

**2022 Legislative Budget Briefing  
January 2022**

A.	MISSION STATEMENT, STRATEGIC OBJECTIVES, GOALS, AND PERFORMANCE METRICS	1
B.	HOW OUR BUDGET REQUESTS CONTRIBUTE TO ACCOMPLISHING OUR STRATEGIC OBJECTIVES, GOALS, AND PERFORMANCE METRICS	3
C.	HOW CURRENT STATEWIDE ECONOMIC AND FISCAL CONDITIONS HAVE AFFECTED OPERATIONS AND THE ABILITY TO MEET GOALS	3
D.	FEDERAL FUNDS	4
E.	NON-GENERAL FUNDS	6
F.	PROCESS TO DEVELOP AND PRIORITIZE BUDGET REQUESTS	6
G.	HOW SIGNIFICANT BUDGET REQUESTS ARE EXPECTED TO AFFECT OUTCOMES	6
<b>A.</b>	<b>MISSION STATEMENT, STRATEGIC OBJECTIVES, GOALS, AND PERFORMANCE METRICS</b>	

Legal Services

Our mission is to provide excellent legal services to the State of Hawaii by providing advice and counsel to client agencies, assisting in implementing policy decisions, and aiding the core activities of the client agencies. Carrying out this mission includes (1) initiating lawsuits to protect the interests of consumers and the public, and appearing for the State in civil and criminal cases when the State is a party; (2) investigating violations of state laws, enforcing the laws, and prosecuting those who violate the law; (3) preparing legal opinions for the Governor, Legislature, and the heads of state departments; (4) advising state officials, including more than 170 boards and commissions, on legal matters so they can faithfully execute their duties and responsibilities; (5) defending and representing state officials and employees when they are sued for actions that have occurred as part of their official duties; and (6) collaborating with other states as well as federal and local counterparts on matters of importance to our State.

Our strategic objectives, or "big picture goals" including maintaining an environment that attracts and nurtures talented attorneys with a commitment to public service, so that our department can continue to represent the state successfully at the local and national level on the myriad matters.

Our immediate goals are to adapt efficiently and effectively to evolving technological requirements necessitated by the COVID-19 pandemic, while at the same time conserving our operating budget and resources.

Our performance metrics rarely change because they are so closely tied to successful representation of our clients. If we do our job well, we save money and resources for the State. During the COVID-19 pandemic and the resulting economic stresses, our performance will be measured by our ability to adapt to working with fewer resources.

#### Crime Prevention and Justice Assistance Division

The Crime Prevention and Justice Assistance Division assists the Attorney General to facilitate and coordinate efforts to improve the criminal justice system and to encourage community partnerships in addressing crime. Its operations are encompassed in ATG100 Legal Services, and funding concerns related to it are addressed in Section D, below.

#### Hawaii Criminal Justice Data Center (HCJDC)

The mission of the HCJDC is to provide complete, accurate, and timely criminal justice information for use by all criminal justice agencies, as well as certain authorized non-criminal justice agencies, throughout the State and to provide a statewide system of civil and criminal identification based on fingerprints and demographics.

The HCJDC is statutorily mandated to collect, store, and disseminate all criminal justice data to be used nationally by criminal justice agencies as a tool "to prevent crimes and detect criminals in support of the right of the public to be free from crime and the fear of crime." Section 846-2.5, Hawaii Revised Statutes (HRS). Criminal history data serves a critical tool in determining dangerousness during arrests and during initial court appearances to ensure appropriate custody status is maintained (including bail) as well as fair sentencing. HCJDC provides 24x7 on-call services to law enforcement and criminal justice agencies to respond to system issues for both State and Federal criminal justice systems.

#### Child Support Enforcement Agency (CSEA)

To provide assistance in obtaining support (both financial and medical) for children by locating parents, establishing paternity, establishing support obligations and enforcing those obligations.

