\$456,332</u>	<u>\$2,094,667</u>

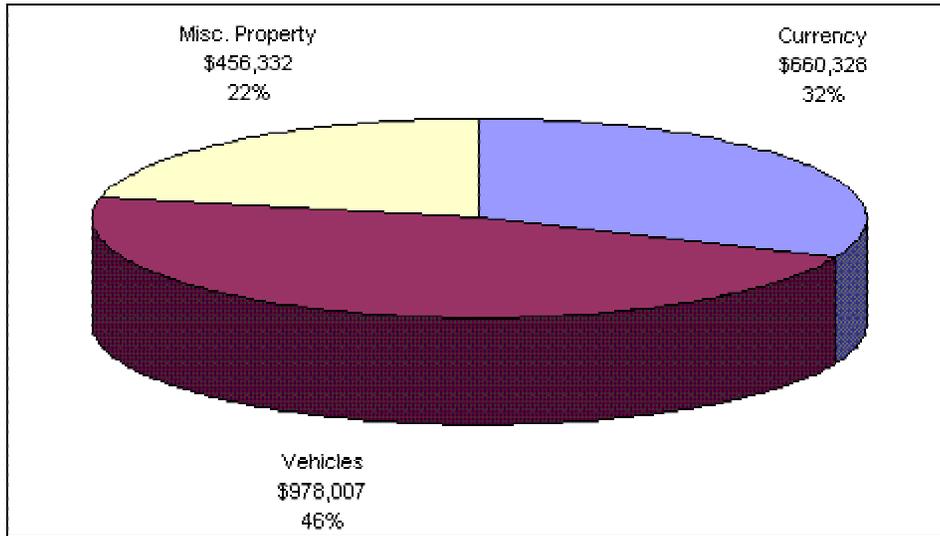
¹¹ In this context, "total seizures" is taken to mean "total seizures for forfeiture," as distinguished from seizure for evidentiary purposes. "Seizure for forfeiture means seizure of property by a law enforcement officer coupled with an assertion by the seizing agency or by a prosecuting attorney that the property is subject to forfeiture." Section 712A-1, HRS. Because the prosecuting attorney may elect not to initiate forfeiture proceedings against property seized for evidentiary purposes, total seizures as used in this effort means total seizures in a given year for which forfeiture proceedings were undertaken.

¹² Section 712A-7, HRS, requires the seizing agency to give an appraised or estimated value of property seized. Because seized property has only an appraised or estimated value, unlike seized currency which can be stated in exact amounts, the total is stated as an estimate.

The total amount of seized property by type of property is reflected in the following

chart:

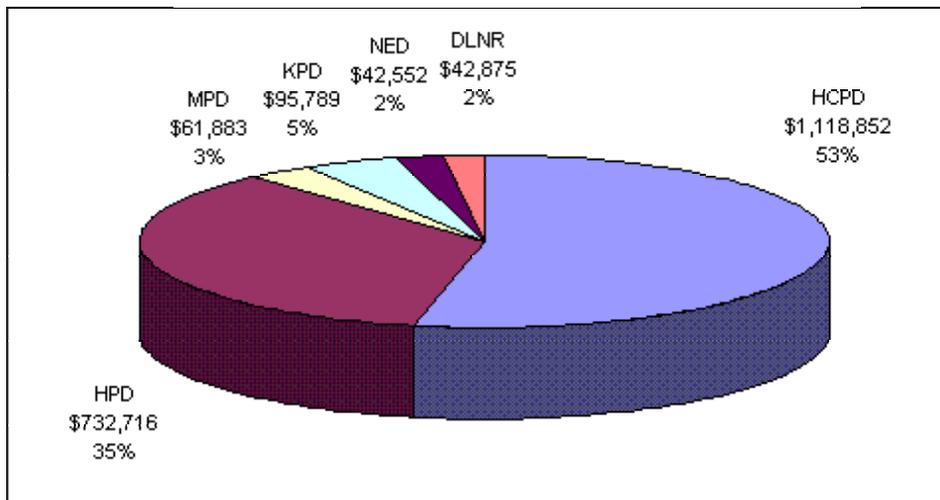
**PERCENTAGE OF TOTAL PROPERTY SEIZED
REPRESENTED BY TYPE OF PROPERTY**
For the fiscal year ending 6/30/01



The total amount of seized property by seizing agency is reflected in the following

