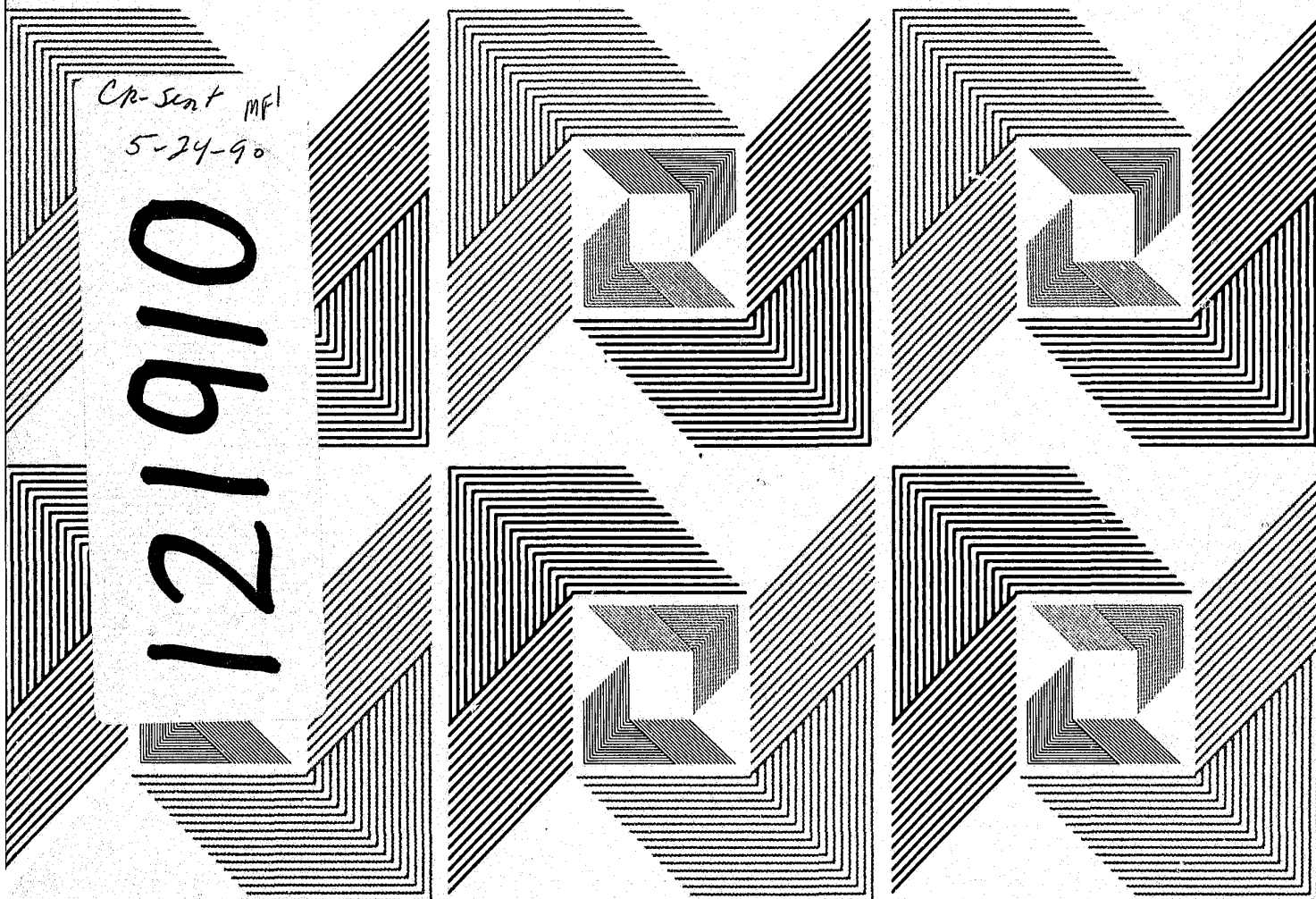


REPORT NO. 89-5  
JANUARY 1989

# MANAGEMENT AND FINANCIAL AUDIT OF THE JUDICIARY OF THE STATE OF HAWAII

A REPORT TO THE GOVERNOR AND THE LEGISLATURE OF THE STATE OF HAWAII



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## THE OFFICE OF THE LEGISLATIVE AUDITOR

The office of the legislative auditor is a public agency attached to the Hawaii State legislature. It is established by Article VII, Section 10, of the Constitution of the State of Hawaii. The expenses of the office are financed through appropriations made by the legislature.

The primary function of this office is to strengthen the legislature's capabilities in making rational decisions with respect to authorizing public programs, setting program levels, and establishing fiscal policies and in conducting an effective review and appraisal of the performance of public agencies.

The office of the legislative auditor endeavors to fulfill this responsibility by carrying on the following activities.

1. Conducting examinations and tests of state agencies' planning, programming, and budgeting processes to determine the quality of these processes and thus the pertinence of the actions requested of the legislature by these agencies.
2. Conducting examinations and tests of state agencies' implementation processes to determine whether the laws, policies, and programs of the State are being carried out in an effective, efficient, and economical manner.
3. Conducting systematic and periodic examinations of all financial statements prepared by and for all state and county agencies to attest to their substantial accuracy and reliability.
4. Conducting tests of all internal control systems of state and local agencies to ensure that such systems are properly designed to safeguard the agencies' assets against loss from waste, fraud, error, etc.; to ensure the legality, accuracy, and reliability of the agencies' financial transaction records and statements; to promote efficient operations; and to encourage adherence to prescribed management policies.

5. Conducting special studies and investigations as may be directed by the legislature.

Hawaii's laws provide the legislative auditor with broad powers to examine and inspect all books, records, statements, documents, and all financial affairs of every state and local agency. However, the office exercises no control functions and is restricted to reviewing, evaluating, and reporting its findings and recommendations to the legislature and the governor.



LEGISLATIVE AUDITOR  
KEKUANAO'A BUILDING, RM. 500  
465 SOUTH KING STREET  
HONOLULU, HAWAII 96813

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## **MANAGEMENT AND FINANCIAL AUDIT OF THE JUDICIARY OF THE STATE OF HAWAII**

**Conducted by**

**Office of the Legislative Auditor  
State of Hawaii**

**EMT Associates, Inc.**

**Peat Marwick Main & Co.  
Certified Public Accountants**

**A Report to the Governor and the Legislature of the State of Hawaii**

**Submitted by the**

**Legislative Auditor of the State of Hawaii  
Honolulu, Hawaii**

**Report No. 89-5  
January 1989**

## FOREWORD

The Hawaii Judiciary is a unified judicial system with powers separate from those of the legislative and executive branches of government. It is a co-equal branch of government not subject to executive branch controls.

The evolution of the Judiciary into a modern, independent institution has been strongly supported by the Legislature through legislation and appropriations. To ensure that the Judiciary is being administered effectively, the Legislature requested in the Judiciary Supplemental Appropriations Act of 1988 that the Office of the Legislative Auditor conduct an audit of the management, operations, and expenditures of the Judiciary. This audit was prepared in response to that request.

We were assisted in this audit by EMT Associates, Inc., which provided technical assistance in the areas of case management and records and information systems management. Peat Marwick Main & Co. conducted the financial audit of the Judiciary.

We join both firms in expressing our appreciation to the Chief Justice, the Administrative Director of the Courts, and other Judiciary personnel for the cooperation and assistance extended to us during the course of this audit.

Newton Sue  
Acting Legislative Auditor  
State of Hawaii

January 1989

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## Chapter 1

### INTRODUCTION

This is a report on our audit of the management, operations, and expenditures of the Hawaii State Judiciary which was requested by the Legislature in the Judiciary Supplemental Appropriations Act of 1988.

The Hawaii Judiciary has attained national recognition as an independent, unified court system with a strong constitutional and statutory base. It became a unified court system in 1965 when the district courts were transferred from the counties to the State. In the 1970's two legislative acts advanced the Judiciary's standing as a separate and co-equal branch of government. In 1974, Act 159 freed the Judiciary from executive branch budgeting controls by allowing it to submit its budget directly to the Legislature, and in 1977, Act 159 allowed the Judiciary to establish and operate its own personnel system.

The Judiciary has received generous legislative support of its budget requests with substantial increases in appropriations during the late 1970s and early 1980s, the years of significant development and growth. In recent years, however, questions have been raised about the amounts and purposes of the Judiciary's expenditures and the adequacy of its administrative management, planning, and budgeting.

The request for this audit reflects legislative concerns about the Judiciary's management and financial practices. The Legislature was particularly concerned about the management and operations of the Judiciary's personnel office and computer systems office.

#### **Objectives of the Audit**

The objectives of the audit are to:

1. Assess the adequacy of the Judiciary's administration and management of its courts, support services, and programs.
2. Identify changes in the Judiciary's organization and management processes that would improve its operations.
3. Make recommendations for improving administration of the Judiciary.

### **Scope of the Audit**

Our audit of the Judiciary covered several critical management areas. We examined the overall structure of administration including its organization and management processes. We evaluated the judicial functions of the courts by looking at case management practices at the district and circuit courts. Support services relating to the management of information systems, records, and personnel services were assessed. We also reviewed the appropriateness and adequacy of the programs carried out by the courts. Finally, we assessed the Judiciary's financial management of budgeting, accounting, and internal control and we present its financial statements and independent auditor's report.

### **Organization of the Report**

This report consists of the following chapters:

Chapter 1 is this introduction.

Chapter 2 provides some background on the Hawaii Judiciary.

Chapter 3 presents our findings and recommendations on the administration of the Judiciary.

Chapter 4 assesses case management at the circuit, family, and district courts.

Chapter 5 examines records management at the courts.

Chapter 6 evaluates management of information systems at the Judiciary.

Chapter 7 reviews personnel management.

Chapter 8 assesses management of court-related programs at the Judiciary.

Chapter 9 reports on the Judiciary's financial management.

Chapter 10 presents the Judiciary's financial statements.

## Chapter 2

### BACKGROUND

Over the years, the State has pursued the ideal of an efficient, unified, and independent judicial system. This is seen in changes that have been made in the State Constitution and in legislation that has been enacted over the years.<sup>1</sup> In this chapter, we describe the constitutional and statutory bases for the Hawaii Judiciary and its current organization and operations. We also provide some background on factors influencing the Judiciary today and national trends in judicial administration.

#### Constitutional Provisions

The Hawaii Constitution that went into effect with statehood in 1959 established a unified, independent Judiciary. The judicial power of the State is vested in a Supreme Court, circuit courts, and in such other courts as the Legislature may establish. Authority for the courts is centralized in the Chief Justice who is the administrative head of the courts.

The Chief Justice has the flexibility to assign judges of the lower courts to serve temporarily in the higher courts and to assign judges from one circuit court to another. With the approval of the Supreme Court, the Chief Justice appoints an administrative director who serves at the Chief Justice's pleasure.

The State has a strong Supreme Court. The Constitution states that the Supreme Court shall have the power to promulgate rules and regulations in all civil and criminal cases for all courts relating to process, practices, procedures, and appeals. Where a statute conflicts with a rule in matters of procedure, the Supreme Court rule takes precedence.

To enable the Judiciary to police its own ranks independently, the Supreme Court was given the power to impose a range of judicial sanctions, including the power to reprimand, discipline, suspend with or without salary, retire or remove from office any justice or judge for misconduct or disability.

The 1978 Constitutional Convention further strengthened the Judiciary. In response to increases in caseload at the appellate level and delays in the disposition of cases, the Constitution was amended to establish an Intermediate Court of Appeals (ICA) and to require courts to have time limits for the disposition of cases.

To ensure the appointment of more qualified judges, the 1978 Constitutional Convention established a nine-member Judicial Selection Commission. Three members of the nonpartisan commission are appointed by the Governor, two by the Chief Justice, one each by the President of the Senate and the Speaker of the House of Representatives, and two members are elected by members of the bar.

Justices and judges of the ICA and circuit courts are now appointed by the Governor from a list of not less than six nominees submitted by the Judicial Selection Commission. The term of appointment is ten years. Judges of the district courts are appointed by the Chief Justice from a list of not less than six nominees from the Judicial Selection Commission. Decisions on whether a justice or judge should be retained in office are also made by the Judicial Selection Commission.

### **Statutory Provisions**

The concept of an independent, unified Judiciary is also implemented by statutes which, over the years, have consolidated the courts and made the Chief Justice responsible for the operation of all the courts and all judicial business.

Act 259, 1959, required the Chief Justice to present to the Legislature a unified budget for all the courts except the district courts. It stated that the Chief Justice has the power to do all that may be necessary or appropriate for the administration of the Judiciary.

In 1965, the Legislature sought more uniform administration and better integration of the courts by establishing the administration and operation of district courts as state functions. The courts were further consolidated in 1970 when Act 188 established a single district court for each county, made them courts of record thereby eliminating the right to trial *de novo* at the circuit court level, and provided for direct appeals to the Supreme Court.

The Judiciary was given complete control over its budget in 1974 when the Legislature gave the Chief Justice exclusive authority over the preparation of the budget and its program and financial plans and authorized the Chief Justice to present directly to the Legislature a unified budget for all programs of the Judiciary.

In 1977, the Legislature removed executive branch controls over the personnel of the Judiciary. The Judiciary was authorized to create and administer its own civil service system. All the powers and duties assigned to the Governor or the Director of Personnel Services for personnel were assigned to the Chief Justice or the Administrative Director of the Courts. The Judiciary now has a status coequal with the executive branch in developing position plans, formulating personnel rules, and administering the Judiciary personnel system.

This centralization of authority was intended to give the Judiciary greater control over its personnel resources and the opportunity to develop more uniform rules and procedures for the courts and more accurate budgeting and planning.

### **Organization of the Judiciary**

The overall organization of the Judiciary is shown in Figure 2.1. The Judiciary is divided into court operations and support services. The Chief Justice is the overall administrative head of the Judiciary with direct responsibility and authority for the operations of the appellate courts, Land Court, Tax Appeal Court, circuit courts, and district courts. The Administrative Director of the Courts has authority and responsibility for support services to the courts.

A description of the operations of the Judiciary follows.

**Courts of appeal.** The Supreme Court is the highest appellate level in the State with both appellate and original jurisdiction. It has general supervisory jurisdiction over all lower courts. It has the authority to promulgate rules for all civil and criminal proceedings for all courts which have the force and effect of law.

The Supreme Court consists of the Chief Justice and four associate justices who are appointed by the Governor, with the consent of the Senate, from a list of six nominees submitted by the Judicial Selection Commission. The justices are appointed for a period of ten years. There is a mandatory retirement age of 70 years.

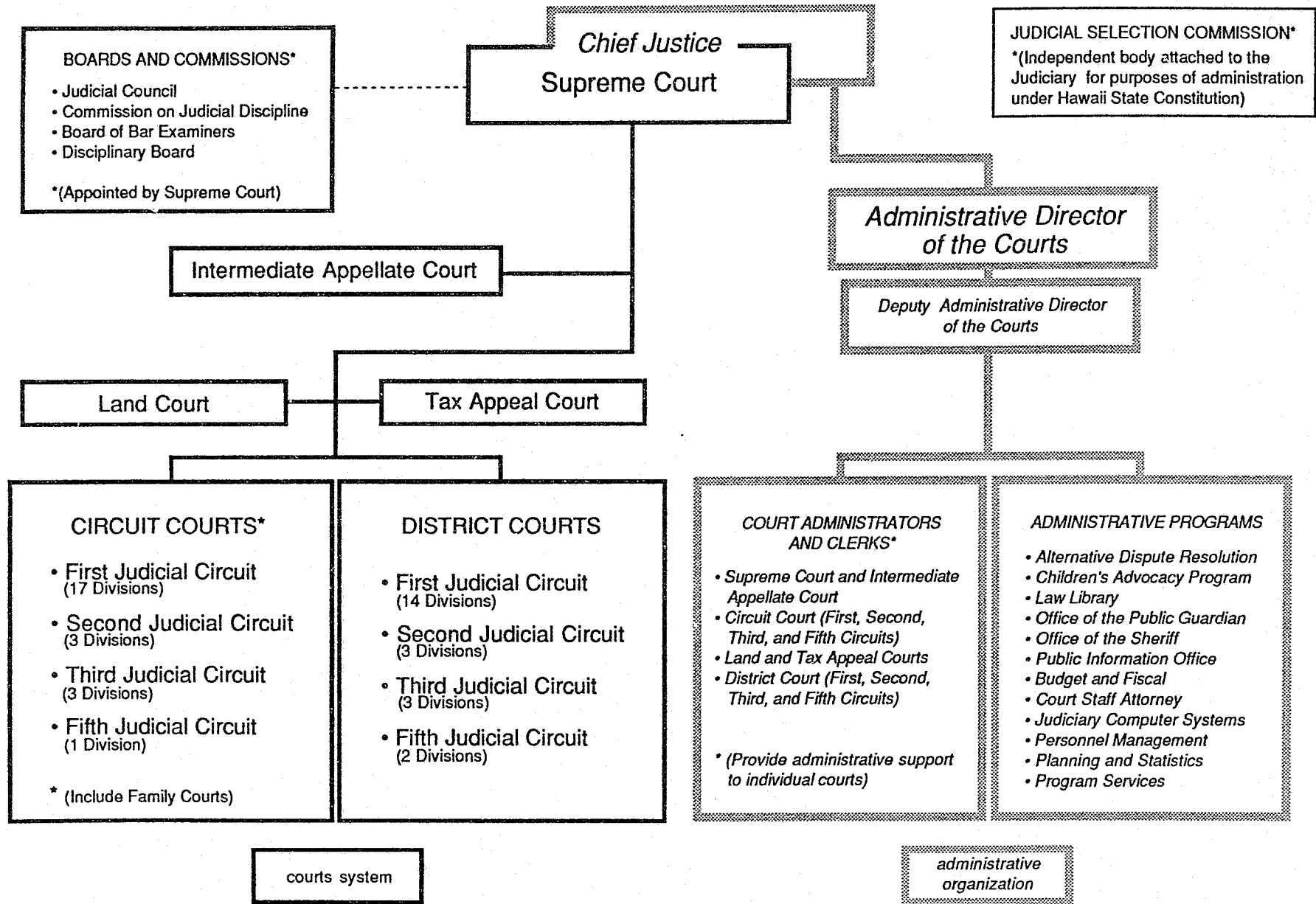
Several boards are attached to the Supreme Court. They include the Disciplinary Board which is empowered to take disciplinary action against attorneys; the Board of Bar Examiners which is responsible for screening and certifying applicants for the Hawaii bar, the Judicial Council which is an advisory body appointed and chaired by the Chief Justice; and the Commission on Judicial Discipline which investigates complaints against judges.

The ICA has concurrent jurisdiction with the Supreme Court in reviewing appeals. The Chief Justice designates a supreme court justice as an assignment judge to assign cases to either the Supreme Court or the ICA. The ICA generally handles cases involving trial court error or the application of settled law rather than the formulation and development of law.

The ICA consists of a chief judge and two associate judges who are appointed by the Governor, with the consent of the Senate, from a list of six nominees submitted by the Judicial Selection Commission. They serve for a term of ten years.

Figure 2.1

# THE JUDICIARY





**Circuit courts.** The circuit courts are trial courts of general jurisdiction. They have exclusive jurisdiction in all criminal felony cases, probate and guardianship proceedings, and in civil cases involving more than \$10,000. The circuit courts have concurrent jurisdiction with the district courts for civil actions involving \$5000 to \$10,000. All jury trials are held in the circuit courts.

The State is divided into four judicial circuits which have jurisdiction over matters falling within their geographical boundaries:

- The First Judicial Circuit is the island of Oahu and the district of Kalawao on Molokai;
- The Second Judicial Circuit includes the islands of Maui, Molokai (except Kalawao), Lanai, Kahoolawe, and Molokini;
- The Third Judicial Circuit is the island of Hawaii; and
- The Fifth Judicial Circuit includes the islands of Kauai and Niihau.

The Legislature has authorized a total of 24 circuit court judges statewide. The First Circuit has 17 circuit court judges, the Second and Third Circuits each have three circuit court judges, and the Fifth Circuit has one circuit court judge. Circuit court judges are appointed for ten years by the Governor, with the consent of the Senate, from a list of six nominees submitted by the Judicial Selection Commission.

The Chief Justice has appointed an administrative judge to supervise judicial proceedings in each of the neighbor island circuits. In the First Circuit, the Chief Justice has appointed two administrative judges, one to supervise the civil calendar and the other the criminal calendar.

The Chief Justice has the authority to assign circuit court judges temporarily to the Supreme Court or the ICA or to assign district court judges temporarily to the Circuit Court.

**Family courts.** Family courts were created in 1965 as divisions of the circuit courts to deal with children and families. The family courts have jurisdiction over children under the age of 18 who violate any laws, are neglected or abandoned, or are beyond the control of their parents. They have the authority to determine the custody of any child, the adoption of persons, or the termination of parental rights. The Family Courts have exclusive jurisdiction to try offenses committed against a child by the parent or guardian, cases of domestic abuse, and the commitment of adults.

In addition to their adjudicatory functions, the family courts provide counseling and guidance services, self-help, and detention and supervisory programs for adults and children.

The Chief Justice appoints a circuit court judge in each circuit to serve as the senior family court judge. Each circuit has a district family court. The Legislature has authorized ten district family court judgeships. The district family court judges are appointed by the Chief Justice from a list of six submitted by the Judicial Selection Commission. They serve a six-year term.

In the First Circuit, there are eight district family court judges plus the senior family court judge. In the other circuits, a circuit court judge serves as the senior family court judge with district court judges serving as family court judges. Recently, two district family judges were added, one to Maui and one to Hawaii.

In each circuit, the senior family court judge appoints a family court director who is responsible for administering court services, preparing the budget for the court, recruiting and training personnel, and fiscal and office management.

**District courts.** There are district courts in each of the four circuits. The district courts are non-jury trial courts that have exclusive jurisdiction in traffic cases, petty and criminal misdemeanors, and civil cases involving sums of less than \$5000. The Honolulu District Court includes the traffic violations bureau; the counseling and probation services division which prepares presentence reports, aids victims of crimes, and supervises probationers; and the division of driver education which was created in 1967 in accordance with the National Highway Act of 1966.

The Legislature has authorized 22 district judgeships in addition to the ten family court district judgeships. The Chief Justice appoints district court judges from a list of six presented by the Judicial Selection Commission. They serve a six-year term. The Chief Justice may also appoint judges to serve in district courts on a per diem basis.

**Land Court.** The Land Court has jurisdiction over applications for original registration of land, petitions for subdivisions, designations of easement. The Chief Justice designates a circuit court judge to be the judge of the Land Court.

**Tax Appeal Court.** The Tax Appeal Court has jurisdiction in disputes between tax assessors and taxpayers. Here again, the Chief Justice designates a circuit court judge to be the judge of the Tax Appeal Court.

**Clerks of the courts.** The statutes authorize the justices of the Supreme Court, the judges of the ICA, and the administrative judges of the circuit and district courts to appoint as many clerks, deputy clerks, and assistant clerks as may be required by the business of the various courts. By statute, the clerks of the courts of record may issue process, administer oaths, take depositions, and perform all other duties relating to their office. They also have custody over all records, exhibits, and other things pertaining to their courts.

The clerks may more properly be called court administrators who supervise the numerous functions supporting court operations. These include case management, management of records, and certain decentralized responsibilities for fiscal matters, personnel, equipment, and information systems.

Administrative judges may also appoint interpreters, court reporters, and bailiffs or "special court officers" to keep order in the courtroom and perform other duties as may be required by the presiding judges. Personnel of the Family Court of the First Circuit are to be appointed by the judge of the Family Court.

**Administrative Director of the Courts.** Support services to the courts are provided by the Administrative Director of the Courts who is appointed by the Chief Justice with the approval of the Supreme Court.

By law, the administrative director is to perform the following functions:

1. Examine the administrative methods of the courts and make recommendations to the Chief Justice for their improvement;
2. Examine the state of the dockets of the courts, prepare statistical data and reports of the business of the courts, and advise the Chief Justice on proper actions to be taken;
3. Examine estimates and make recommendations for appropriations;
4. Examine the statistical systems of the courts and make recommendations for a uniform system of judicial statistics;
5. Collect, analyze, and report to the Chief Justice statistical and other data concerning the business of the courts;
6. Assist the Chief Justice in preparing the budget and program and financial plan and other reports requested by the Legislature;
7. Carry out all duties and responsibilities specified in statutes relating to public officers and employees as it pertains to employees of the Judiciary; and
8. Attend to such other matters as may be assigned by the Chief Justice.

The Office of the Administrative Director is currently undergoing reorganization. Basically, it consists of a fiscal office, internal audit office, budget and program review office, computer systems office, personnel office, planning and statistics office, program services office, public information office, office of the sheriff, alternative dispute resolution program, children's advocacy center, the office of the public guardian, staff attorney, the Judiciary Museum Project, Project Response, and the law library.

### **Appropriations to the Judiciary**

The growth of the Judiciary in the past decade can be seen from Table 2.1 which compares the appropriations made in 1978 with those made in 1988. For budgeting purposes, the Judiciary's resources and activities are structured into five programs:

- Courts of Appeal,
- Circuit Courts,

- Family Courts,
- District Courts, and
- Administrative director support services.

Table 2.1

Appropriations to the Hawaii Judiciary, 1979 and 1989

	FY 1978-79	FY 1988-89	% Increase 1979-1989
<b>Courts of Appeal*</b>			
Positions	(40)	(61)	53
Funds	\$ 1,098,036	\$ 3,019,971	175
<b>Circuit Courts</b>			
Positions	(214.5)	(337)	57
Funds	\$ 4,658,908	\$13,859,652	296
<b>Family Courts</b>			
Positions	(197.5)	(325.5)	65
Funds	\$ 3,763,152	\$13,474,759	258
<b>District Courts+</b>			
Positions	(345)	(661.5)	92
Funds	\$ 5,276,837	\$16,781,993	218
<b>Administrative Director Services</b>			
Positions	(40)	(129)	223
Funds	\$ 1,264,852	\$9,094,209	619
<b>Totals</b>			
Total positions	(837)	(1514)	81
Total funds	\$16,061,785	\$56,230,584	250

\* Includes Land Court, Tax Appeal Court, and Law Library.

+ Includes driver education program.

Source: Act 11, SLH 1977; Act 246, SLH 1978; and Act 318, SLH 1988.

Table 2.1 shows that total appropriations have increased 250 percent in the past ten years, and the growth in the number of positions for all programs was 81 percent. It is apparent from Table 2.1 that the increases have not occurred uniformly across the programs. The circuit courts

increased least in the number of positions, 57 percent, although total appropriations for the program grew by 296 percent. The greatest growth has been in administrative director services where the number of positions increased from 40 to 129, an increase of 223 percent, and appropriations increased 619 percent.

### **Factors Affecting the Judiciary Today**

The institution the Judiciary is today can best be understood in the context of its evolution towards independence and some recent events.

For many years, the Judiciary was a small organization under stable leadership. The former Chief Justice served for 17 years in that position before retiring in 1982. The former Administrative Director served from 1966 to 1985, a period of almost 20 years. The Deputy Administrative Director began working in the courts in 1950, assumed the position of deputy in 1976, and remains there today.

The organization and operations of the Judiciary reflected the abilities and the familiar working relationship among the three top administrators. The Administrative Director was responsible primarily for the circuit courts while the Deputy Administrative Director supervised the district courts. The Judiciary operated on an informal, personal basis characteristic of a small organization with managers who had grown with the system and were thoroughly familiar with the operations and personnel.

The focus of the administrators in this period after statehood was external--they looked to the Legislature and to the constitutional conventions to help them establish the Judiciary as a strong, unified independent system. These objectives were supported by the Legislature. The Judiciary experienced explosive growth, from an organization with 295 positions and \$3 million in appropriations in 1965 to an institution with over 1500 positions and \$56 million in appropriations nearly 25 years later. The courts were consolidated into a single system, and the Judiciary attained autonomy in its budgeting, fiscal operations, and personnel functions.

These major accomplishments were not without their costs. The rapid expansion in responsibilities and growth in funding and positions created internal management demands that found the Judiciary unprepared. It lacked the management structure and policies that would enable it to control its burgeoning operations. A backlog of management problems began to grow.

**Backlog of management problems.** The need for strong internal management was signaled by a series of reports commissioned by the Judiciary. For example, a Citizens' Panel appointed by the Chief Justice in 1985 saw a need to transfer the sheriff's office to the executive branch

and found questionable budgeting and fiscal practices among other problems.<sup>2</sup> A contract for a study of the Judiciary's organization resulted in findings that the Judiciary's statistical data system was not useful, automation efforts were uncoordinated, and planning and budgeting were not effectively related.<sup>3</sup>

Other standing problems were found by the National Center for State Courts (NCSC), a nonprofit organization supported by state judiciaries that provides research and technical assistance to the courts.

A 1982 report, *Managing the Hawaii Judiciary*, commended the Judiciary on its many accomplishments, particularly on achieving its goal as an independent judicial system.<sup>4</sup> However, it also commented on problems in case processing, personnel, automation, and budgeting.

The Center found no regular collection and use of information for case management purposes other than the broad workload measures provided in the Judiciary annual reports. It said that judges and managers should be made aware of the importance and usefulness of management information.

It noted the need for a complete manual of policies and procedures for personnel. It said that job classification and pay plans were not well designed with people doing the same job having different qualifications, titles, and salaries.

In the area of automation, NCSC said that priorities should be set, software and hardware should be considered together, and a long-range plan for the use of computers should be developed. It said the judges should be better informed on the budget process and status so that they could participate in evaluating staffing levels and responsibilities.

A 1981 NCSC analysis on the annual report and statistical reporting system stated that the existing statistical system suffered from design deficiencies, lack of reliability, and possible obsolescence. The quality and comparability of the data was questionable.<sup>5</sup>

In a 1984 study on calendar management in the First Circuit Family Court, NCSC again found that existing data on family court terminations and pending cases were wrong or at least misleading. It said that the court must develop management-oriented information and collect and analyze that data on a timely basis.<sup>6</sup>

A 1985 NCSC report again found case management information lacking in both the Honolulu and Maui circuits and a need for training for both judges and staff. It found that staff in Maui who were responsible for providing statistics to the Office of the Administrative Director were unaware of the relationship between their work and the data sent to Honolulu.<sup>7</sup>

The backlog of management problems has resulted in a pressing need for attention to the Judiciary's internal management processes.

## **National Trends in Judicial Administration**

Most scholars in the field trace the roots of modern court reform to the early 20th century, more specifically to a speech made by Roscoe Pound, Dean of the Harvard Law School, to the American Bar Association (ABA). He attacked court organization and civil procedure, the overlapping jurisdiction among courts, and the rampant waste of judicial manpower.<sup>8</sup>

Pound's address led to the appointment of a special ABA Committee on Court Procedure and Organization. State and local bar associations followed suit, and before long, a full-fledged movement to improve judicial administration was underway. A central theme was the unification of courts within a state into a single state system with a minimum number of levels and no overlapping jurisdiction.

Major court reform initiatives among the states were commonplace in the 1960s and early 1970s. Between the end of World War II and the early 1970s, well over 30 states made major reorganizations of their court systems with associated procedural reforms.

As part of the court reform movement, there was growing recognition that the courts are complex professional organizations and that effective court management is vital. The first office of state court administrator was established in New Jersey in 1948 as part of a statewide court unification and reform movement.<sup>9</sup>

The role of the court administrator began to be accepted for several reasons. Among these were the increasing caseload, interest among the public and legislators to help courts become more efficient, the Circuit Court Executive Act of 1971 which provided for court administrators in the federal circuits, and finally, the leadership of Chief Justice Warren Burger.

In a speech to the ABA in 1970, Chief Justice Burger stated,

"More money and more judges alone are not the primary solution. Some of what is wrong is due to the failure to apply the techniques of modern business to the administration or management of the purely mechanical operation of the courts--of modern record keeping and systems planning for handling the movement of cases."<sup>10</sup>

Researchers in the field find that perhaps the most striking change has been the extent to which the field has become professionalized. There were fewer than 50 individuals in the courts with management training in the early 1970s, but by the early 1980s, there were more than 500 in senior and mid-level administrative positions with management training.

Accepted functions of a court administrator today generally include caseload management, management of records and information systems, budgeting and fiscal administration, personnel management, and management of facilities and equipment.<sup>11</sup>

**Principles of modern court administration.** The basic principal of judicial independence underlies all other tenets of court reform. Other themes are professional administration, protection from political abuses, strict attention to procedural efficiencies, and service to the public. They find expression in the following areas.

*Move towards a unified court system.* Reorganization of courts into a unified state court system is a common product of reform. The unified court system is characterized by state funding, a statewide personnel system, and a state court administrator with full line management authority over nonjudicial business of the courts. In addition to the centralization of trial courts, in many instances there has been a reorganization of local trial courts to eliminate concurrent jurisdiction and other obvious problems of an antiquated organizational structure.

*Emphasis on active caseflow management.* The movement of cases through a court system is its primary function. Modern judicial administration places the court in an active role of control compared to the former passive and reactive mode in which attorneys controlled the pace of litigation. Because of its complexity and central importance, caseflow management is a multifaceted endeavor of calendaring systems, judicial assignment systems, pretrial conference systems, and alternative dispute resolution methods.

*Emergence of professional administrators.* The professional court administrator has emerged as a critical element in realizing the promises of court reform. Courts are now leaving nonjudicial functions to trained executives. Although the scope of responsibility varies among jurisdictions, common administrative functions are budgeting, personnel, records management, and facilities.

*Application of modern business practices.* Hand in hand with the introduction of professional administrators is the commitment to use modern business methods. Court administrators are expected to perform budgeting, personnel administration, and other traditional functions at a professional level and to identify and implement appropriate technology in court reporting, information systems, and other areas. They are responsible for analyzing programs and operations to streamline and implement them in the simplest, most efficient manner.

*Improved procedures for judicial selection, tenure and discipline.* The preferred method of selecting judges is by appointment and not by partisan, competitive election. The notion is that judges should be insulated from the whims of the political process, particularly the electoral process. Once selected, the courts are responsible for training and orienting new judges so that they may function effectively in their new role. Continuing education and the expectation that judges are to observe the highest ethical standards are important.

*The goal of public service.* Good court administration keeps foremost the objective of serving the citizen. As a public, tax-supported institution, a court system must recognize the importance



of maintaining accountability to the public for its operations and expenditures. In administrative areas, this is seen in more efficient jury management systems, efforts to maximize access to the courts such as the use of informal hearings, and efforts to provide complete and accurate information on a timely basis.

### **Framework for the Report**

In the subsequent chapters, we evaluate how well the Judiciary is managing today in view of its backlog of management problems and the extent to which it has been able to incorporate principles of modern judicial administration.

## Chapter 3

### THE ADMINISTRATION OF THE HAWAII JUDICIARY

By the late 1970s and early 1980s, the Judiciary had achieved its primary goal of becoming a strong, independent branch of government. A shift in focus from removing external controls to managing the internal operations of the Judiciary was needed to effectively institutionalize the gains that had been made. In this chapter, we present our assessment of the administration of the Judiciary, including its organization, policies, and management.

#### Summary of Findings

We find that Judiciary administration lacks the strong professional and managerial expertise that would remedy past problems and meet the current demands placed on the system. It has not institutionalized the basic structure and processes for managing a major public institution. Management actions are viewed as arbitrary by employees because they are not made openly in the context of a clear organizational structure and the policies and procedures needed to establish accountability. Generally, we find that:

1. Judiciary administration is disorderly and muddled. It lacks an organizational structure that delineates the authority, scope, and functions of each of its units.
2. The Judiciary lacks an adequate structure for governance and policy formulation. Existing policies are inadequate and often ignored by top administration.
3. Judicial functions are not clearly delineated from support functions, and some current practices are contrary to statute.
4. The Office of the Administrative Director has not carried out its primary management responsibilities. Lines of authority are unclear and important functions are not assigned, resulting in fragmentation, duplication of effort, and confusion.

#### Need for Management Structure

Government institutions must have in place an appropriate structure of management authority that is based on the functions of that organization, pinpoints the responsibility and authority of individuals and units, delineates the chain of command, specifies the number and level of the various units in the agency, and describes each of their functions.

This enables those within the organization as well as those outside to know what responsibilities each unit has, where they are located in the organization, who is responsible, the division of work among the units, and their interrelationships.

A well-designed organization facilitates work to be done and decisions to be made. It helps to prevent duplication of effort or failure to carry out the functions of the organization. It ensures continuity of operations despite changes in administration or staff. Finally, it enables administration to hold managers accountable for their performance.

An organizational structure provides the basis for governing, coordinating, controlling, and supervising the activities of an agency. It affects planning, budgeting, deployment of staff, and the use of facilities and other resources.