**B. HOW OUR BUDGET REQUESTS CONTRIBUTE TO ACCOMPLISHING OUR STRATEGIC OBJECTIVES, GOALS, AND PERFORMANCE METRICS**

The most critical request is to provide our Deputy Attorneys General with competitive salaries to other government agencies so that we can hold onto our talented attorneys and reduce our efforts to continuously deal with double digit turnover. In addition, we are adding key staff positions to focus on government waste and abuse and dealing with criminal activities confronting the State.

**C. HOW CURRENT STATEWIDE ECONOMIC AND FISCAL CONDITIONS HAVE AFFECTED OPERATIONS AND THE ABILITY TO MEET GOALS**

Legal Services

The fiscal crisis caused by the COVID-19 pandemic has required us to evaluate all of our divisions and units to find efficiencies and cost savings. Realizing that there will be a reduction in staffing through the hiring freeze, furloughs, and program reductions, each unit will be focusing its efforts to address priorities, which will mean less attention on lower-level duties and tasks. To get this done we will need to work closely with client agencies and their staff. We recognize that certain compromises will need to be made but will work to ensure that our core function, providing solid legal advice and support, will not be jeopardized.

Hawaii Criminal Justice Data Center (HCJDC)

HCJDC's overall yearly budget is covered by 34.64% general funds. The remaining 65.36% of HCJDC's budget is funded by the use of special funds from the criminal history record improvement revolving fund established by section 846-10.6, HRS (account # S321). The S321 account funds 26 of the 49 positions that are essential to the operations of HCJDC and the purchase of maintenance, consultants, and hardware not budgeted for in HCJDC's general fund allocation. Without special funds, HCJDC will not be able to continue to support the State's mission-critical criminal justice systems, which require 24x7 on-call services to law enforcement and criminal justice agencies. This is a high priority for the HCJDC and all such agencies that depend upon these criminal justice services to maintain public safety for the State of Hawaii.

HCJDC is responsible for the daily operations, upkeep and maintenance of (1) the Criminal Justice Information System (CJIS)-Hawaii, (2) the statewide Automated Fingerprint Identification System (AFIS) and facial recognition system, (3) the statewide system/database of booking information (otherwise known as the Green Box System), (4) the Lights-Out Transaction Controller (LOTC) which ties together these systems in the real-time positive identification process, and (5) the Hawaii Integrated Justice Information Sharing (HIJIS) program which is a portal to share Hawaii criminal justice information by single logon and query and connectivity to the FBI's Criminal Justice

Information Services (CJIS) which includes the National Crime Information Center (NCIC), National Instant Criminal Background Check System (NICS), National Data Exchange (N-Dex), and the Law Enforcement Enterprise Portal (LEEP). In addition to the above systems HCJDC is responsible for public access to Criminal History Records, expungements, and the Covered Offender Registry.

### Child Support Enforcement Agency (CSEA)

In state fiscal year 2021, CSEA's overall caseload was 91,000 and the agency collected \$121 million in child support payments. These collections went to supporting children and providing families critical resources. CSEA receives 66% of its funding from the federal government. For every \$1 the agency receives from the state general fund, \$2 is received from the federal government. Any budget restriction to CSEA's general fund appropriation reduces the agency's available funds by three times the amount. This impacts CSEA's ability to fill vacancies, maintain its quality of customer service and provide critical resources to families.

In addition, CSEA, in partnership with the Federal Office of Child Support Enforcement, is committed to improve its operations according to federal performance effectiveness measures. The categories to show performance effectiveness are (1) percentage of children born out of wedlock where paternity is established, (2) percentage of cases with a child support order, (3) level of performance in collecting current support, (4) level of performance in collecting arrearage, and (5) cost-effectiveness of the program. The CSEA is awarded with federal incentive money every federal fiscal year based on its performance in these categories after an annual data reliability audit. The incentive funds are used to supplement, but not to supplant, the agency's general and federal funding sources for operational purposes.

## **D. FEDERAL FUNDS**

### Legal Divisions

No impact at this time.

