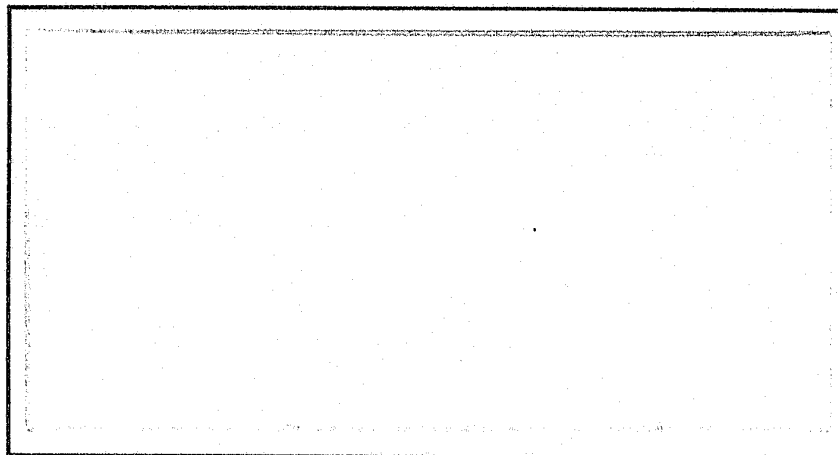
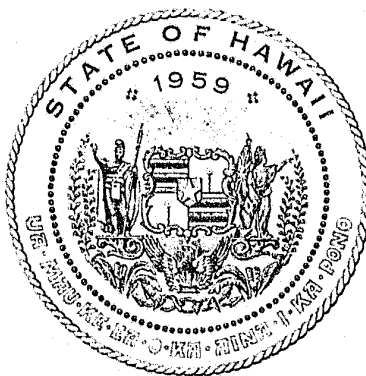


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CREDIT CARD FRAUD
IN HAWAII

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Research and Statistics Report (CC02)

FOREWORD

This is the second in a series of reports by the Hawaii Criminal Justice Data Center (HCJDC) on white collar/computer crime. This report is on credit card fraud. The HCJDC conducted a study to determine the extent of credit card fraud in Hawaii.

The HCJDC would like to express its appreciation to the following individuals for their enthusiastic response and cooperation in providing information essential to the Credit Card Fraud report:

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- Mr. Charles F. Marsland & Mr. Francis Yamashita..Department of the Prosecuting Attorney

The HCJDC would like to express special thanks to the members of the Hawaii Association of Credit Card Investigators and to the participants in the credit card fraud survey.

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INTRODUCTION

Credit cards are becoming the primary means by which people are spending money. According to the January 1985 Nilson Report, by December 1984, there was an unpaid credit balance of \$108 billion or an average of \$1,092 per credit card holder.¹ With the increase in usage of credit cards, so comes the increase in credit card fraud.

Credit card fraud was an amateurish form of crime until recently. With the onset of new advancements in the credit card technology, however, the type of criminal who commits credit card fraud is becoming more sophisticated. With the introduction of the "smart" card (a credit card containing a micro-processor), the criminal must have a detailed knowledge of computer science to commit credit card fraud.

Credit card fraud is the unauthorized use of a credit card by someone other than the card holder, or the falsification of an application to obtain a credit card. As with most laws, these definitions vary from state to state. The purpose of this study is to determine how prevalent credit card fraud is in Hawaii.

This report is divided into three parts. The first, presents information relating to credit card fraud. The second part tracks credit card fraud offenders through the Hawaii criminal justice system. The final part of the report presents results of a credit card fraud survey.

CREDIT CARD FRAUD

This section presents general information on credit card fraud and laws. Also included with credit card fraud is charge card fraud. For this report they are considered the same; however, there is a difference. Credit cards are cards on which one receives a limited amount of credit. They are tied into a revolving credit account which allows the client to pay a minimum monthly payment and be charged interest for the remaining balance. Examples of credit cards are MasterCard, Visa, Sears, and J.C. Penney's.²

Charge cards, on the other hand, are usually used with an unlimited (or very high limit) line of credit. Another characteristic of charge cards is they must be paid-in-full at the end of each month. There is no carry over of the unpaid balance to the next month. There is also no interest rate incurred since there is never a balance owed. Examples of these cards are American Express and Diners Club/Carte Blanche.³ These cards are also called travel and entertainment cards.

FORMS OF FRAUD

There are many forms of credit card fraud which range from stealing blank credit cards to illegally obtaining the account number of the cardholder. In one case, armed robbers stole 6,000 blank credit cards from a California plant, and only half

of them have been recovered.⁴ In another case, several men rented motel rooms in Benton Harbor, Michigan and started ordering merchandise by telephone from local stores requesting that the merchandise be delivered to the motel. They were using fraudulently obtained credit card numbers. The merchandise was immediately fenced and the thieves made approximately \$25,000 per week before being caught.⁵ In Florida, credit card counterfeiters were paying car rental agents \$5.00 for each carbon from charge slips with the cardholder's name, address, and account number.⁶ These are just a few examples of credit card fraud.

Credit card fraud can be broken down into four categories: stolen blank cards, lost/stolen cardholder's cards, stolen carbons, and fraudulent application to obtain a credit card.

The stolen blank cards are used for counterfeiting purposes. Counterfeit cards may also be made, however, from blanks purchased from a plastics company. The blank card is usually a white piece of plastic with no numbers, pictures, or names. The thief uses an offset printing press or a silk screen process to print the VISA or MasterCard logo on the plastic. This gives the card a "ready-to-be-embossed" look. The silk screened credit card does not have the distinct edges of the offset printed credit card. Sometimes, the colors will run into each other, or lines will not be parallel. The offset printed counterfeit card is the most difficult to distinguish from a genuine card.

After the offender has printed the "credit card", he then embosses a legitimate account number and name onto the card. At this point, the criminal has an almost complete counterfeit credit card.

The final stage of counterfeiting is the encoding of the magnetic strip. Once the strip is encoded with the necessary information, the offender has completed the card (the information on the card does not have to be true; however, to work in Point-of-Sale (POS) terminals, it has to be a current account number and name).

Since the cards are embossed with legitimate card numbers and names, it would be very difficult for the local retail clerk to tell the difference between a genuine card and a counterfeit card.⁷ Also, since the cards are encoded with the necessary information on the magnetic strip, it will sometimes even trick the POS terminals used to help detect counterfeit cards. (See Appendix B) So, if the counterfeit card is well made, then the counterfeiter has a piece of "art work" passable at any store. If it is done poorly, the counterfeiter will then take the card to a dishonest merchant, and with the merchant's help, he will charge purchases. The merchant disclaims any knowledge of fraud, receives a kickback from the counterfeiter, and the legitimate card company absorbs the loss.

There are two scenarios for the category of lost/stolen cardholder's cards. The first is the most common. A thief

steals a credit card, and before the cardholder can report the card missing, the thief uses the card to charge very expensive merchandise. This allows the thief to determine the card's credit limit. He can then charge up to that limit. For example, a thief charges a \$999 gold chain, and if the charge is accepted, he then knows that the limit of the card is at least \$1,000. He continues to charge numerous items at various stores for under \$1,000. This goes on for approximately two days. After two days, the thief assumes that the card has been reported stolen. The professional thief then discards the card. The average thief, however, may continue to use the card after two days but charge items costing less than the floor limit.⁸ For example, MasterCard and VISA generally have floor limits of \$75.00 and \$50.00 respectively. This means that the store is not required to call for verification unless the charged amount exceeds the floor limit. If the thief charges less than the floor limit, the card may never be checked.

