



Committee: Committee on Finance
Hearing Date/Time: Tuesday, April 5, 2016, 2:15 p.m.
Place: Conference Room 308
Re: Testimony of the ACLU of Hawaii in Support of H.C.R. 4, Requesting the Auditor to Audit the Asset Forfeiture Program of the Department of the Attorney General

Dear Chair Luke and Members of the Committee on Finance:

The American Civil Liberties Union of Hawaii ("ACLU of Hawaii") writes in support of H.C.R. 4. Hawaii's current civil asset forfeiture law is based on the legal fiction that property can be "guilty," and allows law enforcement to profit from seized property where there has been no conviction for the underlying offense.

Although this practice is often justified as a way to cripple large-scale criminal operations, it has been used to create revenue for law enforcement with little restriction or accountability. This practice harms property owners, who, due to inadequate state law, often cannot afford to challenge invalid forfeitures. It comes as no surprise that Hawaii's civil asset forfeiture law is regarded among the worst in the nation, receiving a grade of D- by the Institute for Justice. See <http://ij.org/pfp-state-pages/pfp-Hawaii/>. The ACLU therefore supports an audit of the Asset Forfeiture Program, which may pave the way for future reform.

Thank you for the opportunity to testify.

Sincerely,

Mandy Finlay
Advocacy Coordinator
ACLU of Hawaii

The mission of the ACLU of Hawaii is to protect the fundamental freedoms enshrined in the U.S. and State Constitutions. The ACLU of Hawaii fulfills this through legislative, litigation, and public education programs statewide. The ACLU of Hawaii is a non-partisan and private non-profit organization that provides its services at no cost to the public and does not accept government funds. The ACLU of Hawaii has been serving Hawaii for 50 years.

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Dedicated to safe, responsible, humane and effective drug policies since 1993

TO: House Committee on Finance
FROM: Carl Bergquist, Executive Director
HEARING DATE: 5 April 2016, 2:15PM
RE: HCR4, Measure Title: "REQUESTING THE AUDITOR TO AUDIT THE ASSET FORFEITURE PROGRAM OF THE DEPARTMENT OF THE ATTORNEY GENERAL"
IN STRONG SUPPORT

Dear Chair Luke, Vice Chair Nishimoto and Committee Members:

The Drug Policy Forum of Hawai'i (DPFHI) **strongly supports** this resolution requesting that the Auditor evaluate the efficiency, effectiveness and fairness of the Asset Forfeiture Program of the Department of the Attorney General. It has been 27 years since the last management audit of the program, and 21 since the last evaluation by the Auditor. In other words, an audit is long overdue.

An audit is necessary for several reasons. **First**, this program provides monetized incentives for law enforcement to seize a person's property, which can then be sold for profit without any related criminal charges being filed or convictions being obtained. **Second**, the due process for the property owner to retrieve their property is flipped on its head, with the presumed guilty property having to be proved itself innocent and unrelated to any criminal activity. **Third**, the [fundamental problems of civil asset forfeiture](#) are being recognized around the country: [Montana and New Mexico have eliminated similar programs](#); just this past Saturday, [Governor Scott of Florida signed a bi-partisan bill requiring convictions](#) before property seizure; and at the federal level, [former Attorney General Eric Holder began reforms of the federal program](#) before leaving office.

In the aforementioned prior audits of Hawaii's own program, the Auditor recognized that the potential for abuse existed, but many of its recommendations were unfortunately ignored. This is why, e.g., in 2011, [Marilou Chin of Pearl City saw her livelihood destroyed](#), when her specially outfitted van that she used to transport disabled clients to doctor appointment and to run other errands, was seized and sold by police. Her son had borrowed it without her permission, and

used it for some questionable activity. He was never convicted of anything, much less charged with a crime. Regardless, Ms. Chin was out \$8,000, and had to use her own funds, now in excess of \$14,000, to get a new van. Even if this incident was an anomaly, which data from elsewhere suggests it is unlikely to be, there is simply no justification for having a law on the book that legalizes this type of behavior.

As for related reforms efforts during the 2016 legislative session, your committee on Finance already passed [HB1559 HD2](#), which the full House then adopted with one lone “no” vote. We believe that bill contained exactly the type of first step in any reform of the civil asset forfeiture program, but it appears that it will die in the Senate. Therefore, [we also respectfully ask this Committee to hear SB2149 SD2 HD1](#), the Senate’s current stance on civil asset forfeiture reform, which would create a working group to examine and propose broader reforms of Hawaii’s civil asset forfeiture program. DPFHI would be part of this working group along with law enforcement, the Judiciary and others. Our work would be greatly facilitated by the type of audit proposed by this resolution.

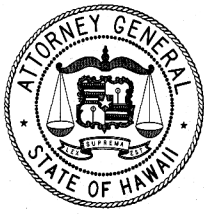
Civil asset forfeiture, which has no proven deterrent effect on crime, drives a greater wedge between police and the public, [particularly in disparately impacted low-income communities of color](#), it is meant to serve and protect. This audit can be a first step in restoring that trust.

Mahalo for the opportunity to testify.

I support HCR4

I, John B Rogers stand in support of HCR4. I own a home in puna, and the squatting situation is out of control. It is not right for these lazy bastards to break into private property and claim squatters rights no matter if the owners cannot be reached. The squatters have zero equity in anything, they are simply welfare abusing MF's in plain english! This bill addresses what is to be done in the case where the actual owner cannot be found or notified. In any case, if we allow squatters to continue doing what they are presently doing, we are applauding laziness and rewarding criminal behavior. Enough of this crap!