### Crime Prevention and Justice Assistance Division

Federal agency: U.S. Department of Justice, Office of Justice Programs, Office for Victims of Crime Federal program at risk of reduction of federal funds: Victims of Crime Act (VOCA) Victim Assistance Grant CFDA: 16.575

There has been a steady decline in federal funds received for the Victims of Crime Act (VOCA) Victim Assistance Grant. The Department's Victim Assistance grant amount in FFY 2018 was \$14,803,390; in FFY 2019, the grant amount was \$10,058,537; and in FFY 2020, the grant amount was \$7,502,120, and in FFY 2021, the grant amount is

\$4,783,838. There are no plans to supplant the reduction of VOCA grant funds with other funds, including state general funds, for the current state fiscal year (FY22). It is unclear when the reductions will slow or reverse. The Sustain the Crime Victims Fund Act of 2021 (VOCA Fix) enacted in July 2021 by President Biden permits the VOCA Victim Assistance Grant to allow state administering agencies a no-cost extension of up to one year per grant award to provide states with additional time to re-purpose or use available Victim Assistance funds that otherwise would lapse back to OVC. The VOCA fix also expanded Crime Victim Fund deposits to include non-prosecution and deferred prosecution cases which is reflecting some immediate impact. The September 2021 Crime Victim Fund (CVF) receipts totaled \$254 million, of which \$224.5 million was deposited from non-prosecution and deferred prosecution cases. This is a direct result of the VOCA Fix and represents the largest monthly amount deposited into the fund during the last four fiscal year years.

Background: In 1984, the federal Victims of Crime Act (VOCA) was passed establishing the Crime Victims Fund (CVF) to assist and compensate victims and survivors of crime. The CVF comprises federal criminal fines, forfeited bonds, forfeited profits from criminal activity, additional special assessments, and donations by private parties. Congress disburses money from the CVF in the annual appropriations process, and the Office for Victims of Crime (OVC) oversees the fund and distributes the money in the form of formula grants to states and territories. The Department administers the Victim Assistance grant program (CFDA 16.575) and sub awards the fund to victim services for victims of all crimes including crimes such as murder and drunk driving, with a statutory priority for child abuse, domestic violence, and sexual violence services. Over the past several years, deposits to the CVF have decreased dramatically. As the amount of money available in the CVF has dwindled, so has the money available for VOCA grants to the states. Appropriators wrote in 2019, "The Committee is concerned . . . by the historically low receipts deposited in the CVF, and in turn, the decrease in resources available for OVC's disbursement of CVF funded grants and cooperative agreements." After a watershed disbursement from the CVF in Fiscal Year 2018, disbursements have decreased annually. Accounting for transfers, the disbursement in Fiscal Year 2020 was 40% lower than it was in Fiscal Year 2018. This decrease was expected to continue unless Congress took action to fix the Crime Victim Act. In July 2021, President Biden signed the Sustain the Crime Victims Fund Act of 2021 to stabilize the Crime Victims Fund and provide enhanced support to survivors and victim-centered programs.

Hawaii Criminal Justice Data Center (HCJDC)

No impact at this time.

Child Support Enforcement Agency (CSEA)

Federal Funds continue to be available at a match rate of 66% federal to 34% state

funds. This is a 2:1 match rate, one of the best offered to fund entitlement programs. In general, federal funds are available to match all state funds appropriated without limit. The agency is under strict federal regulations that require all personnel and other expenditures be completely related to child support activities. If this requirement is not met the federal government will not provide the matching funds.

**E. NON-GENERAL FUNDS**

[https://ag.hawaii.gov/wp-content/uploads/2021/09/Report\\_on\\_Non-General\\_Fund\\_Accounts\\_Under\\_the\\_Control\\_of\\_the\\_Department\\_of\\_the\\_Attorney\\_General.pdf](https://ag.hawaii.gov/wp-content/uploads/2021/09/Report_on_Non-General_Fund_Accounts_Under_the_Control_of_the_Department_of_the_Attorney_General.pdf)

**F. PROCESS TO DEVELOP AND PRIORITIZE BUDGET REQUESTS**

All division supervisors were asked to submit budget modifications (reductions and non-general fund adds) to the Administrative Services Manager (ASM), which were reviewed and prioritized. Calculations of costs (Form A) were prepared by the ASM and reviewed with the Attorney General and the First Deputy Attorney General. Requests were then reprioritized and submitted to Budget and Finance.