The second scenario is similar to what is done with blank cards. The thief takes a hot iron and "presses" out the old account number, and then using the embosser, he creates a "new" account and charge card. Since the card number never existed, as long as the thief does not exceed the floor limit and the store does not check the stolen card sheet or the number does not appear in the hot sheet, the card will never appear to be lost or stolen. Recently, a government witness told a congressional panel that, "He could buy \$5,000 worth of goods

in just one day with a single stolen credit card simply by limiting purchases to \$50.00 or less."⁹

The third category and probably the simplest method of obtaining good account numbers for committing credit card fraud is by stealing the carbons of charge slips. This occurs in several ways. The first is to simply go through the store's trash after the store is closed and pick out the carbons. Second, if the store tears up the carbons, then the criminal could pay the store employees to give the carbons to them. Finally, the store's dishonest employees might run off extra charge slips using someone's charge card for their personal use at a later time.

The final category of credit card fraud is false statements made to obtain a credit card. In most jurisdictions, it is considered credit card fraud to falsely represent any part of the credit card application. An example of this is when the person applying for a MasterCard or Visa states that he has an annual income of \$50,000 when it is actually \$5,000. This is probably the toughest element of credit card fraud to prove because it relies on the intent of the person filling out the application. The person would have had to intentionally falsify the information to obtain the card, otherwise there is no crime of false statements, and, therefore, no fraud. Because of these problems, the American Banking Association claims that "Credit card crime, once an amateur's game, is fast becoming Public Enemy Number 1."¹⁰

CREDIT CARD FRAUD AND THE LAW

Laws regarding credit card fraud run a very large spectrum of enforceability. Some states have very strict credit card fraud laws, which are also very severe with the criminal. Other states have laws which are very lenient. Consequently, they are less severe on the criminal. Most recently, Federal legislation has toughened its stance against credit card offenders. If convicted, the sentence the offense carries is also very severe.

There are three sections under which Federal law covers credit card fraud. They are 18 USC 1028 (Fraud and False Statements Act), 18 USC 1029 (Fraud and Related Activity in Connection with Access Devices), and 15 USC 1644 (Consumer Credit Law).

These three laws deal specifically with a very key word, "knowingly." Knowingly is better known as intent. Whenever intent is built into a law, there are problems proving the person is guilty. The term "knowingly" is defined by the Seventh Circuit Pattern 6.04 from the Federal Jury Practices & Instructions: 1985 Supplement--Volume 1-3 by Demitt and Blackmar as:

When the word "knowingly" is used in these instructions, it means that the defendant realized what he was doing and was aware of the nature of his conduct, and did not act through ignorance, mistake or accident. [Knowledge may be proved by the defendant's conduct, and by all the facts and circumstances surrounding the case.]

The "Fraud and False Statement Act" section of the United States Code is designed as an all-encompassing law that deals with people who lie on credit applications. This could range from the use of someone else's Social Security Card number, or any other document that is considered someone else's identification. The law is as follows:

§ 1028. Fraud and related activity in connection with identification documents

(a) Whoever, in a circumstance described in subsection (c) of this section--

(1) knowingly and without lawful authority produces an identification document or a false identification document;

(2) knowingly transfers an identification document or a false identification document knowing that such document was stolen or produced without lawful authority;

(3) knowingly possesses with intent to use unlawfully or transfer unlawfully five or more identification documents (other than those issued lawfully for the use of the possessor) or false identification documents;

(4) knowingly possesses an identification document (other than one issued lawfully for the use of the possessor) or a false identification document, with the intent such document be used to defraud the United States; or

(5) knowingly produces, transfers, or possesses a document-making implement with the intent such document-making implement will be used in production of false identification document or another document-making implement which will be so used;

(6) possesses an identification document that is or appears to be an identification document of the United States which is stolen or produced without authority;

or attempts to do so, shall be punished as provided in subsection (b) of this section.

(b) The punishment for an offense under subsection (a) of this section is--

(1) a fine of not more than \$25,000 or imprisonment for not more than five years, or both, if the offense is--

(A) the production or transfer of an identification document that is or appears to be--

(i) an identification document issued by or under the authority of the United States; or

(ii) a birth certificate, or a driver's license or personal identification card;

(B) the production or transfer of more than five identification documents or false identification documents; or

(C) an offense under paragraph (5) of such subsection;

(2) a fine of not more than \$15,000 or imprisonment for not more than three years, or both, if the offense is--

(A) any other production or transfer of an identification document or false identification document; or

(B) an offense under paragraph (3) of such subsection; and

(3) a fine of not more than \$5,000 or imprisonment for not more than one year, or both, in any case.

(c) The circumstances referred to in subsection (a) of this section is that--

(1) the identification document or false identification document is or appears to be issued by or under the authority of the United States or the document-making implement is designed or suited for making such an identification document or false identification document;

(2) the offense is an offense under subsection (a)(4) of this section; or

(3) the production, transfer, or possession prohibited by this section is in or affects interstate or foreign commerce, or the identification document, false identification document, or document-making implement is transported in the mail in the course of the production, transfer, or possession prohibited by this section.

(d) As used in this section--

(1) the term "identification document" means a document made or issued by or under the authority of the United States Government, a State, political subdivision of a State, a foreign government, political subdivision of a foreign government, an international governmental or an international quasi-governmental organization which, is of a type intended or commonly accepted for the purpose of identification of individuals;

(2) the term "produce" includes alter, authenticate, or assemble;

(3) the term "document-making implement" means any implement or impression specially designed or primarily used for making an identification document, a false identification document, or another document-making implement;

(4) the term "personal identification card" means an identification document issued by a State or local government solely for the purpose of identification; and

(5) the term "State" includes any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any other possession or territory of the United States.

(e) This section does not prohibit any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency of the United States, a State, or a political subdivision of a State, or of an intelligence agency of the United States, or any activity authorized under Title V of the Organized Crime Control Act of 1970 (18 USC note prec. 3481).¹¹

Fraud and Related Activity in Connection with Access Devices, as defined, means that the United States District Attorney may prosecute anyone who just once uses a credit card fraudulently as long as it affects interstate commerce. However, it would not be feasible for the United States District Attorney to prosecute every case under these laws. So unless it is a major offender or offense, the prosecution is usually left up to the individual states.

18 USC 1029 is defined as follows:

§ 1029. Fraud and Related activity in connection with access devices

(a) Whoever--

(1) knowingly and with intent to defraud produces, uses, or traffics in one or more counterfeit devices;

(2) knowingly and with intent to defraud traffics in or uses one or more unauthorized access devices during any one-year period, and by such conduct obtains anything of value aggregating \$1,000 or more during that period;

(3) knowingly and with intent to defraud possesses fifteen or more devices which are counterfeit or unauthorized access devices; or

(4) knowingly and with intent to defraud produces, uses, or traffics in, has control or custody of, or possesses device making equipment; shall, if the offense affects interstate or foreign commerce, be punished as provided in subsection (c) of this section.

(b)(1) Whoever attempts to commit an offense under subsection (a) of this section shall be punished as provided in subsection (c) of this section.

(2) Whoever is a party to a conspiracy of two or more persons to commit an offense under subsection (a) of this section, if any of the parties engages in any conduct in furtherance of such offense, shall be fined an amount not greater than the amount provided as the maximum fine for such offense under subsection (c) of this section or imprisoned not longer than one-half the period provided as the maximum imprisonment for such offense under subsection (c) of this section, or both.

(c) The punishment for an offense under subsection (a) or (b)(1) of this section is--

(1) a fine not more than the greater of \$10,000 or twice the value obtained by the offense or imprisonment for not more than ten years, or both, in the case of an offense under subsection (a)(2) or (a)(3) of this section which does not occur after a conviction for another offense under either such subsection or an attempt to commit an offense punishable under this paragraph;

(2) a fine of not more than the greater of \$50,000 or twice the value obtained by the offense or imprisonment for not more than fifteen years, or both, in the case of an offense under subsection (a)(1) or (a)(4) of this section which does not occur after a conviction for another offense under either such subsection, or an attempt to commit an offense punishable under this paragraph; and

(3) a fine of not more than the greater of \$100,000 or twice the value obtained by the offense or imprisonment for not more than twenty years, or both, in the case of an offense under subsection (a) of this section which occurs after a conviction for another offense under such subsection, or an attempt to commit an offense punishable under this paragraph.