The approved organizational structure is documented through an official organization chart which shows the number of positions that the Legislature has authorized for each of the units in the organization and the nature of the staff. The executive branch has policies for its departments on the preparation and maintenance of official organization manuals which contain detailed organization charts and functional statements. Departments must follow requirements on the content and format of the manuals and for making changes in organization. The manuals must be approved by the Governor and updated annually to reflect any changes in the functions of staff.

**Judiciary lacks formal organizational structure.** In contrast with the executive branch, we find that the Judiciary has no official organization manual that contains the organization charts of each of the units and the functional statements that describe what the units do.

The organization charts which the Judiciary presents as official are dated June and July of 1987. None of the charts, including that of the Office of the Administrative Director, has a functional statement that describes the duties and responsibilities of the unit depicted on the chart. Consequently, there is no way of determining what the functions are of each unit, the authority of the person in charge, the responsibilities of any of the subsections of the unit, or the interrelationships among the various units and their division of labor.

The charts of the Judiciary are inaccurate--units have been reorganized and personnel reassigned informally without consultation. They do not reflect actual reporting relationships or the number, type, and classification of the individuals working in a unit. Policies on organization are inadequate and ignored. These conditions may make effective administration virtually impossible.

**Inaccurate lines of authority.** Current lines of authority differ from those shown on the charts. For example, the organization chart for the Office of the Administrative Director shows ten staff

offices reporting to the Administrative Director *through* the Deputy Administrative Director. The offices are the Judiciary computer systems, public information, planning and statistics, office of the public guardian, budget and fiscal, personnel management, children's advocacy program, staff attorney, law library, and program services.

However, all of the ten units listed above report *directly* to the Administrative Director instead of through the deputy director. Not shown on the chart but also reporting to the Administrative Director is an internal audit unit, a program evaluation person, Project Outreach (a public speaking and information program), a separate budget unit, alternative dispute resolution program, adult probation, court reporters, the sheriff's office, and most of the district and circuit court administrators.

*Inaccurate number and location of positions.* Many of the charts do not show positions that have been transferred into the particular units, the number of people actually on board, and the nature of the staffing. For example, the organization chart for the public information office shows only two positions in the office--an information specialist (SR-21) and a printing services assistant. In actuality, the office has been reorganized and expanded greatly. The information specialist is now called the director of public information (SR-26) and the printing services assistant is his secretary.

The office also includes a unit from the First Circuit Court and the reprographics center from the Honolulu District Court. The transferred positions include a printing services assistant, a print shop supervisor, four offset press operators, and three clerks. In addition, there are three individuals on personal service contracts who do the newsletter, press releases, publicity, feature stories, and a new complaints program called Project Response. Instead of the two-person office shown in the organization chart, there are 14 people working in the public information office.

Another example is the budget and fiscal office. Several of its sections have been split off. The internal audit section has become a separate unit reporting directly to the Administrative Director. The Administrative Director has also approved the establishment of a program evaluation unit. It consists of the former head of the budget and program review section. He has been replaced by an acting head of the budget section. The acting head does not report to the budget and fiscal director as shown on the chart but reports directly to the Administrative Director. Two other program budget analyst positions have been transferred from the budget and program review section to work in the contract and purchasing section of the budget and fiscal office.

*Conflicting assignments.* Lines of authority are muddled further by conflicting orders from the Administrative Director. As an illustration, in November 1986, the Administrative Director

appointed a special assistant to administer Honolulu District Court. Two months later, in January 1987, the Administrative Director issued another memorandum to all district court administrators stating that, effectively immediately, matters requiring the director's direct attention should be routed through the Deputy Administrative Director for review. It was not clarified what impact this would have on the status of the special assistant.

In July 1988, the Administrative Director appointed the special assistant to the position of Honolulu District Court Administrator. Again, no clarification was made on the relationship between the District Court Administrator and the Deputy Administrative Director.

**Judiciary lacks an adequate policy on organization.** The only Judiciary policy on organization is an excerpt from its personnel manual. This merely states that an updated organizational chart for the Judiciary, approved by the Chief Justice, will be maintained in the Office of the Administrative Director of the Courts. It outlines the following procedure for reorganizing:

1. Discuss proposed changes with the Administrative Director before formally submitting them in writing;
2. Submit formal notification of the proposed changes including a brief description of the organization, present and proposed charts, the reason for the change, a breakdown of the units that will be affected, any staffing changes that will be required, and statements showing the functions assigned to each segment of the organization;
3. Consult the collective bargaining units;
4. Upon approval by the Administrative Director, prepare updated position descriptions for all positions affected by the reorganization and submit them to the personnel office.

This policy statement is inadequate and incomplete. It is a personnel policy aimed primarily at ensuring proper position descriptions. It does not delineate the entire process that should be followed. For example, it does not say who will be responsible for reviewing the written justification, on what basis the review will be made, who will make recommendations on the proposal to the Administrative Director, or how the approval of the Chief Justice will be obtained.

The personnel office appears to recognize the policy's inadequacies. When the personnel office staff briefed court administrators on the procedures to be followed in reorganizations, they used a compilation of material from the executive branch's policies and a sample of a request for reorganization from an executive branch agency in addition to its own policy.

**Administrative Director does not comply with minimal policy.** The Administrative Director has not observed the minimal policy that exists. Units have been created and personnel

reassigned without any written justification on the proposed organization, the functions of the present and proposed organizations, or the resulting staffing. The changes were not based on any systematic analysis of the needed functions to be carried out and how they are to be implemented. Collective bargaining units have not been consulted.

Several units in the Office of the Administrative Director have been reorganized informally, such as the internal audit unit, program evaluation unit, and public information office. This has occurred without an announcement of the changes, the reasons for these changes, and the authority and responsibility of those involved.

Actual implementation of reorganizations has been incomplete and confusing. For example, the reorganization of the internal audit unit was made by a memorandum from the Administrative Director to only two people--the fiscal director and the internal control analyst. It stated that the internal audit section had been transferred to the Office of the Administrative Director who would be responsible for its general supervision and direction. This memorandum was amended several days later by a second memorandum to the same two individuals stating that although the transfer had been effectuated, it was to be considered a temporary reassignment. The implications of the temporary reassignment were not clarified.

It is not known, for example, whether the new internal audit unit will have the same or greater authority to review the fiscal affairs of Judiciary units as it had when it was under the budget and fiscal director.

Similarly, a program evaluation branch was created by a memorandum from the Administrative Director to only the fiscal director and a program budget analyst notifying them that the analyst had been reassigned to establish and head a program evaluation branch. There was no clarification on what the program analyst would be doing or what his authority would be. The same memorandum announced that another program budget analyst would be in charge of the budget office and authorized to act as his replacement.

The expansion of the public information office was handled in much the same way. The Administrative Director sent a memorandum to the clerk of the First Circuit Court, the district court clerk, and the director of public information that management authority for the printshops had been assigned to the director of public information. However, the memorandum also stated that until such time that a reorganization was implemented, printshop personnel and budgets would remain under the circuit and district courts to which they were assigned.

These changes have prompted much confusion, suspicion, and speculation. No general announcements have been made to Judiciary personnel on the reasons for the changes, the specific functions that have been reassigned, or the authority of the person in charge. There are

charges that the administration operates in secrecy and plays favorites. Resentment is aroused when the administration makes these changes in an informal, ad hoc manner, but requires others who wish to reorganize to undergo a lengthy process involving written justification requests for reorganization.

### **Need for Governance and Policy**

The Judiciary should have a system of governance and policy formulation that encompasses both judges and support staff. Authority for adopting and issuing different kinds of policies should be delineated. Once adopted, policies and procedures should be disseminated to all staff members.

Administrative policies provide the framework for action and decision making. They facilitate coordination and communication among units and the performance of routine tasks. Policies inform staff about how decisions are made, the grounds for justifying various kinds of decisions, and what the decision points are, thereby providing staff with the opportunity for input and participation.

Good policies and procedures not only facilitate work, they create a climate of openness and trust. Decisions that are made autocratically without guidelines or input are often suspect. For their own credibility and to build trust, administrators must demonstrate their willingness to be open in their decision making and to live by the same policies they impose on others.

The Judiciary has yet to establish a system of governance and policy formulation. There is no manual of current administrative policies. It is not clear what is official or unofficial, how and at what point something becomes official, and who has the power to issue different kinds of policies.

Policies that are based on a well-designed and managed consultative process are needed for making important decisions. Some illustrations follow.

**Inadequate policies for appointing top administrators.** There are policies on filling positions in the civil service but no personnel policies on how top administrators in the Judiciary are to be selected and appointed. Several administrative appointments made in recent years have met with controversy. In large part this is because it is not clear how and on what bases these appointments were made. For example, the appointment of the Administrative Director was made without any ground rules on how such an important decision would be made or the qualifications and experience applicants should possess.

The position of Administrative Director is clearly important. It is an appointment that affects the Chief Justice as well as the staff and operations of the entire Judiciary. It is a decision that

requires consultation and participatory decision making by the Judiciary's highest body--the Supreme Court. This is required by both the State Constitution and the statutes. They state that "[w]ith the approval of the supreme court, the chief justice shall appoint an administrative director to serve at the chief justice's pleasure."

Given the need for strong internal management, the importance of the position, and the requirement that it be made with the approval of the Supreme Court, a policy on the appointment process should have been developed and adopted. A decision made on the basis of a known policy would demonstrate the decision to be open, above suspicion, and in accordance with basic principles of personnel practice. However, there was no open discussion on the authority and functions of that position, the needed qualifications or skills, and how the appointment would be made.

**No policies on performance evaluation of upper management.** The issue of performance evaluation of Judiciary personnel will be discussed in a later chapter. We note here that there is no policy on performance evaluation of top management.

Although the Administrative Director serves at the pleasure of the Chief Justice, it would be beneficial for the Judiciary to establish a system where the performance of the Administrative Director can be assessed on a regular basis--particularly since no term has been established for the office. Such an assessment would be useful to all concerned. It would clarify institutional expectations, help the Administrative Director to assess management weaknesses and strengths, set priorities, broaden the director's base of support, and give greater legitimacy and authority to the director's actions.

Currently, there is no formalized process for this. The law saying that the appointment of the Administrative Director shall be made by the Chief Justice with the approval of the Supreme Court suggests the need for input and consensus from the Supreme Court as the preeminent judicial body. To implement this evaluation process, the Chief Justice should establish a committee consisting of the justices of the Supreme Court to formulate policies and procedures for conducting such a review.

**No policy delineating the planning process.** The process of adopting a strategic plan should draw staff together to generate creative ideas about the future of the Judiciary. Levels of review need to be established, with a specific body having the power to adopt the plan. No such process has occurred. Nevertheless, a draft plan is being used as if it were officially adopted policy.

The planning and statistics office developed a draft of a strategic plan in November 1987. It was only a preliminary draft that was to serve as the starting point for subsequent planning and a basis for establishing a dialog on the general direction to be taken by top management. The



draft was not widely available for discussion and comment; its distribution was limited. For example, it was not distributed to the associate justices of the Supreme Court for their review and comment.

Although the plan was a preliminary draft, the Administrative Director instructed staff to follow the draft strategic plan to justify budget requests. The plan was also used as justification in presentations to the Legislature in 1988. Today, a year later, the strategic plan remains a draft report. There has been no process of review and comment, and it has not been adopted as official policy. However, the Administrative Director's instructions on budget preparation to court administrators, program officers, and fiscal officers say that the draft strategic plan will again be the main focus in formulating the biennium budget.

The Judiciary needs to delineate a policy formulation process that clarifies when documents and instructions are official. The process should encompass consultation with pertinent parties. For example, a document as important as a strategic plan should certainly involve members of the Supreme Court.

### **Organization of Judicial Functions**

It is imperative for the Judiciary to develop a new, workable organizational structure that reflects current functions and demands. The informal practices of the past worked when the Judiciary was a smaller, simpler organization with fewer demands and constraints on how it operated. In fact, a fluid structure was probably an asset in its period of rapid growth and change. Today, a new structure should be developed focusing on managing the Judiciary's prime function of deciding cases justly, promptly, and economically and on support for this function.

The American Bar Association's standards on court organization make a useful distinction between the administration of trial courts and the administration of central support services for the system. The trial courts can be organized in various ways, such as into regions or districts. However, they should be under the supervision of a presiding judge who has administrative authority and responsibility for their management, subject to the general supervisory authority of the Chief Justice.<sup>1</sup>

Currently, the Judiciary does have administrative judges in the Intermediate Court of Appeals, the circuit courts, and the district courts. However, their authority and responsibilities have not been clearly spelled out. In addition, the respective authority of administrative judges and the Administrative Director is unclear and current practices are contrary to statute.

**Administrative director's line authority over court clerks is contrary to statute.** The Office of the Administrative Director is supposed to monitor and assist court operations. The statutes

assign no direct authority for court operations to the Administrative Director. However, we find that some court administrators are appointed by or report to the Administrative Director.

The Chief Justice has also issued a memorandum which contained a draft statement on the respective responsibilities of administrative judges and court administrators. It stated that court administrators perform duties under the general supervision of the Administrative Director although they are expected also to work closely with the administrative judge. The Administrative Director is to select the court administrator upon consultation with the administrative judge.

The authority currently exercised by the Administrative Director is contrary to statute. The statutes distinguish between the administrative authority of judges for court operations and the responsibilities of the Administrative Director for support services. They indicate that court operations and personnel fall under the purview of the Chief Justice and the administrative judges that the Chief Justice appoints. For example:

- Section 601-2(2) states that the Chief Justice may appoint one of the judges as the administrative judge to manage the business of the courts.
- Section 602-51 states that there will be a chief judge in the intermediate appellate court who shall supervise the administrative duties of the court.
- Section 604-1 states that the Chief Justice may designate a district court judge in each circuit as the administrative judge for the circuit.
- Section 606-1 states that the clerk of the Supreme Court and as many deputy clerks and assistant clerks as may be required are to be appointed by the justices of the Supreme Court. The clerk, assistant, and deputy clerks of the Intermediate Court of Appeals are to be appointed and removed by the judges of the intermediate court. As many clerks as may be necessary for the circuit courts are to be appointed and removed by the judge or administrative judge of the circuit court. Similarly, as many district court clerks as may be necessary are to be appointed and removed by the district administrative judge. The judges also have the power to appoint interpreters and court reporters.
- Section 571-6 gives the senior family court judge the power to appoint a chief administrative and executive officer as Director of Family Court. Among the duties of the director are formulating procedures for the routine administration of court services; making recommendations for improvement in court services or on the appointment of professional, clerical, and other personnel; providing supervision on the administration of court services; recruitment of personnel, budget, fiscal and office management; and such other duties as the senior judge may require. The senior judge may also appoint probation officers, social workers, counselors, or the services of psychologists, physicians, and other professionals to carry out the work of the courts.

The current practice of having court administrators report to the Administrative Director is not only contrary to statute, it is impractical and unworkable. Courts are complex operations that require professional managers. These managers should be accountable for effective performance of their duties to a presiding administrative judge who knows the demands and needs of the court.

The Administrative Director is too removed from the day-to-day operations of each of the courts to be able to exercise any kind of reasonable supervision or direct authority. We note that requests for overtime, personnel actions, and performance evaluations for the clerks are handled by the administrative judges, not the Administrative Director.

**Authority of administrative judges is unclear.** The administrative judges' authority over other judges and court personnel is unclear. There is no functional statement or policy that delineates exactly what they have the authority to do. Circuit and district court administrative judges feel their status to be particularly tenuous since they receive no additional compensation for what they do. They are unsure about their authority over their fellow judges to whom they assign cases. They are also unsure about their authority over the court administrators and other court staff.

In December 1987, the Chief Justice asked all judges and court administrators to submit to the Administrative Director by December 28, 1987, any comments on the draft on the responsibilities of administrative judges and court administrators. No further memorandum has been issued on the matter. Since it is still a draft, responsibilities remain unclear.

The Judiciary should begin a process of delineating the functions and authority of administrative judges and the respective roles of the judges and the Administrative Director. The process should include consultation with judges, court administrators, the Administrative Director and support staff. The resulting policy should represent a consensus solution among the people who have to carry it out.

Should a consensus be reached that chief clerks should operate under the supervision of the Administrative Director instead of the administrative judge, then the Judiciary should seek to amend the statutes. In the meantime, the appointment of any court administrator should be made by a panel which includes the administrative judge and the Administrative Director.

The Chief Justice does not meet regularly with the administrative judges, and there is no forum for them to discuss matters of mutual concern. Regular meetings of the Chief Justice with the administrative judges would be mutually beneficial. They would expose the Chief Justice to a wider variety of issues and information. Administrative judges should also have an opportunity to meet regularly on their own, giving them an opportunity to share information, to be heard, and to benefit from their mutual concerns.

**Class specifications for court clerks are inconsistent and outdated.** In conjunction with this, the class specifications (a description of a class of positions) for court administrators should be reviewed to make them more consistent, to more accurately reflect the duties of the position, to clarify supervisory authority over the position, and to upgrade the minimum requirements.

Currently, there are separate class specifications for the chief clerk of the Supreme Court, court administrator of the circuit courts, district court administrators, and court executive officers of the Family Court. They do not always correspond with actual duties performed.

For example, the specifications for the circuit court administrator series also emphasize staff functions such as the formulation of statewide policies and procedures as they affect the Judiciary, studies to improve court operations, research to develop effective methods in records management and court functions, and computerization of court operations.

Statements about supervision over the position are inconsistent. The specifications for the circuit court administrator say that work is performed under the general direction of the administrative judge within guidelines set by the Administrative Director. However, the specifications for the district court administrator say that work is performed under the direction of the Administrative Director. The specifications of the court executive officer of the Family Court say that the clerk serves under the direction of the administrative judge of the Family Court. Finally, the specifications for the chief clerk of the Supreme Court say nothing about supervision over the position.

We find that generally the court administrators have not been trained professionally in court administration and caseload management. In reviewing the specifications, the Judiciary should consider developments in the field of court administration and attempt to upgrade the position of court administrators to meet the demands of today's complex court environment. The positions should all be retitled from "clerk" to "court administrator." Minimum qualifications for the positions should be revised. Credit should be given for postgraduate education in court administration and the substitution of postgraduate education for years of experience.

The Judiciary should also consider the need for a career ladder for court administrators. It should provide training opportunities for those who have served in the system for many years but would not meet the minimum qualifications. Finally, all court administrator positions should be civil service positions where selections are based on merit. An anomaly was introduced in 1988 under a proviso which made the chief clerk of the Third Circuit an exempt position. This should be converted to a civil service position.

## **Management Problems in the Office of the Administrative Director**

The Office of the Administrative Director should be reorganized to focus its attention on support functions, particularly those assigned by statute. According to statute, these include developing statistical information, reviewing and providing advice on court operations, and personnel and financial management. Other customary functions of a central administrative office include planning, formulating administrative policies for the system, developing and implementing data processing, and maintaining and developing facilities.

In the past decade, the Office of the Administrative Director has grown from a staff of 40 to 129. In addition, there are numerous persons on contract and temporary hires. However, needed tasks are not undertaken, and unproductive, unnecessary work takes up staff time.

Later chapters will discuss problems in the office's management of information systems, personnel, and finances. Here we discuss deficiencies in internal management and inadequacies in carrying out the assigned functions of the office.

**An office over-burdened with too many responsibilities.** In a briefing to the Judicial Council in December 1987, the Administrative Director reported that "[u]nder the existing organizational structure, there are 37 ongoing programs who report directly to the Administrative Director which is almost unmanageable."<sup>2</sup>

Today, there are more programs reporting to the Administrative Director. Although there is no magic number for a proper span of control, the current situation is clearly untenable. A relatively large span of control will work if individuals are professionals who work relatively independently, if their functions are clear, and if they have been delegated authority to do what needs to be done. This is not the case at the Office of the Administrative Director where functions are not clear, and authority has not been officially delegated.

There is little priority direction from the Office of the Administrative Director where the director's time is taken up by numerous routine decisions. The Administrative Director signs off on all contingency purchases over \$100, all contracts, all travel requests, all requests for personnel action, all notifications of personnel action, plus many other documents. The routine approval of thousands of documents are an inefficient use of the director's time and delay operations while offices wait for the director's approval.

Progress is not being made on major issues confronting the Judiciary such as the lack of management information, the inadequate statistical system, assistance to the courts, backlog in personnel actions, the need to maintain facilities and equipment, and to develop new facilities. Difficult management decisions are not being made largely because many managers have not been assigned clear authority to do so.

Responsibility for many functions are either unassigned, assigned inappropriately, or assigned on an ad hoc basis. Managers say they experience a great deal of frustration because of the uncertainty over the respective authority of various units. Since no one is sure what is in their purview, decisions are routed to the Office of the Administrative Director, resulting in no action or much delay in accomplishing routine tasks.

*Tools for management control are not available.* There appears to be little management control over operations. Despite the large number of people who report to the Administrative Director, there are no reporting requirements to help keep the director aware and in command of operations. Managers are not required to submit periodic reports on their operations, describe emerging issues and problems, or what they hope to accomplish. Managers have not been asked to develop workload measures or other information that would assist them in managing and monitoring their own operations.

In the area of case management, we find that many managers and supervisors do not appear to have been trained in the use of information as a tool for daily management. They seem unaccustomed to using information to identify problem areas and make needed adjustments. This reflects the larger problem that there are few managers in the Judiciary that are professionally trained in judicial administration.

In Chapter 7 we find, for example, that the personnel office is seriously backlogged in certain areas. However, the personnel director has little or no information on the status of processing in each of the personnel sections or how long it takes to process various kinds of personnel actions or other workload measures. Since the personnel director is not held accountable for his management, he has not, in turn, set goals for the various units, established priorities on what kinds of actions should take priority, or looked for ways to be more efficient.

*Statistical system is inadequate and burdensome.* One of the main responsibilities of the Office of the Administrative Director is to develop a uniform system of judicial statistics. The purpose is to provide management with information to help them better administer the courts. Four of the eight functions assigned to the Administrative Director by statute relate to this function. Section 601-3(1) requires the Administrative Director to:

- Examine the administrative methods of the courts and make recommendations to the Chief Justice for their improvement;
- Examine the the state of the dockets of the courts and prepare statistical data and reports on the business of the courts;
- Examine the statistical systems for the courts and make recommendations for a uniform system of judicial statistics;

Collect, analyze, and report to the Chief Justice statistical and other data concerning the business of the courts.

The purpose of the judicial statistics system is to develop objective data on such matters as the pace of litigation, backlogs, needed improvements, trends, and other information that would assist the Administrative Director in monitoring court operations and recommending improvements to the Chief Justice.

The Judiciary's statistics have long been acknowledged to be seriously deficient. In 1981, the National Center for State Courts (NCSC) was commissioned to analyze the statistical system. The center found that "[t]he existing system is defective due to design deficiencies, age, lack of documentation, lack of adequate audit procedures, and questionable data quality."<sup>3</sup> In addition, the Center found that some improper data entry was practically assured because the design of the reporting forms was geared to machine batch processing, and adequate instructions, glossaries, and formal training were unavailable.

The NCSC found a more serious deficiency in the lack of data on case processing and aging. It noted that courts must take an active interest in increasing the pace of litigation in order to control case processing and reduce delay while minimizing backlogs. To do this, courts must have the information essential to control case processing. However the system had no data on the age of pending or terminated cases or any other information on the speed at which civil or criminal cases proceeded through Hawaii's courts.

Data were lacking that would make it possible to diagnose caseflow problems and to monitor backlog. The Center found that "[i]n the absence of information concerning the age of cases and time that elapses between important stages in the litigation process, neither we nor judicial officials in Hawaii can determine if there is a delay problem."<sup>4</sup>

The Center recommended that a user committee be established to develop a master plan that would be implemented by an information system officer trained in statistics, systems analysis, and computer applications. The officer would report directly to the Administrative Director.

Since then, there have been repeated complaints from judges on the lack of uniformity among the circuits in gathering and reporting statistics and in the meaninglessness of the current system. It has little relevance to assessing the effectiveness of the courts or assisting judges to manage their caseflow. Its main use is to produce data for the Judiciary annual report.

Although the system is acknowledged to be relatively meaningless for court management, it continues to be implemented in a time consuming, costly manner. In 1987, the director of the planning and statistics office who is responsible for maintaining the system pointed out problems faced by his office. Part of the process involves a manual system where clerks at the lowest level

of the courts fill in forms on a case by case basis, transmit these to the planning office where they are summarized and put on spreadsheets, then sent to a private company that is contracted to input the information on computer tapes. The tapes are then processed by the University of Hawaii computing center.

In May 1988, the Chief Justice created an Executive Committee on Information Management to find ways to obtain more comprehensive meaningful statistics for the Judiciary. He noted that court staffs have had to laboriously collect much of the information manually while not necessarily obtaining sufficiently complete and useful information. The data often make historical distinctions which have no relevance to modern court functioning, are inconsistent from one circuit to another, or are inconsistent within a given circuit for district, family, and circuit court civil and criminal divisions.

Action on improving the statistical system is long overdue. However, establishing a committee to do the job is inefficient and inappropriate. It will merely delay any decisions that have to be made.

*Use of the committee is inefficient.* The creation of a committee allows administration to evade its responsibility for making a decision about the system and how it should operate. The Committee on Information Management, whose members were appointed by the Chief Justice, is chaired by the director of public information with staff support from the planning and statistics office. The committee has the broad responsibility of improving statistical information using more efficient information gathering techniques.

The use of a committee headed by a chairperson who is not familiar with the current system is inefficient. He and other committee members have to be educated about what is currently available and what the problems are. The presence of the committee also creates uncertainty about the current authority of the planning and statistics director. Although the committee is only advisory, any improvements that could be made to the current system would have to be delayed pending final recommendations from the committee.

*Objectives of statistical system are not made clear.* Improvements in the judicial statistical system must begin with some knowledge about the uses to which the data will be put. There appears to be an unrealistic expectation that a single statistical system will be able to satisfy all Judiciary needs. Each management function and level has its own data requirements. Statistical information needed for preparing the annual report is different from the kinds of management information and workload measures needed by court administrators. This in turn is different from the management information needed by administrators of various support services.



In the past, the primary purpose of the statistical system was to present information in the annual report for legislative and public consumption. The aggregate data were used to show broad trends. Accuracy, timeliness, and level of detail were not critical. The statistical system was not designed to be a tool for analyzing and monitoring court operations or as a management information system for administrators.

Before the committee can accomplish its assignment, administration has to clarify its objectives for the statistical system. Once the objectives are clear, it would be more efficient to assign responsibility and authority for designing and implementing a new system to the office that is responsible for maintaining the current system, the planning and statistics office. The planning and statistics director should be held accountable for working with a community of users, developing consensus on the data elements needed, preparing an implementation plan and a timetable for implementation. The planning and statistics director and the Administrative Director should also decide the extent to which the current manual statistical system should be maintained. In view of its lack of accuracy and timeliness and complaints about its uselessness, it may not be worth the cost and workload it imposes on the courts.

**Need to improve services to courts.** The statistical system is supposed to assist the Office of the Administrative Director in monitoring and recommending improvements in court operations. There are many indicators that such a function is badly needed, both as a perceived need by court staff and as an actual need to improve operations.

We find that the Office of the Administrative Director provides little in the way of technical assistance to the courts for caseload management or other operational areas. There is a perceived need for the office to improve its services to assist trial courts with daily operational needs. Processes for personnel actions, facilities planning and prioritization, statistical reporting, computer system development, and other key areas that impact caseload management are criticized as lacking. Some court personnel see a lack of understanding of court operations on the part of some of the Administrative Director's staff and the fact that the Administrative Director appears to be the only appropriate person to contact on many issues.

Instead of assisting the courts, the Office of the Administrative Director often appears to be operating at the expense of the courts. In Chapter 7 we note several instances in which positions in the courts were transferred from the courts to the office. Court personnel are also used to staff support service functions. For example, the annual judicial conference is staffed by First Circuit Court personnel. Many functions relating to facilities planning and budgeting are also being performed by First Circuit Court personnel.

As we discuss in greater detail in Chapter 9, our financial audit has disclosed that there is a four-year backlog in issuing bench warrants on delinquent deferred payments relating to criminal cases at the Honolulu District Court. There are no follow-up procedures for collecting delinquent fines and restitution at the Honolulu Family Court. The Maui and Kauai District Courts are not following up on delinquent parking citations. There are in excess of 85,000 delinquent parking citations at the Wailuku and Lahaina District Courts, and in excess of 9000 delinquent parking citations at the Kauai District Court. The District Court in Wailuku has not prepared penal summons for over 20,000 moving violation citations for violators who failed to appear in court.

These problems point to serious inefficiencies in the courts that result in unequal treatment of violators and breed disregard for the law.

It is urgent that the office develop some in-house professional expertise on court operations, develop the management information that would enable the office to analyze and monitor court operations, and be in a position to make recommendations on improvements to the Chief Justice.

**Responsibility for facilities management and development not assigned.** Inadequate facilities are impeding caseflow in certain circuits. Facilities in Hilo and Kona do not adequately support judicial operations. On Kauai, there are only two courtrooms for circuit, district, and family court hearings. Scheduling is difficult, chambers are inadequate for pretrial conferences, and extra help cannot be hired because space is not available.

Facilities management and development is another area where there is a vacuum in management. This area was the responsibility of the former Administrative Director. Today, there is no one person in the Office of the Administrative Director who is responsible for facilities or who is knowledgeable about all its aspects.

Officially, the Administrative Director is responsible for capital improvements. In practice, there is no one to coordinate work with the Department of Accounting and General Services on an ongoing basis; no one with the background to provide continuity or to make knowledgeable decisions; no one responsible for budgeting for capital improvements; and no central point in the Judiciary for information about facilities. The fiscal director has no assigned responsibility for capital improvements, but by default, he handles most of the ongoing questions and problems concerning them.

Responsibility for the function was blurred further when the Administrative Director appointed a Long Term Facilities Task Force to provide oversight on the development of a facilities master plan, as requested by the Legislature in 1987. The task force is chaired by a judge and the chief clerk of the First Circuit Court.

Here again, the failure to clearly delegate and assign responsibility has been a problem. The task force does not see itself as having authority to make decisions on ongoing capital improvements or to budget for them. However, it had to put together the capital improvements budget at the last minute because no one else was responsible. This was done primarily with input from the consultants who had been contracted to develop a facilities master plan.

Facilities maintenance is another problem area. Facilities management responsibilities for the First Circuit were assigned to the fiscal director when the Administrative Director issued a memorandum to the facilities manager informing him that effective immediately he would be under the direct supervision and control of the fiscal director.

However, there are statewide facilities management responsibilities that continue to be neglected. No one is responsible for overall management and budgeting for facilities maintenance. The new courthouse in Maui has had numerous costly problems because of the lack of preventive maintenance. Clerks in the Neighbor Islands say they have no one in the Office of the Administrative Director they can rely on for help in these matters.

### *Recommendations*

*We recommend that the Chief Justice:*

- 1. Establish a formal process to formulate and disseminate policy. The process should ensure staff participation and identify the points at which various policies become official, the kinds of policies various offices have the authority to issue, and the policies which are currently in effect.*
- 2. Give priority to developing a policy on organization that requires all units to have functional statements describing the duties and responsibilities of the unit accompanied by an organization chart that accurately depicts, to the extent possible, the number and type of staff in each unit and the reporting relationships. The policy should delineate the procedures for reorganization, the steps in the review process, and the process for approval by the Chief Justice.*
- 3. In consultation with the justices of the Supreme Court, establish policy and procedures for evaluating the performance of the Administrative Director and other top administrators.*
- 4. Begin to reorganize the Judiciary by focusing on the functions of the courts and how they can best be supported. In doing so,*
  - The authority and responsibility of administrative judges should be clearly established and differentiated from those of the Administrative Director and their salaries should be reviewed to determine whether they should be compensated for their additional duties;*
  - Authority over chief clerks and court staff should either comply with the law or the Judiciary should seek to have the law amended;*

- *Specifications and position descriptions of the chief clerks should be reviewed and upgraded and made more accurate and consistent. Supervision over the position should be clarified and the position of an exempt chief clerk should be converted to civil service;*
- *The organization of the Office of the Administrative Director should focus on support functions, particularly those assigned by statute.*

*5. Hold the Office of the Administrative Director and its managers responsible to develop expertise for the conduct of support functions such as the statistical data system, assistance to the courts, and facilities management and development, and require the staff to develop information that will enable performance to be monitored.*

## Chapter 4

### CASEFLOW MANAGEMENT

This section presents our findings and recommendations on caseflow management in the Judiciary. "Caseflow management" is defined here as the policies, systems, and procedures involved in moving cases through a court system. It includes judicial assignments, court procedures, case tracking systems, alternatives to litigation methods, and other aspects of judicial administration that affect the flow of cases.

#### Summary of Findings

Caseflow management is generally healthy in the Judiciary. By and large, the courts are staying current with caseload demands and case processing times are within acceptable limits. However, there are some trouble spots within the system. We find that:

1. The structure and organization of family courts are inconsistent across the circuits and generally confusing.
2. The pending caseload in the district courts has grown dramatically in the past several years, primarily in traffic and parking cases. This has resulted in serious backlogs that degrade the integrity of the process, lead to a lax enforcement atmosphere, and negatively impact revenues.
3. Caseflow management standards, policies, and goals are adequate but the extent to which these guidelines are documented, distributed, and known throughout the system is deficient.
4. Judicial staffing is open to question with district court judges being used for circuit court and both the family and district courts making substantial use of per diem judges. The extent of this use is excessive.
5. The most serious problems with caseflow lie with the administrative processes of the caseflow management system. All of the courts in the system suffer from inadequate computer automation support and the lack of meaningful management information. Without some improvement in the administrative processes that support caseflow management, the Judiciary may not be able to stay current with future workload increases and maintain the level of quality in operations it should have.

6. The relationship of the courts with the Office of the Administrative Director needs improvement. The office provides little in the way of technical assistance for caseload management or other operational areas. Some dissatisfaction exists as well with the provision of certain critical services for which the Office of the Administrative Director is responsible--personnel, facilities, and information systems development for example.

**Background on Caseload Management:  
Understanding a Complex Process**

Courts share with other organizations a requirement to manage their finances, personnel, information systems, and records, but they are distinguished by the challenge to properly manage caseload in the legal system. Failure to do so has led to unacceptable delays in case processing times, which in turn led to concerted efforts to better understand and manage the caseload process.

In the sixties and early seventies, understanding of caseload management was simplistic. The delay problem was attributed to excessive demand for judicial services coupled with a lack of resources to meet the demand. Other obvious factors affecting caseload were the size of the courts, caseload per judge, and types of calendars used.

In the late seventies, research on caseload showed that the dynamics of the caseload process and the factors that affect case processing times are not that obvious or simple.

In 1978, a major research project on case processing produced some surprising results.<sup>1</sup> It found that case delay is not related to the size of a court, thwarting the notion that large urban courts with congested calendars are the most prone to have problems. The research also found that case delay is not related to the size of the pending caseload for a given judge or court, contradicting the theory that large caseloads are always associated with backlogs and slow processing times. Other factors thought to be critical, such as the percentage of cases that go to trial, were found to be weakly correlated to case processing times.

As the dynamics of caseload management were unraveled, a set of more complex and subtle factors were found to exert strong influences on the process. The new conventional wisdom is that the "local legal culture" in which case processing takes place is critical in a number of ways.<sup>2</sup> The motivations of the players--attorneys, for example--expectations regarding practices affecting processing times, and the mutual accommodations that are made among players all have an influence. In fact, these informal norms and expectations are powerful enough to undermine formal rules aimed at controlling case processing. If judges grant unnecessary continuances out

of professional courtesy, if private attorneys seek to delay case disposition until client fees are paid, or if litigants for their own purposes work to extend litigation, then the court's objective of speedy case processing is more difficult to achieve.

While some of the early theories on caseload management were disproved by empirical investigation, others were confirmed. Early and active control of case processing by the court would produce positive results. The setting of disposition standards and procedures to encourage adherence to those standards also appeared to work. Of particular importance in this regard is monitoring and controlling discovery time in civil cases. Although the impact of settlement activity is not clear, the evidence does suggest that benefits accrue from judicial intervention.

Regardless of calendar type (individual versus master calendar), it is important to have firm trial dates and to use accurate factors in scheduling cases. Alternative dispute resolution mechanisms such as arbitration and mediation are also helpful, although in many systems the percentage of cases that can be affected is relatively small. Finally, meaningful statistical and tracking information is a key ingredient to a manager's ability to manage cases effectively.<sup>3</sup> With improved understanding about caseload, more refined measures have been developed, such as median disposition times and backlog indexes, to compare performance with standards.

A more sophisticated understanding of caseload dynamics will have a direct impact on the types of actions courts need to take to bring about better caseload management. Clearly, the answer is not simply to add more judges, reorganize staffing, or change the calendar system. An effective caseload management program combines formal structures--such as time standards and continuance policies--with an appreciation for the informal systems at work. Long-term commitment to change the "local legal culture" in terms of norms, expectations, and ingrained practices must accompany the rules and procedures put in place.