**G. HOW SIGNIFICANT BUDGET REQUESTS ARE EXPECTED TO AFFECT OUTCOMES**

Legal Divisions

1. Add 1.0 FTE to reinstate the Administrative Services Manager position and \$120,924 in general funds.

ASM is needed to manage the fiscal, budget, IT, HR and building functions of the department.

2. Add \$3,300,000 in general funds for Deputy Attorney General salary increases.

Funds are required to be competitive with City and County attorney positions

3. Add 1.0 FTE and \$53,000 in general funds for a Deputy Attorney General in the Appellate Division.

Our Appellate Division has taken lead on the most significant cases handled by our department, including during the COVID 19 pandemic. Although they are appellate specialists, their expertise is sought on myriad issues, which has increased their duties from only case work. Appellate casework is also extremely time-consuming and labor-intensive. Bringing on another deputy will increase the Division's capacity to handle high-stakes appeals as well as its bandwidth to participate actively in a larger number of complex cases.

4. Add 2.0 FTE and \$177,000 in general funds for a Supervising Deputy Attorney General and Legal Secretary in the Health Division.

Our Health Division needs a Supervising Deputy Attorney General. Every other Division has one, and in particular, the obligations of the Health Division require a dedicated Supervising DAG. In 2018, the Department separated the Health and Human Services Division to address the increased workloads. The Health Division has twelve Deputy Attorneys General focusing on: 1) environmental health involving hazardous waste, clean air, clean water and wastewater; 2) behavioral health involving mental health, alcohol and drug abuse, developmental disabilities and the Hawaii State Hospital; and 3) health resources involving chronic disease prevention and health promotion, disease outbreak and disease investigation and immunization, emergency medical services, services for children and mothers, and licensing of healthcare facilities. The work that the Health Division has done to support DOH and other Departments during this pandemic justifies both the supervisory position as well as the legal secretary request, which is reflective of the increased workload.

It should be noted that the addition of four Deputy Attorneys General for the Human Services Division supports the Department's separation of the Health and Human Services divisions.

5. Add 2.0 FTE and \$212,000 in general funds for two Deputy Attorneys General in the Legislative Division.

Our department reorganized the Legislative Division to provide more support to the Governor's office and the executive departments. These Deputy Attorneys General also advise the legislature. To provide these services to our clients, the Legislative Division has taken on additional responsibilities, including coordinating legislative review for our department, expanding its responsiveness to Legislator's requests, transitioning to paperless testimony and assisting in automating the Governor's report process, providing training in the legislative process, improving the process of reports provided to the legislature and Administrative rule review and consultation.

6. Add 1.0 FTE and \$68,000 in general funds for an Assistant Supervising Deputy Attorney General for the Criminal Justice Division.

The Criminal Justice Division currently is the largest legal division with fifteen Deputy Attorneys General, thirteen Investigators and eighteen support positions dealing not only with the prosecution of criminals, but also the responsibilities of the Internet Crimes Against Children Taskforce, Medicaid Fraud Unit, Tobacco

Enforcement and Electronic Smoking Device Retailer Registration. This position also will assist with the changes anticipated to state law enforcement, including integration of critical aspects of the Complex Litigation Fraud & Compliance Unit into CJD.

7. Add 1.0 FTE and \$51,000 in general funds for a Public Information Officer.

This position (PIO) was included in the 2020 budget and has only become more important as the State has responded to the pandemic. The Department is one of the few that does not have a dedicated Public Information Officer (PIO) and yet we are called upon regularly to assist with public messaging on behalf of the State. Presently, the Special Assistant to the AG handles these duties, but as they properly constitute a full-time position, it is an overwhelming obligation. The need to frame for the public issues that are in litigation and/or implicate a host of legal concerns has only expanded, and the ATG PIO participates in the public media matters for nearly every department, including the Governor's office. Not only does the Department work with other PIOs across the State, we work on myriad actions with the attorneys general of other states, resulting in numerous publications on multistate congressional letters and litigation. It is also important that the Department has the ability to communicate regularly with the public and with media, and it currently does not have that bandwidth.