(d) The United States Secret Service shall, in addition to any other agency having such authority, have the authority to investigate offenses under this section. Such authority of the United States Secret Service shall be exercised in accordance with an agreement which shall be entered into by the Secretary of the Treasury and the Attorney General.

(e) As used in this section--

(1) the term "access device" means any card, plate, code, account number, or other means of account access that can be used, alone or in conjunction with another access device, to obtain money, goods, services, or any other thing of value, or that can be used to initiate a transfer of funds (other than a transfer originated solely by paper instrument);

(2) the term "counterfeit access device" means any access device that is counterfeit, fictitious, altered, or forged, or an identifiable component of an access device or a counterfeit access device;

(3) the term "unauthorized access device" means any access device that is lost, stolen, expired, revoked, canceled, or obtained with intent to defraud;

(4) the term "produce" includes design, alter, authenticate, duplicate, or assemble;

(5) the term "traffic" means transfer, or otherwise dispose of, to another, or obtain control of with intent to transfer or dispose of; and

(6) the term "device making equipment" means any equipment, mechanism, or impression designed or primarily used for making an access device or a counterfeit access device.

(f) This section does not prohibit any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency of the United States, or any activity authorized under title V of the Organized Crime Control Act of 1970.¹²

The third Federal law involved with credit card fraud is the Consumer Credit Law, which is designated in 15 USC 1644. It is the government regulation which affects only the banking and revolving credit card accounts. This law is as follows:

§ 1644. Fraudulent use of credit cards; penalties

Use, attempt or conspiracy to use card in transaction affecting interstate or foreign commerce

(a) Whoever knowingly in a transaction affecting interstate or foreign commerce, uses or attempts or conspires to use any counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained credit card to obtain money, goods, services, or anything else of value which within any one-year period has a value aggregating \$1,000 or more, or

Transporting, attempting or conspiring to transport card in interstate commerce

(b) Whoever, with unlawful or fraudulent intent, transports or attempts or conspires to transport in interstate or foreign commerce a counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained credit card knowing the same to be counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained; or

Use of interstate commerce to sell or transport card

(c) Whoever, with unlawful or fraudulent intent, uses any instrumentality of interstate or foreign commerce to sell or transport a counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained credit card knowing the same to be counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained; or

Receipt, concealment, etc., of goods obtained by use of card

(d) Whoever knowingly receives, conceals, uses, or transports money, goods, services, or anything else of value (except tickets for interstate or foreign transportation) which (1) within any one-year period has a value aggregating \$1,000 or more, (2) has moved in or is part of, or which constitutes interstate or foreign commerce, and (3) has been obtained with a counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained credit card; or

Receipt, concealment, etc., of tickets for interstate or foreign transportation obtained by use of card

(e) Whoever knowingly receives, conceals, uses, or transports in interstate commerce one or more tickets for interstate or foreign transportation, which (1) within any one-year period has a value aggregating \$500 or more, (3) have been purchased or obtained with one or more counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained credit cards; or

Furnishing of money, etc., through use of card

(f) Whoever in a transaction affecting interstate or foreign commerce furnishes money, property, services, or anything else of value aggregating \$1,000 or more, through the use of any counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained credit card knowing the same to be counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained--

Shall not be fined more than \$10,000 or imprisoned not more than ten years, or both.¹³

Most states have enacted some type of credit card fraud legislation. Some of the legislation is strict, and others are lenient. The State of Hawaii has legislation that is regarded by the Secret Service as being fair and easily enforceable.¹⁴ The Hawaii State Legislation can be found in the HRS Sections 851-1 through HRS 851-12. These run the gamut of violations from petty misdemeanors to felonies. The first four subsections mentioned deal strictly with the person who has received or has in his possession a lost or stolen credit card. They are as follows:

§ 851-1 Definitions. (1) "Cardholder" means the person or organization named on the face of a credit card to whom or for whose benefit the credit card is issued by an issuer.

(2) "Credit Card" means any instrument or device, where known as a credit card, credit plate or by any other name, issued with or without fee by an issuer for the use of the cardholder in obtaining money, goods, services, or anything else of value, on credit.

(3) "Expired credit card" means a credit card which is no longer valid because the term shown on it has elapsed.

(4) "Issuer" means the business organization or financial institution which issues a credit card or its agent.

(5) "Receives" or "Receiving" means acquiring possession or control or accepting as security for a loan.

(6) "Revoked credit card" means a credit card which is no longer valid because permission to use it has been suspended or terminated by the issuer.

§ 851-2 False statements for purpose of procuring issuance of credit cards; penalties. A person who makes or causes to be made, either directly or indirectly, any false statement in writing, knowing it to be false and with intent that it be relied on, respecting his identity or that of any other person, firm, or corporation, or a material fact as to his financial condition or that of any other person, firm, or corporation for the purpose of procuring the issuance of a credit card, violates this section and is subject to penalties set forth in subsection 851-10(a).

§ 851-3 Theft, forgery, etc., of credit cards; penalties. (a) A person who takes a credit card from the person, possession, custody, or control of another without the cardholder's consent or who, with knowledge that it has been so taken, receives the credit card with intent to use it or to sell it, or to transfer it to a person other than the issuer or the cardholder is guilty of credit card theft and is subject to penalties set forth in subsection 851-10(a). Taking a credit card without consent includes obtaining it by conduct defined or known as statutory larceny, common law larceny by trespassory taking, common law larceny by trick, embezzlement, or obtaining property by false pretense, false promise, gross cheat, or extortion if a person has in his possession or under his control credit cards issued in the names of two or more other persons, which have been taken in violation of this subsection,

it is prima facie evidence that he knew that the credit cards had been so taken or obtained.

(b) A person who receives a credit card that he knows to have been lost, mislaid, or delivered under a mistake as to the identity or address of the card holder, and who retains possession with intent to use it or to sell it or to transfer it to a person other than the issuer or the cardholder is guilty of credit card theft and is subject to the penalties set forth in subsection 851-10(a).

(c) A person other than the issuer who sells a credit card or a person who buys a credit card from a person other than the issuer violates this subsection and is subject to the penalties set forth in subsection 851-10(a).

(d) A person who, with intent to defraud the issuer, a person or organization providing money, goods, services, or anything else of value, or any other person, obtains control over a credit card as security for debt violates this subsection and is subject to the penalties set forth in subsection 851-10(a).

(e) A person, other than the issuer, who during any twelve-month period, receives credit cards issued in the names of two or more persons which he has reason to know were taken or retained under circumstances which constitute credit card theft or a violation of subsection 851-2 or subsection (c) or (d) of this section violates this subsection and is subject to the penalties set forth in subsection 851-10(b).

(f) A person who, with intent to defraud a purported issuer, a person or organization providing money, goods, services, or anything else of value, or any other person, falsely makes or falsely embosses a purported credit card or utters such a credit card, or possesses such a credit card with knowledge that the same has been falsely made or falsely embossed is guilty of credit card forgery and is subject to the penalties set forth in subsection 851-10(b). If a person other than the purported issuer possesses two or more credit cards which have been made or embossed in violation of this subsection, it is prima facie evidence that he intended to defraud or that he knew the credit cards had been so made or embossed. A person falsely makes a credit card when he makes or draws, in whole or in part, a device or instrument which purports to be the credit card of a named issuer but which is not such a credit card because the issuer did not authorize the making or drawing, or alters a credit card which was validly issued. A person falsely embosses a credit card when, without authorization of the named issuer, he completes a credit card by adding any of the matters, other than the signature of the cardholder, which an issuer

requires to appear on the credit card before it can be used by a cardholder.