Caseload management has proven to be a complex challenge in courts. Unlike other aspects of court administration that can be delegated to professional staff, such as records management, caseload management requires judges to be full players in the caseload process and fully participate in management efforts. In partnership, judges and court administrators must work with all other players in the process--attorneys, litigants, witnesses, jurors, and social service staff--to improve caseload systems.

To be sure, there is no set formula of programs and procedures that leads to effective caseload management. There are, however, generally accepted systems and practices that can make a difference. In this chapter we assess whether the Judiciary has approached caseload management in a reasonably diligent fashion. For example, whether the Judiciary understands the dynamics of caseload management and has incorporated that understanding into meaningful efforts to

manage cases, whether appropriate standards and policies been adopted and effectively promulgated, and the extent to which programs are in place to support case processing.

### Some Trouble Spots in Caseload in the Circuit, Family, and District Courts

Overall, caseload in the courts is relatively healthy. There are, however, some trouble spots. Based on a statistical review, the district courts appear to be less healthy than the circuit and family courts. In addition, the Judiciary has relied upon crash efforts to remedy caseload problems in both the civil and criminal areas. While crash efforts are preferable to no effort at all, there should be more constant monitoring of case activity and allocation of resources on an ongoing basis.

Before examining the caseload systems in the individual trial courts, it is useful to obtain a perspective on statewide trends. The following tables present some statistical comparisons across the circuits and among the three court entities--circuit, family and district courts.

The statistical data were obtained from the Judiciary's annual reports, which are known to contain some inaccuracies due to inconsistencies in definitions and counting methods. However, these inaccuracies are not likely to negate the basic trends shown in the following tables.

Table 4.1 shows the distribution of case filings among the four judicial circuits. The vast majority of cases filed statewide are in the First Circuit: 63 percent filed in the Circuit Court and 82 percent in the District Court. The Maui and Hawaii circuits may be characterized as mid-size trial court operations. The Kauai Circuit Court is a relatively small system accounting for 6 percent of statewide circuit court filings and 3 percent of the district court filings.

Table 4.1

#### Distribution of Filings by Circuit (1986-87)

	Population	Circuit		Family		District	
1st Circuit (Oahu)	877,455	8,397	63%	26,544	71%	729,841	82%
2nd Circuit (Maui)	120,100	1,733	13%	3,418	9%	75,514	9%
3rd Circuit (Hawaii)	120,000	2,410	18%	5,598	15%	54,089	6%
5th Circuit (Kauai)	60,500	785	6%	2,079	5%	22,891	3%
Total		13,325	100%	37,639	100%	882,335	100%

Source: The Judiciary, State of Hawaii, Annual Report, July 1, 1986 to June 30, 1987.



Table 4.2 shows caseload activity for the entire court system. It presents the pending caseload at the start of the reporting year, filings for the year, terminations for the year, and the pending caseload at the end of the year. The final column of figures is the "disposition rate" or the number of terminations divided by filings.

It is interesting to note that none of the four circuit courts achieved a 100 percent disposition rate in the reporting year. (A 100 percent disposition rate means that the same number of cases are terminated as are filed during the year. Less than 100 percent means that the size of the pending caseload is growing.) By contrast, the family courts in Honolulu and Kauai exceeded 100 percent while those in Maui and Hawaii had lower disposition rates. None of the district courts terminated as many cases as were filed during the year.

A disposition rate of less than 100 percent in any given year is not a problem so long as this does not continue. Table 4.3 compares filings from fiscal year 1982-83 with fiscal year 1986-87. Table 4.4 makes a similar comparison for the pending caseload levels, indicating the extent to which terminations have kept pace with filings.

Filings have dropped in the circuit courts. In 1986-87 they were 22 percent below the 1982-83 level. Since termination levels have kept pace with the filing rate, the pending caseload has remained fairly stable.

The First Circuit Court is staying current with its civil caseload. The number of pending cases has been reduced. This reduction is due in large part to a special project where a retired judge was brought in to work through the pending caseload and move as many as possible to disposition. Civil filings in the First Circuit Court have dropped from about 8000 per year to about 4000, further enabling the court to keep up with its caseload. About 85 percent of the cases are completed within 20 months of filing.

In the family courts, filings have increased by 53 percent. Terminations have kept pace with the filing levels, and the pending caseload has remained constant. Although pending caseload levels are under control in the circuit and family courts, the disposition rates for 1986-87 and, actually, for two years prior to that, have not kept pace with filings, indicating a recent trend that should be corrected soon to avoid the development of a more serious problem.

**Pending caseloads are increasing in the district courts.** Overall, there were fewer filings in the district courts in 1986-87 than 1982-83, but there were differences among circuits. Filings have dropped in Honolulu District Court but have increased in the Neighbor Island circuits. Filings in the Kauai District Court have increased significantly. The pending caseload has increased dramatically in all circuits. Terminations have not been keeping pace with filings.

Table 4.2

## 1986-1987 Caseload Activity by Circuits and Courts

	Pending at Start	Filed	Terminated	Pending at End	Disposition Rate*
<b>Circuit:</b>					
1st Circuit (Oahu)	23,455	8,397	6,318	25,534	75%
2nd Circuit (Maui)	3,335	1,733	1,602	3,466	92%
3rd Circuit (Hawaii)	3,973	2,411	2,047	4,337	85%
5th Circuit (Kauai)	<u>1,425</u>	<u>785</u>	<u>637</u>	<u>1,573</u>	81%
Totals	32,188	13,326	10,604	34,910	80%
<b>Family:</b>					
1st Circuit (Oahu)	21,620	26,544	30,517	17,647	115%
2nd Circuit (Maui)	3,254	3,418	2,674	3,998	78%
3rd Circuit (Hawaii)	3,504	5,598	4,861	4,241	87%
5th Circuit (Kauai)	<u>1,494</u>	<u>2,079</u>	<u>2,078</u>	<u>1,495</u>	100%
Totals	29,872	37,639	40,130	27,381	107%
<b>District:</b>					
1st Circuit (Oahu)	163,646	729,841	688,280	205,207	94%
2nd Circuit (Maui)	112,592	75,514	48,038	140,068	64%
3rd Circuit (Hawaii)	3,529	54,089	51,888	5,730	96%
5th Circuit (Kauai)	<u>12,447</u>	<u>22,891</u>	<u>19,307</u>	<u>16,031</u>	84%
Totals	292,214	882,335	807,513	367,036	92%

\* Disposition rate is terminations divided by filings.

Source: The Judiciary, State of Hawaii, Annual Report, July 1, 1986 to June 30, 1987.

Table 4.3

Comparison of 1982-83 and 1986-87 Filings  
by Circuits and Courts

	1982-83 Filings	1986-87 Filings	Number Different	Percent Different
<b>Circuit:</b>				
1st Circuit (Oahu)	12,145	8,397	-3,748	-31%
2nd Circuit (Maui)	1,755	1,733	-22	-1%
3rd Circuit (Hawaii)	2,491	2,411	-80	-3%
5th Circuit (Kauai)	<u>695</u>	<u>785</u>	<u>+90</u>	<u>+13%</u>
Total	17,086	13,326	-3,760	-22%
<b>Family:</b>				
1st Circuit (Oahu)	16,983	26,544	+9,561	+56%
2nd Circuit (Maui)	2,546	3,418	+872	+34%
3rd Circuit (Hawaii)	3,942	5,598	+1,656	+42%
5th Circuit (Kauai)	<u>1,126</u>	<u>2,079</u>	<u>+953</u>	<u>+85%</u>
Total	24,597	37,639	+13,042	+53%
<b>District:</b>				
1st Circuit (Oahu)	840,048	729,841	-110,207	-13%
2nd Circuit (Maui)	67,956	75,514	+7,558	+11%
3rd Circuit (Hawaii)	45,183	54,089	+8,906	+20%
5th Circuit (Kauai)	<u>12,924</u>	<u>22,891</u>	<u>+9,967</u>	<u>+77%</u>
Total	966,111	882,335	-83,776	-9%

Source: The Judiciary, State of Hawaii, Annual Reports.

Table 4.4

Comparison of 1982-83 and 1986-87 Pending Caseloads  
by Circuits and Courts

	1982-83 Pending Caseload	1986-87 Pending Caseload	Number Different	Percent Different
<b>Circuit:</b>				
1st Circuit (Oahu)	30,101	25,534	-4,567	-15%
2nd Circuit (Maui)	3,984	3,466	- 518	-13%
3rd Circuit (Hawaii)	4,197	4,337	+140	+3%
5th Circuit (Kauai)	<u>1,157</u>	<u>1,573</u>	<u>+416</u>	+36%
Total	39,439	34,910	-4,529	-11%
<b>Family:</b>				
1st Circuit (Oahu)	21,618	17,647	-3,971	-18%
2nd Circuit (Maui)	3,394	3,998	+604	+18%
3rd Circuit (Hawaii)	3,358	4,241	+883	+26%
5th Circuit (Kauai)	<u>899</u>	<u>1,495</u>	<u>+596</u>	+66%
Total	29,269	27,381	-1,888	-6%
<b>District:</b>				
1st Circuit (Oahu)	100,875	205,207	+104,332	+103%
2nd Circuit (Maui)	58,156	140,068	+81,912	+141%
3rd Circuit (Hawaii)	1,903	5,730	+3,827	+201%
5th Circuit (Kauai)	<u>1,156</u>	<u>16,031</u>	<u>+14,875</u>	+1,287%
Total	162,090	367,036	+204,946	+126%

Source: The Judiciary, State of Hawaii, Annual Reports.

The negative trend in the district courts warrants closer examination. Table 4.5 presents data on pending caseload increases by case type and circuit. In the First Circuit, increases occurred in all case types, with very large increases in parking, regular civil, and traffic cases. Maui had large increases in all case types, especially civil cases. Hawaii had particularly large increases in parking, traffic, and other violations. On Kauai, other violations, parking and traffic cases account for most of the increase in the pending caseload.

The increase in the size of pending caseloads in the district courts is a disturbing trend. Should these increases continue, case processing times will increase beyond acceptable limits.

**Terminations per judge have declined.** One factor in the ability of a court system to keep pace with its workload is the productivity of its judges. Table 5.6 compares case terminations per judgeship between 1982-83 and 1986-87. This comparison considers only permanent judgeships, assuming relatively constant use of per diem judges, and excludes parking cases. (Parking cases are excluded because very few ever require the attention of a judge and because the distribution of parking cases across the circuits is uneven.)

Table 4.6 shows that overall terminations per judgeship has declined about 12 percent. In addition to judicial productivity, this could be attributable to greater complexity in the composition of the caseload or to a greater tendency for cases to go to hearing or trial. A comparative analysis of Hawaii with other states produced no conclusive information about the relative productivity of the Hawaii Judiciary. The Judiciary appears to be about average in the relationship of judicial staffing to caseload.

### **Structure and Organization of the Family Courts**

Hawaii's system of family courts is organized in an unusual and confusing manner. Although family courts are divisions of circuit courts, presumably to emphasize importance of these types of cases and to provide for jury trials, family court matters are heard by both circuit and district judges.

There are currently eight district court judges in the First Circuit who are designated as family court judges. Two additional district family court judge positions were authorized by the Legislature in 1988. However, the extent to which regular district court judges are used for family court matters is inconsistent on the Neighbor Islands. On Maui, for example, there is almost total delegation of family court matters to district court judges. There is some sentiment that the Second Circuit Court should reclaim this responsibility. On Kauai, family court matters are also predominately delegated to the District Court. In addition, per diem judges are widely used for family court matters.

Table 4.5

Comparison of 1982-83 and 1986-87 District Court  
Pending Caseloads by Case Type

	1982-83 Filings Caseload	1986-87 Filings Caseload	Number Different	Percent Different
<b>1st Circuit (Oahu):</b>				
Regular Civil	2,030	3,669	+1,639	+81%
Small Claims	1,193	1,544	+351	+29%
Traffic	64,026	105,284	+41,258	+64%
Parking	25,369	84,163	+58,794	+232%
Other Violations	1,327	1,420	+93	+7%
Criminal	<u>6,930</u>	<u>9,127</u>	<u>+2,197</u>	<u>+32%</u>
Total	100,875	205,207	+104,332	+103%
<b>2nd Circuit (Maui):</b>				
Regular Civil	1,174	3,599	+2,425	+207%
Small Claims	122	245	+123	+101%
Traffic	21,647	41,256	+19,609	+91%
Parking	26,036	70,385	+44,349	+170%
Other Violations	8,592	23,170	+14,578	+170%
Criminal	<u>585</u>	<u>1,413</u>	<u>+828</u>	<u>+142%</u>
Total	58,156	140,068	+81,912	+141%
<b>3rd Circuit (Hawaii):</b>				
Regular Civil	222	257	+35	+16%
Small Claims	98	247	+149	+152%
Traffic	824	2,678	+1,854	+225%
Parking	28	697	+669	+2,389%
Other Violations	70	1,226	+1,156	+1,651%
Criminal	<u>661</u>	<u>625</u>	<u>-36</u>	<u>-5%</u>
Total	1,903	5,730	+3,827	+201%
<b>5th Circuit (Kauai):</b>				
Regular Civil	383	635	+252	+66%
Small Claims	158	167	+9	+6%
Traffic	302	1,401	+1,099	+364%
Parking	2	3,270	+3,268	+163,400%
Other Violations	9	10,196	+10,187	+113,188%
Criminal	<u>302</u>	<u>362</u>	<u>+60</u>	<u>+20%</u>
Total	1,156	16,031	+14,875	+1,287%

Source: The Judiciary, State of Hawaii, Annual Reports.

Table 4.6

Comparison of 1982-83 and 1986-87 Terminations  
Per Permanent Judgeship by Circuit

	1982-83			1986-87		
	No. of Judgeships	Total Terminations	Average Terminations per Judgeship	No. of Judgeships	Total Terminations	Average Terminations per Judgeship
1st Circuit (Oahu)	36	329,629	9,156	39	285,925	7,331
2nd Circuit (Maui)	6	39,131	6,521	6	40,136	6,689
3rd Circuit (Hawaii)	6	42,421	7,040	6	47,531	7,922
5th Circuit (Kauai)	<u>3</u>	<u>13,305</u>	<u>4,435</u>	<u>3</u>	<u>20,106</u>	<u>6,702</u>
Total	51	424,486	8,323	54	393,698	7,291

\* Excludes parking cases.

Note: Assumes relatively constant use of per diem judges.

Source: The Judiciary, State of Hawaii, Annual Reports.

District court judges are certainly qualified to hear these cases, but it does create a confusing situation which obscures the identity of the family courts. The family courts have their own budget, their own staffing and courtrooms in many instances, but they "borrow" judges from the circuit and district courts in an inconsistent fashion across the circuits. In some circuits, this has led to confusion as to who is responsible for administrative and judicial leadership in the family court arena.

Interviews with knowledgeable persons outside the court system yields the perception that administrative services for family court operations are disorganized and inefficient. Procedures do not appear to be well coordinated. The disorganization may be attributable in part to the scope of services provided, the diversity of the caseload, or the inconsistent organization across circuits. The extent of the problem presumably has placed the family courts as a top priority for computer automation in the belief that automation will improve matters.

The Judiciary should begin to establish a clearer identity for the family courts by instituting a more consistent system of judicial assignments across the circuit courts. This could be done perhaps by assigning family court judgeships as separate from the circuit and district judgeships. In those circuit courts where workload requires more than one full-time judge, a circuit or district

judge could sit as a family court judge for a specified period of time. This arrangement would formalize the current situation in which many judges are assigned almost exclusively to family court matters.

**Calendars and scheduling reflect the disorganization of the family courts.** The calendar structure and scheduling procedures in the family courts are not inefficient in and of themselves. However, the disorganized character of family court operations can extend to calendar management. Attorneys and others outside the court system observed such operational problems as overscheduling the number of cases to be heard. It is not surprising that operational problems at times extend to court calendars, given the increasing case volumes, the lack of automated support, chronic staff shortages, and inadequate facilities.

**Staffing problems continue to exist.** Improvements have been made in reducing vacancies in the First Circuit Family Court. Still, vacancies continue to be at high levels. Within the court management services branch, there is a 25 percent vacancy rate. This forces a heavy reliance on temporary staff. Over-reliance on temporary staff and continuing high rates of vacancy impede the ability of the court to process its work in a timely, quality fashion.

Family court operations in the other circuits also appear to suffer from extensive use of temporaries, vacant positions, and a perceived need for additional support staff.

### **Problems in the District Courts**

District courts are non-jury trial courts with exclusive jurisdiction in traffic cases, petty and criminal misdemeanors, and most civil cases involving sums of less than \$5000. They are high volume operations with intensive transactions based workloads. The Honolulu District Court includes the traffic violations bureau, the counseling and probation services division, division of driver education, and the office of the sheriff.

We find that district court operations could be improved by using proven mechanisms to support effective caseload management.

**District courts could benefit from referees and structured pretrial conferences.** Referees are quasi-judicial officers assigned to handle less serious cases in an informal manner. Many minor criminal offenses, most minor traffic offenses, and all parking offenses are appropriate for adjudication by a qualified judicial officer who is not a full judge. District courts do not use this approach to processing their caseloads. Even those challenging a parking ticket must schedule a formal court appearance before a judge.

District courts also do not use a structured pretrial conference system to screen out criminal and traffic cases that have gone beyond the arraignment stage. Pretrial conferences in criminal



cases could reduce congested criminal calendars. At such a conference, the prosecutor can often negotiate a plea agreement that is in the best interest of the State and the defendant. Ideally, the pretrial conference should take place immediately after an arraignment appearance, minimizing the number of times a defendant is required to appear at court.

**Follow-up enforcement efforts are not keeping up with workload.** The failure to appear at a court date or to pay a fine as ordered by the court may result in the issuance of a penal summons or a bench warrant. When an individual is not able to pay a fine, the court may allow a deferred payment agreement. If payment is not made in accordance with the agreement, the court may issue a bench warrant. The preparation of bench warrants for delinquencies is done manually.

The Honolulu District Court is falling behind in these enforcement efforts, particularly with respect to the processing and service of penal summonses. It is several months behind in processing penal summonses, with the workload of parking-related penal summons virtually on hold. Staff shortages and cumbersome manual work methods contribute to this backlog. The service rate on penal summonses is only about 30 percent. There are some outstanding penal summons issued to process servers dating back to 1980. No one has been assigned the responsibility for following up on these outstanding penal summons.

In the District Court in Wailuku there are in excess of 20,000 penal summons that have not been prepared and issued for violators who failed to appear in court. The moving violation citations are merely filed by court date in filing cabinets.

In the Honolulu District Court there is a four-year backlog in issuing bench warrants for delinquent deferred payments relating to criminal cases. As of September 29, 1988, the backlog was estimated to be approximately 2700 cases totaling approximately \$643,000 in uncollected deferred payments.

The follow-up enforcement system could be improved by the use of different procedures. Increased use of letter notices, for example, as a preliminary step to the issuance of a bench warrant may yield a rate of response that justifies the cost of the notice program and the delay incurred in referring the matter to the sheriff in the form of a warrant.

**Need for decriminalization of traffic offenses.** The Hawaii State Judiciary would be served well by the decriminalization of traffic offenses as was recommended in a recent study. Decriminalization would allow the court system to use the administrative adjudication approach to processing traffic violations. This approach relies upon hearing officers, who are full-time permanent staff, to hear traffic matters in an informal setting with relaxed rules of procedure. Appeals to a more formalized judicial process would, of course, still be available from the administrative adjudication forum.

### **Standards, Policies, and Goals**

The circuit courts have many important, basic standards, policies, and goals of caseflow management. A six-month speedy trial law applies to criminal cases and is complied with. For civil cases, rules of procedure set a time limit for filing a statement of readiness, and cases may be dismissed for lack of action after 12 months. In some circuits, administrative judges have produced numerous memoranda creating rules and guidelines to address problems and improve caseflow.

However, there is a lack of organization and forcefulness in promulgating these standards, policies, and goals. Many staff seemed to be unaware they exist. Some staff are not aware that specific case processing time standards are in force. Although circuit court judges and administrative staff appear generally to be sensitive to case processing time, there does not appear to be a well-recognized set of standards. In none of the circuits are standards, policies, and goals documented or compiled so they can be distributed to all concerned. Some circuits have attempted to do this. For example, the Maui circuit has compiled and indexed minute orders. However, a complete compilation of statutes, rules, minute orders and memoranda does not exist.

The family courts have case processing time standards and other caseflow management standards, but they are not widely recognized and applied. Here again, administrative judges have established rules by memorandum that address specific caseflow problems. The same lack of documentation and distribution of policies and standards are found here.

Although caseflow steps are relatively simple in the district court and disposition times are generally short, it is still important to establish standards on how cases are processed, goals for providing services to citizens and for follow up efforts. This has been done only to a limited extent.

In many district court sections, there is little documentation of policies and procedures. Staff seem to be unaware of key policies and procedural training is done without documentation. Administrative and clerical procedures should be documented as an ongoing training and reference tool; otherwise the quality and consistency of daily performance is diminished. Important policies governing caseflow and other court operations should be compiled and accessible in a policy manual. The manual should include the uniform bail schedule, memoranda on operating policies issued by administrative judges, general orders, and critical court rules.

### **Judicial Staffing**

Judicial staffing for the civil division in the First Circuit Court should be reviewed. There are eight judges in the civil division and eight in the criminal division. Civil filings have dropped dramatically in recent years. It may be that some reassignment of judges from the civil to the criminal division is in order.

Four district judges are being used for circuit court criminal matters. Their district court assignments, in turn, are being covered by per diem judges. While the structure of a unified state court system is advantageous by providing flexibility in assigning judges according to workload needs, it is generally harmful for a temporary situation of this nature to continue for any extended time period.

The reassignment of district judges has continued for about 16 months. This has had a positive impact on circuit court criminal cases but the dilatory effects on the district and family court operations in the First Circuit are of concern. The family and district courts use per diem judges to fill the gap. The First Circuit Family Court uses up to six per diem judges on a regular basis to supplement the eight permanent district judges assigned to the court.

The use of per diem judges in the First Circuit is declining but continues to be equivalent to about three full-time judges. A recent study by the National Center for State Courts found that the number of days served by per diem judges in all district and family courts in Hawaii doubled between fiscal years 1982-83 and 1985-86.<sup>4</sup>

The use of per diem judges could negatively affect the processing of cases. An untrained part-time judge is likely to be less skilled in managing a caseload or a particular calendar than a trained, full-time judge. This could result in the slower movement of cases, incorrect case referrals, lenient continuance approvals, deficient judge bench notes, and disparities in sentencing.

At the same time, the use of per diem judges has some advantages. They cost less than permanent judges. The availability of a pool of per diem judges allows for flexible and efficient judicial staffing in response to fluctuating caseloads. These advantages only become obscured when the use of per diem judges becomes excessive, training is lacking, and the scheduling of per diem judges is inconsistent.

The National Center for State Courts evaluated the Hawaii Judiciary's use of per diem judges in January 1988.<sup>5</sup> The Center recommended a series of short term actions to address the most critical problems with the per diem judge system. The Center also recommended some long-term solutions to scale down substantially the use of per diem judges. It found that the primary criticisms and problems about using per diem judges are:

- . Lack of judicial training resulting in lack of competence;
- . Lack of judicial temperament due to inexperience;
- . A selection system that lacks the formality and scrutiny associated with the selection of district and circuit judges;
- . Uneven use of per diem judges, i.e., some are used very infrequently and some are used quite frequently; and
- . Greater potential of conflict of interest entering into judicial decisions.

The Center recommended changes in the selection and retention system for per diem judges, increased training, and guidelines on the use of per diem judges. For the long term, the Center recommended replacing use of per diem judges with permanent judgeships and retaining the per diem system only for auxiliary, fill-in purposes.

#### **Administrative Processes to Support Caseload Management**

The most serious problems with caseload management in the courts are not caseload volume or an inability to keep up with the workload. They are the administrative processes that support the caseload management system. We find inadequate automated support and caseload management information, and few managers who have been trained professionally in court administration and caseload management. One overall conclusion that may be drawn is that without some improvement in the administrative processes that support caseload management, the Judiciary may not be able to stay current with future workload increases and maintain the level of quality in operations it should have.

**Computer support for case management is inadequate.** Automated information systems can assist in processing and managing caseloads in a variety of ways. Computers can provide staff with ready access to case records, warrant information, criminal histories, calendars and other basic records. Computers make work substantially more efficient by producing notices, jury lists, file labels, standard forms, and by performing other time consuming clerical tasks. Finally, their ability to generate reports and statistics on caseload and caseload is an important aid to decision making.

Computer support for the circuit courts is uneven. The First Circuit civil division is perhaps the most advanced; however, the criminal division needs improvement. Outside the First Circuit, computer support is sparse. On the Neighbor Islands, access to information and efficiency in carrying out procedures suffer accordingly.

In the First Circuit Family Court, effective automated information system support is lacking to assist with case processing and caseload management. However, a promising information system project is under way.

District court staff unanimously point to the lack of effective automation as a serious and debilitating problem which precludes effective case management. The lack of automation to deal with a high volume of cases results in time consuming and cumbersome clerical procedures, the inability to obtain case information quickly, and the inability to generate management information statistics without manual tabulation.

Existing automated systems within Honolulu District Court are fragmented and also limited in their functions. The TRAVIS system has limited utility and is difficult to use. For example, cash intake stations are not connected to TRAVIS requiring duplicate entry of cash payment information. Calendars produce truncated last names forcing staff to manually check all calendars and type the remainder of the name on the printed calendar. Driver abstract records contain information beyond statute of limitations time periods so staff must manually edit distributed abstracts.

The Wang calendar system for the Honolulu District Court's criminal division is also limited in utility. It is focused on producing calendars, and even though other case information is entered into the system, the electronic record is not accessed outside the criminal division. Manually typed minutes from court proceedings continue to be used as the official record and are hand delivered to others.

As noted in Chapter 6 on management of information systems, development of computer support for the Honolulu District Court is occurring in a fragmented fashion. The court is not pursuing an integrated information system design that would maximize the utility of a system to all involved parties. An integrated system ultimately would create operating efficiencies since transactions from one functional module can feed data into other modules. For example, the issuance of a bench warrant through an automated function could result in updating a central case record file at the same time.

Very little automation exists outside the Honolulu District Court. Ideally, all district courts in all circuits should be able to access commonly required information (such as statewide driver abstracts) through a single system. The diverse computer systems in the district courts should be replaced by one system which would bring together and integrate all facets and divisions. At the same time, the system should be flexible enough to accommodate the unique needs of each district court throughout the state.

A comprehensive and integrated information system for the district courts will take a few years to put in place. The project should begin "from scratch." General requirements should be defined based upon surveys of users, their tasks, and needs. The design should maximize the number of uses to which the system can be put and also allow for optimal integration of modules. The project should search for commercial software or customized approaches that minimize costs and development time. The end product should be a system that truly helps staff to do their work, contains state-of-the-art operating features, and is easily maintained and modified.

**Management information is inadequate.** In the circuit courts, management information is available in the First Circuit to assist with caseload, but little management information is available in the other circuits.

Judges and administrative staff in the First Circuit Court cite the availability of information from the Hawaii Judicial Information System (HAJIS) as a key factor in their ability to manage their caseload, particularly with respect to civil cases. Recent HAJIS improvements have made it easier for staff to monitor the status of cases; for example, the status of individual cases is available. For criminal cases, over 20 different reports are available on all facets of caseload and caseflow. It is not clear, however, how extensively the administrative judge and administrators use this information to make decisions.

As with computer support generally, case tracking and other management information outside the First Circuit Court are scarce. Manual tabulation on cases is done, but primarily for reporting purposes and not for local use in caseflow management decision making.

The family courts lack useful management information to assist caseflow management. The workload reporting system in all circuits is a manual process. Furthermore, the nature and content of the data collection system is oriented toward preparation of the budget and annual report and not toward the production of management reports for local managers to use in making decisions. The statistics generated are not meaningfully related to case disposition, personnel allocations, equipment usage, or other operational aspects.

The district courts lack management information reports generated by computer. None of the automated systems in the district courts produce useful statistics, and valuable staff time is dedicated to collecting statistics manually. In the Honolulu District Court, statistics are tabulated by clerks from calendars and minutes. In the criminal division of the judicial services branch, an interpreter position is assigned to statistical tabulation. These manual methods are time consuming.

Ideally, management information reports should be generated routinely as a by-product of a comprehensive information system. In the district courts, these reports should be designed as part of the overall management information system. In the meantime, however, administrators should be taught how to use management reports to support decision-making. They should then create a reporting system that would inform them of current workload, identify bottlenecks, provide information on changes in workload, and inform them of the age of pending cases.

**The statewide statistical reporting process is viewed as burdensome and yielding little useful information to court managers.** As noted earlier, the system for collecting and reporting data for the Judiciary annual reports is viewed by many as fraught with problems. Because the process is manual, it is considered burdensome and time consuming. All staff would like to see the data collection process automated under an improved system. Many expressed concern with data definitions and counting methods, viewing reported figures with some distrust. Generally, the reports are not seen as assisting trial court managers with caseflow management.

**Court managers and supervisors have not been trained professionally in court administration and caseflow management.** The inattention to basic operational methods is in part a by-product of the lack of professionally trained administrators within the system. Managers and supervisors have not yet learned to use management information as a tool for daily management--to identify problem areas and make needed adjustments.

In many state court systems, a substantial number of court administrators reach their position as a result of longstanding tenure within the system and familiarity with specific operations and procedures. While many court managers and supervisors successfully adapt to the demands of their office, some of them lack exposure to the broader principles and practices of court administration and caseflow management. Such is the case in Hawaii's courts. There is a general need to expose managers to the principles and practices of caseflow management including the dynamics of caseflow, the use of management information, calendaring and scheduling systems, and the promulgation of policies and procedures supporting caseflow management.

#### **Need for Improved Support Services to Courts**

Court personnel see a need for the Office of the Administrative Director to improve the support services to the courts and to assist with daily operations. Processes for personnel actions, facilities planning and prioritization, statistical reporting, computer system development, and other key areas that impact caseflow management were reported as lacking. Some staff observed a lack of understanding of trial court operations on the part of the office and that the Administrative Director appears to be the only appropriate person to contact for many issues.

In a unified court system, the Office of the Administrative Director has an opportunity and an obligation to provide technical assistance to the courts. The court administrators need assistance in a variety of areas--case tracking, the monitoring of case aging, the use of statistics, employee relations, operations analysis, and many others. Staff from the Office of the Administrative Director can also play a useful role in standardizing work methods throughout the state court system. Particularly effective procedures or techniques in one operation can be promoted in others or established as a standard.

**District courts suffer from personnel shortages.** Vacancies have been a chronic problem in the district courts. Vacancy rates are high and the time required to fill vacancies is excessive. The Honolulu District Court relies heavily on overtime to get basic jobs done. While overtime may be effective as a short term remedy to a workload peak, it is not an effective means of dealing with ongoing workload.

The classification and job evaluation system for district court positions are seen by some as inaccurate, inequitable, and contributing to the turnover and vacancy rate problem. They say the discrepancy between circuit and district court classification grades contributes to staff shortages because clerk jobs in the circuit courts pay more and staff from district court leave to fill these jobs. We discuss these problems in greater detail in Chapter 7.

**Inadequate facilities impeding caseflow.** In certain circuits, notably on Hawaii and Kauai, inadequate facilities present serious problems to orderly and efficient case processing. Facilities for Hilo are being planned but facilities in Kona do not adequately support judicial operations. In the Fifth Circuit, there are only two courtrooms in Lihue to accommodate circuit, district, and family court hearings. Scheduling of the courtrooms is difficult, chambers are inadequate for pretrial conferences, and extra administrative help cannot be hired because space is not available in the building. These restrictions have a negative effect on caseflow management and judicial operations. Finally, the need for a family court center in the First Circuit has been recognized for some time. Crowded corridors and courtrooms are not a conducive environment for case processing.

### **Recommendations**

*We recommend the following:*

- 1. The Judiciary establish a stronger identity for the family courts by instituting a more consistent system of judicial assignments to family court matters.*
- 2. Priority attention be given to the needs of the district courts for automation, staffing, technical assistance, and other support that would enable them to improve operations and eliminate backlogs.*
- 3. The courts establish and reinforce caseflow standards, policies, and goals by organizing, compiling, and distributing them widely. Policies and rules for each court should also be organized in an accessible document within each circuit.*
- 4. The Chief Justice review judicial assignments by assessing how many judges are required to handle the criminal caseload in the First Circuit on an ongoing basis and consider transferring judges from the civil to criminal division if the drop in the civil case workload justifies such an action. As part of this review, the Chief Justice should reduce reliance on per diem judges in the family and district courts and implement the recommendations of the National Center for State Courts to improve the selection, retention, and training of per diem judges.*
- 5. The Judiciary initiate action to adopt a decriminalized traffic offense system.*



6. *The Office of the Administrative Director improve caseload and caseflow management information by developing and implementing consistent methods of data collection and reporting.*

7. *The Office of the Administrative Director provide training opportunities for administrators on the use of management information and on caseflow management. When accurate and reliable information is available, managers should be given in-service training on practical ways to use data to analyze operations and make adjustments that improve caseflow. In addition, this training should include the dynamics of caseflow, understanding the "local legal culture" in which caseflow occurs, the promises and pitfalls of various caseflow management techniques such as diversion and settlement conferences, programs and procedures for follow-up enforcement, and the use of computers in caseflow procedures.*

8. *The Office of the Administrative Director improve its support services to the courts, particularly in the area of automation and personnel.*

9. *The Judiciary vigorously pursue a program of facilities improvement within the constraints of its capital budget.*

## Chapter 5

### RECORDS MANAGEMENT

Courts are responsible for accepting, creating, maintaining, accessing, and storing large volumes of records, many of which have a legal significance not typically found in other types of organizations. The effective management of records is critical to court operations, from maintaining accurate and accessible active case records to the efficient storage of inactive records.

This chapter examines records management in the Judiciary. It first defines the scope of records management and summarizes issues brought up by previous studies. It then identifies some remaining areas of concern.

#### **Summary of Findings**

We find that over the years the Judiciary has initiated several studies on its records management system but it has not yet carried out some needed changes. Specifically:

1. Records management in the district courts continues to be deficient. Court records are not maintained efficiently, making access difficult.
2. The long-term storage of inactive case records is a serious and growing problem. Progress at improvements has been slow.
3. More work is needed to standardize and simplify forms.
4. The Judiciary lacks expertise in records management. It also needs to clarify the responsibilities of the microfilm unit.

#### **Background**

Records management often becomes a priority concern when volumes of inactive records begin to crowd daily operations. At that point, organizations look to some obvious remedies: off-site archival storage, microfilming and destruction of hard copy, and revision of retention schedules. However, if the organization has a broader view, it may take a number of other initiatives to keep abreast of needs.

Ideally, records management should encompass all phases of the records life cycle. The cycle begins with the creation of records, the design of forms, and the choice of medium. The middle

phase involves the storage of records and the manner of access. The final phase involves the disposition of records including the storage of inactive records, retention schedules, microfilming for archival retention, and destruction of hard copy.

### **Current Records Management Environment and Procedures**

Records management is an administrative responsibility assigned fully to the Judiciary by statute. Until 1984, the law required the Judiciary to submit a list of records for disposal to the State Comptroller, who had the final authority to approve the destruction of court records. Records disposal lists were prepared by court staff in consultation with the State Archivist. In 1984, the law was changed to give the Judiciary full control over the retention and destruction of court records. The Supreme Court now has authority to determine the care, custody, and disposition of all Judiciary case, fiscal, and administrative records.

State law recognizes microfilm as an acceptable records medium. The Judiciary has established rules for all courts setting forth letter-size paper as the standard for forms and filings. Other important records management responsibilities--active case file maintenance, inactive records storage, and security to name a few--are not addressed in formal guidelines but are the ongoing and daily responsibility of managers and supervisors in the court system.

**Studies on records management.** Records management in the Judiciary has received considerable attention in recent years. In 1982, the National Center for State Courts (NCSC) conducted a comprehensive study on records management for the entire court system and presented an extensive set of recommendations.<sup>1</sup> In 1984, the Judiciary initiated a major forms project, again with technical assistance from the NCSC.<sup>2</sup> This project noted the proliferation of more than 3000 different forms in the court system. In 1986, NCSC prepared a proposed retention schedule for the First Circuit Court.<sup>3</sup> In 1988, the NCSC again provided technical assistance, this time to the District Court of the First Circuit.<sup>4</sup>

Our review builds on the work done by the NCSC. It assesses the extent to which the Judiciary has made progress in records management by implementing the recommendations of the center's technical assistance studies. Indeed, one purpose of the 1982 NCSC study was to establish a baseline for measuring future progress. We find that progress has been made in certain key areas, but much remains to be done.

### **Records Management In the District Courts**

In its 1988 report on the Honolulu District Court, NCSC recognized some positive changes in records management. It noted that retention authority was now vested in the Supreme Court.