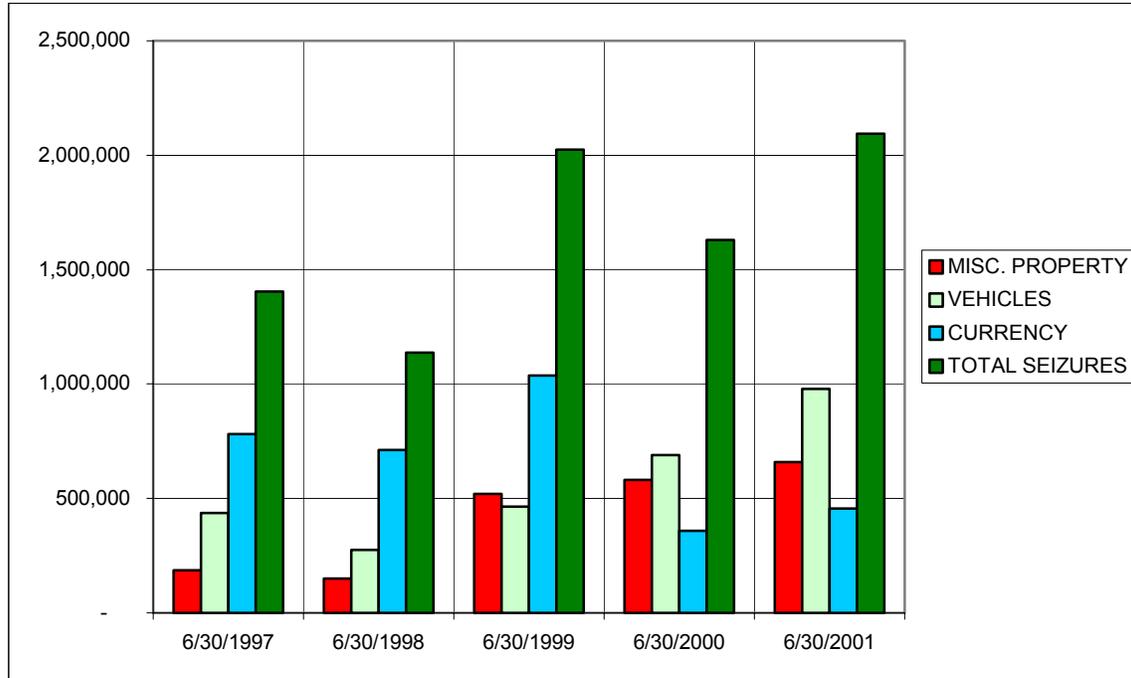
chart:

**PERCENTAGE OF TOTAL PROPERTY SEIZED
REPRESENTED BY THE RESPECTIVE AGENCIES**
For the fiscal year ending 6/30/01



The following graph compares seizures by type of property, in FY's 97 through 01:

TOTAL SEIZURES: PROPERTY TYPE
Fiscal years ending June 30, 1997 through 2001



FISCAL YEAR ENDING:

	<u>6/30/97</u>	<u>6/30/98</u>	<u>6/30/99</u>	<u>6/30/00</u>	<u>6/30/01</u>
CURRENCY	\$782,297	\$711,971	\$1,038,048	\$580,461	\$660,328
VEHICLES	436,817	275,904	465,510	689,445	978,007
MISC. PROPERTY	<u>186,281</u>	<u>150,702</u>	<u>520,014</u>	<u>358,801</u>	<u>456,332</u>
TOTAL SEIZURES	<u>1,405,395</u>	<u>1,138,577</u>	<u>2,023,572</u>	<u>1,628,707</u>	<u>2,094,667</u>

B. Forfeiture Actions Filed

In FY 01, 268 Petitions for Administrative Forfeiture were filed by the prosecuting attorneys with the Department of the Attorney General.¹³ In FY 01, 204 cases were

¹³ "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 prosecution of a criminal offense." Section 712A-1, HRS. All figures stated for total

processed. Of the 204 processed cases, 119 were filed and processed within FY 01, and the other 85 were pending cases from previous fiscal years. Of the 204 processed cases, 165 involved uncontested forfeiture; persons with an interest in the property did not respond to the notice of pending forfeiture. Petitions for Remission or Mitigation were involved in 28 of the 204 processed cases; 10 cases involved judicial proceedings; and 1 case was voluntarily withdrawn by the prosecutor.

C. Total Number of Claims and Petitions for Remission or Mitigation

In FY 01, 19 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), HRS, the claim should be honored or the forfeiture action should be brought to court for judicial resolution. At the close of FY 01, 6 of these claims had been settled with the approval of the court and/or the Attorney General, or voluntarily withdrawn by the prosecuting attorney, and 13 were still in litigation.