(g) A person other than the cardholder or a person authorized by him who, with intent to defraud the issuer, or a person or organization providing money, goods, services, or anything else of value, or any other person, signs a credit card, is guilty of credit card forgery and is subject to the penalties set forth in subsection 851-10(a).

§ 851-4 Fraudulent use of credit cards, etc., penalties. A person, who, with intent to defraud the issuer, a person or organization providing money, goods, services, or anything else of value, or any other person, (1) uses for the purpose of obtaining money, goods, services, or anything else of value a credit card obtained or retained in violation of subsection 851-3 or a credit card which he knows is forged, expired, or revoked; or (2) obtains money, goods, services, or anything else of value by representing without the consent of the cardholder that he is the cardholder of a specified card or by representing that he is the holder of a card and such card has not in fact been issued, violates this section and is subject to the penalties set forth in subsection 851-10(a), if the value of all money, goods, services, and other things of value obtained in violation of this section does not exceed \$100 in any six-month period; and is subject to the penalties set forth in subsection 851-10(b), if such value exceeds \$100 in any six-month period.

Knowledge of revocation of a credit card shall be presumed to have been received by a cardholder four days after it has been mailed to him at the address set forth on the credit card or at his last known address by registered or certified mail, return receipt requested, and, if the address is more than five hundred miles from the place of mailing, by air mail. If the address is located outside the United States, Puerto Rico, the Virgin Islands, the Canal Zone, and Canada, notice shall be presumed to have been received ten days after mailing by registered or certified mail.¹⁵

As previously mentioned, there are also the merchants who defraud or are in partnership with a credit card offender who defrauds the issuing company. The next subsection is the portion of Hawaii law that deals with these merchants.

§ 851-5 Fraud by person authorized to provide goods or services; penalties. (a) A person who is authorized by

an issuer to furnish money, goods, services, or anything else of value upon presentation of a credit card by the cardholder, or any agent or employees of such person, who, with intent to defraud the issuer or the cardholder, furnishes money, goods, services, or anything else of value upon presentation of a credit card obtained in violation of section 851-3 or a credit card which he knows is forged, expired, or revoked violates the subsection and is subject to the penalties set forth in subsection 851-10(a), if the value of the money, goods, services, and other things of value furnished in violation of this subsection does not exceed \$100 in any six-month period; and is subject to the penalties set forth in subsection 851-10(b), if such value exceeds \$100 in any six-month period.

(b) A person who is authorized by an issuer to furnish money, goods, services, or anything else of value upon presentation of a credit card by the cardholder, or any agent or employee of such person, who, with intent to defraud the issuer or the cardholder, fails to furnish money, goods, services, or anything else of value which he represents in writing to the issuer that he has furnished violates this subsection and is subject to the penalties set forth in subsection 851-10(a), if the difference between the value of all money, goods, services, and anything else of value actually furnished and the value represented to the issuer, have been furnished does not exceed \$100 in any six-month period; and is subject to the penalties set forth in subsection 851-10(b), if such difference exceeds \$100 in any six-month period.¹⁶

Subsection 851-6 deals with the person who tries to make his own credit cards and the person who owns incomplete credit cards which could be made into "fake" credit cards. Subsection 851-6 is as follows:

§ 851-6 Possession of certain machinery, plates, or other contrivance or incomplete credit cards; penalties. A person other than the card holder possessing an incomplete credit card, with intent to complete it without the consent of the issuer or a person possessing, with knowledge of its character, machinery, plates, or any other contrivance designed to reproduce instruments purporting to be the credit cards of issuer who has not consented to the preparation of such credit cards, violates this section and is subject to the penalties set forth in subsection 851-10(b).

A credit card is incomplete if part of the matter other than the signature of the cardholder, which an issuer requires to appear on the credit card, before it can be used by a cardholder, has not yet been stamped, embossed, imprinted, or written on it.

If a person other than the cardholder or issuer possess two or more incomplete credit cards, it is prima facie evidence that he intended to complete them without the consent of the owner.¹⁷

Subsection 851-7 was created to stop the "fence" from receiving the stolen goods. This law states that, if a person uses a lost/stolen credit card and purchases something for someone else, that other person cannot use the merchandise for his benefit. Subsection 851-7 reads:

§ 851-7 Receipt of money, goods, services, or anything else of value obtained in violation of section 851-4; penalties. A person who receives money, goods, services, or anything else of value obtained in violation of section 851-4, knowing or believing that it was obtained violates this section and is subject to the penalties set forth in subsection 851-10(a), if the value of all money, goods, services, and other things of value obtained in violation of this section does not exceed \$100 in any six-month period; and is subject to the penalties set forth in subsection 851-10(b), if the value exceeds \$100 in any six-month period. If a person possesses three or more tickets for airline, railroad, steamship or other agent thereof by the use of a stolen or forged credit card, or otherwise obtained in violation of section 851-4, it is prima facie evidence that he knew such tickets had been obtained.¹⁸

Subsections 851-8, 851-9, 851-11 respectively deal strictly with defenses available, prima facie evidence, and the chapter is non-mutually exclusive status in relation to other Hawaii Revised Statutes. These three subsections do not deal with credit card fraud, per se, as discussed in this report. Subsection 851-10 deals with the penalties that are in effect

when any of the sections are violated. Subsection 851-10 is as follows:

§851-10 Penalties. (a) A person who is subject to the penalties of this subsection shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

(b) A person who is subject to the penalties of this subsection shall be fined not more than \$3,000 or imprisoned not more than three years, or both.¹⁹

The Honolulu Prosecutor's office would like to see certain subsections of section 851 of the Hawaii Revised Statutes changed or re-worded to meet the needs of the State. While the Prosecutor's office agrees that the present laws are acceptable, the special nature of Hawaii as a tourist state was not taken into consideration when these laws were drafted. The greatest difficulty for the Prosecutor's office lies in fitting fact patterns (unique to each crime) to very specifically stated laws. The two examples below concern HRS §851-4. In the first example, a customer checks into a hotel or rents a car for one day. He says that he will pay the bill in cash, but the merchant still requires that he present a credit card prior to receiving the room or car. The customer keeps the room or car for more than one day, runs up a large bill and then abandons the room or car. While the customer indicated plans to pay with cash, the merchant had required the presentation of a credit card. It is unclear whether the offense involves credit card fraud.

In the second example, a prostitute steals a credit card from her "John". She tells a friend, to whom she owes money,

that the card was given to her by her "Sugar Daddy". She gives the card to her friend to use as payment of the debt, and tells her to sign the charge as if the card were her husband's card. The question then is whether the friend of the prostitute has committed credit card fraud or is the friend a victim of misrepresentation.²⁰

This section presented laws regarding credit card fraud as they stand in the Federal Codes and the Hawaii Revised Statutes. The next section of this report will deal with prevention.

PREVENTION OF CREDIT CARD FRAUD

The first step in the prevention of credit card fraud must be taken by the institutions issuing credit cards. These are places where blank credit cards are produced and may be the prime target of a counterfeiter. There are many steps the banks and other financial institutions who issue credit cards are taking in preventing or at least in making it very difficult for the counterfeiter to create or reproduce a credit card for illegal use. Some of these are:

1. Hologram - a three dimensional laser printed logo or emblem affixed to the plastic card that when tilted, changes colors and appears to float. One or two digits of the account number are embossed over this hologram, and if the number should be altered by heat or pressure, the alteration is easier for a clerk to recognize. These holograms are difficult to counterfeit.

