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REPORT ON THE USE OF THE HAWAII OMNIBUS CRIMINAL FORFEITURE ACT

Fiscal Year 2010 - 2011

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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 2010-2011.

1. Total amount of property seized by law enforcement agencies

ESTIMATED VALUE¹ OF SEIZURES FOR FORFEITURE² IN FY 2010-2011 (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 Department	\$90,523	\$109,350	\$800	\$200,673	21%
Honolulu Police Department	\$130,203	\$142,850	\$82,245	\$355,298	37%
Maui County Police Department	\$109,151	\$89,445	\$525	\$199,121	21%
Kauai County Police Department	\$28,292	\$90,380	\$95,384	\$214,056	22%
TOTAL	\$358,169	\$432,025	\$178,954	\$969,148	100%

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 2010-2011 (BY TYPE OF PROPERTY)

<u>Type of Property</u>	<u>Estimated Value</u>	<u>Percentage</u>
Vehicles	\$432,025	45%
Currency	\$358,169	37%
Miscellaneous Property	\$178,954	18%
Total	<u>\$969,148</u>	100%

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

In fiscal year 2010-2011, prosecuting attorneys³ filed 218 petitions for administrative forfeiture with the Department of the Attorney General. Of the 218 petitions, 73 were adjudicated and a final order was issued by the Department; 37 were dismissed with or without prejudice; 7 were voluntarily withdrawn by the prosecuting attorney; 1 was opened and closed for record-keeping purposes only; and at the end of the fiscal year, 101 were pending service,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 2010-2011, the Department of the Attorney General processed a total of 182 cases. Of the 182 cases, 73 were filed in fiscal year 2010-2011, and 109 were pending cases from previous fiscal years. Of the 182 cases, 159 involved uncontested forfeiture (persons with an interest in the property did not respond to the notice of pending forfeiture), 13 involved petitions for remission or mitigation; 3 involved judicial proceedings; and 7 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 2010-2011, 4 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 2010-2011, 2 of these claims had been settled with the approval of the court or the Attorney General or voluntarily withdrawn by the prosecuting attorney, and 2 were still in litigation.

In fiscal year 2010-2011, 13 petitions for remission or mitigation were filed. At the close of the fiscal year, 6 of these petitions had been resolved and 7 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 2010-2011

<u>Seizing Agency</u>	<u>Currency</u>	<u>Vehicles</u>	<u>Misc. Property</u>	<u>Total</u>	<u>Percentage</u>
Hawaii County Police Department	\$102,762	\$88,260	\$2,520	\$193,542	29%
Honolulu Police Department	\$25,306	\$116,175	\$7,325	\$148,806	22%
Maui County Police Department	\$161,081	\$54,435	\$0	\$215,516	33%
Kauai County Police Department	\$19,945	\$72,505	\$11,305	\$103,755	16%
TOTAL	\$309,095	\$331,375	\$21,150	\$661,620	100%

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 11, 2010	\$15,337.50
December 4, 2010	\$46,046.50
April 30, 2011	\$120,939.75
Total	\$182,323.75

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), \$300,714 in forfeited currency and auction proceeds was distributed to the Honolulu, Kauai, Maui, and Hawaii County Police Departments and Prosecuting Attorneys' offices, the Conservation and Enforcement Division of the Department of Land and Natural Resources, and the Narcotics Enforcement Division of the Department of Public Safety. Forfeited property other than currency, including vehicles, televisions, a surveillance system, a currency counter and an Accubaker D64 money detector with an estimated value of \$72,433.92, was transferred to the Kauai, Maui, and Hawaii County Police Departments.

6. Amount of money deposited into the criminal forfeiture fund

Pursuant to the formula set forth in section 712A-16(2)(c), \$684,088.30 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>
Training	\$ 33,387.39	<ul style="list-style-type: none"> • Legal and Liability Management for Tactical, SWAT, and Emergency Response Operation Training Seminar • 20th Annual Multi-Disciplinary National Conference on Domestic Violence • 7th International Conference on Asian Organized Crime and Terrorism Training • Special Agent IRS Training • HPAA Trial Advocacy Training 2010
Equipment	\$ 41,275.06	Dell Latitude E4310 laptop computers w/software (8); Dell Optiplex 980 mini Tower computers w/software (2); Dell Latitude E5510 laptop computers (2), image editing software (2), MS Office Pro (2), and DVD writer (1); ID card printing system; Software licenses for Sanction II software w/ pdf plug-in (2); Video conferencing infrastructure
Reimbursement of Service Fees to Agencies	\$ 3,222.50	Certified and regular mail
Newspaper Publication of Legal Notice	\$ 14,114.95	Notice of pending forfeiture
Upkeep/Storage of Forfeited Assets	\$ 6,283.70	Alarm system operation and utilities; towing of vehicles; equipment; real property upkeep
Auction Expenditures	\$ 9,853.79	Automotive repair and parts; overtime payments; shipping and towing of vehicles; auctioneer services
Lien Payment Expenditures & Compromise	\$ 23,641.50	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	\$ 201,875.03	Asset Forfeiture Program manager, legal assistant and secretary salaries; related payroll taxes
Other Operating Expenditures	\$ 3,366.17	Phone charges; office supplies; petty cash replenishment
TOTAL:	<u>\$ 334,469.10</u>	