In FY 01, 35 Petitions for Remission or Mitigation were filed. At the close of FY 01, 21 of these Petitions for Remission or Mitigation had been resolved and 14 were still pending inquiry by the Department of the Attorney General pursuant to sections 712A-10(6) and (7), HRS.

D. Property Forfeited

The estimated value of all property forfeited in FY 01 was \$1,194,019, including \$450,945 in currency. A portion of the forfeited vehicles and miscellaneous property was sold at public auctions held on September 23, 2000; November 18, 2000; February 10, 2001;

forfeiture actions filed include those filed both by deputy prosecuting attorneys and deputy attorneys general.

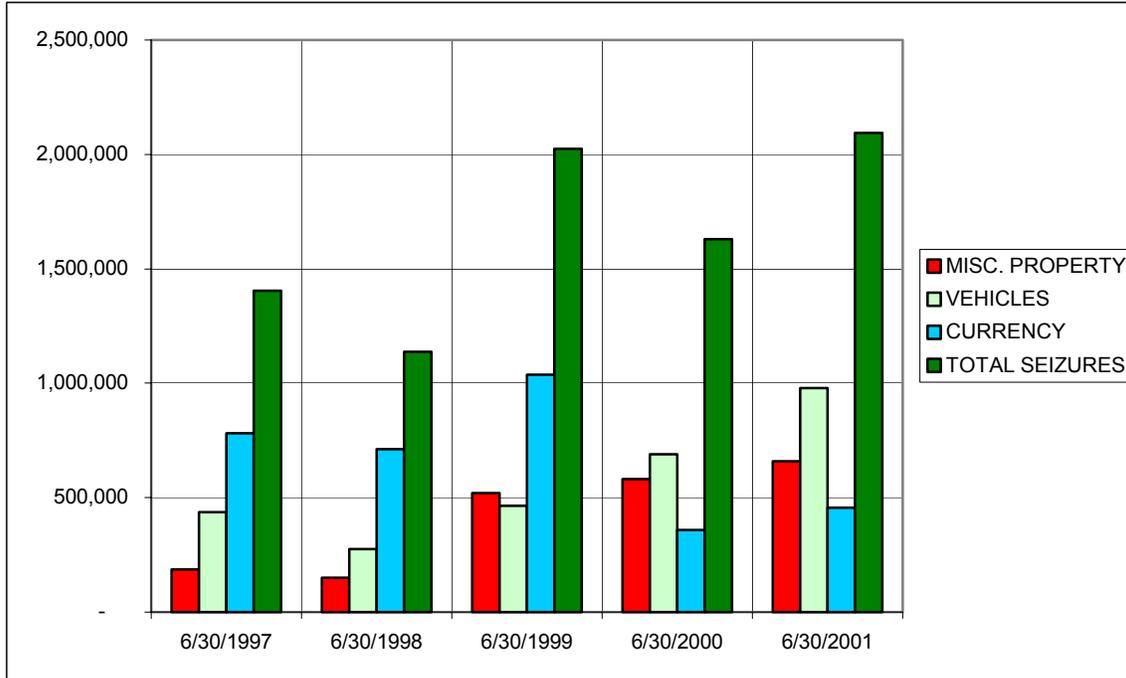
March 24, 2001; and May 19, 2001. The net proceeds from the auctions were \$81,520.25; \$30,583.74; \$92,625; \$80,275; and \$47,680.50, respectively. Firearms forfeited to the State are not auctioned as a matter of policy, primarily for public safety considerations. To reintroduce forfeited firearms into general circulation would be inimical to public safety and the law enforcement objectives promoted by section 134-12.5, HRS. The type and amount of property forfeited in FY 01 is listed by jurisdiction in the following table:

TOTAL FORFEITURES BY JURISDICTION
Fiscal Year Ending 6/30/01

<u>Jurisdiction</u>	<u>Currency</u>	<u>Vehicles</u>	<u>Misc. Property</u>	<u>Total</u>
Hawaii County	\$76,223	\$230,920	\$34,088	\$341,231
Honolulu County	275,240	289,720	166,440	731,400
Maui County	26,314	6,900	2,970	36,184
Kauai County	46,224	6,000	300	52,524
Narcotics Enforcement	16,944	2,500	2,880	22,324
DLNR	<u>10,000</u>	<u>0</u>	<u>355</u>	<u>10,355</u>
Total	<u>\$450,945</u>	<u>\$536,040</u>	<u>\$207,033</u>	<u>\$1,194,018</u>

The following chart compares total forfeitures, by type of property, in FY's 97 through 01:

TOTAL FORFEITURES: PROPERTY TYPE
Fiscal years ending June 30, 1997 through 2001



FISCAL YEAR ENDING:

	<u>6/30/97</u>	<u>6/30/98</u>	<u>6/30/99</u>	<u>6/30/00</u>	<u>6/30/01</u>
CURRENCY	\$864,459	\$770,868	\$741,225	\$555,715	\$450,945
VEHICLES	418,445	369,992	271,309	343,550	536,040
MISC. PROPERTY	<u>181,229</u>	<u>151,692</u>	<u>362,809</u>	<u>224,071</u>	<u>207,033</u>
TOTAL FORFEITURES	1,464,133	1,292,552	1,375,343	1,123,336	1,194,018

E. Property Distributed

In FY 01, a total of \$318,357.30 in forfeited currency and auction proceeds was distributed to the police departments and prosecuting attorneys of the City and County of Honolulu, and to the counties of Hawaii, Maui, and Kauai, as well as to the Narcotics Enforcement Division of the Department of Public Safety pursuant to section 712A-16(2),

HRS. Additionally, \$39,396.86 was awarded to the LaSalle County State's Attorney's Office, Ottawa, Illinois, pursuant to Section 712A16(4), HRS, for assistance and services leading to a forfeiture action which resulted in the successful forfeiture of four luxury motor vehicles seized in Hawaii County.

In FY 01, forfeited property, other than currency, such as vehicles, cellular telephones, and digital pagers with an estimated value of \$37,490 was transferred to the Honolulu Police Department, Hawaii County Police Department, Maui County Police Department, Kauai County Police Department, and the Department of Public Safety for law enforcement purposes.

F. Criminal Forfeiture Fund

In FY 01, \$805,976.89 was deposited into the Criminal Forfeiture Fund.¹⁴ As explained above, law enforcement agencies received a total of \$357,754.16 in forfeited currency and auction proceeds pursuant to sections 712A-16(2) and 712A-16(4), HRS. As explained below, \$383,865.38 was expended for training of law enforcement personnel, law enforcement equipment costs, as well as operation of the forfeiture program pursuant to section 712A-16(4), HRS.

G. Criminal Forfeiture Fund Expenditures

In FY 01, the Department of the Attorney General expended \$383,865.38 from the Criminal Forfeiture Fund. The type, amount, and explanation for the expenditure are listed below.

¹⁴ The Criminal Forfeiture Fund is a ledger account maintained by the Attorney General which shows the amount of money available for distribution pursuant to section 712A-16, HRS.

<u>Purpose</u>	<u>Amount</u>	<u>Explanatory Notes</u>
Training	\$164,870.87	<ul style="list-style-type: none"> • California Robbery Investigators Association's 28th Annual Seminar • National Summit on Cyber Crime • Traditional and Non-Traditional Organized Crime 1999 Seminar • Multi-Agency Fire Investigation Team Conference • Arson Investigation for the 21st Century Course • Conference on Responding to Child Maltreatment • 2000 Annual Polygraph Seminar • National Association of Extradition Officials 36th Annual Conference • Digital Imaging for Law Enforcement & Public Safety Course • 24th Western States Vice Investigators Association Training Conference • Investigation of Missing, Runaway & Abducted Children Course • Southwestern Association of Forensic Document Examiners Conference • Southwestern Association of Forensic Document Examiners Fall Meeting • Train the Trainer Workshops on Sexual Assault Investigation • 2000 International Fugitive Investigators Conference • 1999 Conquering the Mountain of Fraud Conference • Canon Photocopies & Facsimile Training Workshop • Identification of Building Material Course • Child Injury & Child Death Investigation and Forensic Death & Homicide Investigation Training Seminars • American Academy of Forensic Scientists Meeting • Seminar on Search and Seizure/Abuse of Family Household Member

<u>Purpose</u>	<u>Amount</u>	<u>Explanatory Notes</u>
Training (cont.)		<ul style="list-style-type: none"> • Internet Crimes Against Children Task Force Review Board Meeting • National Internet Crimes Against Children Training Conference • Microsoft Office Pro 2000 Training • 9th National Controlled Substance and Chemical Diversion Conference • Professional Diversion Intelligence Network Training • National Technical Investigators Association Annual Training Conference & Technology Exhibition • United Council on Welfare Fraud Training Conference • Advanced Investigative Interviewing Seminar • Fraud Investigation Methods Seminar • Firearms Instructor Development and Armorer Pistol Repair Training Course • Hawaii Symposium on Female Offenders • High Risk Entry/Warrant Service Training • Inter-County Detectives Training Seminar • Backster School of Lie Detection Work Conference • Incident Response to School Violence Seminar • Fire Dynamics and Arson for Profits Seminar • FBI National Fire Academy's Arson Investigation • American Academy of Forensic Sciences 53rd Annual Meeting • RAVE Parties and Drug & Music Connection Conference • Less-Lethal Force Options Course • Community Justice 2000 Conference • Pacific Region Forfeiture Training Workshop • OJJDP Regional Workshop on Enforcing Underage Drinking Laws