2. Fineline printing - repetitious printing of a word or logo that will deter counterfeiting by the silk screen process.

1. Carry only the cards you need for the day, and keep them separate from your wallet.
2. Watch store clerks carefully to discourage unscrupulous ones from filling out extra credit card slips.
3. After you have signed credit card receipts, detach and destroy the carbon paper in them to make it more difficult for your account number to be stolen.
4. Check your monthly card statements and immediately notify your bank of any incorrect charges.
5. Do not give your credit card numbers to telephone callers who claim to be conducting surveys.
6. Do not lend your credit card or automatic teller machine card.
7. Avoid using teller machines in poorly lit areas or late at night.
8. Memorize your teller machine password or personal identification number (PIN).
9. When devising your password, do not use your name or initials. Never base your PIN on your birth date, Social Security Number, address, or telephone number.
10. Find out if your homeowners or renter's insurance covers credit card thefts. Many insurers automatically include this coverage. Federal law limits your loss to \$50 per card, but if ten cards are stolen, you face a potential loss of \$500.²⁵

The final area of prevention concerns the merchant. Banks and institutions issuing credit cards recommend that merchants train their clerks to look for various "signs" of fraudulent credit card use. Some precautions include:

- 1) Watching for the person who buys recklessly. If someone buys merchandise without regard to color, size, or amount, then maybe he is using a counterfeit credit card.
- 2) Being careful at the end of the day. This is when most credit card fraud criminals will strike, when the clerks are usually tired and ready to go home.

3. Ultraviolet printing - ink that glows when viewed under a black light.²¹

The above mentioned safeguards used by the producers of credit cards are just the beginning of the prevention phase. The next step taken by these institutions is the introduction of the "smart card". These are credit cards with miniature microprocessors implanted in the card. According to MasterCard, these microprocessors can store information equivalent to several pages of an encyclopedia.²² These cards are currently being tested by 40,000 people in Maryland and Florida.²³ The hope is that with the microprocessor encased in the card, the information that is on the microprocessor can never and will never be reproduced by the credit card counterfeiter.

The cardholder or consumer also has a role in the prevention of credit card fraud. Since there are many ways in which the credit card thief can get legitimate account numbers, such as searching through the trash, buying stolen cards, working as temporary mail order clerks, or even as simple as looking over the shoulder of the person using his credit card, there are some things that can be done by the cardholder to prevent these thefts of information.²⁴

The American Banking Association suggests that there are ten ways in which the cardholder can help prevent credit card fraud. They are called the 10 tips for card safety and are as follows:

3) Watching for the customer who wants to take items with him right away and refuses help from store personnel (i.e. the carrying of a console television, or buying clothes that do not fit right).

4) Examining the color scheme very carefully if the salesperson is suspicious of a person's card. If the salesperson is still uncertain, he should call for verification of the card number regardless of the amount.²⁶

In addition to these four preventative measures, American Express suggests the following to merchants:

1) Examine the card for any noticeable alterations.

2) Be sure the name on the card fits the face of the presenter.

3) Examine the expiration date of the card.

4) Compare the signatures on the card with the signature on the charge form: Is the name misspelled? Are there differences in the handwriting?

5) Restaurants should be suspicious of the heavy tipper.

6) ...Is the person old enough to have a card?

7) Always check the current cancellation bulletin if the amount of the charge is below the floor limit.

8) Finally, Is a female presenting a male's card or vice versa?²⁷

These are just a few of the many ways in which a person can steal a credit card number, even without the cardholder knowing it is gone, and a few of the ways various people can prevent the theft, use, and obtainment of fraudulent credit cards. It is very important that the public be aware of what can and does occur with their credit cards. It is the unsuspecting cardholder that generally is the target of the

credit card thief. The only way that credit card fraud may be prevented is through cooperation among the issuing institutions, the cardholder, the merchant, and the criminal justice agencies.

CREDIT CARD FRAUD OFFENDERS

This part of the study covers the tracking of credit card fraud offenders through the Hawaii criminal justice system. The laws governing credit card fraud are HRS 851-1 through HRS 851-12. The study followed the offenders arrested between January 1980 and June 1985. The information presented in this portion of the study is based on statewide information.

There were 471 charges involving 358 arrestees for credit card fraud during this five and one half year period. For purposes of this study, if the subject was re-arrested on the same charge, after being released by the police department pending further investigation, the first arrest was omitted and the re-arrest information was used. For most of the statistical portion of this section, the total number of cases used was 358 (which are the cases in which a final disposition was rendered).

OFFENDER BACKGROUND

Males accounted for 72.1 percent of arrests for credit card fraud. This is almost two and one-half times the number of arrests of women. (See Table 1.)

The age of the offender ranged from 18 to 72. The ages were broken into five groupings: 18-21, 22-25, 26-35, 36-50, and over 50. The group with the fewest arrests was the group over 50, accounting for only two arrests. The group with the

highest number of arrests was the 26-35 year-old age group, with 126 arrests. (See Table 2.)

TABLE 1
SEX OF ARRESTEE

<u>SEX</u>	<u>COUNT</u>	<u>PERCENT</u>
Male	258	72.1
Female	<u>100</u>	<u>27.9</u>
Total	358	100.0

TABLE 2
AGE OF ARRESTEE

<u>AGE</u>	<u>COUNT</u>	<u>PERCENT</u>
18-21	104	29.1
22-25	84	23.5
26-35	126	35.2
36-50	42	11.7
Over 50	<u>2</u>	<u>0.6</u>
Total	358	100.1

NOTE: Percentages do not total 100 due to rounding.

The trends in racial extraction of the arrestees follow the same trends found in the Crime in Hawaii 1984 report, in that most of those arrested for credit card fraud were whites.²⁸ There were 179 arrests in the white group over the five and one-half year period, while the fewest arrests in any

race were two in the Korean group. The other race groups with fewer than 10 arrests were the American Indian and the Chinese with four and nine arrests respectively. (See Table 3.)

TABLE 3
RACE OF ARRESTEES

<u>RACE</u>	<u>COUNT</u>	<u>PERCENT</u>
White	179	50.0
Black	46	12.8
American Indian	4	1.1
Chinese	9	2.5
Japanese	10	2.8
Korean	2	0.6
Hawaiian*	65	18.2
Filipino	13	3.6
Other	<u>30</u>	<u>8.4</u>
Total	358	100.0

NOTE: *Hawaiian race category also includes Part-Hawaiians.

ARRESTS

The number of people arrested per county varied from a low of seven in Kauai County to a high of 314 in the City and County of Honolulu. (See Table 4.)

Tables 5 and 6 relate to arrests and are trend tables. Table 5 indicates the number of people who were arrested by month. For this table, the year 1985 was deleted since there were only six months of data available for that year. This table indicates that there were more people arrested for credit card fraud in February (43 arrests) than any other time of the

year. The fewest arrests occurred in January with 21 arrests. The number of arrests in the holiday months was lower than expected; there were 31 arrests in December and 18 arrests in January. These two months combined only total six more arrests than the month of February. (See Table 5.)

TABLE 4
NUMBER OF ARRESTS PER COUNTY

<u>COUNTY</u>	<u>COUNT</u>	<u>PERCENT</u>
Hawaii County	9	2.5
Honolulu County	314	87.7
Kauai County	7	2.0
Maui County	<u>28</u>	<u>7.8</u>
Total	358	100.0

TABLE 5
NUMBER OF ARRESTS BY MONTH

<u>MONTH</u>	<u>NUMBER OF ARRESTS</u>	<u>PERCENT</u>
January	18	5.5
February	43	13.1
March	25	7.6
April	22	6.7
May	31	9.5
June	25	7.6
July	28	8.5
August	35	10.7
September	21	6.4
October	23	7.0
November	26	7.9
December	<u>31</u>	<u>9.5</u>
Total	328	100.0

Table 6 reports the trend for arrests by year for 1980 through 1984. Again, the year 1985 was eliminated from this table because data were available only for the first six months of 1985. The year with the highest number of arrests was 1980 (91). The year with the lowest number of arrests was 1984 (27). This is a 70.3 percent reduction in the number of arrests from 1980 to 1984.