It recognized that the Judiciary had adopted a standard of using letter-size paper, that microfilming activity had increased, and that five positions and two cameras had been added to the microfilm program.

The report went on to say, however, that little had changed in the way the Honolulu District Court conducted its business or managed its records. The report cited a "desperate need for change."

Our review confirms this assessment. There continues to be serious deficiencies, particularly with respect to the maintenance of active case records. Circuit and family courts have problems to be sure, particularly in the area of retention and long-term storage, but district courts have problems that are more pervasive.

**Case files are inefficiently maintained and difficult to access.** In the Honolulu District Court, separate case records are maintained by the traffic violations bureau and the civil and criminal divisions of the judicial services branch. The judicial services branch records are not placed in labeled file folders; instead, they are simply folded together and filed in drawers. Too frequently papers needed in court are missing. Locating them is difficult because there are no uniform labels.

In addition to poor organization of files, the Honolulu District Court, as well as those in other circuits, do not have indexes or locator card files to facilitate file access. Case papers are filed by pending court date, which one must know in order to access the files. Except in traffic cases, there is no index or master card that contains the next court date for the case.

In the rural Oahu district courts, case records are kept in similar fashion with differences in each location. In some locations, indexes or locator cards have been developed. In Pearl City, for example, there is a master alphabetical card system with case actions and dispositions. Another card file serves as a numerical master locator card, containing the next pending court date under which other case records are filed. No case file folders are used in Pearl City.

In the Neighbor Island district courts, case files are kept in similar format and fashion as in the Honolulu District Court. Generally, case file folders or jackets are not used. Some of these courts receive limited case record information from the traffic violations information system.

The district court system does not maintain some type of case history record, commonly called a docket sheet or register of actions. The basic concept of maintaining a case file with complete case records and a summary sheet on case actions and dispositions does not exist. Instead, the courts rely heavily on the calendar minutes as the official record of action. The problem is that calendar format records are separate from case papers. As noted earlier, they are filed by date

and not easily accessed. They serve as the official court record and are bound in volumes. While in most instances there is also a disposition card file, this, too, is separate from case records.

For traffic cases, a limited index and docketing function is available on the traffic violations information system. In the criminal division, some indexing and docketing are done on the Wang system. In the civil division, no index or locator card system exists, nor is there a docketing record.

In the circuit courts, case records are more organized. Case papers are fastened together within a file jacket, and although the process is expensive, it does keep documents secure. The NCSC report in 1982 recommended color coding the tabs of file folders to improve access. This has not been done; however, this seems more a matter of choice in which the effort and expense of color coding tabs must be weighed against the improved access that results.

We did find that case files in the First Circuit Court's legal documents section are not secured. The public has open access to the file room and may remove files from the shelf at will. There is no control or check-out system for file removal.

**The growing problem of storage of inactive case records.** In the First Circuit, with its relatively new court buildings, file space is not a major problem. However, in other locations--Hawaii, for example--the storage of inactive case records has become a major problem. Files consume an inordinate amount of space, and efforts to secure off-site storage have not been successful.

A recognized solution to the storage problem is to revise existing retention schedules and shorten the length of time that records are retained. The retention schedule of the circuit courts was examined in 1986 by the NCSC and a revised schedule was prepared based upon the center's recommendations. However, the new schedule is still pending Supreme Court approval.

The Honolulu District Court also does not have an approved retention schedule, although one was developed based on the NCSC's 1988 report. Currently, there is little uniformity in the way records are stored. Each unit of the Honolulu court and also each Neighbor Island circuit determines its own storage practices. In some locations, old records are disposed of periodically. The civil division of the Honolulu District Court, for example, destroys old case files and stores old records in labeled boxes. Some Neighbor Island courts loosely follow the guidelines first developed by the traffic violations bureau in 1971. In most locations, however, records are retained for an extensive period of time, and space consumption is considerable.

Although progress has been made on the long-term records storage issue, the pace has been slow. The Judiciary needs to finalize its retention schedule revision and begin the process of filming and destroying hard-copy records. The space being consumed by these records is hampering court operations and imposing an unnecessary cost on the system.

### **Standardizing and Reducing Proliferation of Forms**

The Forms Project of 1984 and 1985 made a number of recommendations to improve the legal forms used by the Judiciary. As a result, the Judiciary promulgated a rule establishing letter-size paper as the standard for legal forms and has made progress in converting to the new requirement. Letter-size paper is recognized as a preferred standard for legal forms because it is less costly to file and standard filing equipment can be used.

Other issues continue to exist, however, and much remains to be done to standardize and consolidate forms. The NCSC found that the Judiciary used over 3000 different kinds of forms. In many instances, these were not standardized across circuits and did not conform with basic principles of sound form design. Content was often phrased in "legalese" and thus not clear. The proliferation of forms is confusing to attorneys and the public, difficult to manage internally, and very costly.

Unfortunately, the Forms Project was abandoned before its recommendations could be meaningfully implemented. The project should be reinstated and carried to completion.

### **Need for Records Management Expertise**

Two of the NCSC technical assistance reports recommended creating a records manager to lead a comprehensive records management program. Nothing along these lines has been done. Presumably, the recommendation to create a specialized position was based upon the belief that the appropriate expertise could not be found among existing staff. Whether or not the new position is justified, it would certainly benefit the Judiciary to train its managers and supervisors in modern records management practices and to administer an organized records management program on a statewide basis.

Records management expertise is one of several areas of technical assistance that staff of the Office of the Administrative Director should provide to the courts. This technical assistance could be provided in the context of policies and guidelines with which the trial courts must comply.

### **Unclear Responsibilities of the Microfilm Unit**

The microfilm program is staying current with its workload and generally is functioning well. The reporting relationship of the unit, however, is unclear. In anticipation of the new retention schedule, the microfilm unit has been filming records not yet due for filming. However, there is some confusion about the extent to which it is responsible for file preparation.

There is also some confusion about the reporting relationships of the unit. It serves the Judiciary as a whole and so is responsible to the Office of the Administrative Director. However, since its inception it has been located at the First Circuit Court where it films circuit and appellate court records. Because of its location, functional supervision is provided by the Circuit Court clerk. This situation should be clarified.

### ***Recommendations***

*We recommend that:*

- 1. Immediate attention be given to improving the district courts' case records system. To improve access to case files, a standard case file folder system should be implemented to include indexes, master alpha locator cards, or other such filing aids.*
- 2. The Supreme Court move to finalize retention schedules as soon as possible.*
- 3. The Office of the Administrative Director undertake the following:*
  - develop and administer a program of records management training and technical assistance for trial court managers and supervisors;*
  - develop policies and guidelines for records management that address proper file maintenance, retention schedules, inactive records storage, records security, and other important records issues;*
  - resume and complete the Forms Project; and*
  - clarify the responsibilities and supervision of the microfilm unit.*

## Chapter 6

### MANAGEMENT OF INFORMATION SYSTEMS

This chapter assesses the management of the Judiciary's information system. It includes an analysis of the adequacy of planning in this area; the effectiveness of current organizational structures, policies, and procedures; the extent to which user needs are being met through automation; and the adequacy of interfaces of Judiciary computing systems with other State agencies.

#### Summary of Findings

We find that:

1. As in other areas, there is a lack of leadership and direction in managing the Judiciary's information systems. There are two competing, uncoordinated groups working on information systems, specific tactical planning has not taken place, and there has not been any effective planning, prioritizing, and monitoring of resources.
2. Existing systems are incomplete and fragmented. Computer applications have been developed on a piecemeal basis.
3. The Judiciary has yet to identify an appropriate "architecture" for information systems that presents a balance between large mainframe systems and more focused mini-computer or micro-computer systems.
4. The existing IBM 4381 has adequate capacity. Generally, hardware purchases are being made before the software systems have been identified.

#### Background

The Hawaii Judiciary began using computers in the 1960s when the First Circuit Court started generating an annual master index of cases and the traffic violations bureau started using punch card technology to support its operation. In the early 1970s, a jury selection and jury payroll application was developed and some statistical reports for circuit courts, family courts, and adult probation were automated. Federal grants were obtained in the 1970s to support the development of computer systems for civil, criminal, and traffic case processing. These efforts ultimately resulted in the major transactions-based information systems in the courts today.



Until 1985, the Judiciary used the IBM mainframe computing system of the executive branch. Dissatisfaction with reliability and responsiveness led the Judiciary to acquire and operate its own IBM mainframe computing system. The Judiciary now leases an IBM 4381 computer to support IBM-based applications. There are over 300 terminals connected to the IBM. In addition to the IBM system, a number of Wang mini-computer and micro-computers have been acquired at various locations throughout the court system to support calendaring, administrative, and other applications.

The First Circuit has received the most automated information system support; implementation is limited on the Neighbor Islands. The major information systems and computing applications that currently exist within the Judiciary are discussed below.

**Hawaii Judicial Information System (HAJIS).** The Hawaii Judicial Information System (HAJIS) is a comprehensive on-line information system serving the circuit courts primarily in the First Circuit. HAJIS contains information on court cases, parties associated with cases, attorneys associated with cases, appearances, allegations/charges, party status, sentencing, notifications, case folder location and inventory, bail status, and scheduling information. There are about 175 terminals accessing HAJIS with over 20,000 transactions performed daily.

HAJIS is organized into two major modules: civil and criminal. The civil case management system was the focus of a major enhancement project in 1985-1986 that used the Application Transfer Study (ATS) approach developed by IBM to identify and implement system improvements. The criminal side is less complete than the civil, although the criminal system generates numerous statistical and case tracking reports. The civil system has limited statistical reporting capability.

The Neighbor Islands generally have only the automated docketing and indexing functions of HAJIS in operation.

HAJIS runs on the Judiciary's IBM 4381 computer. It is supported and maintained by staff of the Judicial Computer Systems (JCS) office. Computer operations are performed by the First Circuit District Court data processing staff.

**Traffic Violations Information System (TRAVIS).** The Traffic Violations Information System (TRAVIS) serves primarily the traffic violations bureau (TVB) of the District Court of the First Circuit. Major modules of this system are the citation, calendar, and abstract systems. Traffic tickets are entered into TRAVIS using key punch methods. Pre-paid tickets are cleared from calendars automatically. TRAVIS generates calendars. TRAVIS also contains a traffic abstracts system (statewide drivers' records). Lists of cases with a "Failure to Appear" or "Failure to Pay" are generated by the TRAVIS system. Appearance and case disposition information is entered into TRAVIS.

TRAVIS implementation on the Neighbor Islands is limited, with only the traffic abstract function generally available.

As with HAJIS, TRAVIS runs on the Judiciary's IBM 4381 mainframe computer. JCS staff support and maintain the system while the First Circuit District Court data processing unit staff actually operate the IBM mainframe.

**Wang Systems.** Several other systems use Wang computers. The Appellate Courts currently have a calendaring system on a Wang VS 100 computer.\*

This system was developed by staff of the management services section of the Judiciary budget and fiscal office. System support is provided by management services staff.

The budget and fiscal office performs financial and accounting functions on a Wang VS 100 computer. The budget section of this office uses a Wang VS 6 computer to run specialized budget functions.

The fiscal section of the Family Court in the First Circuit uses a Wang OIS system to support its financial functions. The personnel office uses a Wang PC and the Alpha 3 database tool to support personnel functions.

The criminal section of the Honolulu District Court uses a Wang computer to perform basic indexing and docketing functions for criminal misdemeanor cases (traffic cases are on TRAVIS). This Wang system produces calendars but also captures basic case information.

Word processing capability is available on micro-computers in several sections of the Judiciary. Most of these word processors are Wang PCs. Electronic mail is available through both the IBM system and the networked Wang system.

**Organization and staffing for information systems.** The JCS Office has primary responsibility for information systems. It is organized into three sections: applications, data, and systems. Each section has a supervisor. The applications section has nine positions--four systems analysts and five programmers. The data section has two systems analyst positions with responsibility for constructing and maintaining databases. The systems section has four systems analyst positions responsible for systems software maintenance and support and communications/networking functions.

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\*The term "calendaring" in reference to computer applications is used in Hawaii to refer to more than just scheduling of cases and production of calendars. The "calendaring" function includes basic case records data and appearance history information. The term "docketing" commonly is used in Hawaii to refer to a chronological listing of documents or pleadings filed on a case and is not used to refer to all of the events or transactions associated with a given case.

Computer operations staff for the IBM mainframe are located in the Honolulu District Court data processing unit and are organized into three sections: keypunch, data control, and operations. Seven computer operators cover two shifts on a five day per week basis. Six data control clerks and a night shift clerk also work on general data center and Honolulu TVB notice functions. The keypunch section performs data entry for the Honolulu District Court--traffic citations and over-the-counter bail forfeiture dispositions.

Most of the approximately 100 users of the Wang-based systems are supported by the two systems analyst positions in the management services section of the budget and fiscal office.

In addition to the regular staff functions noted above, the Chief Justice recently appointed an Executive Committee on Technology to serve as a policy-setting and steering committee on information systems. This committee is co-chaired by a judge and the Administrative Director and is composed of judges and staff from throughout the Judiciary. Staff from JCS and management services serve as technical advisors to the committee.

#### **Judiciary Lacks Leadership in Information Systems**

The Judiciary is without management direction and leadership for information systems. No one individual currently is responsible for providing the leadership and operational direction necessary to insure a focused and cost-effective growth in information services to the user community.

There is no one in a position of leadership who has the full support of the Chief Justice and the Administrative Director to build broad-based support in establishing a direction for the Judiciary. The acquisition of hardware and software, the identification of priorities for major emphasis, the structures used to manage and implement projects, and other key information systems issues are not being addressed and coordinated by an executive position with primary responsibility in these areas.

**There are two uncoordinated and competing "contingents" for information systems.** In the absence of leadership, conflict has arisen among competing contingents. The development and administration of information systems within the Judiciary is a subject of great concern to a large number of managers and staff. The need to establish new systems and enhance existing ones is substantial and pressing. The approach and structures for meeting these needs are currently the focus of polarized controversy within the court system.

This kind of controversy is not unique. In most large organizations, a central data processing department historically has had responsibility for the development and administration of information systems. These central organizations usually are oriented to mainframe computing

and in-house development of programs. Commonly, there develops a certain level of dissatisfaction with the delivery of information system services through a centralized mainframe structure. Complaints generally include slow system development progress, lack of responsiveness, and a lack of understanding on the part of central data processing staff of user requirements.

In organizations experiencing user dissatisfaction with central data processing services, there often evolves a "movement" or contingent of managers and other users who advocate user control of development and administration, user control of mini-computers and micro-computers that are easier to operate than mainframes, and the use of software languages and tools that allow relatively speedy systems development and maintenance.

In the Judiciary, the central data processing approach versus the user-controlled decentralized systems approach has emerged in distinct fashion. The central "IBM contingent" and the decentralized "Wang contingent" represent uncoordinated and competing factions within the organization.

The IBM contingent and its supporters advocate greater centralized computing resources to speed development projects and provide better service to users. The Wang contingent and its supporters advocate decentralization of computing resources with user control of development and administrative processes. The IBM contingent fears a duplicative, uncoordinated, and costly scenario with users running "willy-nilly" down a path that leads to problems in connectivity, communications, and other areas. The Wang contingent sees no future in a centralized computing structure that is slow to develop systems, unresponsive to user requirements, limited in its functional capabilities, and unable to truly understand user operations.

Both the IBM and the Wang contingents within the Judiciary are moving ahead with their preferred approaches. The IBM contingent is fully involved in the Family Court project and hopes that other major endeavors, such as the extension of HAJIS to the neighbor islands, will proceed as they envision.

The Wang contingent has had some success in rapidly developing systems that meets basic user requirements. This approach represents a refreshing change to users who are frustrated with the mainframe computing environment. Some Wang users intend to pursue expansion of a decentralized, fully user-controlled system such as is under consideration in the Honolulu District Court.

The central theme of this finding is that whatever the relative merits of the competing contingents, it is unhealthy for the Judiciary to pursue information systems in a polarized and uncoordinated fashion. To the extent the contingents work at cross purposes, there is likely to

be an uncoordinated, costly, and confusing array of systems. The challenge for the Judiciary is to establish the mechanisms for merging competing interests into a common purpose and identify the proper role for centralized staff, departmental staff, mainframes, mini-computers, and micro-computers.

**The organizational separation of computer operations and other central computer functions is illogical.** Regardless of the ultimate jurisdiction and authority vested in JCS for information systems within the Judiciary, it does not make sense for the IBM mainframe data processing staff to be placed organizationally outside of JCS in the Honolulu District Court. The computer operators and data control clerks should be organizationally placed within JCS. There may be an historical reason why these positions report to the Honolulu District Court, but they do not belong there. Computer operations support for the IBM mainframe logically belongs under JCS control.

**The Judiciary lacks meaningful tactical and action plans, and user requirements have not been fully identified.** Comprehensive short- and long-range planning is essential for management to make appropriate decisions on the acquisition of hardware, software, and personnel resources, and for users to be able to plan and budget for new automated applications.

The Judiciary has completed a *General Plan on Technology* and it received a *Strategic Systems Plan* from Decision Support Services, Inc. (DSSI), a consulting firm, in December 1987. However, these efforts have not resulted in the concrete tactical and action plans needed for making critical information systems decisions.

The planning report prepared by DSSI contained many relevant and useful concepts and observations. The report endorsed the movement toward distributed computing; advocated the notion of exploring software package solutions; suggested conceptual frameworks for an information systems architecture; and offered recommendations relating to specific applications. This plan, however, lacks the level of detail for making decisions. There is no realistic assessment of the scope of systems development to be done, the resources available or required to meet these objectives, and the structures needed within the Judiciary to move effectively in the established direction.

Several critical decisions regarding future information systems projects need to be made. These decisions should be made with the input of involved parties and with the proper management staff and leadership in place to build unity and support for the decisions made.

The list of pending projects within the Judiciary is substantial: a major Family Court system, major needs for the District Court, accommodation of the Juvenile Justice Information System, extension of HAJIS to the Neighbor Islands, and others.

Clearly, JCS does not have the staff resources to take on all of these projects in an acceptable timeframe; however, it is not clear whether all of the additional staff resources needed to meaningfully proceed on the list of projects should reside in JCS. Clearly, additional computing power is needed to support the range of systems contemplated. Although the IBM 4381 is running only at about 50 percent capacity, it is not clear that all future systems should reside on an IBM mainframe and be operated by JCS staff.

Specific tactical or action planning is needed to prioritize among projects, identify resources required, and establish timeframes for meeting established objectives. Although in some cases user requirements have been adequately documented (e.g., the Family Court project), in most cases user requirements remain undefined. The Judiciary does not have a clear picture of specific user requirements throughout the court system, much less a specific plan for addressing these requirements. Furthermore, in view of the factions within the Judiciary and the lack of neutral executive leadership, the Judiciary does not currently have the means to effectively establish priorities and tactical plans.

**Due in part to the lack of leadership, JCS has not engaged in effective resource planning, prioritizing, and monitoring of resource allocation.** The user community, particularly those that have or are gravitating toward mini-computer and micro-computer solutions, has a perception that JCS does not use its resources effectively and efficiently. Although these users are not sure whether the problem is capability, attitude, or simply the fact that mainframe computing environments tend to be resource-intensive, they do feel sure that productivity from JCS is low.

JCS has not maintained records documenting the allocation of its staff resources over the past several years. It has not tended to establish firm deadlines for projects or set goals for accomplishing a certain number of projects within a specified timeframe. The lack of such management and reporting systems contributes to the perception by users that JCS is unproductive. Indeed, the lack of documentation on where staff time is spent makes it difficult to determine the actual productivity of JCS.

In JCS's defense, it is likely that some users underestimate the complexities of developing and maintaining major application systems. For every task that is visible to the user, there are many not so visible tasks that need to be performed. In addition, the lack of clear direction from management on the systems which are to receive priority has hampered productivity.

Despite fairly widespread dissatisfaction with JCS, certain users, notably those that have participated in the two ATS projects, have had positive experiences with JCS staff and view them as reasonably productive. Regardless of divergent points of view, it is clear that JCS has not had sufficient staff to meet all user demands in a timely fashion.

**The Executive Committee on Technology is an effective forum for information systems issues but it is handicapped.** The committee may be too large to be an effective policy-making body. It consists of 7 judges and 7 administrative staff for a total of 14 members. As such, it may be an effective forum for widespread airing of concerns regarding information systems issues, but it may not be an effective policy-making body.

There appears to be general approval that a large number of managers from throughout the court system are on the committee and that a forum exists to voice concerns regarding information systems issues. Those users that view JCS negatively have expressed concern that the leaders of the committee may not be aware of the depth of the problems with JCS services and may tend toward simplistic solutions that merely add staff and equipment to JCS to address user needs. The challenge for committee leadership will be to thoroughly investigate the current situation and identify approaches to coordinate the two factions in a manner that serves the best interests of the Judiciary.

Although the executive committee may at this time be serving an effective purpose in obtaining input from a large number of parties, it may be too large to effectively establish policies and priorities on an ongoing basis. In addition, the committee does not have the input of an objective, independent executive level manager who can provide technically expert and managerially sound advice.

The committee should evolve to a smaller membership of key individuals that can mold and review information systems policies and priorities in a substantive and timely manner. The ultimate membership of the committee should be balanced in representing the different "contingents" and constituencies in the Judiciary.

The Chief Justice and Administrative Director should rely upon the committee for advice and input on important information systems issues. These should include the level of expenditure to be committed to this area, a prioritization of projects, recommendations regarding project management structures, and policy statements on key issues.

The committee should play a major role in developing a tactical plan. Ad hoc technical committees may be formed by the steering committee from time to time to develop technical documents for steering committee review. Each member of the steering committee should communicate the committee's decisions and reasoning to others in the Judiciary.

**Need for a chief information officer.** The Judiciary should establish an executive-level position of chief information officer who would have primary responsibility for information systems development and administration. The chief information officer would take the lead in creating a tactical plan for information systems based upon approved policies. The position would

provide guidance to the Administrative Director and be a key staff advisor to the executive steering committee and others responsible for setting policies and priorities in the information systems area.

The chief information officer should be an information systems professional with broad experience and ability in management, communications, planning processes, supervision, and technical data processing subjects. It would be desirable for the individual filling this position to have expertise in telecommunications and networking, because regardless of how decentralized the Judiciary becomes in applications administration, communications and interfaces will always be administered centrally.

The chief information officer would supervise JCS staff, including district court data processing staff which should be transferred to JCS. The officer should have oversight responsibility for all major applications projects. If the project is large enough to warrant a full-time manager, that manager could report functionally to a user management committee and administratively to the chief information officer. Project management structures, staffing levels, and organizational placement of staff should be reviewed and approved by the chief information officer.

It is important that the new chief information officer not be aligned with any of the existing factions within the Judiciary, either the "IBM contingent" or the "Wang contingent." A major challenge will be to provide leadership in such a way that merges these factions into a coordinated organization with a common purpose.

It should be noted that this recommendation departs from the DSSI report recommendation with respect to the merging of financial and information systems manager functions. The DSSI report supports the recommendation of the Arthur Young report to merge these functions. However, we find in this examination that information systems is an important and specialized area requiring the full attention of an executive trained specifically for this type of position.

### **Incomplete and Inadequate Existing Systems**

In this section, we discuss the adequacy of existing information systems.

**HAJIS appears to meet the needs of its user community but improvements are needed.** Of the two major IBM transactions-based information systems, HAJIS is by far the more effective. Although HAJIS has been in existence for some time and does not reflect a state of the art information systems design, it nevertheless seems to meet the needs of users relatively well. HAJIS could be improved, however, in the criminal case management and civil statistical reporting areas.



The most pressing need is to extend HAJIS to the Neighbor Islands. Work has not yet been done to determine the extent to which the First Circuit Court HAJIS system would meet user requirements on the various Neighbor Islands. JCS has presented a relatively detailed plan for a Neighbor Island extension project, but the substantial costs identified in this plan, particularly the multiple staff requested, are not adequately justified in the absence of user requirements definition.

**The TRAVIS system has limited functionality, is based upon an antiquated and fragmented design, and is difficult to operate.** There is general consensus that the TRAVIS system does not meet user needs and is virtually beyond repair. There are some minor fixes that may be of substantial value to users between now and the time a replacement system is implemented, but major overhaul would be required to make this system effective. The same conclusion was reached in the DSSI strategic planning report.

**The Wang-based systems serving the appellate courts, administrative offices, and other users appear to meet basic user needs.** Users of the Wang systems are generally pleased with their systems. Some users feel hampered by the current lack of connectivity between the Wang work stations and the information available on the IEM (HAJIS and TRAVIS), but overall user satisfaction among the Wang applications is good. Generally, the Wang users feel that their computer support has been timely, reasonably priced, and based upon a sound review of user needs.

The Wang applications developed when certain users became frustrated with the seeming unresponsiveness of JCS and their inability to provide effective systems in timely fashion. It represents a departure from traditional centralized approaches. The users of the Wang applications have established their own means of acquiring systems and supporting them and other users desiring more immediate service have gravitated toward this approach.

**The Wang-based applications have been developed on a piecemeal basis and not as part of a well-planned, integrated set of information systems serving the Judiciary.** In the development of information systems within a large organization, there is always a need to establish a balance between separate systems tailored to meet the requirements of an identifiable group and large systems serving requirements of the whole organization. No single information system or computer processing environment can meet all the needs of all the users. Conversely, there are applications that can serve a great number of users throughout the organization with common requirements.

The systems that run on the Wang mini-computers and micro-computers within the Judiciary have been developed on a fragmented basis. These systems meet "pockets" of user needs that

became urgent and were for whatever reason not met by the JCS central staff. The net effect is an uncoordinated, non-integrated array of systems. Although problems of connectivity with the IBM applications are being addressed, the Wang systems, particularly those supporting case management functions in the courts, have not been developed in full consideration of the "big picture," i.e., the need for multiple user groups to access applications across court and information system boundaries. In this sense, the Wang systems present a constraint on fully meeting user needs within the Judiciary.

### **Information Systems Development and Maintenance**

This portion of the analysis addresses issues in the development of information systems, including policies and guidelines for the development process, project management structures, and system maintenance procedures.

**The Judiciary has not identified an appropriate "architecture" for information systems that optimally meets the needs of its user community.** The ultimate "architecture" or design of information systems within a large organization should present an optimum balance between large, broad-based mainframe systems and smaller, more focused mini-computer or micro-computer systems. The Judiciary has not established guidelines for deciding what type of information system best fits a given circumstance.

For each system under consideration, the primary concern should be meeting the operational needs of the users it serves. The existence of a mainframe computing resource should neither constrain nor drive the decision of how software will be acquired or developed or what computer processing environment will be used. Existing hardware resources or the existence of an available central information systems staff should not dictate software and project management decisions. If, for example, an application need can be met with a software package that runs on a mini-computer that can be operated within the user group it serves, this approach should likely be followed. The communications and interface requirements of any system that is implemented should be considered so that others can access the system and the users of the system can access other systems.

At the same time, there are applications that logically should reside on a mainframe computer. Typically, these systems serve a large number of users with common requirements and are operated by a centralized data center. The HAJIS system fits this category.

In addition to traditional mainframe centralized computing systems, the Judiciary should make use of distributed data processing when and where appropriate. Distributed data processing decentralizes processing equipment to give users greater control over their operations. However,

these interconnected systems should be governed by careful definition of the functions performed at various levels and by system-wide standards. Distributed data processing offers advantages in price/performance capability, ease of computer operations, and maintenance requirements. Although fourth generation language software tools and other productivity aids are increasingly available on mainframe computers, these tools were pioneered on mini-computers and micro-computers and thus are widely available in a variety of product lines.

The Judiciary should develop policy guidelines for decision-making regarding the use of distributed data processing, centralized mainframe systems, and other alternative approaches to computing systems. These guidelines should not be overly technical or complex, but rather embody common sense positions given the scope of the system, its computing resource needs, communications requirements, and interface needs.

**Two Application Transfer Study (ATS) projects were successful attempts but the Family Court project is proceeding inappropriately by purchasing hardware before software decisions are made.** The Judiciary has been engaged in a project since 1987 to automate the Family Court in the First Circuit. This project has adopted the Application Transfer Study (ATS) approach developed by IBM. The two ATS projects in the civil division of the First Circuit Court and the Family Court project currently in progress are qualified success stories for the Judiciary. These projects meaningfully involved users by putting them in leadership and analysis roles. Within these project structures, JCS staff served as technical advisors and staff support. With this approach, the common problems of lack of communication between user and central data processing technical staff did not occur.

Under the current Family Court project, however, expensive hardware is being acquired before the software solution has been identified, an action which could seriously constrain flexibility in selecting software. In addition, these purchases are being made in the absence of a meaningful automation plan that establishes priorities and processes to guide major equipment purchases.

At the end of FY 1987-88, the Family Court encumbered over \$600,000 for unbudgeted computer purchases. Its purchases included 79 Wang PC systems and 49 *laser* printers. There is a major question about the efficiency of these purchases. The Wang PCs are relatively expensive work station solutions compared to others. The extensive purchase of laser printers also appears excessive since it is possible for two or more terminals to share a printer, and laser printers are considerably more costly than dot matrix printers which are perfectly acceptable for work station applications.

**Other than the ATS projects, effective project management structures have not been utilized.** Outside of the ATS projects, there is little evidence that the user community has been meaningfully involved in information systems projects. For example, effective communication between Honolulu District Court users and JCS staff is lacking.

Users need to be intimately involved in every step of an information system project. The management structure of the project should identify the responsible party for day-to-day management. For large projects, it is usually necessary to devote a full-time position to the project. Smaller projects can be handled by an existing position that can devote 20 to 50 percent time to the project.

Contrary to the conventional wisdom of days past, it is not necessary to have technical staff from a central data processing department serve as a project manager. The project manager should be accountable to a small committee of managers who are the primary users of the system, someone who is skilled in management, not just technical data processing subjects. Technical staff can be assigned to each project (out of JCS or on a contract basis) as needed. The project manager should be expert in development and administration processes in information systems--defining user requirements, designing systems, negotiating and administering contracts, communicating with all involved parties, and dealing with vendors.

Every project should operate under a set of controls. These controls include accountability for resources by virtue of proper budgeting and expenditure monitoring. Progress reports should be made to the chief information officer and the Executive Committee on Technology as well as to the user/management committee for the project. Specific timeframes and deadlines should be established for project milestones. Internal work quality review procedures should be followed to make sure the system under development is meeting user needs.

Generally, development and acquisition projects should follow the SDM 70 standards for project management. This methodology forces a well-documented and structured approach for all projects that, while sometimes tedious, will permit projects to be properly controlled, ensure thoroughness and accountability, require cost benefit analysis of alternatives, and provide an audit trail of all development or acquisition steps in a system implementation process.

**Information system projects are proceeding in an uncoordinated fashion.** Within the First Circuit District Court, there is an existing Wang-based calendar system for the Honolulu criminal division, while at the same time JCS is working on an IBM-based calendar system for the rural courts. Neither system is necessarily suitable for transfer to Neighbor Island district courts.

Of somewhat less concern is the relationship between the family court system and the juvenile justice system. Although the need for coordination and communications has been recognized for these two systems, the nature and extent of this overlap has not been defined.

**JCS lacks the resource capability to design large-scale information systems projects.** Large-scale information system design is a specialized skill. A competent programmer or even a competent systems analyst is not necessarily qualified to design large-scale information systems.

Within the commercial software industry, designers with high-level technical skill and knowledge of the technical environment in which they are working are employed to design systems. The fruits of this specialization are reflected in state-of-the-art software packages which are increasingly available on the market. It is unrealistic for a public organization or private company to expect to have in-house capability in providing high-quality information systems design. We suggest that information systems acquisition and development projects seriously consider software package acquisition or contracting for custom software development work.

Even if JCS staff were not called upon to manage major information systems projects, there currently is insufficient technical staff within JCS to staff an ambitious effort to pursue automation within the Judiciary. Furthermore, it is not clear that all programming support for a given project should be performed by JCS staff as opposed to a software vendor or contract staff specially selected for a given project. The appropriate staffing sources and levels for a given project should be made by the users in charge of the project with the approval of top management.

**The Judiciary has not recognized the potential of commercial software package acquisition.** The notion of exploring the utility of commercial software packages was recommended in the DSSI strategic planning report. Indeed, the Family Court project is currently engaged in a search for either packages or systems that are transferable from another jurisdiction. This search, however, may not be adequately structured and diligent. It is too easy for a cursory review of the marketplace or systems in other jurisdictions to conclude that "nothing out there" meets the needs and that custom development is the only alternative.

If no existing software system is close to a given project's requirements, it is possible to pursue a partnership with a software vendor who may be interested in "developing a custom system for a package price" with the intention of marketing that system to other jurisdictions. In this manner, the client underwrites a development project on a shared cost approach.

Transferring an existing public domain system and contracting for modifications is another viable alternative that can be cost effective.

### **Hardware and Networking**

The following sections present findings pertaining to the current hardware configuration, hardware capacity planning, communications systems, and interfaces for Judiciary computing systems.

**The request for an IBM 3090 mainframe computer and 14 technical staff in the 1987-88 budget was premature and not adequately justified.** The Judiciary has not sufficiently identified a direction and structure for information systems to justify the acquisition of a specific processor. The formulation of a tactical plan would likely include a large measure of distributed data processing, which runs contrary to the acquisition of a larger mainframe computer.

The administration of major information system projects could be decentralized as well, which runs contrary to a build-up of central JCS support staff.

The current IBM 4381 computer is reported to be at about 50 percent capacity. Although future IBM applications will likely consume this excess capacity, there is no present need to upgrade this computer. However, JCS should evaluate whether it would be more cost effective to lease or to purchase the IBM 4381.

**Computer hardware is being acquired before software systems have been identified.** This is occurring in several areas. The Family Court project is obtaining Wang PCs as work stations that project leaders are sure will be compatible with whatever software and processor hardware choices are made. The District Court has acquired over 62 Wang PCs in anticipation of future automation although the specific nature of this automation has not been decided. At the end of fiscal year 1988, the Judiciary encumbered over \$2 million for unbudgeted computer and computer-related items. The wisdom of these expenditures is questionable.

Ideally, hardware acquisition decisions should follow software decisions. Once the software system has been chosen and the programming language and overall processing environment are known, it is possible to wisely select processors, terminals or PCs as work stations, and other hardware items. Purchasing the hardware items first may limit the software decisions to be made.

**Communication interfaces between the IBM-based systems of the Judiciary and other systems is uneven.** The linkage between the Judiciary, the State IBM system, and the City and County of Honolulu system are working well and present few technical problems. These communication links are necessary and beneficial to the Judiciary.

The effectiveness of the Offender-Based Transactions Statistics (OBTS) system administered by the Attorney General is diminished by problems in data reporting between the Judiciary and OBTS. A backlog of case disposition reporting from District Court currently exists. In addition, the method of transferring data from all but the First Circuit Court is direct entry, requiring staff to duplicatively enter data. Little data reporting is currently automated.

The existing communications network is adequate to support current and planned inter-island systems. Future communications, however, could make use of the executive branch's network. The Judiciary currently leases data communication lines from the Hawaiian Telephone Company

to provide inter-island communications. This arrangement is adequate at present. The executive branch is planning to implement a microwave-based network that could offer high-speed data communications at reasonable cost. The Judiciary should consider this option in its future communications planning.

### **Recommendations**

*We recommend that:*

1. *The Chief Justice and the Administrative Director in consultation with members of the Executive Committee on Technology appoint a chief information officer with primary authority for information systems development and administration.*

2. *The chief information officer, the Chief Justice, Administrative Director, and the Executive Committee on Technology work together to:*

- . establish policies and priorities;*
- . develop a detailed tactical plan that identifies priority projects, the resources required to accomplish those projects, realistic and specific timeframes for project work, and the project management structures to be used to accomplish the work;*
- . establish effective management structures and controls for each project;*
- . establish an appropriate "architecture" that optimally meets the needs of users;*
- . establish procedures for systematically evaluating commercial software packages.*

3. *The Judiciary computer systems office be restructured to place organizationally within JCS the data processing operation currently under Honolulu District Court. The ongoing role of JCS should evolve toward data center operations; specialist staff support in systems programming; administration of communications, networking and interface systems; and technical assistance for applications acquisition/development projects. Major applications projects should be administered on a decentralized basis, with user/managers in charge and JCS staff used for technical advice and support.*

4. *The Judiciary computer systems office assess whether it would be less expensive to lease or purchase the IBM 4381.*

## Chapter 7

### PERSONNEL MANAGEMENT IN THE JUDICIARY

Achieving the purposes of the Judiciary depends in large part on the professional and specialized expertise of its staff. The Judiciary is a labor intensive organization with personal services constituting over two-thirds of the operating budget.<sup>1</sup> This makes the management of the Judiciary's personnel system a critical administrative function.

This chapter examines the system of personnel management in the Judiciary with primary emphasis on the administration of the civil service system.