<u>Purpose</u>	<u>Amount</u>	<u>Explanatory Notes</u>
		<ul style="list-style-type: none"> • 2000 NDAA Summer Conference • Gang Awareness Workshop
Training (cont.)		<ul style="list-style-type: none"> • National Police Memorial Service • Intermediate Hostage Negotiation & Crisis Intervention Training Program • Special Events Management Training Seminar • SWAT Supervisor's Tactics & Management Class • Master Ground Defense Systems Instructors Course • Stress Management and Police Leadership Ethics Training Seminar

<u>Purpose</u>	<u>Amount</u>	<u>Explanatory Notes</u>
Equipment	\$31,948.45	Computer purchases and related equipment
Newspaper Publication of Legal Notice	\$32,799.37	Notice of pending forfeiture
Upkeep/Storage of Forfeited Assets	\$3,240.68	Alarm system operation and utilities; towing of vehicles; equipment; real property upkeep
Auction Expenditures	\$19,559.79	Automotive repair and parts; overtime payments; shipping and towing of vehicles; auctioneer services
Lien Payment Expenditures	\$800	Payments to financial institutions for release of lien placed on forfeited vehicles
Payroll Expenditures for the Asset Forfeiture Unit	\$129,738.47	Asset Forfeiture Program manager, legal assistant and secretary salaries; related payroll taxes
Other Operating Expenditures	<u>\$907.75</u>	Phone charges; office supplies; petty cash replenishment

TOTAL: \$383,865.38
VI.

ASSET FORFEITURE DEVELOPMENTS AND TRENDS

Fiscal Year 2001 forfeiture seizures were valued at an estimated \$2,094,667 and property forfeited was valued at \$1,194,018.

For the first time in the history of the Hawaii Omnibus Criminal Forfeiture Act, seizures for forfeiture by the Hawaii County Police Department exceeded those made by the Honolulu Police Department during the same period. Extraordinary seizures in Hawaii County, which included three Mercedes Benz automobiles, two Ferraris, one Porsche, a Lincoln stretch limousine, and two helicopters, were made possible by close cooperation with law enforcement officers in Colorado and Illinois who assisted in the identification of assets in Hawaii that were the proceeds of two separate multi-state narcotics trafficking conspiracies.

Based upon past history, one can expect that in any given year more than 220 petitions for administrative forfeiture of property having an estimated value exceeding \$1,200,000 will be filed with the Department of the Attorney General. A review of the cases filed during the first four months of FY 2002 indicates that filings for FY 2002 will probably meet or exceed those numbers.

In response to the information needs of the public, in March 1998, the asset forfeiture program went on-line as a part of the Attorney General's web page on the Internet. Auction information, including pictures of items to be sold at auction, is now available on the Internet at www.state.hawaii.us/ag.

Since January 1, 1998, auctions of forfeited property are held at least once each quarter. This fiscal year auctions were held on September 13, 2000, November 18, 2000, February 10, 2001, March 24, 2001, and May 19, 2001. By holding auctions every quarter, we expect to reduce storage costs and value depreciation, increase public interest in asset forfeiture auctions, increase auction proceeds, and expand the ability of the Criminal Forfeiture Fund to meet the needs of law enforcement agencies for training funds and funds for crime prevention programs.

VII.

CONCLUSION

The permanent enactment of the Hawaii Omnibus Criminal Forfeiture Act by the Legislature in 1996 has had a positive impact on the handling and processing of administrative forfeitures. During calendar years 2000 and 2001, the economy was improving and increased efforts by law enforcement agencies made FY 2001 a good year for forfeitures under state law. While the murderous acts of September 11, 2001, have had an adverse impact on the economy, the necessary lag time between the seizure of assets for forfeiture during FY 2001 and turning those seized assets into revenue during FY 2002 suggests that FY 2002 will be a good year in terms of forfeiture revenues notwithstanding the current state of the economy. Long term, if the state economy remains depressed, that condition would be reflected in stagnant or declining forfeiture revenues.