TABLE 6
NUMBER OF ARRESTS PER YEAR

<u>YEAR</u>	<u>NUMBER ARRESTED</u>	<u>PERCENT</u>
1980	91	27.7
1981	60	18.3
1982	82	25.0
1983	68	20.7
1984	<u>27</u>	<u>8.2</u>
Total	328	99.9

NOTE: Percent does not total 100 due to rounding.

CHARGES

The charges on which police arrests were based were false statement for a credit card (HRS 851-2), theft/forgery of a credit card (HRS 851-3), fraudulent credit card use (HRS 851-4), and fraud by provider of goods/services (HRS 851-5). These covered felony, misdemeanor and petty misdemeanor offenses. The statute with the highest number of violations was fraudulent credit card use with 335. The statute violated

least often was fraud by provider of goods and services. (See Table 7.)

TABLE 7
NUMBER OF CHARGES BY STATUTE

<u>ARREST CHARGE</u>	<u>COUNT</u>	<u>PERCENT</u>
False statement	5	1.1
Theft/forgery of card	109	23.1
Fraudulent use of a card	355	75.4
Fraud by provider	<u>2</u>	<u>0.4</u>
Total	471	100.0

However, the final charges on which the offender was prosecuted were different, in some cases, from the arrest charge. These statutes were theft 2 (HRS 708-832), theft 3 (HRS 708-833), forgery 2 (HRS 708-852), false statement for a credit card (HRS 851-2), theft/forgery of a credit card (HRS 851-3), fraudulent use of a credit card (HRS 851-4), fraud by the provider (HRS 851-5), and receipt of goods obtained with fraudulent credit card (HRS 851-7). (See Table 8.)

TABLE 8
NUMBER OF CHARGES BY PROSECUTORS CHARGE

<u>PROSECUTORS CHARGE</u>	<u>COUNT</u>	<u>PERCENT</u>
Theft 2	1	0.2
Forgery 2	3	0.6
False Statement	6	1.3
Theft/Forgery of Card	110	23.4
Fraud use of Card	348	73.7
Fraud by Provider	2	0.4
Receipt of goods	<u>1</u>	<u>0.2</u>
Total	471	99.8

NOTE: Percentages do not total 100 due to rounding.

Table 9 shows the changes in charges that occurred during the prosecution of those arrested on credit card fraud. The number of cases is represented by the prosecutor's charge and by the original arrest charge. The table shows that of the 355 cases in which a person was arrested under fraudulent use of a card, there were seven cases where the offender either plea bargained or could not be convicted under the original charge and was therefore prosecuted under another statute.

TABLE 9
CROSSTABULATION TABLE SHOWING THE CHANGES IN CHARGES
FROM ARREST TO PROSECUTION

<u>PROSECUTORS CHARGE</u>	<u>ORIGINAL ARREST CHARGE</u>			
	<u>851-2</u>	<u>851-3</u>	<u>851-4</u>	<u>851-5</u>
708-832	0	0	1	0
708-852	0	0	3	0
851-2	5	0	1	0
851-3	0	109	1	0
851-4	0	0	348	0
851-5	0	0	0	2
851-7	0	0	1	0

Table 10 represents the number of people arrested per age grouping and the violation they were arrested for. Most of the people arrested were of the 26-35 age group, and they were arrested for fraudulent use of a credit card. (See Table 10).

TABLE 10
NUMBER OF CHARGES PER STATUTE BY AGE GROUP

ARREST CHARGE	AGE					TOTAL
	18-21	22-25	26-35	36-50	OVER 50	
False Statement	0	0	1	2	0	3
Theft/Forgery	39	15	17	12	0	83
Fraud use of Card	65	69	108	27	1	270
Fraud by Provider	0	0	0	1	1	2
TOTAL	104	84	126	42	2	358
COLUMN PERCENT	29.1	23.5	35.2	11.7	0.6	100.1

NOTE: Percentages do not total 100 due to rounding.

SENTENCING

In this section, sentencing will only address the most serious charge and the sentence received for that charge. There was a total of 107 arrestees convicted and sentenced.

Table 11 lists the different sentences received by the offenders and also the combinations of sentences received (i.e. confinement and restitution).

However, of the 107 offenders, only 55 received some confinement; 67 received some form of probation; 15 sentences received some form of fine; and finally, 9 cases were assigned community service work. Of those confined, the confinement period varied greatly from six days to ten years. The most frequently received confinement period was less than one year (61.8 percent). (See Table 12.)

With 67 people on probation for credit card fraud, the most frequently received probation term was one to five years (92.5 percent) and the shortest probation term was four days.

Table 13 gives the length of time a probationer was placed on probation. This is shown in years.

TABLE 11
TYPES OF SENTENCES RECEIVED

<u>TYPE OF SENTENCE(S)</u>	<u>OFFENDERS</u>	<u>PERCENT</u>
Community Service Only	2	1.9
Confinement Only	26	24.3
Confinement and Fine	4	3.7
Confinement and Probation	12	11.2
Confinement and Restitution	3	2.8
Confinement/Fine/Restitution	1	0.9
Confinement/Probation/Fine	4	3.7
Confinement/Probation/Restitution	5	4.7
Fine Only	4	3.7
Probation Only	31	29.0
Probation and Community Service	4	3.7
Probation and Fine	1	0.9
Probation and Restitution	6	5.6
Probation/Community/Restitution	3	2.8
Probation/Fine/Restitution	<u>1</u>	<u>0.9</u>
Total	107	99.8

NOTE: Percentages do not total 100 due to rounding

TABLE 12
TIME CONFINED AND THE NUMBER OF OFFENDERS CONFINED

<u>CONFINEMENT PERIOD</u>	<u>NUMBER CONFINED</u>	<u>PERCENT</u>
Less than One year	34	61.8
One to Five years	20	36.4
Five to Ten years	<u>1</u>	<u>1.8</u>
Total	55	100.0

TABLE 13
PROBATION PERIOD AND NUMBER OF PROBATIONERS

<u>PROBATION PERIOD</u>	<u>PROBATIONERS</u>	<u>PERCENT</u>
Less than One year	5	7.4
One to Five years	<u>62</u>	<u>92.5</u>
Total	67	99.9

NOTES: Does not total 100 due to rounding.

The range of fines imposed was from \$25 to \$500. There were five people who received a fine of \$500 (the most frequently received fine) for credit card fraud while only one person received a \$200 fine. (See Table 14.)

TABLE 14
FINE AMOUNT AND NUMBER OF PEOPLE RECEIVING FINES

<u>FINE AMOUNT</u>	<u>COUNT</u>	<u>PERCENT</u>
\$ 25	2	13.3
\$ 50	3	20.0
\$100	2	13.3
\$200	1	7.0
\$250	2	13.3
\$500	<u>5</u>	<u>33.3</u>
Total	15	100.2

NOTES: Does not total 100 due to rounding.

The least imposed form of sentence was community service hours. There were only nine people sentenced to this punishment and it ranged from 36 hours to 250 hours. The community service time imposed most frequently was 100 community service hours (5). (See Table 15.)