#### Summary of Findings

We find that:

1. The Judiciary's personnel operations lack the basic elements for management. There is no official organizational structure, so it is not clear how personnel responsibilities are dispersed throughout the Judiciary. Administrative authority is not delineated between the Administrative Director and the personnel administrator.
2. The personnel system operates without policies and procedures in many areas, resulting in confusion and the perception of arbitrariness and self-interest.
3. The activities of the personnel office need direction and purpose. There is no system of accountability, and management lacks the information to help it set priorities.
4. The classification area needs management attention. Many class specifications are outdated and should be revised. An outdated classification plan has resulted in inconsistencies and pay inequities.
5. The Judiciary has not accorded employee development the importance it deserves. It has no comprehensive training program for its employees, mediocre administration of performance evaluations, no affirmative action plan, and a pre-employment medical standards program of questionable purpose.

#### Background

The Judiciary is a separate branch of government comparable in size to some departments in the executive branch, such as the Department of Transportation and the Department of



Human Services. It has over 1700 employees. Of these, 1547 are classified under the civil service laws of the State and 221 are exempt.<sup>2</sup> Table 7.1 shows the current position count. In addition, there are approximately 100 persons working for the Judiciary under personal services contracts.

Table 7.1

Civil Service and Exempt Positions in the  
Hawaii Judiciary, October 6, 1988

	Permanent	Temporary	Total
Civil Service	1,366	181	1,547
Exempt	154	67	221
Total	1,520	248	1,768

Source: Judiciary Personnel Office.

The number of positions has grown steadily over the past few years, with some areas expanding more rapidly than others. Table 7.2 shows the number of authorized permanent and temporary positions over a four-year period by program. The largest percentage increase has occurred in the district courts and the Administrative Director's office.

Table 7.2  
Authorized Permanent Positions by Program  
FY 1983 to FY 1987

Program	1983-84	1984-85	1985-86	1986-87	1987-88	% Growth 1983-1988
Supreme Court	33	34	34	34	34	3%
Intermediate Court of Appeals	12	12	12	12	12	0%
Land & Tax Appeal	4	4	5	5	5	25%
Law Library	8	8	8	8	8	0%
Circuit Courts	275	290	319	319	329.5	20%
Family Courts	248.5	253.5	276.5	276.5	294.5	19%
District Courts	479.5	520.5	617.5	626.5	615.5	28%
Driver Education	45	51	52	53	53	18%
Administrative Director	86	104	114	114	123	43%
Totals	1,191	1,277	1,438	1,448	1,474	

Source: Appropriations Acts, 1983 to 1987.

**Nature of the personnel system.** The courts require a wide range of staff services, many of them found in other branches of government, but many of them highly specialized to support the adjudicatory activities of the courts. Court functions include caseflow management, records management, clerical support, jury management, budget and fiscal activities, personnel management, security and upkeep of facilities and equipment, public information, counseling and probation, and the management of information systems. These multiple functions are reflected in the wide variety of employees found throughout the organization.

The civil service category consists of a range of clerical, professional, and blue collar positions. The exempt group includes judges, law clerks, appointed administrators, and students. Most Judiciary employees perform services directly related to court operations, while others work in administrative support services, many in positions which closely resemble those in the executive branch.

**Legal bases for personnel management.** The Hawaii Judiciary maintains and administers its own personnel system. The authority of the Chief Justice and the Administrative Director over this system is established by statute.

Prior to 1977, Judiciary employees were part of the state civil service system administered by the executive branch's Department of Personnel Services (DPS). The Judiciary personnel system functioned in most respects like that of a department within the executive branch.

This changed in 1977 when the Legislature amended the statutes to create a separate and independent personnel system for the Judiciary. Act 159 gave to the Chief Justice and the Administrative Director the same authority previously exercised in personnel matters by the Governor and the Director of Personnel Services. However, the act provided for consultation with the state and county systems in matters of classification and rule-making. In addition, for purposes of collective bargaining, the Governor remained the employer of Judiciary civil service employees.

**Organization and functions of the personnel system in the Judiciary.** Personnel management encompasses a range of functions and activities which extend from the recruitment and hiring of employees to the retirement of those employees. It involves the general administration of many statutes, rules, regulations, and procedures. It entails thousands of transactions each year, the handling and movement of a great deal of paper, and the maintenance of a vast amount of information on employees. In addition, it requires the deployment of staff and other resources to effectively and efficiently meet the demands of the courts and their operations.

Most personnel functions are provided to the courts and programs by the Office of the Administrative Director through the Judiciary personnel office.<sup>3</sup> However, some functions are necessarily carried out by the administrators of the courts and programs.

*Office of the Administrative Director.* The Administrative Director is responsible for providing leadership in personnel matters; properly applying civil service law and other statutes; promulgating rules, regulations, policies; and standards; and maintaining a system of review of the divisions and their personnel practices.<sup>4</sup> As the Chief Justice's designee and administrator of the system, the Administrative Director is the final authority on virtually all policies and procedures.

*Courts and programs.* The administrative heads of the courts and programs are responsible for personnel management within their respective divisions.<sup>5</sup> They are responsible for the day-to-day personnel functions such as requesting appropriate personnel actions, hiring and evaluating their staff, reviewing their duties and responsibilities, assigning tasks, on-the-job training, and so forth.

*The personnel office.* Responsibility for administering the civil service system rests with the Judiciary's personnel office. The office is headed by a personnel administrator who serves as the chief assistant to the Administrative Director in personnel matters. It is staffed by 23 permanent professional and clerical employees and nine temporary employees. The office is currently divided into seven sections, each responsible for a number of specialized activities.

The recruitment and examination section reviews requests to fill positions, recruits employees for the civil service, develops and administers examinations, and prepares the lists of qualified applicants for promotion and employment in the various divisions.

An administrative services section is responsible for seeing that personnel actions are done in accordance with the laws, rules, regulations, and collective bargaining agreements; maintains the personnel information system; administers performance evaluations; and is responsible for such programs as employee assistance and incentive and service awards.

The classification and pay section assigns civil service jobs to classes and classes to pay ranges. Its responsibilities include establishing minimum qualifications for jobs, developing class descriptions, and conducting reallocation and repricing reviews.

The labor relations section handles employer-employee relations including grievances, complaints, and arbitration cases. It is supposed to ensure the uniform interpretation of contract agreements, dispute settlements, labor laws, and rules and regulations.

A training and safety section develops and coordinates the Judiciary's training programs. It does not provide direct training but is intended to plan, organize, coordinate, and evaluate the Judiciary's training activities. It also monitors the working environment and oversees the health and safety of employees.

The workers' compensation section investigates claims, recommends appropriate action, collects statistical information for the Department of Labor and Industrial Relations, and maintains case records.

A special services section is supposed to serve as "troubleshooter" in crisis or problem situations in all areas of personnel management. Functions range from evaluation of examinations to legislative monitoring, and they overlap with the activities of the other sections.

**Distinguishing features of the Judiciary personnel system.** The Judiciary personnel system is both similar to and different from other personnel systems. It is subject to the same statutes, and its rules and regulations largely mirror those of the executive branch. The organization and activities of the personnel office are similar to DPS. It exercises the powers and authority of a central agency.

At the same time, there are a number of factors which distinguish personnel management at the Judiciary. In contrast with the State Director of Personnel Services, the Administrative Director has a multiple role with many additional functions to assist the Chief Justice in administering the Judiciary.<sup>6</sup> The Judiciary's personnel office has a much wider scope of responsibility than either DPS or the other agencies of the executive branch. It performs the functions of DPS but also those additional activities delegated to the departments. Currently, there are no personnel offices in the various divisions of the Judiciary as one would find in the executive departments. A personnel clerk position has been created in the Circuit, District, and Family Courts of the First Circuit to assist in initiating personnel actions; however, in other circuits personnel duties and responsibilities are assumed by different clerical staff on a part-time basis.

### **Personnel Program Lacks a Management Structure**

Independence changed dramatically the role and functions of the Judiciary's personnel system. Overnight, the role of the personnel office expanded from that similar to an agency of the executive branch to that of a central processing agency for a separate branch of government. The new program needed to establish its own objectives, organizational structure, rules, policies and procedures. It required a new records system, new data gathering requirements, and a new

classification structure. The new program had to be translated into action, with new administrative structures for carrying out the activity. At the same time, normal activities had to continue, but now they were vastly expanded.

The Judiciary personnel office was not prepared for the transition to a separate personnel system. The needed administrative structures were not in place. In August 1977, shortly after the law was passed, the personnel office was staffed by eight people. Of these, five were permanent positions, two were temporary CETA positions, and one position was on loan from the traffic violations bureau. Most staff were clerical; only three were classified as professional.

The fundamental elements of a personnel system have still not been created--an appropriate management structure with sound policies to guide decision making. In their absence, personnel office actions appear to be confused, arbitrary, and self-serving.

**Need for an official organization structure for the personnel program.** What is most needed are those fundamental elements that enable an agency to manage its activities and assess its performance--a formal organization with functions and responsibilities that are clearly delineated.

Even though control, decision-making, and most processing of personnel actions are centralized in the personnel office, other offices perform personnel functions such as hiring and interviewing. Yet, there is no section in the personnel manual that clearly delineates the personnel functions of the various units of the Judiciary. There are no functional statements that identify and assign the major activities of the program.

Our request for functional statements from the personnel office resulted first in a two-page summary of the units within the personnel office and later in a set of statements drafted specifically for our use. To our knowledge these were not made available to the courts and programs.

The absence of these basics results in staff ignorance about how the system operates. A 1982 report from the National Center for State Courts stated that the personnel system was exceedingly complex and that judges, managers, and employees did not understand its operation. The report recommended that efforts be taken by management to improve this understanding; however, we found little evidence that management has communicated these matters to the courts and programs except on an ad hoc basis.<sup>7</sup>

**Lack of clear delegation of authority.** In the absence of a clear policy on the functions, duties, and responsibilities of personnel management, there is uncertainty in the courts and programs about the roles and authority of the Administrative Director and the personnel administrator. The rules merely define the personnel administrator as "the person appointed to serve as chief assistant to the director in personnel matters and who is in charge of the central personnel

office.”<sup>8</sup> The class specifications for the personnel administrator, which are over ten years old, state that the court personnel administrator has full appointing and classification authority delegated by the Chief Justice. However, copies of the class specifications are not as a rule provided to the courts and programs.

A 1987 report recommended that the statutes be amended to assign power and responsibilities for personnel management to the personnel administrator. The report noted that because of the Judiciary’s growth it was no longer practical for the Administrative Director to serve as administrator of the personnel system.<sup>9</sup>

We agree that it is not practical for the Administrative Director to directly administer the system; however, statutory change may not be necessary because the Administrative Director may delegate to the personnel administrator the authority to act in personnel and related matters.<sup>10</sup> What is needed is to make that delegation official, to clarify to the courts and programs those duties and responsibilities in fact assumed by the position, and to specify its role within the court system.

#### **Inadequate Policies and Procedures**

The personnel system also lacks the means to guide its processes and give consistency to its practices. The result is confusion among staff and the perception of arbitrariness and self-interest.

The management and operations of the personnel system entail a vast number of actions and processes, many governed by statute, rule, and collective bargaining agreements. For example, there are at least 34 different types of personnel action requests submitted via the Judiciary’s all purpose form 92-01-01, such as requests to establish new positions, extend temporary positions, reorganize a unit, transfer a position, fill vacancies, discipline and train employees. Approximately 3600 of these were logged in FY 1987-88.

Specific guidelines and procedures do not exist for many of these transactions. Personnel policies and procedures consist of a set of administrative rules for civil service employees adopted in 1985, a copy of the Judiciary’s *Manual of Policies and Procedures* (1982), and an assortment of more recent memoranda issued by the Administrative Director or the personnel administrator.

The *Manual of Policies and Procedures* is incomplete. There is no introduction and overview, and whole sections on pay administration, employee-management relations, and discipline are empty. No staff are assigned responsibility to complete the task. The effort appears to have been abandoned.

Recent attempts to clarify policy are uncoordinated and confusing. These have taken the form of memoranda which have been issued in the past two years. Some are attempts to correct past abuses, such as the excessive use of emergency hires. Some answer inquiries to the personnel office on a particular practice. Still others result from the recommendations of studies conducted over the past five or six years. However, they do not indicate which policies they supercede or replace or whether they are intended to clarify or explain.

Clear policies and procedures enable an agency to justify and evaluate its practices. As a separate branch of government responsible for administering its own personnel system within a unique environment, the Judiciary needs comprehensive and consistent policies governing its practices as well as procedures to be followed by all divisions.

The absence of clear policies has led to a number of questionable practices and the perception that decisions are arbitrary and governed by self-interest. We examine two such areas below.

**Transfers and conversions of authorized positions.** There are no specific policies and guidelines on transfers of positions which are understood and consistently followed by all programs. Without clear guidelines, some actions appear arbitrary and self-serving.

In late 1987, six vacant positions were transferred into the personnel office from the courts. Four of these were clerk typist positions from the District Court of the First Circuit, one was a court reporter position from the Maui District Court, and one was a fiscal officer position from the First Circuit Court. The reasons given were to "provide assistance" to the personnel office to reduce backlog and delays. Movement was said to be justified by the "criticisms and recommendations" in the reports of the Legislative Auditor, Arthur Young, and the Citizens' Panel.

We find these actions questionable for several reasons. *First*, none of the cited reports recommended removing positions from other programs to increase the size of the personnel office. The 1986 Auditor's Report recommended better guidelines, controls, and procedures governing the use of emergency hires, reallocations, and temporary appointments. The Arthur Young report recommended that one position temporarily reassigned to another program should be returned to the personnel office, that two personnel management specialist positions be added, and that three personnel clerk positions be established *in the three major courts on Oahu*. The Citizens' Panel report recommended that emergency hire and reallocation procedures be allowed only after approval of the Chief Justice and then only for exceptional circumstances.

*Second*, the transfers could adversely affect the programs losing the positions. We believe the positions were needed by the courts. The Maui District Court was under criticism for backlogs and delays. The First Circuit Court has since requested additional fiscal positions, a

clear indication it should not have lost the position. The District Court of the First Circuit had position needs within its own sections, needs they will have difficulty justifying after transferring out four positions to the personnel office and two additional positions to the Family Court.

*Third*, we found no evidence that the personnel office had considered or studied the impact on the personnel office or on the courts of transferring these positions. The addition of six positions represented a major, if unofficial, reorganization of the personnel office, but the office has still not decided whether one of the positions should be transferred elsewhere. Although the formal requests originated in the administrative offices of the three courts, the impetus came from the Office of the Administrative Director. Nothing in the formal requests explained the effect on the courts and programs. One court administrator signed the request for transfer only after "reluctantly yield[ing] to authority."

Transfers of positions from the programs where they were appropriated should not be made without proper justification. There should be assurance that the courts are not adversely affected and that there is real need for the action. Consistent policies are needed in this area.

**Lack of standards and procedures for certain exempt positions.** Under the administrative rules of the Judiciary, the Administrative Director is authorized to:

- exempt positions or personal services in accordance with statute when the conditions of the statute are met; and
- establish standards and procedures to be used in determining and documenting the exemption.<sup>11</sup>

We find a lack of standards and procedures in documenting certain exemptions and a review process which is inadequate. We illustrate with the Judiciary's use of contract positions.

*Statutory conditions are not met.* There are a number of contract positions in the Judiciary. These have included attorneys and law firms providing litigation services to the Judiciary, court reporter positions, detention aides, the court staff attorney, futures specialists, the manager of public information projects, staff of the arbitration program, and process servers. Some who fill these positions are part-time workers; others work full-time. Some operate as independent contractors, others are more like full-time employees. Some of these positions may be improperly exempted under Section 76-16, HRS.

For a position to be exempt from the civil service system under Section 76-16(2), HRS, the statute requires that (1) the service be certified by the director as special and unique; (2) the position be essential to the public interest; and (3) because of circumstances surrounding its



fulfillment, personnel to perform such service cannot be obtained through normal civil service recruitment procedures. The section further provides that if the above conditions are met, the contract may be for any period not exceeding one year.

Section 76-16(15), HRS, exempts positions filled by persons employed on fee, contract, or piecework basis who perform their duties concurrently with their private business or profession or other private employment and whose duties require only a portion of their time.

*Services are not special or unique.* Some personal services contracted by the Judiciary are not special or unique. In some cases, the services described in the contract are virtually the same as the duties and responsibilities of existing classes. One position was contracted out for a year, then recruitment subsequently opened, and the position filled by the person under contract. In another example, an administrative assistant retired then was hired back on contract. The position remains vacant and no efforts have been made to hire a replacement. The former employee is now receiving both a retirement check and a monthly contract fee.

*Contractors function as regular employees.* Several people under contract appear to function as regular employees. They maintain office space, serve on committees, travel on Judiciary funds, and have the services of Judiciary clerical staff. The scope of contracted services is often vague so they end up doing whatever work is assigned to them. Section 76-16(2) of the statutes does not provide for extensions, but some contracts are renewed or extended year after year, so that at least one contractor has been employed for as long as seven years.

Some of the contracts should be replaced by properly justified and established positions which will then be filled through normal civil service recruitment procedures. This should be done if the services are important enough to justify extending the contracts year after year.

*No standards or procedures.* There are no standards or procedures and thus no central control over contract positions. The personnel office has no record of them. The staff attorney's office, which is supposed to maintain contract files, has a list but could not guarantee that it was complete. Another list from the fiscal office showed that many positions appearing on one list did not appear on the other.

There should be a system of administrative review of contract services to ensure that they are special and unique and that for good reasons the duties cannot be performed by a regular position. Currently, contracts are reviewed for their legal content. They are not evaluated to determine whether the contractor's relationship with the Judiciary is that of an independent contractor or an employee or if the services meet the legal requirements for exemption from civil service.

In addition, there are no specific procedural guidelines for hiring people under contract. The financial manual contains only general guidelines and is not sufficient. Administration should establish these procedural guidelines and make them available to managers.

### **Management of the Personnel Office**

The personnel office is the central processing office for personnel transactions, from filling positions to approving training requests. It administers the civil service system and maintains the central records and files of Judiciary employees and positions. Its proper functioning is crucial to the Judiciary.

The personnel office has been undergoing reorganization and expansion. However, the reorganization is unofficial and proceeding without the formal requirements the office imposes on other programs. As mentioned previously, positions have been transferred in from the courts. In the past two years, the personnel office processed at least 19 position actions for itself, 12 of which were reallocations (the movement of a position from one class to another).

In spite of adding to and upgrading its staff, the office continues to have problems. Operations are inefficient. This is seen in the poor quality of information on office operations, inadequate position control, no system of accountability, failure to set priorities for processing position actions, and staffing problems which to date have not been resolved. These deficiencies have added to delays and backlog which in turn hamper court operations and contribute to the perception that requests are not processed in an equitable or rational fashion.

**No management information on activities.** An organization should gather, organize, and transmit information in a purposeful way. To assist managers, the information should be accurate, readily retrievable, gathered as a routine part of operations, consolidated and summarized at successive levels, and sorted and transmitted in a timely manner to the proper persons.

We find that the personnel office has not developed the basic and essential information to guide decision-making, set priorities, and to identify areas where corrective action is needed. Lack of automation is not the main reason. Automation alone will not solve problems rising from managerial deficiencies.

**Need for reporting system on office activities.** Data on office activities are not regularly generated or used. The sections in the office do not produce regular reports on their activities, and management does not require them. Backlogs are not monitored. Sections responsible for classification and compensation, training and safety, and labor relations have not produced reports on their activities for several years.

Regular staff meetings are not held. There appears to be little leadership or joint effort in planning and working towards making operations more effective, or in identifying and resolving long-standing problems. As a result, each section proceeds as a unit unto itself, with little overall monitoring and direction.

Two sections in the office produce internal reports. The administrative services section produces a monthly position listing which shows incumbents by organization. The recruitment and examination section produces a vacancy listing which includes a summary and status report. However, it is not clear how management uses these reports to improve the operations of the personnel system.

One result of the lack of information is that the courts and programs remain ignorant of what the personnel office does. None of the office transactions are summarized in the Judiciary's annual report.

*Need for better position control.* The personnel office does not maintain comprehensive information on all of its employees, nor does it review the status of positions within the organization. Poor position control makes it difficult to monitor position actions such as emergency hires, transfers, temporary assignments, and so forth. The size and complexity of the Judiciary warrants a more systematic approach to position management. The personnel office currently processes thousands of forms per year without a tracking system.

Official organization charts are not updated to match current position listings. Reallocations, transfers, and changes in position titles are not reflected on the organization charts.

Key information on position movement is not regularly summarized so that movement can be monitored. Position actions are logged in, but there is no regular report which shows the number of positions authorized for a particular section that are temporarily transferred or reassigned to another division or section. In 1987 the personnel administrator issued a memorandum on transfers and reassignments which requires the divisions to first submit a formal request form to the personnel office. However, a follow-up process for monitoring activities was not established.

*No regular and systematic review of position descriptions.* Position descriptions provide an official record of work assignments, and they are the official source documents for proper class and grade assignment. The *Manual of Policies and Procedures* states that the courts and programs are responsible for keeping positions up-to-date while the administrative director and the personnel administrator are responsible for maintaining and reviewing the position classification system.

We find that a system to review positions on a regular basis has not been developed. The personnel office usually reviews position descriptions only when a classification request is initiated. Positions transferred to other sections within a division are not always redescribed, even when duties and responsibilities change. As a result, many position descriptions in the central office are outdated. We found position descriptions which were titled incorrectly, which did not indicate the authorized location or the supervisory controls, and which did not match class specifications. The current piecemeal approach to position management results in discrepancies between the work people do and the official record of that work.

A simple position review system would help insure that position descriptions are current, that they accurately reflect the work performed, and that they are in line with class specifications. A review would also help to track positions which have been transferred and would lead to better position control.

**No system of accountability.** The personnel administrator has not developed a system of accountability for the activities of the office. Priorities have not been communicated to the courts and programs. Goals and time standards have not been developed, nor have the office's activities been monitored to correct problem areas. The result is a chaotic and crisis-ridden operation that can do little to reduce long-standing backlogs or chronic delays.

**Backlogs and delays.** The personnel office must process requests that come in daily. It must also try to get rid of the backlog. An efficient operation manages both kinds of activities by deciding on priorities, setting goals and time standards, leading staff to meet goals, and monitoring and controlling work. Instead, we find backlogs and delays in all areas of personnel processing--in filling vacancies, classifying positions, and in establishing positions.

**Longstanding vacancies are not filled.** Table 7.3 summarizes the June 30, 1988, position status report by vacancy date, the latest data we could obtain. Listed were 131.5 vacancies in permanent positions. One position has been vacant for over four years, since September 1984, pending the establishment of a class. Fifteen positions have been vacant from one to two years. Most vacancies fall in the six- to nine-month range.

The reasons for these vacancies are shown in Table 7.4. Twenty-two positions were vacant because divisions had not submitted requests to fill them. There were 109 vacancies pending a processing action, such as classification. Even when an action has been completed, there are delays because of paperwork and complicated procedures involved in the pre-employment medical exam.

Table 7.3

Summary of Position Status by Vacancy Date  
as of June 30, 1988

Organization	2+yrs	1-2yrs	9-12mo	6-9mo	3-6mo	0-3mo	Total
Courts of Appeal				1			1
Land & Tax Appeal Court				1			1
Law Library				1			1
Circuit Courts			2	18			20
Family Courts		1.5	1	21			23.5
District Courts		12.5	9	42.5			64
Administration	1	1	2	17			21
<b>Total</b>	<b>1</b>	<b>15</b>	<b>14</b>	<b>101.5</b>			<b>131.5</b>

Source: Judiciary Personnel Office, Recruitment and Examination Section.

Table 7.4

Status of Position Vacancies  
June 30, 1988

Reason for Vacancy	Number	Percent
No request submitted by division	22.5	17%
Pending classification action	23	17
Pending recruitment action	49	37
Pending exemption action	3	2
Commitment made (pending processing)	34	26
<b>Total</b>	<b>131.5</b>	<b>99%</b>

Source: Judiciary Personnel Office, Vacancy Status Report, June 30, 1988.

Court and personnel staff reported in interviews that it took time to obtain a list of eligibles and that there needs to be better screening of people on the eligibility lists. While some reported improvements, others on the Neighbor Islands report delays in processing.

Long-standing vacancies can result in practices which are questionable. In one rural court, for example, the court administrator position was vacated in October 1986. Six months later the

position of assistant court administrator became vacant. Administrative duties were assumed by the supervising district court clerk, whose duties in turn were assumed by the next senior position, and so on down the line. The supervising clerk was given a temporary reassignment and compensated at the higher rate for a few weeks. However, the personnel office decided to deny subsequent requests while recruitment efforts were pending. Efforts to fill the position have gone on for many months.

*Classification delays remain a chronic problem.* Between FY 1985-86 and FY 1987-88, the personnel office received 705 requests to classify (e.g., reallocate) filled or vacant positions. Of these, 222 were still pending as of October 1988. Fifteen cases have been pending since 1985-86. Table 7.5 summarizes this information.

Table 7.5

Processing Time\* for Classification Action Requests

	FY1985-86	FY1986-87	FY1987-88	Total
Total Received	175	274	256	705
Requests Processed				
Less than 30 days	109	89	67	
31 to 90 days	20	58	20	
91-180 days	25	19	22	
More than 180 days	6	42	6	
Requests Pending+	15	66	141	222

\* Measured from the time the position action request was received by the Personnel Office.

+ Pending as of October 1988.

Source: Judiciary Personnel Office, Classification Section.

The data indicate that the classification section is becoming further backlogged. In FY 1985-86, the classification section processed the majority of the requests in less than 30 days. They processed 129 requests, or 73 percent, within 90 days. By comparison, in FY 1987-88, they processed about one fourth of their requests within 30 days and about 34 percent within 90 days.

Classification delays affect the filling of positions. According to data provided by the personnel office, of the 131 positions vacant on June 30, 1988, 17 percent were vacant pending a classification action that had to be completed before recruitment process could begin.

*Authorized positions are not being established in a timely fashion.* Requests to fill positions which have been authorized by the Legislature are also backlogged. Table 7.6 compares the processing times for requests to establish authorized positions. Two positions authorized in 1985 have still not been established. Eight positions authorized in 1987 have not been established.

Table 7.6

Processing Times\* for Requests to Establish Authorized Positions

	FY1985-86	FY1986-87	FY1987-88
Total Requests Received	156	30	59
Total Requests Processed	154	29	51
Less than 30 days	146	17	24
31 to 90 days	5	8	25
More than 90	3	4	2
Requests Pending+	2	1	8

\* Measured from the date the position action request was received by the personnel office.

+ Pending as of October 1988.

Source: Judiciary Personnel Office, Classification Section.

Processing times for establishing positions are increasing as well, and the office is processing fewer requests in a timely manner. In FY 1985-86, approximately 93 percent of requests to establish positions were processed in less than 30 days. In FY 1987-88, this had dropped to about 40 percent.

### **Classification Plan Is Not Adequately Maintained**

Classification, according to some experts, is the basis upon which a personnel system is built.

“Classification turns chaos into order and shapes the senseless into a formed, structural, rational approach to personnel management.

“Other than providing the information and system necessary to classify and pay employees in a clear, logical, and evenhanded manner, classification and work that goes into it supply the information which is basic to examinations and recruitment, placement, performance evaluation systems, training programs, systems analysis, planning, and just about anything else having to do with people and personnel systems.”<sup>12</sup>

The Judiciary personnel office has had long-standing problems in the classification area. Previous studies have catalogued some of the more persistent problems such as inadequate staffing, delays, and backlogs. A 1987 review of the Judiciary's support services observed:

"There was general consensus among those interviewed expressing dissatisfaction with the Personnel Office's response time, in preparing eligibility lists and in taking action on classification requests. Currently there is a long backlog of classification action requests but only one person in classification."<sup>13</sup>

Because classification touches on virtually all areas of the personnel system, it warrants management attention.

**Need for a classification study.** A classification review has not been done since the Judiciary personnel system separated from the executive branch. A National Center for State Courts study in 1982 indicated the need for such a review, noting that class specifications were outdated, imprecise, and too numerous. It concluded that the situation was detrimental to any rational personnel structure within the Judiciary.

Little has been done to address the report's recommendations. Many class specifications, which are supposed to be the official description of a class of work, have not been reviewed and revised since the Judiciary achieved independence. Classes are not consistently grouped by function but by an assortment of categories which are not mutually exclusive. For example, some are grouped by location (e.g., district court), others by equipment (office machine operation).

At the same time, the classification plan has grown in size and complexity. There are now a total of 238 job classes in the Judiciary (compared to the 78 mentioned in the 1982 report).

The differences among some classes have become meaningless with respect to the actual duties and responsibilities of the positions assigned to them. This has led to a situation where the work people actually do is no longer related to the specifications of the class their position is assigned to. We discuss two such situations in the clerical area.

Most court employees are clerical. In the Judiciary's classification plan, there are 103 clerical classes assigned to 10 different specialty areas (e.g., fiscal record keeping, personnel, district courts). Several classes, such as the circuit and district court clerks, perform a large share of the clerical and recordkeeping activities of the courts. The class specifications are intended to distinguish among these groups. However, in actual practice the distinctions are not clear. The class specifications have not kept up with the actual work people do.

***Differences among district court clerk II positions.*** We examined the job descriptions of district court clerk II positions assigned to various sections among the districts courts in the four circuits. We found that duties of the positions varied widely and that in several cases the key duties of



the class were not performed by the position. District court clerk II positions assigned to the fiscal office do essentially the same work as account clerks; those assigned to the traffic violations bureau do cashiering and counter work. In neither instance do they record court proceedings or work directly with judges.

By contrast, in the judicial services and criminal traffic and civil sections, the district court clerks do calendaring, record court proceedings, work with judges, and have to be familiar with the rules of court. In the rural courts, the district court clerk IIs do a little bit of everything.

*Inequities between district and circuit court clerks.* The class specifications distinguish the duties and responsibilities of district court clerks from the specialty clerks staffing the circuit courts. As Table 7.7 shows, salary ranges reflect those differences.

Table 7.7

A Comparison of Salary Ranges Among Court Clerks  
in the District and Circuit Courts

Class Title	SR Rating	Salary Range
<u>Circuit Court</u>		
Court Documents Clerk	SR19	\$21,564-32,976
Circuit Court Clerk I	SR17	19,956-29,892
Circuit Court Clerk II	SR19	21,564-32,976
Circuit Court Clerk III	SR21	23,448-35,976
<u>District Court</u>		
District Court Clerk	SR10	\$16,032-21,852
District Court Clerk I	SR12	16,824-23,880
District Court Clerk II	SR15	18,528-27,360

Sources: Judiciary Classification and Compensation Plan and  
"Unit 03 and 04 Salary Schedule," May 16, 1989.

In practice, however, the distinctions among classes are not so clear. In the circuit courts, the documents clerks process documents but do not do trial work; the circuit court clerks author the official record of courtroom proceedings. District court clerk II positions assigned to judicial services process documents and also do trial work. Like the circuit court clerk, they record minutes and work with judges. They must also be familiar with courtroom procedures and the rules of court. In addition, because district court judges do not have law clerks, the district court

clerks have additional responsibilities, performing the screening that law clerks normally perform. The sheer volume of casework is many times greater than that handled by the circuit court clerks.

**Court reporters.** Court reporters are officers of the courts. They record the verbatim records of proceedings, transcribe and certify them. In addition to their salaries, they are entitled to perquisites for their transcriptions. Their appointments, qualifications, and duties are defined by statute and by rules promulgated by the Supreme Court, as well as the class specifications. They are thus a unique category of employee.

According to the statutes, court reporters are appointed by the judge of the District and Circuit Court of each judicial circuit or the administrative judge. To be qualified, a reporter must have three years experience or pass a test of competency at the rate of 160 words per minute or higher as prescribed.<sup>14</sup> The statutes do not distinguish between the roles of the district and circuit court reporters.

The classification plan contains two separate court reporter classes, one for district and the other for circuit courts. Their general duties are the same; however, their specific duties reflect the differences in jurisdiction between the two courts. The work of district court reporters is said to involve cases of lesser complexity, shorter duration, and fewer speakers than circuit court reporters. Some district court reporters also do assigned clerical work.

The Supreme Court rules enacted in 1984 require all court reporters to be certified by the Supreme Court through the Hawaii Board of Certified Shorthand Reporters. Shorthand competency is set at 225 words per minute.<sup>15</sup>

The rules created a single court reporter class subject to the same certification requirements. The Judiciary is trying to adjust to the rule by reorganizing all district and circuit court reporter services into a pool headed by a court administrator and by studying the classification. Requests were submitted to the personnel office in 1985 to reallocate and exempt the positions. However, the Judiciary will continue to operate contrary to its own rules until the classification matter is resolved. Unfortunately, the problem was exacerbated two years ago when the personnel office advertised and subsequently hired six district court reporters qualifying at the old rate of 160 words per minute. Attempts to raise proficiency to the rate set by rule have not been successful.

### **Employee Development**

The *Manual of Policies and Procedures* describes several programs on employee development, health, and safety. These are: a training program to provide judicial services of the highest quality and to encourage personal growth among employees; an affirmative action program to ensure job equity; a performance appraisal program to both improve and evaluate performance; and a

medical standards program to ensure that employees are physically qualified to perform the duties of their positions and to minimize industrial illness and workers compensation claims.

The responsibility for administering and implementing these programs lies with the Administrative Director and the personnel administrator respectively. In practice, however, three of these programs have not received the attention they deserve. This is seen in the lack of a comprehensive training program for both judges and support personnel, inconsistent administration of performance evaluations, and the complete absence of an affirmative action program.

The fourth program concerning medical standards and pre-employment physical examination has been so poorly managed and maintained that it should be changed.

**Need for a comprehensive training program.** The rules assign to the Administrative Director a two-fold responsibility to initiate, develop, and administer an employee development and training plan and to coordinate the in-service training activities of all divisions. Responsibility for implementing the program is with the personnel administrator. This includes coordinating training activities, issuing training regulations and standards, assisting division chiefs in executing training, disseminating training information, and evaluating the results of training.<sup>16</sup>

In 1983, the training and safety section of the personnel office reviewed the Judiciary training program. It concluded:

“The entire area of training needs analysis and work as soon as possible. There appears to be some serious inconsistencies between the training policy as stated in the Personnel Manual and the actual practice of these policies.”<sup>17</sup>

The study recommended that the Judiciary evaluate its current program, conduct a needs assessment, and draw up a training plan for all employees.

Unfortunately, little has been done to address the concerns and recommendations of the study. Although the Judiciary has the basis for a comprehensive program in the broad guidelines it has developed, the training program has lacked management commitment, staff, and resources. The one position in the training and safety section has been vacant since January 1988, due to the reorganization of the office. The staff member assigned to the workers' compensation program has been processing training requests. There is no separate budget for training.

The personnel office has been unable to develop a training plan or assess training needs. Most of its activities center on keeping up with processing training requests and coordinating statewide training activities provided by DPS. The annual reports produced by this section to summarize training activities are backlogged two years, so training data cannot be analyzed to

improve the existing program. Without a needs assessment or up-to-date information, the personnel office has been unable to evaluate current training activities. Records of training are not regularly and systematically placed in the employee's personnel folder as required by collective bargaining agreements. The result is an uncoordinated, uneven program without much direction or purpose.

The Judiciary's training efforts are composed of two parts: training for judges and training for court support personnel.

*Judges' training is not sufficient.* It is the policy of the Judiciary to provide regular formal training for all appointed judges. The personnel manual states that within six months of being appointed, full-time judges will receive initial formal training at nationally recognized judicial training institutions and thereafter once every three years as part of continuing judicial education. Per diem judges will receive training when funds are available.<sup>18</sup>

In theory, the Administrative Director is responsible for management of judicial training. In actuality this responsibility has been shifted to others. Judicial training is under the oversight of an associate justice. Staff support is provided not by staff from the personnel office but by a member of the planning and statistics office. Similarly, staff support for a judicial conference which contains training programs is staffed not by personnel office staff but by an administrator of the circuit court.

Two areas in judges' training need attention. *First*, the orientation program for new judges should be made more systematic and broadened to provide basic legal, procedural and institutional knowledge to new judges. The current system is without substance; it involves a few tours of court facilities and some observational activities.

*Second*, there is no training program for per diem judges even though they serve an important role in the court system. They provide a large share of the calendar days in the district courts and family courts. A 1988 National Center for State Courts evaluation of the uses of per diem judges concluded that the lack of training and education was the most serious criticism of the per diem judges program. The Center recommended mandatory orientation and continuing judicial education.<sup>19</sup> Currently, per diem judges may attend some seminars or they are briefly oriented by court administrators.

*Training for non-judicial staff.* Although recent training data were not available, statistics from 1977-1981 show that clerical, office, and paraprofessional personnel are least likely to receive training related to their work. They are limited to in-house and state-sponsored courses which tend to be general in nature (e.g., CPR training or the clerical seminars put on by DPS). Thus while 70 percent of the Judiciary's employees are clerical, they have far fewer training options than other employees.