8. Add 3.0 FTE and \$114,500 in general funds for Victim/Witness staffing. Two Human Services Professionals and one Office Assistant

Last session, the legislature cut \$950,000 in funding to the counties for Career Criminal and Victim Witness assistance. As a result, the counties will no longer provide these services to the State. To address this very significant gap in services to victims of crimes, this request establishes those services within the Criminal Justice Division at a fraction of the amount provided previously to the counties. No criminal justice division should be without a victim/witness coordinator.

9. Establish the Special Investigation and Prosecution Unit by adding 6.0 FTE and \$328,288 in general funds. Two deputies, one Legal Assistant and three Forensic Analysts.

This unit is another aspect of the permanent integration of the Complex Litigation Fraud and Compliance Unit (CLFCU) into the Department, and specifically, the Criminal Justice Division. It also aligns with the Governor's priorities concerning the consolidation and reorganization of statewide law enforcement. The Criminal Justice Division presently has MFCU, TEU and ICAC, which has both investigators and prosecutors. The creation of the Special



Investigation and Prosecution Unit (“SIPU”) will assume the “Fraud” responsibilities of CLFCU and will investigate and prosecute criminal cases against fraud and integrity crimes concerning the State.

10. Add 1.0 FTE and \$53,000 in general funds for a Deputy in our Public Safety Division.

The duties of the Department’s Public Safety Division are varied and complex. They involve active litigation, advice and counsel on personnel matters and also assistance addressing homelessness issues as well as concerns about PSD facilities and services. Presently, there is a backlog on longstanding projects that would enhance PSD’s operations, including review and overhaul of administrative rules and other initiatives

11. Add 4.0 FTE and \$337,560 in Interdepartmental funds (U) for additional deputies to support and service the Department of Human Services.

The client agency has requested four additional Deputies using a combination of general and federal funds. The positions will provide advice and counsel as well as representation in litigation to DHS, primarily its Social Services, Benefits, Employment & Support Services and Vocational Rehabilitation Divisions.

12. Add 1.0 FTE and \$64,476 in Trust Funds for a Legal Assistant to aide our Commerce and Economic Development division with various Opioid matters.

Our department has successfully litigated a number of opioids-related matters. In the last three years alone, we have recovered nearly \$2 million from a McKinsey settlement, \$13 million from a J&J settlement (to be paid over 11 years), and approximately \$63.4 million from an opioids distributor settlement (to be paid over 18 years). And, we have active cases continuing against Purdue, Mallinckrodt and Insys. All of this money requires coordination with the counties and across executive departments to ensure distribution consistent with the legal requirements tied to the recovery. This Legal Assistant is needed to aid in the additional workload related to these opioid cases, which will be funded by the funds collected in this matter.

13. Add 2.0 FTE and \$88,000 in general funds for an Administrator and Office Assistant for the Law Enforcement Standards Board.

The Law Enforcement Standards Board was attached to our Department by the Legislature. It is designed to create uniform law enforcement standards for all law enforcement entities (police, sheriffs, DOCARE/Harbors/DOTAX enforcement officers, AG Investigators), establish a certification process that includes the

ability to challenge certification decisions, and support the training needed to ensure compliance with the standards. The Board cannot initiate efforts to accomplish these tasks without staff and resources, and because it is attached to our department, the budget request necessary to fulfill its mandate must come through us.

14. Add 2.0 FTE and \$205,380 in federal funds for Special Agents to service the Internet Crimes Against Children (ICAC) Task Force.