TABLE 15
NUMBER OF COMMUNITY SERVICE HOURS RECEIVED
AND THE NUMBER OF PEOPLE ON COMMUNITY SERVICE

<u>HOURS</u>	<u>PEOPLE</u>	<u>PERCENT</u>
36	1	11.1
100	5	55.6
150	1	11.1
200	1	11.1
250	1	11.1
Total	9	100.0

CONCLUSIONS

The information presented in this section of the study suggests that in Hawaii, the typical credit card fraud offender is a white male between the ages of 26-35, residing in the City and County of Honolulu, and that he would be charged with fraudulent use of a credit card.

The causes of the decreases and increases in tables 5 and 6 are unknown. Banks may be discovering better ways to protect the credit card, or credit card thieves may have devised better ways to avoid detection. Whatever the cause, it would appear that credit card fraud in general has been on the downswing from 1980 to 1984.

CREDIT CARD SURVEY RESULTS

The Hawaii Criminal Justice Data Center conducted a pilot survey of financial institutions, department stores (locally owned), chain stores, service stations, and other credit card issuing institutions to assess the nature and volume of credit card fraud in Hawaii. These institutions were selected on the basis that they issue credit cards in Hawaii.

The survey covered the calendar year 1984. More surveys are planned in the future.

Thirty-four institutions were sent questionnaires. Of the 34, 15 were financial institutions, 4 were department stores, 3 were chain stores, 5 were service stations, and 7 were other credit card issuing institutions.

Information relating to the number of cards issued, value of transactions, number of transactions, number of lost/stolen cards, etc. was requested. The results of the survey are presented below. There was a 44% return rate.

The questionnaire was divided into two parts: the first section requested actual figures; the second section asked subjective questions such as how the respondent perceived credit card fraud.

It should be noted that these results are being presented in a vacuum and cannot be indicative of the actual amount of credit card fraud in Hawaii. This is because if someone has a card stolen in Chicago, and the thief uses the card to come to

Hawaii, rent a car, or eat at restaurants, he has committed credit card fraud. While these are all frauds that were perpetrated here in Hawaii, the incidents will never be reported to the Honolulu Police Department because the card theft occurred in Chicago.

RESULTS

There were 34 surveys sent to various institutions, of which 16 were returned to the HCJDC. For the purpose of this section, except where noted, the total shown will be for the 16 responding institutions.

The institutions which responded to our survey were 9 financial institutions, 5 service stations, 1 department store and 1 other institution. (See Table 16.)

Table 16
RESPONDENTS

<u>Type of Institution</u>	<u>Count</u>	<u>Percent</u>
Financial	9	56.3
Service Station	5	31.3
Department Store	1	6.3
Other	<u>1</u>	<u>6.3</u>
Total	16	100.2

NOTE: Percent does not total 100 due to rounding.

Only nine of the 16 responding institutions reported the number of cards issued and transactions. They had issued 131,118 cards in 1984. The range was 371 cards to 46,105 cards.

There were a little over 1.95 million transactions reported by these nine institutions from a low of 1,147 to a high of 1.1 million. There was also a wide range in the value of these transactions from \$175,157 to \$200,858,446. The dollar value of the transactions was just over \$247 million.

This is an average value of \$127.38 per transaction and an average value of \$1,899.41 per credit card issued for 1984.

The 16 respondents reported 2,651 credit cards stolen in Hawaii in 1984. One institution reported no cards stolen. The institutions were then asked to provide dollar value amounts lost in each incident. There was a total of \$16,136.18 reported or \$6.09 per stolen card. They were then asked to indicate what the actual loss was in terms of the dollar loss they suffered (after restitution, pay back, etc.). There was an actual loss of \$11,331 by the 16 institutions. The low was \$363 and the high was \$4,230. The average actual loss was \$4.27 per stolen card.

There were 485 total credit cards lost in 1984. The high was 326 and the low was zero. The value of lost card incidents totaled \$8,565.97 with a high of \$5,146 and a low of zero. The average incident loss was \$17.66 per lost card. The actual value of the lost card incidents totaled \$5,673.80. The average actual loss was \$11.70 per lost card.

The second portion of the questionnaire asked for the respondent's opinions. The first question was "Do you feel that credit card fraud in the State of Hawaii is rising?" Fifty percent of the respondents said yes. (See Table 17.)

The next question was "On a scale of 1 to 10 (1 being low and 10 being high) how prevalent do you feel credit card fraud is?" (See Table 18). The average score of the responses was 4.7.

Table 17
IS CREDIT CARD FRAUD RISING?

<u>RESPONSE</u>	<u>COUNT</u>	<u>PERCENT</u>
Yes	8	50.0
No	4	25.0
Unknown	<u>4</u>	<u>25.0</u>
Total	16	100.0

Table 18
PREVALENCE OF CREDIT CARD FRAUD

<u>RESPONSE</u>	<u>COUNT</u>	<u>PERCENT</u>
0 (low)	3	18.8
1	2	12.5
2	1	6.3
5 (middle)	2	12.5
6	3	18.8
7	1	6.3
8	2	12.5
10 (high)	<u>2</u>	<u>12.5</u>
Total	16	100.2

NOTE: Percent does not total 100 due to rounding.

The next question dealt with how frequently the institutions received calls regarding lost/stolen credit cards. The most frequent response was every day. (See Table 19.)

The last two questions dealt with customer and employee terrorism. This addresses the possibility of someone using extortion or terroristic tactics on an issuing institution as it relates to credit cards. For both of these questions the unanimous response was no.

Table 19
FREQUENCY OF COMPLAINTS

<u>RESPONSE</u>	<u>COUNT</u>	<u>PERCENT</u>
Every Day	4	25.0
Once a Month	4	25.0
Once a Year	1	6.3
Twice a Year	2	12.5
Three Times a Year	1	6.3
Quarterly	1	6.3
Unknown	3	18.8
Total	16	100.2

NOTE: Percent does not total 100 due to rounding.

RESPONDENT'S PROTECTION RECOMMENDATIONS

The respondents were asked what they would recommend to the customer to protect their credit card, and what to do if it was stolen. The results of the question concerning the things a card holder can do to protect the credit card are listed below:

1. Sign the Card immediately upon receipt.
2. Carry only those cards necessary, leave all others at home.
3. Record the account number in a safe locked place.
4. Carry your card on your person, NOT in the glove compartment of your car.
5. Review monthly statements carefully to make sure there are no unauthorized charges.
6. Report any unauthorized use of your card immediately.
7. Never loan out your credit card to anyone unless you can trust that persons integrity.

Recommendations to the customer who realizes the card is

missing or stolen are listed below:

1. Report the loss immediately to the police, then to issuing institution with police report number and officer's name.
2. Monitor monthly statements for any unauthorized use.
3. Immediately request a new account number to prevent any confusion.

The one thing that all the institutions agree upon is that as soon as the cardholder realizes the card is missing, he should report it to the police and to the issuing institution. Doing this will prevent loss, confusion, and problems for both the customer and the issuing institution.

CONCLUSION

With such limited data available, there are not many conclusions which can be drawn. Based on the dollar loss per credit card determined in this survey, credit card fraud does not seem high. However, the respondents believe that credit card fraud is increasing in Hawaii, and it is a major concern to them. This is evidenced not only in their response to the question of whether credit card fraud is rising but also in the frequency with which they receive calls regarding credit card fraud. Four institutions indicated receiving daily calls regarding credit cards either being lost or stolen. For the calendar year of 1984, there were at least 3,136 lost or stolen

credit cards in the State of Hawaii. This averages out to 9 credit cards lost or stolen daily.

Comparison of Hawaii's credit card fraud data with national credit card fraud data was not possible. The national data is at best very sketchy. Many cardholders will report a stolen card to the issuing institution, but not to the police. Consequently, the police do not receive much information concerning credit card fraud because the institutions are very reluctant to reveal fraud data.

Mr. Gerald Bechtle, former Deputy Directory of the Secret Service, would like the Secret Service to become the focal point for the dissemination of information relating to known credit card offenders for the various Federal, State, and local criminal justice agencies.²⁹ Since stolen or lost credit cards are so easily transported between states, reliable and timely information is essential in the prevention of credit card fraud.