Administrators and professional and technical employees are more apt to receive specialized training, often on the mainland. However, even this is uneven and unsystematic. Not all administrators attend conferences and training seminars. Who goes depends on personal interest and availability of funds instead of the need for professional development. Neighbor Island staff of the Judiciary receive less training than the staff of the First Circuit Courts.<sup>20</sup>

Our review supports the findings of a 1982 NCSC report which recommended that a comprehensive training system was needed for court personnel. The report noted the minimal formal training available, particularly to court clerks, in performing their official duties. It recommended formal training in court duties for court personnel; annual in-service workshops to keep them up-to-date on new laws and procedures; a promotional system to provide incentive for training; a program of supervisory training incorporated into presentations of the DPS; and procedural manuals for employees.<sup>21</sup>

**No affirmative action plan.** The Judiciary's rules state that the system of personnel administration is to be consistent with both merit principles and statutory requirements. The rules are similar to those of the executive branch. They forbid discrimination in employment against any person "on the basis of race, religious beliefs, political beliefs, color, age, sex, national origin, marital status, or physical and mental handicap, except for bonafide occupational or legal requirements."<sup>22</sup>

The *Manual of Policies and Procedures* affirms the Judiciary's commitment to equal employment opportunity, affirmative action, and non-discriminatory personnel programs. The Administrative Director is authorized to appoint an equal employment opportunity officer, whose responsibilities are to:

- Assist line management in collecting and analyzing employment data, identifying problem areas, establishing goals and timetables, and developing programs to achieve goals;
- Design, implement and monitor internal audit and report systems to measure program effectiveness and to determine where further action is needed;
- Serve as liaison between the Judiciary, government regulatory agencies, minority and women's organizations, and other community groups;
- Assure that current legal information affecting affirmative action is disseminated to responsible officials;
- Initiate, develop and implement affirmative action to insure that such action is consistent with court decisions and applicable provisions of law; and

Assist in the development of short- and long-term education, training and action-oriented programs designed to enable minorities and women to compete on the open employment market on a more equitable basis.

Contrary to these policies, the Judiciary lags far behind other state agencies in affirmative action. There is no full-time EEO officer to give the matter the time and attention it warrants. Currently, duties are assigned to the staff attorney. Previously they were assigned to the administrator of the circuit court reporters who resigned because the duties of the position were too time-consuming. Due to the lack of management attention, the Judiciary has not developed a plan with objectives, data, and timetables for implementation. It is one of two state agencies that has not set up an internal grievance procedure for EEO complaints. All we found was a draft of a policy statement, undated and untitled.

We located in the personnel office files a 1980 "Affirmative Action Report," which described evidence of adverse impact and contained some goals, timetables, and recommendations. However, the current officer knew nothing about it nor whether the recommendations were ever effected.

**Inadequate employee evaluation system.** The Judiciary's employee evaluation program is not being implemented properly. The plan in the manual of policies and procedures calls for joint effort on the part of the supervisor and employee to recognize good work, correct deficiencies, suggest improvements, and to work towards performance goals.<sup>23</sup>

The personnel office had a box of several hundred unfiled evaluations going back four years. Some forms were incomplete. Others rated employees in similar positions by different criteria. This was particularly true of clerical positions. Moreover, forms completed as far back as 1985 had not been returned to employees and their supervisors or filed in employees' personnel folders as required by collective bargaining agreements.

The Administrative Director is responsible for administering the plan and the personnel administrator is responsible for implementing the plan and ensuring compliance with its purpose. However, we found no evidence of this kind of attention. The personnel office's only apparent activity is to process and file the forms.

Some managers see the evaluation process as too complicated and time-consuming for positions whose duties don't change from year-to-year. We believe, however, that a performance evaluation is a record of performance which serves as basis for employee development, promotion, and training. If a simpler, more efficient process is called for, then it is the responsibility of the personnel administrator to develop and implement it.

**Questionable pre-employment medical standards program for new employees.** The statutes provide that all persons who pass the civil service competitive examinations shall take a physical exam as requested by the director.<sup>24</sup> The Judiciary in 1981 implemented a medical standards program which requires prospective employees to pass a physical examination given by Occumed/Honolulu Medical Group, at the medical facility designated by the Judiciary. The physical evaluation is based on physical and medical standards which were developed for all Judiciary positions. The facility notifies the Judiciary as to whether the prospective employee is qualified, conditionally qualified, or not qualified for the position. The prospective employee must pay for the examination regardless of the evaluation outcome.

The original purpose of this medical evaluation program was to ensure that only people who were physically qualified to perform the duties of their positions are hired and to minimize industrial illness and workers' compensation claims.<sup>25</sup> The personnel administrator is responsible for managing the system, including specifying the physical and environmental demands of all positions consistent with the physical standards established by the Judiciary.

The program is the result of a 1978 study done in conjunction with state and county jurisdictions. A private consultant firm, Occumed, Inc., was contracted to develop the medical standards. Subsequently, each jurisdiction chose a different method of implementation. For example, the City and County of Honolulu has its own medical staff and provides pre-employment evaluations free, whereas the executive branch requires a medical evaluation by a designated physician only for certain high risk jobs at the employees' expense. Other prospective executive branch employees may go to their personal physicians.

In 1980, the Judiciary retained the services of the same consultant to develop and implement the Judiciary's own medical standards program. The contracted services were later assumed by the Honolulu Medical Group, which is franchised to use the screening system developed by Occumed. The current contract has been extended indefinitely.

We find several problems with the program. *First*, it is not properly administered or maintained by the Judiciary. It has never been evaluated for effectiveness in reducing workers' compensation claims. The appropriate data and records for such an evaluation are not maintained. Employee files are not kept up-to-date, and the person in charge of workers' compensation is not involved in the program. Although the personnel administrator is responsible for specifying the physical demands of jobs consistent with these standards, the office has not been kept informed on changes in the standards instituted by Occumed, Inc. It was only recently made aware that some standards had been revised. On the Neighbor Islands, the lengthy screening process contributes to delays in filling positions. There, a prospective employee is first

examined by a designated physician and the results sent for evaluation to Occumed/Honolulu Medical Group which then notifies the personnel office of its conclusions regarding the person's fitness for the position. A person found to be "conditionally qualified" must receive treatment and a subsequent evaluation before being hired.

*Second*, the program does not apply to all employees. It does not cover appointed positions such as judges and top administrators, contract employees, or temporary and emergency hires.

*Third*, no one has monitored the terms of the contract with the medical facility. The Honolulu Medical Group has contracted to provide pre-employment medical examinations and also periodic "fitness for duty" examinations on request and to prepare annual reports on pass/fail rates and the findings of the periodic exams. The contract also calls for the facility, at the Judiciary's request, to provide training in job analysis techniques to employees. We find that reports have not been prepared for several years, and no one in the Judiciary has called for them, even though the data are readily available.

*Fourth*, there is no followup for the stringent pre-employment evaluation. Applicants were rejected as medically unqualified for back conditions, hearing impairment, obesity and elevated blood pressure, scoliosis, frequent nose bleeds, and even "abdominal tenderness of unknown origin." These conditions can also develop after a person has been hired. Yet employees--even those in high risk positions such as deputy sheriffs and juvenile detention workers--are not monitored for the very conditions that kept others from being hired. Employees who were found to be "conditionally qualified" and subsequently treated for conditions such as obesity, disc degeneration, elevated blood pressure, and anemia are not monitored after being hired. It is irrational to use medical standards to keep some people out of the organization or to conditionally qualify others under the pretext of reducing work-related injuries if there is no system to monitor these conditions within the organization.

***Recommendations:***

*We recommend that:*

1. *In coordination with the courts and programs, the administrative director and the personnel director develop policies on the organization of the personnel function within the Judiciary. The role of the personnel administrator and the authority delegated to the position should be clarified, and functional statements for the personnel office should be developed.*

2. *The Judiciary develop personnel policies and procedures in keeping with its administrative rules. Priority should be given to completing and refining the existing manual of policies and*



procedures to include procedures for all personnel transactions. The administrative director and the personnel administrator should seek the assistance of the heads of the courts and programs.

3. In developing these policies, consideration should be given to correcting specific areas such as (a) the transfer of positions and other reorganization efforts without proper justification and review, and (b) the use of contract employees without adequate standards, procedures, or administrative review.

4. The personnel administrator should focus attention on improving the efficiency of his office. At a minimum this would include:

- A management information system to include regular reporting of office activities and transactions;
- Time standards for recruitment and classification actions;
- A plan to reduce backlog and delays.

The results of these activities should be communicated to the courts and programs, and office activities and transactions should be included in the Judiciary's annual report.

5. The personnel administrator should take steps to overhaul the Judiciary's classification plan to include a survey and study of the clerical classes. We recommend that the Judiciary seek the assistance of an outside consultant experienced in judicial personnel systems for the initial study, and that a plan be developed for maintaining the system thereafter.

6. The Judiciary examine its employee development and training program to bring activities in line with existing policies in the areas of judicial and nonjudicial training, performance evaluation, and affirmative action.

- The judicial education program should be upgraded to include a more comprehensive orientation program for new judges and orientation and training for per diem judges;
- The personnel office should have a greater role in coordinating all nonjudicial training. It should conduct a needs assessment in coordination with program managers. The Judiciary should consider making training a separate budget item for all programs;
- The personnel office should review the performance evaluation program to see whether the process could be streamlined to avoid inconsistencies and backlog;
- The Judiciary should create a full-time position for an affirmative action officer who would be responsible for developing a plan, gathering data, setting up a grievance procedure, and implementing the program.

*7. The Judiciary should review its pre-employment medical standards program and develop a more effective implementation plan. Consideration should be given to the capacity of the personnel office to adequately administer the program and to whether the elaborate pre-employment screening process is justified for all employees.*

## Chapter 8

### MANAGEMENT OF COURT RELATED PROGRAMS

Included within the Judiciary are numerous programs and services that are related to the courts to varying degrees. They range from small specialized programs such as the office of the public guardian to programs such as the Office of the Sheriff. In this chapter, we focus on the management of these related programs.

#### Summary of Findings

We find that:

1. The Office of the Sheriff remains plagued by serious management, administrative, and operational problems. These include:

- An absence of strong leadership, direction, and support from both within the office and from the Judiciary administration.
- Serious morale, manpower, and equipment problems.
- Strong constitutional and separation-of-power questions regarding the continued placement of that office within the Judiciary.
- Continued inequities in the civil process serving system.

2. The Judiciary has added numerous new programs although it lacks clearly delineated standards, guidelines, or procedures to systematically develop, implement, and evaluate the impact of these new programs. This has resulted in several problems including:

- Concerns that the Judiciary may be accepting responsibility for programs that may not be fully appropriate for the courts;
- Questionable placement of some of these new programs directly under the Administrative Director of the Courts; and
- The lack of a method or data to make informed and justifiable recommendations regarding the retention, transfer, or "spin off" of new programs.

#### Office of the Sheriff

The Office of the Sheriff was established under Section 601-31, Hawaii Revised Statutes. The primary functions of the office include: (1) providing court security; (2) serving court-related

documents; (3) transporting prisoners throughout the State; and (4) operating and maintaining prisoner holding facilities in district and circuit courts.

The office is headed by a Sheriff who directs operations throughout the State. Deputy sheriffs are based on Oahu, Maui, Hawaii, and Kauai. All personnel, including the Sheriff, are subject to the supervision and control of the Chief Justice.

To fully understand and appreciate the unique nature of Hawaii's Sheriff's office, it is necessary to review the history, development, and evolution of that office.

**History/development of Sheriff's office.** The Office of the Sheriff, originally known as the "Office of the High Sheriff," was established at the turn of the century. Its primary function was to help maintain law and order in the Islands. When the police department was formally established, the office took on somewhat of a ceremonial nature. After Hawaii gained statehood in 1959, the office was attached to the Office of the Attorney General.

In 1975, Act 192 authorized the transfer of the Sheriff's office from the Attorney General's Office to the Judiciary. It was thought that the functions of the Sheriff's office related directly to the courts and, consequently, should be placed within that system. At that time, the chief functions of the office included the service of civil process (writs, attachments, evictions, subpoenas, divorce summons, etc.) and the service of penal process including traffic summons and bench warrants involving misdemeanors.

The office rapidly expanded its functions and duties, often by acquiring functions from other agencies. Eventually, the office became responsible for three major functions: (1) providing court security; (2) transporting prisoners; and (3) serving traffic bench warrants. These new functions brought the Sheriff's office additional funds, resources, and positions from the Legislature.

In 1980, for example, the Judiciary received authorization from the Legislature to hire and train its own security personnel instead of using a pool of guards from the Attorney General's Office. These "security guards" or deputy sheriffs were hired to provide security for the public, Judiciary employees, and all Judiciary facilities and courts.

By 1984, during the height of its growth, the Sheriff's office included 11 separate divisions consisting of: cellblock; bailiffs; warrants; prisoner transport; training; receiving desk; internal affairs; patrol; canine; bomb; and the Sheriff's Emergency Response Team (SERT).

About this time, the office came under increased scrutiny and criticism from community organizations, the media, and the Legislature. Allegations made against the Sheriff's office included the following:

- Improperly and inappropriately expanding into a law enforcement agency and into a new state police force. The office, for example, had initiated traffic warrant sweeps, developed SWAT teams, acquired sophisticated weapons, and conducted criminal investigations.
- Improperly and selectively carrying out certain functions--eg., withholding warrants, using unreasonable force and methods to serve warrants, and handling investigations improperly.
- Indiscriminately distributing deputy sheriff badges to politicians and other prominent or influential persons with no legitimate relationship to the courts.
- Hiring individuals with questionable qualifications and bypassing standard civil service and personnel practices by abusing reallocation and emergency hire procedures.

The Chief Justice appointed a Citizens' Panel to investigate these and other allegations of impropriety. As a result of the panel's report, several changes were implemented in the Sheriff's office. These included: removing the Deputy Administrative Director of the courts from his position as "Chief Sheriff"; restricting the issuance of deputy sheriff badges; and eliminating the SERT team and the canine, bomb disposal, and internal affairs divisions. The report also recommended that the Office of the Sheriff be removed from the Judiciary and transferred to the executive branch. This recommendation was not implemented.

The Citizens' Panel also recommended that organizational order be restored to the Sheriff's office by removing the position of "Undersheriff" and reassigning that individual to his appropriate bailiff duties; and by appointing a qualified person to serve as Sheriff, a clearly designated administrative head of the Office of the Sheriff.

Despite efforts to improve the reputation and management of the Sheriff's office, it remains plagued by serious management, administrative, and operational problems. Authority for the office is unclear, morale is low, equipment is not being maintained, and there is a general lack of direction and support from Judiciary administration.

**Unclear leadership.** Various events have blurred leadership responsibility for the Sheriff's office. The current Sheriff was named by the Chief Justice in July 1986 and officially started his term in September of that year. His appointment was made after a nationwide search in which 40 applicants, including eight finalists, were considered by a California-based consulting firm and a local selection panel.

In July 1988, however, the Sheriff was charged with alleged embezzlement. Immediately following his indictment, the Sheriff was suspended without pay pending an internal investigation. The Administrative Director of the Courts assumed the role of the position. As a result of the investigation, the Sheriff was temporarily assigned to the Office of the Administrative Director while awaiting trial.

In a related move, the Administrative Director appointed the former first deputy or "undersheriff" to head the day-to-day operations of the office pending the Sheriff's trial. He was to report to the director of the budget and fiscal office as well as the Administrative Director. The former first deputy had been transferred out of the Sheriff's office in October 1986 by the new Sheriff but subsequently won a civil service grievance and returned to his old job in 1987.

**Staffing shortages.** Morale in the Sheriff's office appears very low. A major contributing factor is the critical staffing problem which has led to feelings of frustration and stress. In 1985, there were over 100 deputies in the Office of the Sheriff. In September 1988, there were fewer than 60. Although the office has cutback on certain functions, the overall caseload increase and the addition of new courts with their required duties and demands has resulted in an overall increase in responsibilities and workload for the deputies.

This situation, in addition to affecting morale, threatens to compromise the health, safety, and welfare of the deputy sheriffs as well as other office employees, various other court personnel, and the public. In short, these manpower shortages seriously undermine the basic operations of the Sheriff's office.

The courthouses, for example, generally operate with only two or three deputy sheriffs to patrol the floors. The cellblocks operate with a ratio of about one deputy sheriff to 10-15 custodies. In the First Circuit Court building, approximately seven deputies are assigned to the cellblock. They are responsible for handling custodies for 10 criminal courts, civil proceedings, Family Court hearings, and for transporting defendants from the Hawaii State Hospital, the detention home, and the Hawaii Youth Correctional Facility.

Because of manpower shortages, the seven deputies assigned to the cellblock must constantly move back and forth between the cellblock and the courtrooms. Courts often have to wait or even postpone proceedings until an available deputy can be found to escort the defendant from the cellblock to the court. In the cellblock of the Honolulu District Court, there are usually only one or two deputies to monitor 25-40 individuals in custody.

These are potentially hazardous and dangerous situations. The seriousness of the problem was noted by the first deputy sheriff in a recent memorandum to the Administrative Director of the Courts. The memorandum states:

"It should be mentioned that the deputy sheriff to custody ratio continues to concern me. With a ratio of one deputy to ten (10) custodies, the concern for liability is ever present. This ratio is well above the national average and if positive action is not taken to alleviate this disproportionate ratio, civil action by our own employees against the Judiciary is foreseeable. As you are already aware, this problem has been mentioned by the HGEA as a major employee concern."<sup>1</sup>

**Equipment problems.** Morale has also been eroded by insufficient, inadequate, and poorly maintained equipment. Several deputy sheriffs expressed their concern that there are equipment shortages in several critical areas, needed equipment has been given away to other agencies, and that many of the motor vehicles are unsafe.

The Judiciary has no ongoing maintenance program for its vehicles. Some of the vehicles are almost 20 years old and needed repairs for many of the vehicles (i.e., work on the brakes, transmission, tires) have not been made. These equipment problems are said to have resulted in a significant loss of man-hours and to have seriously jeopardized the safety of the deputies, other court personnel, defendants, and the public. For example, in one emergency situation, transmission channels on a car radio were found to be inoperable.

A memorandum from the first deputy sheriff concerning these kinds of equipment problems was sent to the Administrative Director. The memorandum reads in part:

“It is imperative that you and your staff understand the duties and functions of this office and assist us in the areas of need. Presently, manpower to carry out the daily functions is totally inadequate, the equipment with which we are asked to utilize in our daily assignments is lacking and the inability to establish a realistic budget makes for very difficult administration.”<sup>2</sup>

**Lack of direction/support.** There is a deep concern on the part of rank-and-file deputies that the Sheriff's office is operating with little leadership or direction and with only minimal support from the Judiciary administration.

Deputies complain that the office is operating without any direction or goals; there is an absence of communication; individuals do not know who is in charge, who has authority, or what is to be done; there is little or no program, project, or operational planning; there is a lack of proper supervisory training; regulations are inconsistently enforced; there is favoritism in assignments; there is no “standard operating procedures” manual for all divisions within the office to ensure consistent and standard operations; and there is no viable accountability process to ensure the regular and effective review and evaluation of all management and supervisory personnel.

Probably their biggest frustration and disappointment is that the administration has ignored their concerns and has not responded to several memoranda on these problems. In June 1988, a memorandum was sent to the Judiciary administration expressing the concerns of many of the deputies. The memorandum states:

“Not only is chronic understaffing, abuse of sick-leave by employees, and poorly maintained equipment a problem, but the biggest concern to employees is that the

administration is aware of these problems yet fails to take corrective action. This will subsequently lead to burnout of other employees who are carrying the work load, and eventually cause dissension and low morale in the Department, if it already hasn't done so. . . There have been numerous resignations from the Department because distraught, discouraged employees have not seen the Department grow and materialize the way that it should have."<sup>3</sup>

In July 1988, a memorandum was sent from the deputy sheriffs to the Chief Justice, Administrative Director, Deputy Administrative Director, and the Sheriff. The memorandum listed the major concerns of the deputies, the ramifications of these problems, and possible action that could be taken to resolve these problems. The four areas of concern included: (1) inadequate equipment/vehicles; (2) assignment rotations and transfers; (3) poor supervision/management of personnel; and (4) manpower shortages. The memorandum was signed by over 60 Sheriff's office personnel.

To date, the administration has not acted to address these problems. This inaction prompted one of the deputy sheriffs to send a letter to the Hawaii Government Employees Association. The letter presented a brief summary of the problems facing the deputies, stating:

"For the sake of trying to work with all administrations involved (sheriff's department and Judiciary administration) this department was promised quick action to correct all known LIABILITIES because of the safety factor. This action has not taken place from two to three months, of this writing. The ramifications of this rhetoric has caused very low morale, but high tension among the working force."<sup>4</sup>

*Separation-of-Powers.* In addition to all of the aforementioned problems, there remain serious constitutional and separation-of-power questions regarding the propriety of retaining the Office of the Sheriff within the Judiciary.

Hawaii remains the only state in the nation in which the Sheriff's office is placed within the Judicial Branch. In all other states, it is considered a law enforcement agency and consequently placed in the executive branch.

The Citizens' Panel has articulated this separation-of-power issue. The report states:

"The separation of powers principle is strong constitutional support for the proposition that the law enforcement function, as an executive branch responsibility, should be kept apart from the decision-making responsibilities of the judiciary. Buttressing that basic justification is the highly pragmatic reality that the courts may often be called upon to pass judgment on the conduct of law enforcement officials....It is clearly inappropriate for the courts to be called upon to pass on the law enforcement conduct of members of their own staff."<sup>5</sup>



Given the troubled history of the Sheriff's office, the multitude of problems still plaguing that office, and strong constitutional and separation-of-power concerns, we believe it would be in the best interest of that office, the Judiciary, and the State to transfer the Office of the Sheriff to the executive branch.

In the meantime, Judiciary administration should respond to the concerns of its employees in the Sheriff's office and take corrective actions on clarifying authority and responsibility for the office, staffing shortages, deteriorating equipment, and morale.

**Continuing problems in the civil process serving system.** There continues to be serious problems in serving civil process. Under Section 601-33, HRS, the serving of criminal or civil process (e.g., summons, warrants, attachments, subpoenas, etc.) and executing orders of the courts are to be performed by the Sheriff and the deputy sheriffs. Section 607-4 and 607-8, HRS, specify the various fees payable to the process server.

In our 1987 financial audit of the Judiciary, we reported deficiencies in the process-serving system. We recommended that the Judiciary consider alternatives to the existing process serving system.

We found that the system allowed for conflict in duties and inequities in the process-serving assignments. Salaried sheriffs and deputy sheriffs received fees for the serving of civil process. There were concerns that some sheriffs might give personal priority to serving process rather than performing their assigned, salaried duties. Since then, this problem has been resolved by limiting the serving of civil process for which a fee is received to nonsalaried deputy sheriffs.

We find, however, that process-serving assignments are still not distributed equitably among the nonsalaried deputy sheriffs. The Judiciary does not have a systematic method nor has it made a conscious effort to ensure equitable assignments. In addition, attorneys are still permitted to ask a particular deputy sheriff to serve the process. In 1987, we stated this was unusual and ethically questionable. Our views on this practice remain unchanged.

There are additional reasons to change the current process serving system. Foremost is the cost to the State of administering the system. These costs include a limited training program, the provision of office space, telephones, copying, and supplies. The process-serving system also places a significant workload on fiscal personnel. They must account for fees and mileage reimbursements billed and collected from attorneys and paid to deputy sheriffs. Other requirements are the preparation of tax information returns for the fees paid to the deputy sheriffs, requisite internal accounting and control procedures for depositing and disbursing fees, and recordkeeping to monitor the issuance and disposition of each process.

Although these administrative costs are incurred by the State, the entire process-serving fee charged to the attorney is remitted directly to the process server. No reimbursement is made to the State by attorneys. The fees received by certain process servers were substantial. For the fiscal year that ended June 30, 1988, 9 of the 58 process servers received fees in excess of \$15,000; one process server received fees amounting to \$42,570.

In our previous report, we stated that the serving of civil process could be the responsibility of attorneys involved in the litigation process. This would resolve the ethical questions concerning the inequities in process serving assignments, remove the financial burden of administering the serving of civil process from the State, and reduce the manpower demands placed upon the Sheriff's office.

The Judiciary should only be involved in training, qualifying, and certifying process servers. This would reduce the drain on monetary and personnel resources and make it more competitive and efficient.

### **New Programs**

The Judiciary has taken on a diverse number of new programs. These programs are adopted on an ad hoc basis without any guidelines or procedures for assessing their impact on the Judiciary. There are concerns that these programs may not be appropriate for the courts. Additionally, these new programs may divert funds, resources, and manpower from core Judiciary programs.

Some within the court system believe that the basic mission of the Judiciary should be to adjudicate, in a fair and expeditious manner, all cases brought before the courts. These individuals believe that unless a program's functions, responsibilities, and operations directly support this basic mission, the program may be inappropriate and extraneous to the courts.

Some of the new programs at the Judiciary were established by the Legislature while others were initiated by the Judiciary. They are described briefly below:

**Program on Alternative Dispute Resolution.** This program was established in 1985 at the direction of the Chief Justice as a long-term research, planning, and development office that would explore new avenues of mediation, arbitration, and other nonadjudicatory methods of resolving disputes within the legal system. Initial funding for the office was provided by the Judiciary and the National Institute for Dispute Resolution.

**Office of the Public Guardian.** This office was created in 1984 through Act 223. It provides personal guardianship services for mentally incapacitated persons when the Family Court determines that there is no other person or organization available to provide continuing care

and supervision for the incapacitated person. The office provides long-term, limited, and testamentary or temporary guardianship of the person. It is also mandated to develop public education programs on guardianship and alternatives to guardianship and to encourage the development of private guardians to serve as guardians of the person.

**Children's Advocacy Center.** Created in 1986, the center seeks to develop and maintain the cooperation and coordination of agencies and professionals involved in child sex abuse cases. It provides professionals to interview victims in a comfortable setting to minimize the possibility of "revictimizing" or traumatizing these young victims.

The program also gathers evidence for both criminal prosecution and protective action in civil proceedings; coordinates therapy and treatment for victims and their families; provides a multidisciplinary team and case management approach with primary focus on the victim; develops training and continuing education services; and serves as an information and referral center for child sex abuse programs.

**Program Services Branch (PSB).** The PSB, under the Office of the Administrative Director of the Courts, seeks to encourage and facilitate citizen involvement and participation in the judicial system. It operates five programs, all of which were developed in-house. None is legislatively mandated. The programs are described below.

***Volunteers in Public Service to the Courts Program (VIPS).*** VIPS is responsible for recruiting, screening, selecting, training, assigning, and supervising interested and qualified volunteers. The volunteers work as one-to-one companions to court clients; aides to assist court officers; tutors; aides for the law library; clerical, research and evaluation, bailiff, and recreational aides; and academic and crafts teachers. VIPS is also responsible for coordinating public orientation tours of the Judiciary.

***Community Service Sentencing Program (CSSP).*** The CSSP coordinates a sentencing program which allows offenders to participate in some form of public service as a condition of their sentence. A sentence to community service is an alternative to a fine, probation, and in some instances, incarceration. It is also used in combination with these traditional court dispositions. Offenders are referred to CSSP statewide from the family, district, circuit, and U.S. district courts.

***Foster Parenting Program.*** This program coordinates a full-time foster home office that recruits, screens, trains, and monitors volunteer parents (who are paid a stipend) who provide foster-care services to adolescents who are under the jurisdiction of family court. The Family Court had relied upon both public and private social service agencies to help meet its foster home/foster care needs but initiated its own program when it found increasing difficulty in placing teenage delinquents and other juveniles.

*Volunteer Guardian Ad Litem Program.* This program coordinates the services of special volunteer guardians who are appointed by the court to represent a minor's best interests in child abuse or neglect cases. These volunteer guardians conduct their own investigation and make independent recommendations to the court concerning the welfare of the minor. Their duties are temporary and limited; they are not the child's legal guardian, and their services usually end upon completion of the court case.

*Juvenile Monetary Restitution Program.* This program provides pre-employment training and work placement for juvenile offenders who have been ordered by family courts to pay monetary restitution to their victims. The amount of restitution is determined through mediation or arbitration, and referrals to the program are made by the family courts. Cases excluded from referral include Class A crimes--murder, robbery, rape, etc. Referrals include cases involving property damage, burglary, theft, assault, and auto theft.

**New programs are a policy issue.** Each of the programs above were initiated to meet a perceived need. However, if the basic mission of the Judiciary is seen from the more traditional view of the courts, some of these programs may appear ancillary and not totally appropriate to the courts. If, on the other hand, the basic mission of the Judiciary is viewed more flexibly, these new programs might then be seen as being appropriate to the work of the courts.

Regardless of the general need for or merits of these programs or their operational effectiveness, there is a basic policy issue of whether these kinds of programs properly belong within the Judiciary or with other more appropriate executive branch agencies such as the Department of Human Services or the Department of Corrections. Some of these programs are human and social services in nature; others deal with offenders.

This philosophical dilemma has serious and far-reaching policy and management implications for the Judiciary. It is a major policy issue that must be clarified and resolved. The Judiciary is aware of this issue but it has not clearly formulated an adequate approach to dealing with it.

We note that one of the objectives in the Judiciary's draft strategic plan reads: "Transfer or eliminate those programs or functions which are no longer appropriate to the fundamental role of the Judiciary or which can be performed more effectively by another agency."<sup>6</sup>

Also, recently the Judiciary administration sponsored a series of working conferences involving judges, administrative officials, unit supervisors, etc., to help clarify and reach some kind of consensus regarding the basic role, responsibilities, and mission of family courts. These are indicators of administrative concern but more systematic action is needed.

**Haphazard placement of programs.** Instead of planned implementation, new programs are added in an ad hoc manner. Little thought is given to their organizational placement or how they might best be integrated into the Judiciary.

The alternative dispute resolution, children's advocacy, and public guardianship programs are directly under the Administrative Director while the remainder are in the office of program services. New programs should not automatically or haphazardly be placed under the Administrative Director. The Administrative Director has neither the time nor the expertise to supervise, monitor, and evaluate these types of programs. They should fall under those courts or divisions most relevant to their functions and purposes.

The remaining programs are housed in the program services branch because they were developed in-house within that branch. They were not legislatively created. The oldest program was developed over ten years ago; the newest is only two years old. The office is headed by a program administrator, and each program is headed by a project coordinator or manager.

The program services branch has served as an "informal incubator for new programs. . ."7 The development of the foster parenting program in 1982 provides a good example of this. Because the Judiciary had difficulty in placing family court youths in existing foster homes under the Department of Social Services and Housing (now Department of Human Services), it decided to develop its own foster homes for these adolescents. The program services administrator was successful in obtaining grant funds to serve as seed money to implement the program. Once the program was developed and operational, it received continued funding support from the Legislature.

We also question the organizational placement of these programs within the program services branch. There may be some justification for housing newly developed programs under a single "umbrella" office. However, after a program has been implemented and operational for a number of years, some thought should be given to placing it organizationally within that court or division most involved with utilizing its services.

For example, if a determination is made to retain these programs within the Judiciary, it might be worthwhile to consider "spinning off" or transferring the foster parenting, guardian ad litem, restitution, and community services sentencing programs to the family courts or to the adult probation division.

*Need for program development policies.* The problem of the appropriateness and placement of new programs in the Judiciary stems from the absence of any kind of formal program development policy and the lack of clearly delineated standards or procedures to help guide Judiciary personnel in this area. It is not clear who decides whether a program should be initiated, continued, or dropped. The Judiciary currently has no designated "program development specialists" whose responsibilities include working in the area of new program development. As

far as can be determined, no management attention has been placed on establishing a program development office or any kind of formal mechanism or procedure for this area.

A program development policy and process would provide a framework for rational decision making--not only regarding new programs, but also for assessing existing programs and systematically determining where and how these programs can be most effectively utilized.

The process would enable administrators to anticipate trouble areas, streamline services, and to discard programs that are no longer useful or necessary. It would also provide administrators with data on the costs of proposed new programs and the possible costs of not implementing these programs.

**A program development process.** A sound program development process should give the Judiciary an important systematic framework and procedure to set priorities and to make informed and sound decisions about programs and the allocation of resources. Such a process should consist of the following components described below.

*Program analysis.* All new programs and their design should be the product of analysis. By analysis we mean a systematic comparison of alternative means of attaining desired objectives. Underlying any analysis is the concern for the most efficient and effective use of scarce resources. Program analysis would cover such aspects as a clear definition of the issues, development of objectives, identification of alternative ways to achieve the objectives, and comparison of the costs and benefits of the alternatives.

*Program design.* In any systematic program development process, upon the selection of a program, the next logical step is usually the design of the selected program that details the program components and configuration. A system view is required in design in order that all components are identified and each component in turn is properly and adequately patterned.

*Pilot-testing.* Many of the problems associated with program installation and implementation on any kind of statewide basis can be detected, anticipated, and alleviated if the program is pilot-tested before full-scale implementation commences. The purposes of pilot-testing are twofold: (1) to ascertain whether the program itself is as cost-effective as originally believed; and (2) to determine whether the program design and configuration are such as to permit implementation of the program as efficiently and effectively as desired.

Pilot-testing involves experimenting with the program on a limited basis for a predetermined period of time, at the end of which the program and its design are evaluated. Pilot-testing is particularly useful where the new program is significantly different from that which is on-going or if there is some uncertainty regarding a program's configuration.

**Programming.** Once it is decided that a program should be implemented and its design is fixed, the next task is to lay out a schedule for implementation over a period of time. This is called "programming." Programming establishes what part or parts of a program are to be implemented, when and how they are to be implemented, and what they are estimated to cost. If the program is intended to replace an old one, programming shows how the old program is to be phased out and the new program phased in.

**Supervision and control.** The term, "supervision and control," as used here means monitoring (i.e., keeping track of, observing, and watching over), regulating (i.e., exercising, restraining, or directing influence over), and testing (i.e., inspecting, examining, and verifying). The purposes of supervision and control are (1) to ensure that state programs are implemented and that they are implemented in the manner intended and (2) to assist in determining (through either quick or intensive analysis) the changes that should be made to the programs, their designs, or their implementation schedules.

**Evaluation.** A program is implemented for the generation of those benefits which are expected to flow from the program. Whether or not the program is producing the results expected and, if not, why not, cannot be known unless the program is evaluated. Evaluation is also necessary to determine whether the design of the program is adequate, whether the intended beneficiaries are being reached by the program, and whether the installation of the program is on schedule. Poor program design, failure to reach intended beneficiaries, and a faulty installation schedule may affect the program's ability to produce the results expected.

Such a formal program development policy and process should provide immediate and significant benefits for the Judiciary. Properly implemented, it would:

- Encourage the systematic development and implementation of innovative and needed programs and projects; alternative programs and projects that could potentially improve judicial services would be explored and screened.
- Provide data on the need for new programs and collect, review, and analyze program data/information for proposed, planned, and recently developed court programs, projects, and services.
- Help determine whether new (as well as existing) programs and services are appropriate to the fundamental mission and role of the Judiciary or whether these functions could be performed more efficiently, effectively, and economically by another public or private agency.

- Monitor, review, and evaluate new programs, projects, and services to determine how well new programs are functioning and to assess how well program goals, objectives, and tasks are being met.
- Provide assurance that ongoing programs are the result of a deliberative decision making process.

Responsibility for carrying out this program could be assigned to the program services branch which has functioned as an informal program development office. Existing programs within the branch could be spun off or transferred or discontinued based on a policy review.

Most importantly, the program development office must have the committed support of administration if it is to function in any kind of effective and meaningful way.

### ***Recommendations***

*We recommend the following:*

1. *The Office of the Sheriff be transferred from the Judiciary to the executive branch.*
2. *Until such a transfer is made, the Chief Justice and Administrative Director of the Courts take prompt action to provide the Sheriff's office with the leadership, support, and resources necessary to ensure the health, safety, and welfare of the deputies, other court personnel, and the public.*
3. *The Legislature amend sections 601-33, 607-4, and 607-8, HRS, to change the process for serving civil process. The responsibility should be removed from the Sheriff's office and transferred to the attorneys involved in the litigation process. The Judiciary should only be involved in training, qualifying, and certifying process servers.*
4. *The Judiciary establish a formal program development policy and process to help ensure the systematic development and adoption of new programs.*



## Chapter 9

### FINANCIAL MANAGEMENT

This chapter contains our findings and recommendations on the Judiciary's financial management including its budgeting, accounting, and internal control practices and procedures.