John B Rogers
15-1298 Mahimahi st



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-EIGHTH LEGISLATURE, 2016**

ON THE FOLLOWING MEASURE:

H.C.R. NO. 4, REQUESTING THE AUDITOR TO AUDIT THE ASSET FORFEITURE PROGRAM OF THE DEPARTMENT OF THE ATTORNEY GENERAL.

BEFORE THE:

HOUSE COMMITTEE ON FINANCE

LATE

DATE: Tuesday, April 5, 2016

TIME: 2:15 p.m.

LOCATION: State Capitol, Room 308

TESTIFIER(S): Douglas S. Chin, Attorney General, or
Steve Bumanglag, Deputy Attorney General

Chair Luke and Members of the Committee:

The Department of the Attorney General ("Department") does not oppose this concurrent resolution. The purpose of this concurrent resolution is to request the Auditor to audit the asset forfeiture program of the Department of the Attorney General. The Department is committed to transparency and will cooperate with the Auditor in any management audit of the asset forfeiture program.

From: Marilyn Mick <marilynmick@pobox.com>
Sent: Monday, April 04, 2016 5:24 PM
To: FINTestimony
Subject: RE: HCR4

LATE

Aloha,

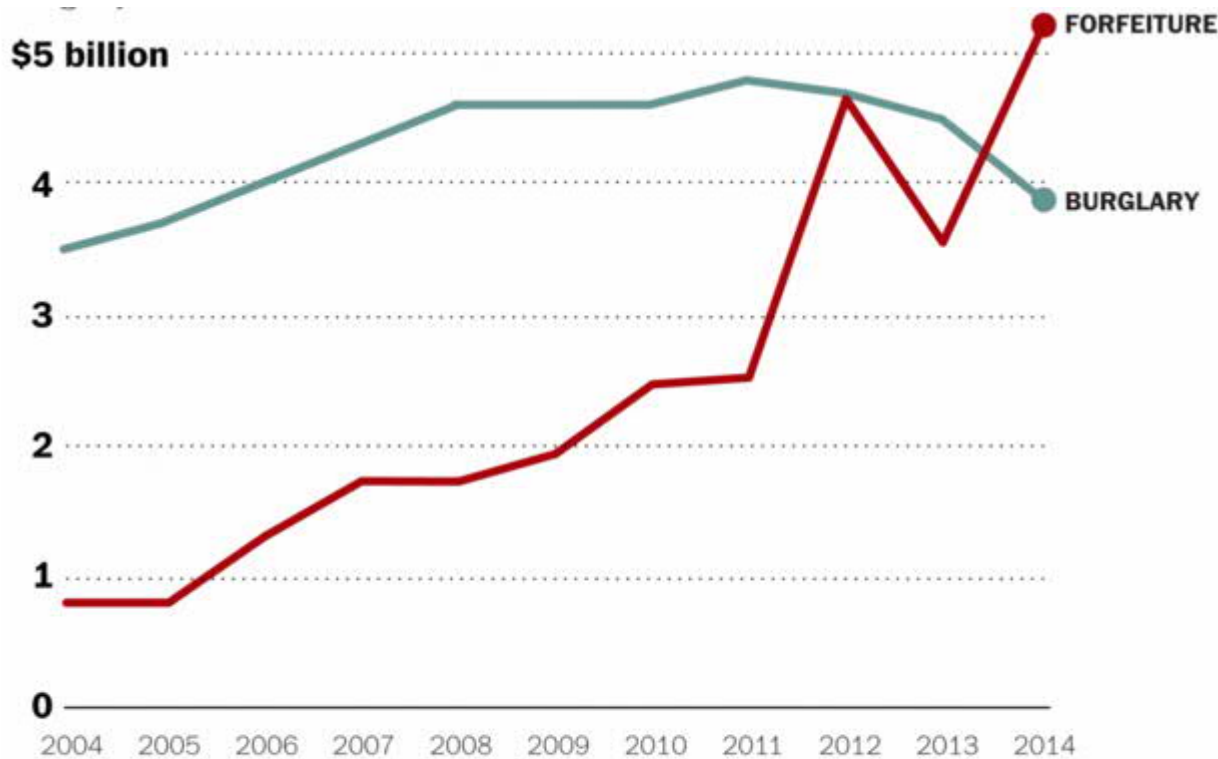
I would like to add my voice to HCR4, requesting an **audit of the Civil Asset** Forfeiture program.

An audit is long overdue. The last complete one was in 1989, and the last partial audit in 1995.

The seizing of a person's property without a conviction amounts to highway robbery. Most people do not have the time, experience or money for an attorney to get back their assets. So the government just keeps it.

Hawaii's state law recently received a "D-" from the Institute for Justice; in 2010, we received a "D". Clearly our state is falling behind the reforms happening both at the national level and in other states.

I found this graphic today that clearly illustrates the wide spread practice of asset forfeiture and it is not a pretty picture when citizens are losing more of their property to law enforcement than to burglars.



WAPO.ST/WONKBLOG

Source: Institute for Justice, FBI Crime Reports

Please move this bill forward.

Mahalo, Marilyn Mick, Honolulu

LATE

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, April 05, 2016 11:26 AM
To: FINTestimony
Cc: kat.caphi@gmail.com
Subject: Submitted testimony for HCR4 on Apr 5, 2016 14:15PM
Attachments: 4.5.16 FIN HCR 4 SUPPORT.pdf

HCR4

Submitted on: 4/5/2016

Testimony for FIN on Apr 5, 2016 14:15PM in Conference Room 308

Submitted By	Organization	Testifier Position	Present at Hearing
Kat Brady	Community Alliance on Prisons	Support	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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