APPENDIX A

Please indicate which credit cards you issue and provide the necessary information

1. <u>NAME OF CARD ISSUED</u>	YEAR FIRST ISSUED	NUMBER OF CREDIT CARDS ISSUED	NUMBER OF TRANSACTIONS 1984	VALUE OF TRANSACTIONS 1984
A. _____	_____	_____	_____	\$ _____
B. _____	_____	_____	_____	\$ _____
C. _____	_____	_____	_____	\$ _____
D. _____	_____	_____	_____	\$ _____

2. <u>INCIDENTS INVOLVING LOST/STOLEN CREDIT CARDS</u>	NUMBER OF INCIDENTS 1984	VALUE OF INCIDENTS 1984	ACTUAL LOSS 1984
A. Stolen cards	_____	_____	_____
B. Fraudulent application	_____	_____	_____
1. Imposter	_____	_____	_____
2. Actual applicant	_____	_____	_____
3. Supplemental card (friend/relative)	_____	_____	_____
4. Family member	_____	_____	_____
C. Lost card	_____	_____	_____
D. Non-received	_____	_____	_____
E. Altered card	_____	_____	_____
F. Mail order sales	_____	_____	_____
G. Telephone sales	_____	_____	_____
H. Card not shown	_____	_____	_____
I. (collusion store/thief)	_____	_____	_____
J. Service establishment	_____	_____	_____
1. Hotel/motel	_____	_____	_____
2. Gift/baggage/jewelry	_____	_____	_____
3. Mail order	_____	_____	_____
4. Car rental	_____	_____	_____
5. Specialty shops	_____	_____	_____
6. Check cashing	_____	_____	_____
7. Oil companies	_____	_____	_____
8. Other travel	_____	_____	_____
9. Gourmet/liquor	_____	_____	_____
10. Travel agents	_____	_____	_____
11. Flowers/candy/books	_____	_____	_____
K. Returned cards (used)	_____	_____	_____
L. Counterfeit card	_____	_____	_____
M. Blank card theft	_____	_____	_____
N. Internal fraud	_____	_____	_____
O. Airlines	_____	_____	_____
P. Department stores	_____	_____	_____
Q. Clothing shops	_____	_____	_____
R. Restaurants/bars	_____	_____	_____
S. Shops (other)	_____	_____	_____

- D. Please give the total number of offenders for each age group listed.
- 1) 18-21
 - 2) 22-25
 - 3) 26-35
 - 4) 36-50
 - 5) over 50
- E. Please give the total number of offenders for each sex.
- 1) Male
 - 2) Female
 - 3) Unknown
- F. Is there a particular time of the year that credit card fraud is committed more frequently? Please give the total number of offenses for the quarter listed.
- 1) January-March
 - 2) April-June
 - 3) July-September
 - 4) October-December
- G. What is your estimate of the annual dollar loss due to credit card fraud in the State of Hawaii?
- 1) \$0-10,000
 - 2) \$10,001-50,000
 - 3) \$50,001-100,000
 - 4) \$100,001-500,000
 - 5) over \$500,000
- H. What is your annual loss to credit card fraud? \$ _____
- I. What is your process for handling credit card fraud?
- J. How frequently do you receive complaints concerning credit cards that you would consider to be fraudulent?
- 1) Everyday
 - 2) Once a week
 - 3) Once a month
 - 4) Once a year
 - 5) Twice a year
 - 6) Three time a year
 - 7) Quarterly
- K. Have you ever had an employee use terroristic tactics or extortion on credit cards (i.e. I'll destroy all the credit cards if you do not give me a raise)?
- 1) yes
 - 2) no
- L. If yes, how many times? _____

- M. Have you ever had a customer use terroristic tactics or extortion on credit cards (i.e. I'll shoot the credit manager if you don't fix my account)? 1) yes
2) no
- N. If yes, how many times?
- O. With what statute was he charged?
- P. How are the credit card protected before, during, and after they are produced (while still in the possession of the issuing institution)?
- Q. If the credit card is stolen before the customer actually receives the credit card, and before the company has sent it to the customer, is liability charged to the customer? 1) yes
2) NO
- R. If the credit card is stolen before the customer actually receives the credit card, but after the company has sent it to the customer, is liability charged to the customer? 1) yes
2) no
- S. How do you recommend that the customer protect the credit card after he receives it?
- T. What do you recommend that the customer if his credit card is stolen?

APPENDIX B

Point-Of-Sale (POS) Terminals

The POS terminal is becoming a very popular item for local retail businesses. On a POS terminal a customer's charge account or personal check can be authorized within fifteen seconds, and so it is possible, in theory, to cut credit card fraud and check loss to almost zero.

There are many types of POS terminals currently on the market. However, all POS terminals operate in the same general way. When the customer presents the charge card to the merchant, the merchant slides the magnetic stripe located on the back of the card through the magnetic stripe reader, types in the dollar amount and then pushes the dial button. If the card was issued by a local bank, the terminal will call the bank directly and get the required approval. If it is a Mainland VISA or MasterCard account, depending on the amount, it either goes to VISA or MasterCard headquarters, or to the issuing institution for approval.

Once the merchant installs a POS terminal, it becomes mandatory for the store to check all charges through this terminal. If the merchant does not check a charge and that charge was fraudulent, the loss is absorbed by the store. However, if the store does check all charges, and a fraudulent charge appears, then the bank takes the loss for the fraudulent charges. Thus, with the POS terminals the floor limit is essentially \$0.00.

NOTES

1. Nilson Report, Issue 347, January 1985, Page 1
2. Interview with Mr. Tosh Sato of American Express
3. *ibid*
4. Mary-Margaret Wantuck, "Assault With a Plastic Weapon," Nation's Business, May 1984, Page 20
5. *ibid*
6. *ibid*
7. Interview with Mr. William Colter of the United States Secret Service
8. Interview with Detective Francis H. Rodillas, Hawaii County Police Department
9. "Update: Credit Cards," Changing Times, July 1982, Page 79
10. "Money and Banking: To Catch a Credit Card Thief," BusinessWeek, April 4, 1983, Page 75
11. United States Codes Annotated: 1984 Supplement, Title 18, Page 150
12. *ibid*, Pages 153-154
13. United States Codes Annotated: 1984 Supplement, Title 15, Pages 209-210
14. Colter, *Loc.Cit.*
15. Hawaii Revised Statutes, Chapter 851, Pages 588-591
16. *ibid*, Pages 590-591
17. *ibid*, Page 591
18. *ibid*
19. *ibid*, Page 592
20. Interview with Mr. Francis Yamashita, Deputy Prosecuting Attorney, Department of the Prosecuting Attorney, City and County of Honolulu.

21. Charles B. Keil, "Widespread Bank Card Fraud Under Assault; Sophisticated Weapons in Use - From Holograms to the Scrutiny of the Merchant," American Banker, September 10, 1984, Page 48
22. Penny Pagano, "MasterCard Unveils 'Smart' Credit Card," Honolulu Advertiser, September 27, 1985, Page B1
23. ibid
24. Nation's Business, op. cit., Page 21
25. "Credit Card Ripoffs: A Spreading Epidemic," U.S. News & World Report, October 3, 1983, Pages 78-79
26. Changing Times, op. cit., Page 54
27. Service Establishment Fraud Prevention Handbook, American Express, Page 10
28. "Table 21: Race of Adults Arrested by Offense, Crime In Hawaii, 1984, (Forgery/Counterfeiting and Fraud combined), Page 73
29. Speech by Mr. Gerald Bechtle, Assistant Director Secret Service, to the International Association of Credit Card Investigators International Training Seminar.

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