#### Summary of Findings

Our findings are as follows:

1. The Judiciary's budgeting lacks accountability since it fails to establish a sound foundation or budget base on which it builds its budget and its policy encourages budgeting for excess funds.
2. The Judiciary did not correct several conditions noted in our 1987 audit of the Judiciary including the following:
  - There is a lack of adequate segregation of duties in the cash receipts and disbursements functions. Cash receipt duties at the Honolulu Circuit Court and disbursement and bank reconciliation functions at the Honolulu District Court are not separated among different employees.
  - The Hilo and Kauai circuit courts are not in compliance with check approval procedures.
  - Some courts are not exercising proper controls over check-signing machines and unused checks.
  - There are no uniform procedures for the circuit courts to safeguard court evidence.
  - Some courts are not making timely disposition of unclaimed bail and old outstanding and returned checks as government realizations. Consequently, the State is losing the opportunity to earn interest on such realizations.
  - There is a lack of follow-up procedures for the collection of delinquent fines and restitutions at the Honolulu Family Court.
  - There is a backlog in issuing bench warrants on delinquent deferred payments for fines at the Honolulu District Court.
  - Trust fund subsidiary ledger accounts at certain district courts are not reconciled to the general ledger account, and the accounts were out of balance.
  - There have been numerous instances of noncompliance with authorization requirements for purchases.

3. There have been several instances of noncompliance with authorization requirements for summary warrant vouchers.

4. The circuit courts are not in compliance with prescribed safeguard controls over noncash assets.

5. The Kaneohe District Court does not provide adequate due notice to individuals prior to escheating their unclaimed bails to the State.

6. There are deficiencies in the district courts' "bail-by-mail" (BBM) system which provides for the payment of parking citations through the mail. Certain district courts are not processing BBM on a timely basis and are not in compliance with prescribed procedures for processing BBM underpayments.

7. The Maui and Kauai district courts are not following up with delinquency notices and license plate stoppers on delinquent parking citations.

8. There are deficiencies in the processing of penal summonses at certain district courts. Penal summonses are not being prepared on a timely basis and there is a lack of follow-up for outstanding penal summonses.

### **Budgeting**

Budgeting is a critical management tool which focuses management attention on what it hopes to accomplish and the resources it needs to achieve these ends. It is a means to control, integrate, and guide the activities of an organization. The budget is an instrument for financial and program decision making, and the budgeting process establishes responsibility and accountability for the expenditure of public funds.

The Judiciary has not used the budgeting process as a management tool. It has not instituted a responsible approach to budgeting that would give administrators the information they need to set priorities and make choices. Instead, it has consistently requested excessive amounts.

**Excessive requests.** In the last fiscal biennium, the Judiciary requested \$60.8 million and 1,624 positions for FY 1987-88 and \$60.5 million and 1,732 positions for FY 1988-89. The Legislature substantially reduced these requests, appropriating \$52.5 million and 1421.5 positions for FY 1987-88, and \$53.4 million and 1441 positions for FY 1988-1989. The Senate Committee on Ways and Means noted that the Judiciary's budget proposals have consistently exceeded the general fund appropriations ceiling, that financial discipline was needed to rein in the Judiciary's budget, and that lower levels of expenditures could be achieved without disturbing essential programs and services.<sup>1</sup>

As will be noted later, even with these severe reductions, the Judiciary lapses significant sums at the end of each fiscal year.

**Judiciary has consistently exceeded ceiling.** The 1978 amendments to the State Constitution established a general fund expenditure ceiling which limits the rate of growth of general fund appropriations to the estimated growth rate of the State's economy. Total general fund appropriations to the Executive Branch, the Judiciary, and the Legislature may not exceed this ceiling unless approved by two thirds of the members of both houses.

While it is the total general fund appropriations ceiling which is binding on the Legislature, the Governor and the Chief Justice are each required to include in the budget documents of their respective branches a statement of the appropriations ceiling of the branch. In the case of the Judiciary, if it proposes to exceed the ceiling, the Chief Justice must set forth the dollar amount and percentage change in excess of the ceiling and the reasons for exceeding the ceiling. Over the years and until recently, the Judiciary's budget requests have consistently exceeded the ceiling.

- For FY 1981-82, the Judiciary's budget request exceeded the ceiling by 2 percent.
- In FY 1982-83, it exceeded the ceiling by 12.7 percent.
- In Fiscal Year 1983-84, it was \$6.5 million or 20 percent over the ceiling.
- In FY 1985-86, it was \$7.3 million or 17 percent over the ceiling.
- Its budget request for FY 1987-88 was \$5.8 million or 11 percent over the ceiling.

In its supplemental budget for FY 1988-89, the Judiciary stated that it was proposing additional spending which would be under its appropriations ceiling, but it did not specify what that ceiling was, as required by statute.

According to Judiciary budget officials, the Judiciary's budget for the 1989-91 fiscal biennium will be under the ceiling. On November 1, 1988, the Chief Justice informed the Governor that the Judiciary will request \$67,254,488 in general funds for FY 1989-90 and \$70,326,671 for FY 1990-91. Three weeks later, on November 21, 1988, the Chief Justice informed the Governor that the Judiciary had raised its request to reflect an increase in the estimate of the State's growth rate. It intended to request \$69,848,018 in general funds for FY 1989-90 and \$71,613,733 for FY 1990-1991.

**Judiciary lacks a sound budgeting system.** The Judiciary budget has been criticized as lacking in substantiation. There are several reasons for this deficiency. *First*, the Judiciary has not developed the necessary budget management processes to the same level of detail as the executive branch and consequently, the supporting documentation is not comparable to that presented by the executive branch. *Second*, an unofficial Judiciary budgeting policy encourages evasion of the legislative appropriation process.

*Judiciary budget preparation differs from the executive branch.* For many years after the Judiciary received control over its budget in 1974, its budgets did not receive the same level of scrutiny as those of the executive branch. It was not required to develop the level of detail as was required of the executive branch.

This informal approach to budgeting was reflected in staffing for the budget office. It had only one budget analyst until 1980 when a second budget analyst was added. The budget section has yet to gain control of the mechanical and procedural aspects of budgeting.

A comparison of the Judiciary's budget process with that of the executive branch shows a critical difference in the way the two proceed. The executive branch establishes a current funding level or budget base for each department which is used as the bottom line from which additional requests or increments are made. This is not done at the Judiciary.

*Executive budget process.* The Department of Budget and Finance (B&F) begins by establishing a current funding level or approved budget base for each department. This is done by determining current appropriations levels, then making adjustments such as subtracting nonrecurring items, taking a portion of personnel turnover savings, and adding collective bargaining and inflationary increases for other current expenses and equipment.

This information is provided to departments which have an opportunity to rework the budget base details and make trade-offs within the funding total. The departments also note changes in positions or transfers that have been made. Once B&F and the department agree on the current funding level, the department updates its budget justification tables which provide line item information on amounts appropriated, current funding levels, expenditures, and budget requests for personnel, other current expenses, and equipment.

The current funding level is used as the point of departure for requests for additional resources. These may be requests for additional resources to keep up with workload increases in the current program (current approved program-workload requests) or requests for resources for new initiatives (program-change requests). Each department works within a budget ceiling. After a review process by the Governor and B&F, a final budget is developed. The budget submission to the Legislature is again substantiated by updated tables which show current positions and expenses and positions and funds requested.

Legislative requests for additional information on the budget requests are provided by updated tables and backup information on specific program change requests. The budget tables which are updated on a continuing basis provide a detailed paper trail that shows the appropriations levels from the preceding years, the changes that occurred in these levels in terms of trade-offs or transfers made at the beginning of the budget cycle, and the increases that result from the workload and program change requests.

**Judiciary budget process.** The process is much looser in the Judiciary. Budget requests in the Judiciary are made by five program categories: the appellate courts, the circuit courts, the family courts, the district courts, and administrative director services. A clear budget base or current funding level is not established for each program which can be used as the point of departure for future increments. Program administrators say that the budget section gives each program a ceiling to work with, but they say they are not sure what their budget base is or how the budget section arrives at that ceiling.

The practice in the past two years has been for the program administrators, for example, all circuit court clerks and their fiscal officers, to meet together to set priorities on their budget requests so that they stay within the program ceiling established by the budget section.

Several critical steps are skipped in this process. The same type of documentation and paper trail is not available for the Judiciary as is available for the executive branch. No one knows exactly what the base is or should be. Program administrators are not required to update budget tables so that there is line item substantiation for their current funding level. Position variances and other changes that occurred are not recognized and dealt with before requesting budget increases. The budget tables are updated after the budget is finalized; however, since they are not updated on a continuous basis, there is no paper trail showing what, how, and where changes occurred.

**Judiciary lacks information for establishing a budget base.** One reason why the Judiciary is unable to develop a sound budget base for its programs is because it lacks sufficient information on how programs have actually expended funds. For example, it does not have detailed information on how a program used its funds for fee for services or for printing and binding.

The Judiciary recently attempted to develop a more accurate budget base. In May 1988, the Administrative Director issued a memorandum to program administrators and fiscal officers asking them to complete certain forms which would provide additional information on expenditures which could be used in determining their budget base for the 1989-91 biennium budget. This included information on repair and maintenance, other current expenditures, out-of-state travel, per diem judges, electrical consumption, rental leases, and services on fee. However, the budget office did not receive sufficient information from the programs to be able to establish a sound budget base. Consequently, the Judiciary's budget request for the coming fiscal biennium will probably have some of the same problems found in its former budget submissions.

**A questionable budgeting policy.** The Judiciary has had a long standing unofficial policy of not routinely budgeting for replacement equipment or ordinary or relatively inexpensive equipment unless the equipment is directly related to a new position that has been requested.

Instead, program managers are expected to manage and control their operations to generate savings which they can then use for "contingency" purchases of needed equipment or to automate or modernize operations. The policy is designed to be an incentive to program managers to improve performance.

Instead of improving performance, the policy has led to a practice of budgeting for excess funds. We note for example, that in FY 1985-86, the Judiciary lapsed over \$2.2 million in general funds. In FY 1986-87, it again lapsed over \$2.2 million. For the current FY 1987-88, even though the Judiciary went on a spending spree and encumbered over \$2.2 million in unbudgeted items, it still lapsed over \$1.1 million. Actual expenditures for unbudgeted items exceeds the \$2.2 million since that figure only includes purchases that cost over \$4000 each.

The encumbrances were primarily for computer and technology-related equipment. The purchases included 166 microcomputer systems at a cost of nearly \$1 million, 85 printers, plus other computer hardware and software purchases totaling more than \$700,000.

The family courts encumbered over \$600,000 for contingency purchases, or purchases generated from savings; the district courts also encumbered over \$600,000 in contingency purchases; and the Office of the Administrative Director encumbered over \$300,000. In addition to equipment purchases, part of the savings generated by the Office of the Administrative Director was used for a \$250,000 grant to Maui County for a youth shelter.

These large expenditures raise serious questions about how the Judiciary spends its money. There are significant problems with the Judiciary's practice of generating savings to make equipment purchases. *First*, it means that the growth in the Judiciary's budget requests is based on an overgenerous, inaccurate base. It is apparent that programs are maintaining excess funds in their current funding levels and using them for various purposes. *Second*, since these savings are generated from funds appropriated for other purposes, the Judiciary is using funds for purposes other than that intended by the Legislature. *Third*, since these needs are not presented to the Legislature, the entire process evades the legislative prerogative of deciding how public monies should be expended. This practice also denies the Legislature the opportunity to appropriate these funds to other programs which may have more pressing needs.

The situation is particularly deplorable because the Judiciary has expended millions on computer and computer-related equipment, without undergoing any legislative review, when the Legislature has expressed specific concern about the Judiciary's automation program. In the Supplemental Appropriations Act, the Legislature specifically asked the Judiciary to submit a plan to the 1989 Legislature on the specific needs and priorities of its information system and the system requirement. The wisdom of these expenditures is certainly questionable, particularly in view of the Judiciary's poor management of its information systems program.

### **Recommendation**

*We recommend that the Judiciary:*

- 1. Determine a realistic budget base for its programs as the first step in preparing its budget request.*
- 2. Discontinue its policy of purchasing equipment from savings. Instead, the Judiciary should present its needs to the Legislature for its decision on whether funds should be appropriated.*

### **Continuing Deficiencies**

In 1987, our office issued a report on the financial audit of the Judiciary in which a number of deficiencies in the financial accounting and internal control systems were noted. That report, Report No. 87-9, also offered recommendations and suggestions for improvement, some of which the Judiciary has implemented. In other cases, however, the Judiciary has not taken adequate steps to resolve problems outlined in our previous report. As a result, several of the deficiencies noted in 1987 still exist today.

**Lack of segregation of duties over cash receipts and disbursements.** 1. *Handling of cash receipts.* Cash is collected by all courts of the Judiciary. Cash collections include fees, bails, fines, restitutions, and other miscellaneous items.

One of the basic principles of internal control is that duties should be appropriately segregated and assigned in a manner that no one individual controls all phases of a transaction without the interrelated function of a cross-check by some other individual. Ideally, the function of receiving cash, depositing the cash, and recording the cash receipts in the accounting records should be separated and performed by different individuals. Such segregation of duties would provide a mechanism to detect errors in recording cash receipts and prevent irregularities from being concealed by any one individual.

In our 1987 report, we pointed out that although there is sufficient staff to permit the segregation of duties at the Honolulu Circuit Court and the Honolulu District Court, such separation of duties did not exist. While the condition at the Honolulu District Court has been corrected, the situation at the Honolulu Circuit Court has not changed. As a result, a cashier at the Honolulu Circuit Court continues to be responsible for handling the cash, compiling the cash receipts of all cashiers, preparing the deposit slip, and recording the information in the subledgers and control ledgers.

**Recommendation.** *We recommend that the cash receipt duties be separated and performed by different individuals at the Honolulu Circuit Court.*

2. *Control over cash disbursements.* Certain courts maintain a bank account as a depository for bail, bail forfeitures, fines, and miscellaneous fees. Disbursements from this bank account are made to transfer bail forfeitures and fines to the State Treasury and as refunds for bails and bonds.

In our previous report, we reported that controls over cash disbursements for bank accounts maintained by the Honolulu District Court, Land Court, and Tax Appeal Court were deficient because the disbursements and the bank reconciliation functions were not performed by separate individuals. These deficiencies were subsequently corrected except for the Honolulu District Court, where the condition we reported in 1987 continues to exist. An account clerk still prepares the checks, has access to the check writing machine and check signature nameplate, records the disbursement in the accounting records, and reconciles the bank account.

This practice does not afford a "cross-check." Under this practice, it is possible for errors in recording disbursements to go undetected and for irregularities to be concealed. For example, a disbursement check could be made out but the recording of it could be omitted, either intentionally or unintentionally. Since the person who prepares the check also reconciles the bank account, the failure to record the check could be concealed through an improper reconciliation. A sound system of internal control requires that the disbursement function and the reconciliation of the bank account be performed by separate individuals.

*Recommendation.* We recommend that the cash disbursement functions and reconciliation of bank accounts at the Honolulu District Court be performed by separate individuals.

**Noncompliance with approval procedures for checks.** Check approval procedures for circuit courts on the Neighbor Islands are stated in the Judiciary's *Financial Administration Manual*. The manual states that checks greater than \$1000 shall be approved by the clerk of the court, checks up to \$1000 shall be approved by the fiscal officer, and checks up to \$500 shall be approved by the account clerk. The manual requires that this approval be evidenced by the approver's initials next to the facsimile signature on the check. The purpose of having the approval of designated individuals is to fix responsibility for the disbursement to the appropriate level of authority.

In our 1987 report, we noted that cash disbursements at the Neighbor Island circuit courts were not being made in compliance with the approval procedures required by the *Financial Administration Manual*. We reported that fiscal officers and clerks rather than the clerk of the court were authorizing checks with amounts in excess of \$1000.

During our current examination, we noted that fiscal officers continue to approve checks in excess of \$1000 at the Neighbor Island circuit courts. We were informed that each clerk of the



court at the Neighbor Island circuit courts has delegated the responsibility to authorize checks in excess of \$1000 to the fiscal officer. For the Hilo and Kauai circuit courts, however, this delegation of responsibility was not done in compliance with the manual which states that modifications from prescribed procedures in the manual should be approved by the Administrative Director of the Courts. At the Hilo Circuit Court, we also noted numerous instances of checks in excess of \$1000 being approved by account clerks.

*Recommendation.* We recommend that Hilo and Kauai circuit courts adhere to the check approval procedures set forth in the Judiciary's Financial Administration Manual.

**Lack of controls over the check-signing machine and unused checks.** Two keys are required to operate the Judiciary's check signing machines. The use of two keys are required to ensure that the machine is used only as authorized. The keys should be assigned to two different individuals, making it difficult for a person on his own, or an unauthorized person, to operate the machine.

In our 1987 report, we noted that the Honolulu Circuit Court and the Honolulu District Court left both keys in the machines. Also, we reported that unused checks were not secured to prevent unauthorized persons from obtaining a check and processing it through the check signing machine.

During our current examination, we found that the deficiencies noted in 1987 still continue to exist in some areas. At the office of the small estates and guardianship program of the Honolulu Circuit Court and the Honolulu District Court, the practice of leaving both keys in the machine continues to exist. This practice is also followed at the Land Court and the Kauai District Court. In addition, the unused checks at the Honolulu District Court and Land Court are not adequately secured.

*Recommendation.* We recommend that one of the keys to the check-signing machine be under the control of the fiscal officer or a designee to control the use of the machine. Both keys should not be left in the check signing machine when not in use. In addition, we recommend that access to the supply of blank checks be physically controlled in a locked storage area under the control of the fiscal officer or a designee.

**Lack of uniform procedures to safeguard court evidence.** The circuit courts have custody over evidence used in court cases. While court evidence is essential to the trial, it is also, at times, of economic value and susceptible to theft (e.g., narcotics). Procedures should provide for the maintenance of perpetual inventory records which are periodically reconciled to the general ledger control account, performance of periodic physical inspection by an individual other than the custodian of the evidence, and storage of evidence in a secured area with proper controls over its receipt and release.

As in 1987, we note that there are no uniform procedures governing the security of court evidence. As a result, each court continues to have its own procedures to handle and store evidence. Although certain courts did make some improvements to these procedures, deficiencies continue to exist.

At the Honolulu Circuit Court, the physical inspection of inventory is performed by the evidence room custodian rather than by someone other than the custodian. In addition, the physical inspection is limited only to counting the number of containers rather than the actual evidence which is stored in the containers and listed in the perpetual inventory records.

At the Neighbor Island circuit courts, perpetual records of evidence are not maintained. Physical inspections of evidence are not performed at the Maui and Kauai circuit courts. The Hilo Circuit Court does not have an adequately secured area to store court evidence. The evidence room in Hilo has walls that do not extend to the ceiling. At the Kauai Circuit Court, the evidence room is kept unlocked during office hours.

*Recommendation.* We recommend that the Judiciary develop and implement uniform procedures to safeguard court evidence. These procedures should provide for the maintenance of perpetual inventory records, performance of periodic physical inspection of inventory by an individual other than the custodian of the evidence, and storage of evidence in a secured area with proper controls over its receipt and release.

**Untimely disposition of unclaimed bail and old outstanding and returned checks.** The statutory provision governing the disposition of unclaimed bail is Section 804-2, Hawaii Revised Statutes, which states: "All money deposited by way of bail or bond, in any proceeding before any court, which has not been declared forfeited, and not claimed within two years after the final disposition of the cause of action in which the money was deposited, shall, after due notice to the person who has deposited the same, by the then custodian of the money and upon order of court, be paid over to the Director of Finance of the State as a state government realization."

In our 1987 report, we reported that the Judiciary was not making disposition of unclaimed bails held over two years on a timely basis and that these unclaimed bail amounts totaled approximately \$167,000 at June 30, 1986. Our current examination revealed that this condition has not improved at most of the court divisions. While the Kaneohe and Wahiawa district courts and the Hilo Circuit Court have disposed of substantially all of the unclaimed bails held over two years, the situation at other courts continue to lag with unclaimed bail amounts held in excess of two years totaling approximately \$430,000, some of which date back to the 1970s.

With regard to the disposition of old outstanding and returned checks, Section 523A-13, HRS, states that "intangible property held for the owner by a court. . .which remains unclaimed

by the owner for more than one year after becoming payable or distributable is presumed abandoned." By law, abandoned items are turned over to the Director of Finance and become government realizations.

As was the case with the untimely disposition of unclaimed bails, our previous report indicated that the Judiciary was not disposing of old outstanding and returned checks on a timely basis. During our current examination, we noted that the majority of the courts are now disposing of old outstanding and returned checks in a timely manner. However, at the Honolulu District Court, the situation has not improved as the amount of old outstanding and returned checks with dates in excess of a year was approximately \$29,000, some of which date back several years.

Since unclaimed bail and old outstanding and returned checks cannot be recognized as government realizations until dispositions are made in accordance with law, the Judiciary's failure to make timely dispositions is costing the State the opportunity to earn interest. For example, for each month that the disposable amounts at June 30, 1988, are not turned over to the Director of Finance, the State is losing approximately \$2,200 based on the State Treasury's effective interest rate of 5.7 percent for the fiscal year ended June 30, 1988. In addition to the revenue considerations, timely dispositions will relieve the Judiciary from the burden of recordkeeping associated with the maintenance of unclaimed bails and checks.

*Recommendation.* We recommend that the Judiciary ensure the timely disposition of all unclaimed bail and old outstanding and returned checks that are eligible to become government realizations as provided by law.

**Lack of follow-up procedures for the collection of delinquent fines and restitutions.** In our 1987 report, we found that there were no follow-up procedures for the collection of certain delinquent fines and restitutions at the Honolulu Family Court. The family court probation officers were assigned the duty of following up on the collection of delinquent fines and restitutions. However, the fiscal office of the court, which maintains the receivable accounting records, did not inform the probation officers when amounts become delinquent. Thus, there was no assurance of proper collection efforts being performed.

During our current examination, we noted that this lack of follow-up procedures for the collection of delinquent fines and restrictions continues to exist. At September 29, 1988, there were approximately 100 delinquent fines and restitutions amounting to approximately \$7000 at the Honolulu Family Court.

*Recommendation.* We recommend that the Honolulu Family Court's fiscal office periodically inform the probation officers of delinquent amounts due so that proper follow-up collection efforts can be assured.

**Backlog in issuing bench warrants on delinquent deferred payments for fines.** When an individual is not able to pay a fine immediately for traffic and criminal violations, the court may allow the individual to provide payment under a deferred payment agreement. If payment is not received in accordance with the terms of the agreement, the court issues a bench warrant for the individual's arrest.

In our 1987 report, we noted that there was a three-year backlog at the Honolulu District Court in issuing bench warrants to individuals with delinquent deferred payments. During our current examination, we noted that the Honolulu District Court has managed to eliminate the backlog in issuing bench warrants for the traffic violators. However, there still remains a four-year backlog in issuing bench warrants on delinquent deferred payments relating to criminal cases. We estimated this backlog at September 29, 1988, to be approximately 2700 cases totaling \$643,000 of uncollected deferred payments.

In 1987, we also reported that the recordkeeping of deferred payment agreements and the preparation of bench warrants for delinquencies were done manually and we recommended that the Judiciary consider automating the deferred payment agreement record system. Since then, the Judiciary has automated the system at the Honolulu District Court. However, we were informed that the new system does not have the ability to detect delinquent payments and prepare bench warrants. We believe that such a feature would provide needed assistance to the Judiciary for the proper enforcement and collection of delinquent amounts.

*Recommendation.* We recommend that the Judiciary take the steps necessary to eliminate the backlog in issuing bench warrants on delinquent deferred payments for fines and consider expanding the capabilities of the present computer system to automatically prepare bench warrants to individuals with delinquent deferred payments.

**Trust fund accounts not reconciled.** The Judiciary receives bail and appeal deposits from individuals who are awaiting court appearances. These deposits are accounted for in a trust fund. When deposits are received in the form of cash or other assets (e.g., investment securities, equipment, etc.), they are recorded in the appropriate asset and liability accounts of the trust fund's general ledger. Since only totals are recorded in the general ledger account, the details of amounts applicable to each depositor are maintained in the subsidiary ledgers. Accordingly, the sum of the deposits in the subsidiary ledgers should equal the account balance in the general ledger. To ensure the accuracy of these records since recording errors do occur, prudent accounting practices dictate that reconciliations of the subsidiary ledgers to the general ledger account balance be made on a regular basis, and differences, if any, should be immediately investigated and corrections made as necessary.

In our previous report, we found that the Honolulu District Court did not reconcile its trust fund accounts, and we recommended that such reconciliation be made on a regular basis. We note, however, that the court has not implemented our recommendation. At July 23, 1988, the balance in the general ledger account for bail deposits, amounted to \$517,224, while the balances in the subsidiary ledgers totaled \$508,826, a difference of \$8,398. In our 1987 report, we reported a difference of \$6,865. During our current audit, we also noted that regular reconciliations are not performed and the trust fund accounts were out of balance at the Kaneohe, Waianae, Hilo, Lahaina, and Kauai district courts. We believe that as part of its fiduciary responsibility, the district courts are obligated to maintain accurate records to properly account for bail and appeal deposits.

*Recommendation.* We recommend that the Honolulu, Kaneohe, Waianae, Hilo, Lahaina, and Kauai district courts reconcile their trust fund subsidiary ledgers to the respective general ledger account on a regular basis and that any differences be immediately investigated and corrected.

**Noncompliance with authorization requirements for purchases.** The Judiciary's *Financial Administration Manual* requires purchases to be approved by the division fiscal officer for amounts under \$1000; by the division head for amounts between \$1000 and \$4000; by the budget and fiscal director for purchases within budgetary limits; and by the Administrative Director for amounts in excess of budgetary limits or for contracts.

In our 1987 report, we indicated that in numerous instances purchases were not approved by the authorized individual specified in the manual. This practice has continued. There were numerous occurrences of purchase orders being approved by individuals subordinate to the authorized individual specified in the manual. For several purchases, the purchase order was approved by clerical personnel. We also noted two instances where purchase orders were unsigned, including a Family Court purchase order for \$15,764.

*Recommendation.* We recommend that the Judiciary take the steps necessary to ensure that all purchase orders are properly approved as set forth in the Judiciary's *Financial Administration Manual*.

#### **Noncompliance with Authorization Requirements for Summary Warrant Vouchers**

Payments of expenditures are processed through the use of a summary warrant voucher. Attached to each summary voucher are supporting documentation such as the vendor's invoice, the purchase order, contract, and receiving document. The Judiciary's *Financial Administration Manual* requires division fiscal officers to sign summary warrant vouchers. This signature indicates their review of the supporting documents and approval for payment. During our

examination, we noted that there were several instances of an individual signing the summary warrant voucher without the appropriate authority. These were individuals subordinate to the fiscal officer. We believe that the authorizing approval should not be delegated to subordinates. Instead, approval should be provided by someone with equal or higher authority such as the division head in the absence of the division fiscal officer.

*Recommendation.* We recommend that the Judiciary take the steps necessary to ensure that summary warrant vouchers are signed by the appropriate individual as set forth in the Judiciary's *Financial Administration Manual*.

#### **Noncompliance With Prescribed Controls Over Noncash Assets**

The small estates and guardianship program of the circuit courts regularly receives noncash assets (e.g., stocks, bonds and jewelry) upon being appointed the personal representative of small estate cases. Safeguard controls as prescribed by the Judiciary's *Financial Administration Manual* are designed to provide assurance that items of value are not lost or stolen, and quantities and values on hand are consistent with those reflected in the financial records. These controls include the storage of noncash assets in a safe or vault to prevent theft or loss; reconciliation of subsidiary ledgers, which contain the details of all noncash assets held, to the general ledger control account; and a physical inventory of noncash assets performed by an individual independent of the custodial function at least once a year.

We noted several instances of noncompliance with the prescribed safeguard controls. In two instances, investment securities were not stored in a safe or vault. At the Honolulu Circuit Court, investment securities were stored in an account clerk's desk. In Maui, investment securities were in a case file. At the Hilo Circuit Court, we were informed that noncash asset subsidiary ledgers are not periodically reconciled to the general ledger account, and that physical inventories of noncash assets are not performed. At the Kauai Circuit Court, the physical inventory was performed by the clerk who has custodial duties over the noncash assets held.

*Recommendation.* We recommend that the Judiciary take the steps necessary to ensure that circuit courts comply with safeguard controls as prescribed in the Judiciary's *Financial Administration Manual*.

#### **Inadequate Due Notice for Unclaimed Bail**

Pursuant to Section 804-2, Hawaii Revised Statutes, bails which have not been forfeited and not claimed within two years after the final disposition of the case shall be deposited in the State

Treasury after due notice has been given to the payer of the bail. The Judiciary's *Financial Administration Manual* defines due notice as attempts to locate the individual by telephone, letter, or a single advertisement in a paper of general circulation.

The Kaneohe District Court does not provide adequate due notice for unclaimed bail. Two years subsequent to the final disposition of a case, the court mails a check for the unclaimed bail to the individual. If the check is returned to the court as undeliverable mail, the bail is escheated to the State without any further attempts to notify the individual. Thus, individuals who have relocated their residence subsequent to the posting of bail would be denied adequate due notice. We believe that in these instances a single advertisement in a paper of general circulation, which is the procedure followed by other courts, would serve to provide adequate due notice.

*Recommendation.* We recommend that the Kaneohe District Court provide due notice to individuals who cannot be located by placing a single advertisement in a paper of general circulation prior to escheating their unclaimed bails to the State.

#### **Processing of Bail-By-Mail**

The district courts have a "bail-by-mail" (BBM) citation system which provides for the payment of parking citations through the mail. Under this system, parking citations and remittances are mailed in preaddressed envelopes to the district courts. Upon receipt, these envelopes are stored in a vault or safe until processed by clerks. The clerks open the envelopes and ascertain whether the bail amount stated on the citation and the remittance amount are proper. The citations and remittances are then batched, receipted, and validated in the cash register. Deficiencies in the processing of BBM are discussed in the following section.

**Untimely processing of BBM.** Certain district courts are experiencing significant backlogs in processing BBM receipts. For example, at the Wailuku District Court, we observed on August 24, 1988, that the backlog in processing BBM was approximately two months and consisted of approximately 2000 unopened BBM envelopes.

We were informed that at various times throughout the past fiscal year, the backlog in processing BBM at the Wailuku District Court has been between two to six months. Similarly, we observed that the Honolulu District Court was backlogged approximately two weeks with an estimated 11,000 unopened BBM envelopes. Using a conservative estimate of \$5 per citation, the Wailuku and Honolulu backlog represents approximately \$65,000 of unprocessed revenues. The district courts' inability to process BBM receipts on a timely basis is costing the State the opportunity to earn interest. Based on the State Treasury's effective interest rate of 5.7 percent for the fiscal year ended June 30, 1988, we conservatively estimate that the State lost

approximately \$3700 of interest income. In addition to the loss of potential revenues, we were informed that the Wailuku District Court has received many complaints from both violators and the bank because the backlog in processing BBM has resulted in numerous bounced checks.

We understand that the Judiciary is investigating the feasibility of implementing a lock-box system. Under this system, an agreement is entered into between a bank and the Judiciary to enable violators to mail payments and citations to a post office box to which only the bank has access. The bank would collect and process BBM receipts on a daily basis and would immediately credit the receipts to the Judiciary's account and forward the citations to the Judiciary. We believe that implementation of a lock-box system will provide an efficient method of depositing BBM receipts, and the State will have immediate access to the funds and its earnings.

*Recommendation.* We recommend that the Judiciary take the steps necessary to eliminate the current backlog in BBM receipts and to ensure that future BBM receipts be processed on a daily basis.

**Noncompliance with prescribed procedures for processing BBM underpayments.** The Judiciary's *Financial Administration Manual* states that whenever a violator pays less than the amount due through the mail, the amount received shall be deposited, and the balance due will be billed to the violator. During our examination, we noted that the district courts are not complying with the prescribed procedures for processing BBM underpayments. At the Honolulu and Hilo district courts, BBM underpayments are returned to the violator with the citation and an explanation letter. At the Maui and Kauai district courts, BBM underpayments are deposited. However, the citation is processed as though it was fully paid and the violator is not billed for the balance due.

We believe that the practice of returning BBM underpayments to violators is unnecessary and deprives the State of having the immediate opportunity to use or earn interest on these funds. In addition, the practice of processing underpaid citations as though they were fully paid is unfair to those who remit the proper amount for violations.

*Recommendation.* We recommend that the Judiciary take the steps necessary to ensure that BBM underpayments are deposited and processed as set forth in the Judiciary's *Financial Administration Manual*.

#### **Lack of Follow-up for Delinquent Parking Citations**

Parking citations not paid within seven days are considered overdue and assessed an additional fine. Parking citations are \$5 if paid within seven days and \$10 thereafter, except for airport parking citations which are generally \$20, and \$40 if not paid within seven days. If the citations are still unpaid after a month, delinquency notices are sent to violators. If there is no



response to the delinquency notice, a license plate stopper is issued on the violator's vehicle so that the license plate is not renewable until proper settlement of the delinquent parking citation is made.

We find that the Maui and Kauai District Courts are not following up on delinquent parking citations. Delinquency notices and license plate stoppers for delinquent parking citations have not been issued for several years. We estimate that there are in excess of 85,000 delinquent parking citations at the Wailuku and Lahaina district courts on Maui and 9,000 delinquent parking citations at the Kauai District Court. In addition to the loss of State revenues, this inaction is unfair to nonviolators and those who make proper disposition of their parking citation.

*Recommendation.* We recommend that the Maui and Kauai district courts properly follow up on delinquent parking citations by issuing delinquency notices and license plate stoppers.

### **Processing of Penal Summonses**

A penal summons is a court order for a person to appear at a specific location and at a certain time and date to answer a charge or violation. Penal summonses are ordered by a judge, prepared by the district courts, and served to the person by process servers. The processing of penal summonses is an integral part of enforcing violations and collecting fines. The following deficiencies were noted with respect to the processing of penal summonses.

**Untimely preparation of penal summonses.** Although ordered by a judge, penal summonses relating to moving violations have not been prepared for several years at the Wailuku District Court on Maui. We estimate that there are in excess of 20,000 citations for which penal summonses were ordered but not prepared. Similarly, we were informed that the Lahaina District Court is approximately three months backlogged in preparing penal summonses.

*Recommendations.* We recommend that the Maui District Courts prepare penal summonses on a timely basis.

**Lack of follow-up for outstanding penal summonses.** Penal summons logs are manually prepared to account for all penal summonses ordered by the court. This log lists the penal summonses in numerical sequence and details the date of preparation, date given to process servers, date returned from process servers, and whether the summons was servable or unservable. Maintenance of these penal summons logs enable the district courts to detect and follow up on outstanding penal summonses held by the process servers.

At the Oahu and Maui district courts, there were numerous instances where a follow-up was not made on outstanding penal summonses, some of which date back to 1980. We were informed that no individual is assigned the responsibility to follow up on outstanding penal summonses.

*Recommendation. We recommend that specific individuals at the Oahu and Maui district courts be assigned the responsibility for the follow-up of outstanding penal summonses.*

## Chapter 10

### FINANCIAL STATEMENTS AND INDEPENDENT AUDITOR'S REPORT

This chapter presents the results of the audit of the financial statements of the Judiciary for the fiscal year ended June 30, 1988. It contains the report of Peat Marwick Main & Co. (Peat Marwick) regarding the fairness of the Judiciary's financial statements. It also presents various financial statements of the general fund, special revenue funds, capital projects funds, and trust and agency funds administered by the Judiciary, together with explanatory notes.

#### Summary of Findings

In the opinion of Peat Marwick, the financial statements present fairly the financial position of the Judiciary at June 30, 1988, and the results of its operations for the 1987-88 fiscal year.

#### Independent Auditor's Report

Peat Marwick filed the following report on the financial statements with the Legislative Auditor.

"To the Legislative Auditor  
State of Hawaii  
Honolulu, Hawaii:

We have audited the general purpose financial statements of the Judiciary, State of Hawaii, as of and for the fiscal year ended June 30, 1988, as listed in the accompanying table of contents. These general purpose financial statements are the responsibility of the Judiciary's management. Our responsibility is to express an opinion on these general purpose financial statements based on our audit.

We conducted our audit in accordance with generally accepted auditing standards. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the general purpose financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the general purpose financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

Due to lack of centralized detailed historical fixed asset accounting records, it was not practicable to extend our auditing procedures to satisfy ourselves as to the General Fixed Assets Account Group balances totaling \$13,950,294. Accordingly, we do not express an opinion on the financial statements of the General Fixed Assets Account Group which are included within the aforementioned general purpose financial statements.

In our opinion, except that we do not express an opinion on the financial statements of the General Fixed Assets Account Group, as explained in the preceding paragraph, the general purpose financial statements referred to above present fairly the financial position of the Judiciary, State of Hawaii, at June 30, 1988 and the results of its operations for the fiscal year then ended, in conformity with generally accepted accounting principles.

/s/PEAT MARWICK MAIN & CO.

