

DAVID Y. IGE
Governor

JOSH GREEN
Lt. Governor



PHYLLIS SHIMABUKURO-GEISER
Chairperson, Board of Agriculture

DEPT. COMM. NO. 315
MORRIS M. ATTA
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DEPARTMENT OF AGRICULTURE
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December 31, 2020

The Honorable Ronald D. Kouchi,
President and Members of the Senate
Thirty-first State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

The Honorable Scott K. Saiki, Speaker
and Members of the House of
Representatives
Thirty-first State Legislature
State Capitol, Room 431
Honolulu, Hawaii 96813

Dear President Kouchi, Speaker Saiki, and Members of the Legislature:

For your information and consideration, I am transmitting a copy of the Report on the Agricultural Theft and Vandalism Pilot Project as required by Act 217, SLH 2019. In accordance with Section 93-16, Hawaii Revised Statutes, I am also informing you that the report may be viewed electronically at <https://hdoa.hawaii.gov/meetings-reports/legislative-reports/>.

Sincerely,

Phyllis Shimabukuro-Geiser
Chairperson, Hawaii Board of Agriculture

Enclosures



**REPORT TO THE THIRTY-FIRST LEGISLATURE
2021 REGULAR SESSION
STATE OF HAWAII**

**REPORT ON THE AGRICULTURAL THEFT AND VANDALISM PILOT PROGRAM
IN RESPONSE TO ACT 217, SESSION LAWS OF HAWAII 2019**



Prepared by:

**THE STATE OF HAWAII
DEPARTMENT OF AGRICULTURE**

DECEMBER 2020

Background

Act 217 Session Laws of Hawaii 2019 established a two-year agricultural theft and vandalism pilot to examine the effectiveness of prosecuting agricultural theft and vandalism cases, including theft and vandalism affecting individuals who are not full-time farmers or ranchers. The Department is tasked with evaluating the effectiveness of such as program through the identification of number of convictions, best practices for prosecuting, best practices for coordination with local law enforcement, best practices for reporting, locations of crime, and any preventative measures.

The Agricultural Theft and Vandalism Pilot Program

The Governor approved the release of \$180K in general funds for FY20 on December 2, 2019 (out of the \$200K appropriated in Act 217, SLH 2019) for the Agricultural Theft and Vandalism Pilot Project (ATVPP). This reflects 5% hard restriction and 5% contingency restriction imposed by Executive Memorandum No. 19-02. The amount of \$100K was allotted for the County of Hawaii. The Department received inquiries from Maui County about the ATVPP however no proposal was submitted. Act 217 SLH 2019 mandated a two-year pilot project to be done, while only allotting a one-year appropriation. No subsequent supplemental funding was appropriated.

The existing contract with County of Hawaii was amended on March 20, 2020 to continue the ATVPP on Hawaii Island.

Final report by County of Hawaii Office of the Prosecuting Attorney was submitted to HDOA in September 2020. It's conclusions and recommendations are discussed below.

Best Practices

Prevention measures should be given top priority when implementing policies to reduce agriculture-related crimes. Producers should confer with local law enforcement on best practices for prevention in the area. Producers should also utilize fencing, cameras if possible, and maintain a thorough inventory.

Agriculture-related crimes are a community problem. Education and outreach are needed for all stakeholders including law enforcement, vendors, agricultural producers, and consumers. Education should focus on the necessity of reporting agriculture-related crimes, reporting procedures, and how to serve as an effective witness to assist with prosecutions. The Hawaii County Investigator indicated that a major problem with agriculture-related crimes is that producers are not reporting crimes when they occur. The report additionally noted that there is a possibility that victims are given the impression that the crime lacks importance by law enforcement, such as when the responding officer takes a report but does not report back to the victim thereafter. When reporting agriculture-related crimes, witnesses should try to provide specific information to responding officers, such as an estimate of the weight & value of the stolen products, license plate numbers, and descriptions of the suspect and their vehicle (if applicable). Furthermore, the report needs to be made in a timely manner to aid with the initial investigation. Both law enforcement and agricultural producers should have a basic knowledge of each other's profession to minimize frustration with the process of reporting and prosecution of agriculture-related crimes. Additionally, regular communication between producers and law enforcement will aid in the prevention of agriculture-related crimes.