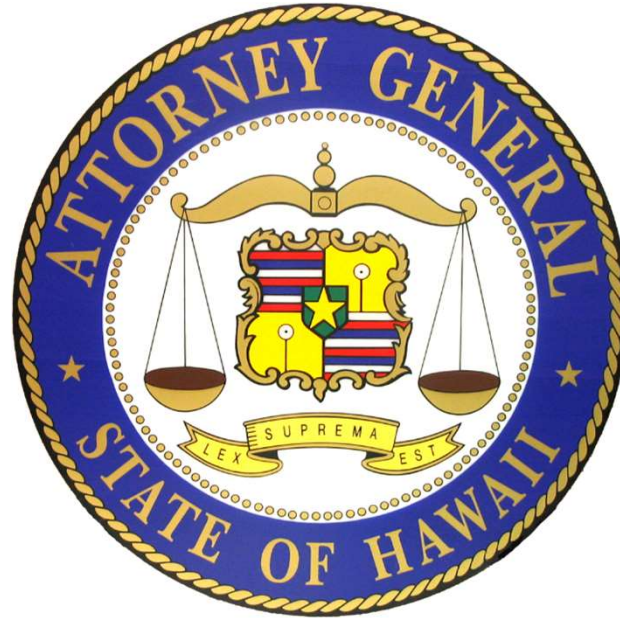
The latest federal grant provided for adding two special agents.

#### Hawaii Criminal Justice Data Center

1. Reduce 2.0 FTE and \$41,341 in federal funds.
  - Abolish one permanent unfunded Office Assistant IV due to no future needs of the position
  - Abolish one temporary Validation Clerk due do federal grant ending with no funds available for the position.

#### Child Support Enforcement Agency

No changes.



# Department of the Attorney General

## FY 23 Supplemental Budget Request

# ATG Highlights

- ▶ Child Support Enforcement Agency - collected \$121 million for Fiscal Year ending June 2021
- ▶ Crime Prevention & Justice Assistance - awarded \$48 million in federal grant funds
- ▶ Civil Recoveries Collection (2021 Net Revenue) - \$13.2M
- ▶ Missing Child Center Hawaii - awarded US DOJ Protection Award
- ▶ Investigator Quarantine Violation Enforcement - 4,639
- ▶ [Covidexemption@hawaii.gov](mailto:Covidexemption@hawaii.gov)
  - ▶ Responded to over 300,000 emails from the public since 3/5/2020
  - ▶ Processed 19,000 exemption applications in 2021
- ▶ Hundreds of COVID-related contracts were drafted and reviewed, with over 250 on behalf of DOH in 2021



# Case WINS

- ▶ Bristol Meyers Squibb Plavix Judgment - \$834M
- ▶ Ciber Inc. - \$31.7M
- ▶ Nelson - \$21M/annual savings
- ▶ Opioids Litigation
  - ▶ McKinsey Stipulated Judgment - \$1.9M
  - ▶ Pending Distributor Settlement - \$63M (est.)
  - ▶ Pending Johnson & Johnson Settlement - \$13.9M (est.)
  - ▶ Pending Purdue Bankruptcy - \$13M (est.)
  - ▶ Pending Mallinckrodt Bankruptcy - \$TBD
- ▶ Kakaako Land Company - Restored public and business access to streets in Kakaako

# COVID Emergency Proclamation Litigation

## Statistics:

### Plaintiff dismissed complaint: 2

Jones v. Ige

For Our Rights v. Ige

### Court granted State's Motion to Dismiss: 10

Jeffrey-Steven v. Ige

Denis v. Ige

Pierce v. Connors

Partal et al. v. Ige

Dicks et al. v. Ige [I]

Tamashiro v. Ige

Pelekai v. State

Carmichael v. Ige

Bannister v. Ige

Kelly O'Neil's Inc v. Ige

### Pending Court's decision on dismissal motion: 1

Dicks et al. v. Ige [II]

### Pending ICA Appeal: 1

Lomma v. Connors



# ATG Deputy Attorneys General



Years	Average Salary
0-5	\$86,400
6-10	\$90,000
11-15	\$93,816
16-20	\$97,104
21-25	\$103,704
Over 25	\$106,176

**MAHALO FOR YOUR TIME!**

**ANY QUESTIONS?**



Department Leadership:

Holly Shikada, Attorney General

Valerie Kato, First Deputy Attorney General

David Moore, Administrative Services Manager