Honolulu, Hawaii  
October 28, 1988"

### **Descriptions and Definitions**

**Descriptions of financial statements.** The following is a brief description of the financial statements audited by Peat Marwick. The financial statements are attached at the end of this chapter.

1. *Combined Balance Sheet--All Fund Types and Account Groups (Exhibit A).* This statement presents the assets, liabilities, and fund equity of all the funds and account groups used by the Judiciary on an aggregate basis.

2. *Combined Statement of Revenues and Appropriations, Expenditures, and Changes in Fund Balances--All Governmental Fund Types and Expendable Trust Funds (Exhibit B).* This statement presents the revenues and appropriations, expenditures, and changes in fund balances for the governmental fund types and expendable trust funds used by the Judiciary on an aggregate basis.

3. *Combined Statement of Revenues and Appropriations and Expenditures--Budget and Actual--General and Special Revenue Funds (Exhibit C).* This statement presents a comparison of budgeted and actual revenues and appropriations and expenditures for the general and special revenue funds used by the Judiciary.

**Definition of terms.** Technical terms are used in the financial statements and in the notes to the financial statements. The more common terms and their definitions are as follows:

1. *Fund.* An independent fiscal and accounting entity with a self-balancing set of accounts that records cash and/or other resources together with all related liabilities, obligations, reserves,

and equities which are segregated for the purpose of carrying on specific activities or attaining certain objectives in accordance with special regulations, restrictions, or limitations.

2. *Allotted appropriations.* Authorization to incur obligations and to make expenditures pursuant to the appropriation made by the Legislature.

3. *Appropriation.* An authorization granted by the Legislature permitting a State agency, within established fiscal and budgetary controls, to incur obligations and to make expenditures. Appropriations are of two types: (a) funds which are available for use until completely expended; and (b) funds which lapse if not expended by or encumbered at the end of the fiscal year.

4. *Revenue.* A financial resource which is both measurable and available to finance expenditures of the fiscal year.

5. *Encumbrances.* Obligations in the form of purchase orders, contracts, or other commitments which are chargeable to an appropriation and for which a part of the appropriation is reserved.

6. *Expenditure.* Cost of goods delivered or services rendered, whether paid or unpaid, including expenses and capital outlays. Expenditures are distinguished from encumbrances in that expenditures relate to goods delivered or services rendered whereas encumbrances represent commitments or obligations for goods to be delivered or services to be rendered and for which no actual liability has been incurred.

7. *Unrequired balances of appropriations lapsed.* The balance of funds authorized, which is unexpended and uncommitted at the end of the prescribed time period. The balance reverts to the designated fund and is available for appropriation by the Legislature in the ensuing fiscal year.

8. *Operating transfers.* Legally authorized transfers from a fund receiving revenue to the fund through which the resources are to be expended.

9. *Other expenditures.* Expenditures other than for personnel costs.

10. *Personnel costs.* Salaries and wages paid to employees.

11. *Reserve.* An account used to earmark a portion of the fund balance to indicate that it is not available for expenditure.

12. *Unexpended allotments.* Reservations of capital project appropriations that are available to complete such projects in future fiscal periods.

#### **Notes to General Purpose Financial Statements**

Explanatory notes to the financial statements of the funds administered by the Judiciary are discussed below.

**Financial statement presentation.** The accompanying general purpose financial statements of the Judiciary present the financial position of the various fund types and account groups and the results of operations of the various fund types as of and for the fiscal year ended June 30, 1988.

The Judiciary has defined its reporting entity in accordance with National Council on Governmental Accounting (NCGA) Statement 3, as adopted by the Governmental Accounting Standards Board, "Defining the Governmental Reporting Entity." This statement provides guidance for determining which governmental activities, organizations, and functions should be included in the reporting entity and how information about them should be presented. NCGA Statement 3 sets forth the exercise of oversight responsibility of a government's elected officials as the basic criterion for inclusion of a governmental unit in a governmental reporting entity.

**Summary of significant accounting policies.** The accounting policies of the Judiciary conform to generally accepted accounting principles as applicable to governmental units. The following is a summary of the more significant policies:

1. **Basis of presentation--fund accounting.** A fund is defined as a fiscal and accounting entity with a self-balancing set of accounts that records cash and other financial resources, together with all related liabilities and residual equities or balances and changes therein, which are segregated for the purpose of carrying on specific activities or attaining certain objectives in accordance with special regulations, restrictions, or limitations.

The accounts of the Judiciary are organized on the basis of funds or groups of accounts, each of which is considered to be a separate set of self-balancing accounts which comprise its assets, liabilities, fund balances, revenues, appropriations, and expenditures. The various funds are grouped by type in the financial statements. The following fund types and account groups are used by the Judiciary:

a. **Governmental fund types.** Governmental funds are those through which the acquisition, use, and balances of the Judiciary's expendable financial resources and the related liabilities are accounted for. The measurement focus is upon determination of changes in financial position, rather than upon net income determination.

The general fund is the general operating fund of the Judiciary. It is used to account for all financial resources except for those required to be accounted for in another fund. The general fund programs presented are a part of the State's general fund and are limited to only those appropriations and obligations of the Judiciary.

The special revenue funds are used to account for resources legally restricted to expenditure for specific current operating purposes. Federal grants received by the Judiciary to fund various programs are accounted for as special revenue funds.

The capital projects funds are used to account for purchases or construction of major capital facilities of the Judiciary. Capital project funds must be used when they are legally mandated or when projects are financed wholly or in part by bond issues or intergovernmental revenues.

b. *Fiduciary fund types.* Fiduciary funds are used to account for assets held by the Judiciary in a trustee capacity or as an agent. Fiduciary fund types are comprised of expendable trust funds and agency funds.

Expendable trust funds account for assets held in trust to be expended for designated purposes. Agency funds account for assets held by the Judiciary as an agent for individuals, private organizations, other governmental units, and/or other funds.

c. *Account groups.* Account groups are used to establish accounting control and accountability for the Judiciary's general fixed assets and long-term obligations.

- General Fixed Assets Account Group. This group of accounts is established to account for all general fixed assets of the Judiciary.
- General Long-Term Obligations Account Group. This group of accounts is established to account for all long-term obligations of the Judiciary.

2. *Basis of accounting.* The modified accrual basis of accounting is followed by the governmental funds and expendable trust funds. Under the modified accrual basis of accounting, revenues are recorded when susceptible to accrual, i.e., both measurable and available. Available means collectible within the current period or soon enough thereafter to pay for liabilities of the current period.

Expenditures are generally recognized under the modified accrual basis of accounting when the related fund liability is incurred. Exceptions to this general rule include accumulated unpaid vacation and principal and interest on installment contracts which are recognized as expenditures when paid.

3. *Encumbrances.* The general, special revenue, and trust funds follow encumbrance accounting under which purchase orders, contracts, and other commitments are recorded as a reserve of fund balance and provide authority for the carry-over of appropriations to the subsequent year in order to complete these transactions. Encumbrances are not reported in the financial statements for commitments related to grants which have not yet been recognized as revenues in the funds.

4. *Appropriations.* Appropriations for the operating budget lapse at the end of the fiscal year to the extent that they have not been expended or encumbered. Appropriations for capital projects continue in force until the purpose for which they were appropriated has been accomplished or abandoned after a specified time limitation.

5. *Unexpended allotments.* Allotment accounting is employed in the capital projects funds to reserve appropriations to complete capital projects that were funded during a given fiscal period. Unexpended allotments represent reserves of capital projects appropriations that are available to complete such projects in future fiscal periods.

6. *General fixed assets.* Fixed assets acquired for general purposes are recorded as expenditures in the fund financing the purchase and are capitalized at cost in the general fixed assets account group.

No depreciation has been provided on general fixed assets, nor has interest been capitalized.

7. *Reserves.* Portions of fund balances are reserved for the following: continuing appropriations which include specific legislative appropriations which do not lapse at the end of the fiscal year and encumbrances; and expendable trust fund balances which are restricted to the purpose of the account.

8. *Accumulated unpaid vacation and sick leave.* Accumulated unpaid vacation at June 30, 1988, is expected to be liquidated with future expendable resources and, therefore, is accrued in the general long-term obligations account group.

Sick leave is not convertible to pay upon termination of employment and is recorded as an expenditure when taken. Unaccrued sick leave at June 30, 1988, approximated \$16,611,700 for the Judiciary.

9. *Total columns.* Total columns on the accompanying general purpose financial statements are captioned "Memorandum Only" to indicate that they are presented only to facilitate financial analysis. Data in these columns do not purport to present financial position or results of operations of the Judiciary in conformity with generally accepted accounting principles. Such data is not comparable to a consolidation.

10. *Leases.* Noncancelable leases under which the Judiciary is the lessee are capitalized based upon guidelines established by Statement of Financial Accounting Standards No. 13, as amended. Leases transferring substantially all of the risks and benefits of ownership are capital leases; other leases are operating leases. Capital leases are recorded as fixed asset additions at their estimated fair market value at the inception of the leases and the related present value of the future minimum lease obligations is recorded as long-term debt in accordance with the fund's fixed asset and long-term debt accounting policies. Operating lease expenditures are recognized when the lease obligation is paid.

**Description of the trust and agency funds.** Trust and agency funds are used to account for resources held by the Judiciary as a trustee or an agent. These accounts are operated in



accordance with court orders, specific agreements, or other governing regulations. The Judiciary also uses the trust and agency funds for clearing accounts in which collections are deposited and are subsequently transferred into the State Treasury.

The resources held in custody by the courts include cash, cash securities such as savings certificates and time certificates of deposit, and certain noncash assets such as stocks, insurance policies, bonds, real property, and equipment. These resources represent deposits received for court costs or assets placed under the courts' jurisdiction by court order for small estates or small guardianship cases.

**Biennial budget.** The Judiciary follows these procedures in establishing the budgetary data reflected in the financial statements:

1. **The budget.** Not less than 20 days before the Legislature convenes in every odd-numbered year, the Chief Justice submits to the Legislature and to each member thereof, a budget which contains the program and budget recommendations for the succeeding two fiscal years.

2. **Legislative review.** The Legislature considers the proposed program and financial plan and budget, evaluates alternatives to the recommendations, and adopts programs and determines the Judiciary budget.

3. **Program execution.** Except as limited by policy decisions of the Chief Justice, appropriations by the Legislature, and other provisions of law, the Judiciary is responsible for administering its programs. The appropriations by the Legislature for a biennium are allocated between the two fiscal years of the biennium in the manner provided in the budget or appropriations act and as further prescribed by the budget and fiscal director. The Chief Justice is authorized to transfer a maximum of 1 percent of general fund appropriations between programs. Such transfers, when made, must be reported to the Legislature.

**Budget basis of accounting.** Budgets adopted by the Legislature for the general and special revenue funds are presented in the *Combined Statement of Revenues and Appropriations and Expenditures--Budget and Actual*. The Judiciary's budgetary fund structure differs from those utilized to present financial statements in conformity with generally accepted accounting principles (GAAP). A summarization of the differences for the fiscal year ended June 30, 1988, follows:

	<u>General Fund</u>	<u>Special Revenue Funds</u>
Excess of revenues and other financing sources over expenditures and other financing uses - actual on a budgetary basis	\$ -	168,485
Reserve for encumbrances at year-end	4,589,282	72,502
Expenditures for liquidation of prior year encumbrances	(2,239,157)	-
Change in vouchers payable and accrued wages payable	(206,431)	(5,072)
Excess of revenues over expenditures for nonbudgeted funds	-	4,660
Prior year encumbrances lapsed to State Treasury	<u>(240,562)</u>	<u>-</u>
Excess of revenues and other financing sources over expenditures and other financing uses - GAAP basis	<u>\$1,903,132</u>	<u>240,575</u>

**Fixed Assets.** A summary of changes (unaudited) in general fixed assets account group shown on Exhibit A follows:

	Balance at July 1, 1987	Additions	Deletions	Balance at June 30, 1988
Land	\$ 695,188	-	-	695,188
Building	253,562	-	-	253,562
Equipment	<u>9,516,402</u>	<u>4,094,338</u>	<u>609,196</u>	<u>13,001,544</u>
	<u>\$ 10,465,152</u>	<u>4,094,338</u>	<u>609,196</u>	<u>13,950,294</u>

**Employees' retirement system.** All eligible employees of the Judiciary are required by Chapter 88 of the Hawaii Revised Statutes to become members of the State Employees' Retirement System (ERS), a contributory multiple-employer retirement system. Employer contributions to the plan for positions at the Judiciary funded by federal grants are included as expenditures to the special revenue fund. Contributions for other employees are funded by a separate state general fund appropriation administered by the Department of Budget and Finance.

Prior to June 30, 1984 the plan was only contributory. In 1984 legislation was enacted to create a new noncontributory plan for members of the ERS who are also covered under social

security. Police officers, firefighters, judges, elected officials, and persons employed in positions not covered by social security were excluded from the noncontributory plan. The noncontributory plan which provides for reduced benefits covers most eligible employees hired after June 30, 1984. Employees hired before that date were given the option of remaining in the contributory plan or joining the new noncontributory plan and receiving a refund of employee contributions.

The ERS consists of a Pension Accumulation Fund which provides basic pension benefits and a Post Retirement Fund which provides annual increases to individuals receiving pensions. Contributions to both funds are comprised of normal cost plus level annual payments required to liquidate the unfunded accrued liability of both funds.

**Post retirement health care and life insurance benefits.** In addition to providing pension benefits, the State provides certain health care and life insurance benefits for retired state employees. Contributions are based upon negotiated collective bargaining agreements. State contributions for post retirement benefits which are funded as accrued aggregated \$17,917,280. Information on the Judiciary's portion of post retirement benefit contributions is not available.

**Long-term obligations.** The following is a summary of other general long-term obligations transactions for the fiscal year ended June 30, 1988:

	Accrued Vacation Payable	Installment Contracts Payable	Obligations Under Capital Leases	Total
Balance, July 1, 1987	\$ 5,866,587	\$682,460	\$155,699	\$6,704,746
Net increase in accrued vacation payable	563,372	-	-	563,372
Deductions and payments	-	(296,526)	(62,250)	(358,776)
Balance, June 30, 1988	<u>\$6,429,959</u>	<u>\$385,934</u>	<u>\$ 93,449</u>	<u>\$6,909,342</u>

The Judiciary purchases machinery and equipment under installment purchase contracts. Maturities of the installment purchase contracts are as follows:

Year ending June 30:

1989	\$ 231,853
1990	115,892
1991	31,854
1992	<u>6,335</u>
	<u>\$385,934</u>

**Leases.** The Judiciary leases machinery and equipment under noncancelable leases expiring at various dates through June 1994 which meet the criteria for capitalization established by Statement of Financial Accounting Standards No 13, as amended. The leases are financed from general government resources. The estimated value of the leased machinery and equipment at the inception of the capital leases, amounting to \$285,274, and the related present value of the obligations under the capital leases, amounting to \$93,449 at June 30, 1988, are included in the General Fixed Assets and General Long-Term Obligations Account Groups, respectively.

The future minimum obligations under capital leases as of June 30, 1988, are as follows:

Year ending June 30:

1989	\$ 42,895
1990	26,076
1991	26,073
1992	10,663
1993	8,209
Thereafter	<u>2,740</u>
Total minimum lease payments	116,656
Less amount representing interest	<u>23,207</u>
Obligations under capital leases	<u>\$ 93,449</u>

The Judiciary leases equipment and office space under noncancelable operating leases that expire over the next five and six years, respectively. Future minimum lease payments under noncancelable operating leases as of June 30, 1988, are as follows:

Year ending June 30:

1989	\$ 704,400
1990	425,500
1991	171,700
1992	23,100
1993	11,500
Thereafter	4,700

STATE OF HAWAII  
THE JUDICIARY

## Combined Balance Sheet - All Fund Types and Account Groups

June 30, 1988

Assets	Governmental Fund Types			Fiduciary Fund Types Trust and Agency	Account Groups		Total (Memorandum Only)
	General	Special Revenue	Capital Projects		General Fixed Assets (Unaudited)	General Long-Term Obligations	
Cash:							
In State Treasury	\$ 5,777,642	944,254	3,223,424	114,692	-	-	10,060,012
Held in banks	-	-	-	12,209,738	-	-	12,209,738
Certificates of deposit	-	-	-	4,156,709	-	-	4,156,709
Marketable investment securities	-	-	-	366,678	-	-	366,678
Land	-	-	-	719,115	695,188	-	1,414,303
Buildings	-	-	-	38,836	253,562	-	292,398
Equipment	-	-	-	133,406	13,001,544	-	13,134,950
Other assets	-	-	-	327,869	-	-	327,869
Resources to be provided in future years for retirement of general long-term obligations	-	-	-	-	-	6,909,342	6,909,342
Total assets	\$ <u>5,777,642</u>	<u>944,254</u>	<u>3,223,424</u>	<u>18,067,043</u>	<u>13,950,294</u>	<u>6,909,342</u>	<u>48,871,999</u>
<u>Liabilities and Fund Equity</u>							
Liabilities:							
Vouchers payable	924,060	2,820	-	-	-	-	926,880
Accrued wages payable	264,300	7,220	-	-	-	-	271,520
Trust accounts payable	-	-	-	8,417,456	-	-	8,417,456
Case deposits payable	-	-	-	9,209,642	-	-	9,209,642
Due to State General Fund	-	-	-	323,218	-	-	323,218
Due to other funds	-	-	-	6,610	-	-	6,610
Accrued vacation payable	-	-	-	-	-	6,429,959	6,429,959
Installment contracts payable	-	-	-	-	-	385,934	385,934
Obligations under capital leases	-	-	-	-	-	93,449	93,449
Total liabilities	<u>1,188,360</u>	<u>10,040</u>	<u>-</u>	<u>17,956,926</u>	<u>-</u>	<u>6,909,342</u>	<u>26,064,668</u>
Fund equity:							
Investments in general fixed assets	-	-	-	-	13,950,294	-	13,950,294
Fund balances (deficit):							
Reserved for continuing appropriations	-	-	957,000	-	-	-	957,000
Reserved for encumbrances	4,589,282	72,502	3,204,424	-	-	-	7,866,208
Reserved for other	-	-	-	110,117	-	-	110,117
Unexpended allotments	-	-	19,000	-	-	-	19,000
Unreserved	-	861,712	(957,000)	-	-	-	(95,288)
Total fund equity	<u>4,589,282</u>	<u>934,214</u>	<u>3,223,424</u>	<u>110,117</u>	<u>13,950,294</u>	<u>-</u>	<u>22,807,331</u>
Total liabilities and fund equity	\$ <u>5,777,642</u>	<u>944,254</u>	<u>3,223,424</u>	<u>18,067,043</u>	<u>13,950,294</u>	<u>6,909,342</u>	<u>48,871,999</u>

The accompanying notes are an integral part of the general purpose financial statements.

STATE OF HAWAII  
THE JUDICIARY

Combined Statement of Revenues and Appropriations, Expenditures and  
Changes in Fund Balances - All Governmental Fund Types and Expendable Trust Funds

For the fiscal year ended June 30, 1988

	Governmental Fund Types			Fiduciary Fund Types	Total (Memorandum Only)
	General	Special Revenue	Capital Projects	Expendable Trust	
<b>Revenues:</b>					
State appropriations	\$ 55,808,517	-	1,000,000	-	56,808,517
Drivers education and training program	-	1,431,613	-	-	1,431,613
Other revenues	-	9,200	-	81,657	90,857
	<u>55,808,517</u>	<u>1,440,813</u>	<u>1,000,000</u>	<u>81,657</u>	<u>58,330,987</u>
<b>Expenditures:</b>					
Personnel costs	33,977,468	1,087,152	-	-	35,064,620
Other	18,492,436	113,086	-	62,604	18,668,126
Capital outlay	-	-	6,818,239	-	6,818,239
	<u>52,469,904</u>	<u>1,200,238</u>	<u>6,818,239</u>	<u>62,604</u>	<u>60,550,985</u>
Excess of revenues over (under) expenditures	<u>3,338,613</u>	<u>240,575</u>	<u>(5,818,239)</u>	<u>19,053</u>	<u>(2,219,998)</u>
<b>Other financing sources (uses):</b>					
Operating transfers in	97,392	-	1,031,985	-	1,129,377
Operating transfers out	(97,392)	-	(1,031,985)	-	(1,129,377)
Unrequired balances of appropriations lapsed	(1,435,481)	-	(3,494,375)	-	(4,929,856)
Reserve for continuing appropriations, July 1, 1987	-	-	4,111,410	-	4,111,410
Less reserve for continuing appropriations, June 30, 1988	-	-	(957,000)	-	(957,000)
	<u>(1,435,481)</u>	<u>-</u>	<u>(339,965)</u>	<u>-</u>	<u>(1,775,446)</u>
Excess of revenues and other financing sources over (under) expenditures and other financing uses	<u>1,903,132</u>	<u>240,575</u>	<u>(6,158,204)</u>	<u>19,053</u>	<u>(3,995,444)</u>
Fund balances at July 1, 1987	<u>2,686,150</u>	<u>693,639</u>	<u>9,381,628</u>	<u>91,064</u>	<u>12,852,481</u>
Fund balances at June 30, 1988	\$ <u>4,589,282</u>	<u>934,214</u>	<u>3,223,424</u>	<u>110,117</u>	<u>8,857,037</u>

The accompanying notes are an integral part of the general purpose financial statements.

STATE OF HAWAII  
THE JUDICIARY

Combined Statement of Revenues and Appropriations and Expenditures -  
Budget and Actual - General and Special Revenue Funds

For the fiscal year ended June 30, 1988

	General Fund			Special Revenue Fund			Total (Memorandum Only)		
	Budget	Actual On A Budgetary Basis	Variance - Favorable (Unfavor- able)	Budget	Actual On A Budgetary Basis	Variance - Favorable (Unfavor- able)	Budget	Actual On A Budgetary Basis	Variance - Favorable (Unfavor- able)
Revenues:									
State appropriations	\$ 55,808,517	55,808,517	-	-	-	-	55,808,517	55,808,517	-
Drivers education and training program	-	-	-	1,429,363	1,431,613	2,250	1,429,363	1,431,613	2,250
	<u>55,808,517</u>	<u>55,808,517</u>	<u>-</u>	<u>1,429,363</u>	<u>1,431,613</u>	<u>2,250</u>	<u>57,237,880</u>	<u>57,240,130</u>	<u>2,250</u>
Expenditures:									
Personnel costs	36,357,369	33,978,790	2,378,579	1,235,998	1,087,152	148,846	37,593,367	35,065,942	2,527,425
Other	19,451,148	20,512,939	(1,061,791)	193,365	175,976	17,389	19,644,513	20,688,915	(1,044,402)
	<u>55,808,517</u>	<u>54,491,729</u>	<u>1,316,788</u>	<u>1,429,363</u>	<u>1,263,128</u>	<u>166,235</u>	<u>57,237,880</u>	<u>55,754,857</u>	<u>1,483,023</u>
Excess of revenues over expenditures	-	1,316,788	1,316,788	-	168,485	168,485	-	1,485,273	1,485,273
Other financing sources (uses):									
Operating transfers in	-	3,096,523	3,096,523	-	-	-	-	3,096,523	3,096,523
Operating transfers out	-	(3,214,523)	(3,214,523)	-	-	-	-	(3,214,523)	(3,214,523)
Unrequired balances of appropriations lapsed	-	(1,198,788)	(1,198,788)	-	-	-	-	(1,198,788)	(1,198,788)
	-	<u>(1,316,788)</u>	<u>(1,316,788)</u>	-	-	-	-	<u>(1,316,788)</u>	<u>(1,316,788)</u>
Excess of revenues and other financing sources over expenditures and other financing uses	\$ -	-	-	-	168,485	168,485	-	168,485	168,485

The accompanying notes are an integral part of the general purpose financial statements.

## NOTES

### Chapter 2

1. The information in the chapter relating to the Hawaii Judiciary is largely taken from Hawaii Judiciary, *Annual Report, July 1, 1986 to June 30, 1987, Comprehensive Planning in the Hawaii Judiciary*, 1981, and William S. Richardson, "Judicial Independence in Hawaii," *University of Hawaii Law Review*, Vol. 2, pp. 1-56, 1979.
2. *Report of the Citizens' Panel on Judicial Administration in the State of Hawaii*, Honolulu, March 20, 1986, pp. 21-22.
3. Arthur Young & Company, *The Judiciary, State of Hawaii, An Organization Review of Administrative Support Functions*, May, 1987.
4. Dale A. Sipes and Larry L. Sipes, *Managing the Hawaii Judiciary: An Era of Accomplishment 1969-1982*, San Francisco, National Center for State Courts, Western Regional Office, December 1982.
5. Lynn A. Jensen et al., *An Analysis of the Hawaii Annual Report and Statistical Reporting System*, San Francisco, National Center for State Courts, August 1981.
6. Center for State Courts, *Report to the Chief Justice on Calendar Management in the First Circuit Family Court*, San Francisco, 1984.
7. Alexander Aikman et al., *Circuit and Family Court Management in the Second Judicial Circuit of Hawaii: A Technical Assistance Report*, San Francisco, National Center for State Courts, Western Regional Office, March 1985.
8. Roscoe Pound, "The Causes of Popular Dissatisfaction with the Administration of Justice," *American Bar Association Reports*, XXXIX, 1906, p. 395.
9. James Duke Cameron et al., "The Chief Justice and the Court Administrator: the Evolving Relationship," 113 *Federal Rules Decisions* 439, 1987, p. 445.
10. *Ibid.*, p. 446.
11. Barry Mahoney and Harvey E. Solomon, "Court Administration," in *The Improvement of the Administration of Justice*, edited by Fannie J. Klein, Chicago, American Bar Association, 1981.



### Chapter 3

1. American Bar Association, Commission on Standards of Judicial Administration, *Standards Relating to Court Organization*, 1974, pp. 9-10.
2. Judicial Council, Minutes of Meeting, December 8, 1987.
3. Lynn A. Jensen et al., *An Analysis of the Hawaii Annual Report and Statistical Reporting System*, Williamsburg, VA, National Center for State Courts, August 1981, pp. 22-23.
4. *Ibid.*, p. 19.

### Chapter 4

1. Thomas Church, Jr., et al., *Justice Delayed: The Pace of Litigation in Urban Trial Courts*, Williamsburg, Va., National Center for State Courts and National Conference of Metropolitan Courts, 1978.
2. Thomas Church, Jr. "The 'Old' and the 'New' Conventional Wisdom of Court Delay," *The Justice System Journal*, Vol. 7, No. 3, Winter 1982.
3. For a summary of the state of the art on criminal case processing, see Barry Mahoney and Dale Ann Sipes, "Toward Better Management of Criminal Litigation," *Judicature*, Vol. 72, No. 1, 1988, p. 29.
4. Mary Elsner Oram et al., *An Evaluation of the Use of Per Diem Judges in District and Family Court, First Circuit, Hawaii*, National Center for State Courts, San Francisco, January 1988, p. 17.
5. *Ibid.*

### Chapter 5

1. Alexander B. Aikman et al., *Records Management in the Hawaii Judiciary: A New Direction*, San Francisco, National Center for State Courts, September 1982.
2. National Center for State Courts, *Hawaii Forms Design Project Report*, San Francisco, July 1, 1984.
3. Dale A. Sipes, *Proposed Records Retention Schedule for the First Circuit Court of Hawaii*, San Francisco, National Center for State Courts, May 1986.
4. Thomas G. Dibble and Alexander B. Aikman, *Records Management in the District court of Hawaii*, San Francisco, National Center for State Courts, April 1988.

## Chapter 7

1. Hawaii Judiciary, *Multi-Year Program and Financial Plan*, 1987-1993.
2. Hawaii Judiciary, Personnel Office, "Position Listing by Organization," June 30, 1988.
3. Hawaii Judiciary, *Annual Report, July 1, 1986 to June 30, 1987*, p. 38.
4. Hawaii Judiciary, *Administrative Rules*, Section 22-10-4.
5. *Ibid.*, Section 22-10-5.
6. Section 601-3, Hawaii Revised Statutes.
7. Dale A. Sipes and Larry L. Sipes, *Managing the Hawaii Judiciary: An Era of Accomplishment, 1969-1982*, San Francisco, National Center for State Courts, December 1982, pp. 79-80.
8. Hawaii Judiciary, *Administrative Rules*, Section 22-10-1.
9. Arthur Young & Company, *The Judiciary, State of Hawaii, An Organization Review of Administrative Support Functions*, May 1987, pp. 42-43.
10. *Administrative Rules*, Section 22-10-10.
11. *Ibid.*, Section 22-14-2.
12. Harry O. Lawson, H.R. Ackerman, Jr., and Donald E. Fuller, *Personnel Administration in the Courts*, Boulder, Westview Press, 1979, p. 45.
13. Arthur Young & Company, p. 24.
14. Sections 606-9 and 606-11, Hawaii Revised Statutes.
15. Supreme Court of the State of Hawaii, *Rules Governing Court Reporting in the State of Hawaii*, February 28, 1984. For literary matter, the requirement is 180 words per minute and for jury charge it is 200 words per minute.
16. *Administrative Rules*, Section 22-19-2.
17. Hawaii Judiciary, Personnel Office, *Study of the Judiciary Training Program--Fiscal Years 1977-78 through 1981-82*, February 1983, p. 24.
18. Hawaii Judiciary, *Manual of Policies and Procedures*, Section 8.
19. Mary Elsner Oram et al., *An Evaluation of the Use of Per Diem Judges in District and Family Court, First Circuit, Hawaii*, National Center for State Courts, San Francisco, January 1988.

20. Hawaii Judiciary, *Study of the Judiciary Training Program--Fiscal Years 1977-78 Through 1981-82*, pp. 21-22.
21. Dale A. Sipes and Larry L. Sipes, *Managing the Hawaii Judiciary: An Era of Accomplishment 1969-1982*, pp. 89-91.
22. *Administrative Rules*, Section 22-10-9.
23. *Manual of Policies and Procedures*, Section 5.
24. Section 76-18, Hawaii Revised Statutes.
25. Hawaii Judiciary, *Manual of Policies and Procedures*, Section 9.

### Chapter 8

1. "Evaluation of Re-Alignment Pilot Program," memorandum from F. Cappy Caminos, First Deputy Sheriff, to Janice Wolf, Administrative Director of the Courts, September 30, 1988.
2. *Ibid.*
3. "Chronic Understaffing," memorandum from "Concerned Individuals of the Sheriff's Department (1st Recruit Class through 7th Recruit Class) to the Judiciary Administration, June 20, 1988.
4. Letter from Richard Andrade, Deputy Sheriff, to Bargaining Unit 03, Hawaii Government Employees Association, September 29, 1988.
5. *Report of the Citizens' Panel on Judicial Administration in the State of Hawaii*, March 20, 1986.
6. Hawaii Judiciary, *An Agenda For Action: The Strategic Plan of the Hawaii Judiciary (1988-1993)* (draft), November 16, 1987.
7. Arthur Young & Company, *The Judiciary, State of Hawaii, An Organization Review of Administrative Support Functions*, May 1987.

### Chapter 9

1. Senate Standing Committee Report 1099 on House Bill 49, 14th Legislature, 1988, State of Hawaii.

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**RESPONSE OF THE AFFECTED AGENCY**

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## COMMENTS ON AGENCY RESPONSE

On December 28, 1988, we transmitted a preliminary draft of this report to the Judiciary. A copy of the transmittal letter to the Chief Justice is included as Attachment 1 of this Appendix. The response from the Chief Justice is included as Attachment 2.

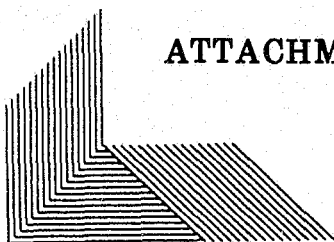
In his response, the Chief Justice acknowledges the severe organizational problems which make effective management difficult, the deficiencies in documenting organizational and procedural changes, and the need to coordinate and improve the courts' management information system. He notes that the audit's recommendations support many of the Judiciary's own conclusions and recommendations.

The Chief Justice believes, however, that administrative problems are due to the judicial organizational structure and other events rather than the lack of management expertise of Judiciary administrators. He says that the Judiciary is in a period of rapid growth and change and needs flexibility to test new organizational structures, new policies, and new approaches.

We welcome the Judiciary's positive response to the audit's findings and recommendations. We hope that the Judiciary will institute timely management improvements to address the problem areas identified in the audit.

ATTACHMENT 1

THE OFFICE OF THE AUDITOR  
STATE OF HAWAII  
465 S. KING STREET, RM. 500  
HONOLULU, HAWAII 96813



C O P Y

December 28, 1988

The Honorable Herman T. F. Lum  
Chief Justice of the Supreme Court of Hawaii  
Ali'iolani Hale  
417 S. King Street  
Honolulu, Hawaii 96813

Dear Mr. Lum:

Enclosed are five copies, numbered 4 through 8, of our preliminary report on the **Management and Financial Audit of the Judiciary of the State of Hawaii**. If you have comments on our recommendations, we ask that you submit them to our office by January 17, 1989, for inclusion in the final report.

The Governor and the presiding officers of the two houses of the Legislature have also been provided copies of this preliminary report.

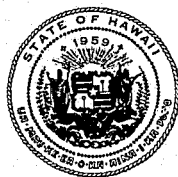
Since the report is not in final form and changes may be made, access to this report should be restricted to those individuals whom you might wish to call upon to assist you in reviewing the report. Public release of the report will be made solely by our office and only after the report is published in its final form.

We appreciate the assistance and cooperation extended to us by staff of the Hawaii Judiciary.

Sincerely,

Clinton T. Tanimura  
Legislative Auditor

Enclosures



**SUPREME COURT OF HAWAII**

ALIIOLANI HALE

P. O. BOX 2560

HONOLULU, HAWAII 96804

CHIEF JUSTICE  
HERMAN LUM  
ASSOCIATE JUSTICES  
EDWARD H. NAKAMURA  
FRANK D. PADGETT  
YOSHIMI HAYASHI  
JAMES H. WAKATSUKI

January 16, 1989

RECEIVED

JAN 17 11 48 AM '89

OFFICE OF THE AUDITOR  
STATE OF HAWAII

Mr. Newton Sue  
Acting Legislative Auditor  
465 S. King St., Suite 500  
Honolulu, Hawaii 96813

Dear Mr. Sue:

Thank you for the opportunity to comment on the preliminary report of the Management and Financial Audit of the Judiciary. We appreciated the diligence of your audit team in their conduct of the audit and their effort to identify real and potential problems within the Judiciary. Since this is the first management audit of the judicial branch, I believe, by your office there is an obvious lack of comparative data; nevertheless, your audit should be a particularly useful appraisal for the Judiciary, and one from which future audits may also benefit.

Inasmuch as the Judiciary was afforded only a few days to review and respond to the report, our comments are necessarily general and preliminary in nature.

I believe that we are in agreement on those points in the audit which are the most important: that there are severe organizational problems in the administration which make effective management extremely difficult; that there are deficiencies in the documentation of organizational and procedural changes; that there is need for coordination and improvement of the courts management information system. Your analysis closely parallels the Judiciary's

assessment of these problem areas. And the audit's recommendations support many of our own conclusions and decisions.

We do not agree with the audit report's conclusion that, because administrative problems exist, therefore, the Judiciary's administrators must be blamed for lack of management expertise. I feel that this is inaccurate and unfair. The Administrative Director and the administrative staff of the Judiciary are professionals. And we must look deeper into how the judicial organizational structure evolved and the effects of such events as the Citizens Panel investigation to appreciate why the problems are what they are today.

Most importantly, the Judiciary is committed to improving the administrative structure and processes. Our goals are not dissimilar to the standards used in the audit, and we are already pursuing and accomplishing much of what the audit recommends. In fact, we had completed a formal reorganization plan that was ready for union review prior to your audit; and we have been engaged in the process of testing it informally first.

As you know, the main thrust of our legislative effort in the last session was to solicit support for a major administrative reorganization. With professional consultants, we developed a plan to rectify the current problems (including the establishment of a chief information officer position as recommended by the audit), and we are continuing to pursue its implementation. We believe your audit report gives support and impetus to the Judiciary's plans and efforts in this key management area.

This is a time of transition in many respects for the Judiciary. New and different approaches are being tried where old methods are no longer effective with caseload increases and other changes. In this sense, the Judiciary still needs "fluid structure." The audit report grants that fluid structure "worked when the Judiciary was smaller" and the report also admits that this "was probably an asset in its period of rapid growth and change." I suggest that the Judiciary, is in a period of rapid growth and change, and needs flexibility to focus on developing and testing new organizational structures, new policies and new approaches.



Finally, I am heartened by the audit's finding that caseload management is generally healthy in the Judiciary. Meeting caseload demands and ensuring that case processing times remain in acceptable limits are the primary management objectives of any judicial system. It is an important measure of the quality of justice afforded the people of Hawaii by the judicial system, as well as a measure of the effectiveness of our courts and administrative team.

Sincerely,

  
HERMAN LUM  
Chief Justice