The [certificate of ownership/movement form](#) required by [HRS §145-22](#) has proved a valuable tool for investigators and should be widely used for effective enforcement and prosecution. Producers, vendors and law enforcement officers would benefit from education on the statute, the form, and its role in reducing agriculture-related crimes. Regular enforcement of form use would reduce sales of stolen produce to wholesalers, restaurants, and supermarkets. Businesses that do not use the form are reportedly the easiest places to sell stolen produce.

Despite the challenges, the pilot program has resulted in more farmers willing to report agriculture-related crimes. Community members are communicating with each other about agricultural theft, raising awareness, and watching out for each other. Trade Associations and agricultural producers are getting involved including Hawaii Tropical Fruit Growers, Big Island Poultry Farmers, Farming Forward Hawaii, and others. The Hawaii County Investigator made the following specific recommendations and reports:

Recommendations

Producer education on:

- Reporting all crimes
- How to report crimes
- Laws specific to Agriculture Crimes
- Good business practices
- Crime prevention

Law Enforcement needs:

- To understand their victims
- Be aware of specific Agriculture crime laws
- Have someone available to contact when they run into an Agriculture crime situation
- A small Task Force to educate producers and consumers about Agriculture crimes, crime prevention for our producers, and also to conduct follow up investigations on Agriculture crimes investigations

Reports

CASES OF AGRICULTURAL THEFT include the following:

1. 66 cases -- Felony agriculture thefts (investigated/currently investigated, include Theft II and Livestock theft)
2. 30 cases -- Trespass (mostly trespass with 13 connected to theft cases)
3. 48 cases -- Other Related Offenses
4. 3 cases – DLNR lands
5. Personal Assist -- 250+ calls and emails requesting for advice regarding: agriculture theft laws, crime prevention, trespassing, how to report a crime, how to be an effective witness and the Importance of reporting all agriculture crimes; Farm checks and crime prevention thru environmental control; Landlord Tenant issues with farmers with lease land; Ownership/Movement certificates, why and how to use; Mislabeling of market produce

ITEMS STOLEN/VANDALIZED include: Agriculture produce/animals/equipment

1. Produce: Rambutan, Lychee, Longan, Mango, Durian, Bananas, Avocados, Noni, Coffee, Luau leaf, Kukui nut
2. Animals & Livestock: Goats, Swine, Sheep, Cattle, Poultry and a Donkey
3. Equipment/Other Items: Fencing, damage to trees, gates, locks, batteries, chains, fuel, vehicles, power tools, hand tools, farm equipment, farm signs (i.e. No trespassing signs),

PROSECUTION: Hawaii County office has prosecuted Agriculture related crimes. Prosecution can be a slow process, but there have been at least two convictions—one for livestock theft and one for theft of produce.

PREVALANCE: There is no one area of Hawaii County that has more of less agriculture-related crimes. Orchids are the most frequently stolen product, followed by fruits/edibles of high value including lychee rambutan, longan, mangos, avocados, bananas, noni, coffee, and macadamia nuts. Coffee thefts are the crimes that account for the highest monetary losses. Livestock theft often goes unreported unless the owner suspects a specific person or group. Illegal hunting and trespassing are very common with the larger ranches and farms, and often escalates to thefts and/or property damage to equipment. Equipment and fuel theft are costly but often go unreported to law enforcement.

The Department of Agriculture would like to note that the Legislature mandated a two-year pilot project to be done, while only allotting a one-year appropriation. The Department's assessment is without additional resources for the ATVPP, the Department is unable to fulfill the mandate of the two-year pilot project.