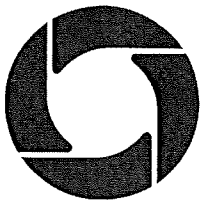
Office of the Ombudsman
State of Hawaii
Fiscal Year 2021-2022
Report Number 53



As a service to the public provided by the legislature, the Office of the Ombudsman receives and investigates complaints from the public about injustice or maladministration by executive agencies of the State and county governments.

The Ombudsman is a nonpartisan officer of the legislature. The Ombudsman is empowered to obtain necessary information for investigations, to recommend corrective action to agencies, and to criticize agency actions; but the Ombudsman may not compel or reverse administrative decisions.

The Ombudsman is charged with: (1) accepting and investigating complaints made by the public about any action or inaction by any officer or employee of an executive agency of the State and county governments; and (2) improving administrative processes and procedures by recommending appropriate solutions for valid individual complaints and by suggesting appropriate amendments to rules, regulations, or statutes.

By law, the Ombudsman cannot investigate actions of the governor, the lieutenant governor and their personal staffs; the legislature, its committees and its staff; the judiciary and its staff; the mayors and councils of the various counties; an entity of the federal government; a multistate governmental entity; and public employee grievances, if a collective bargaining agreement provides an exclusive method for resolving such grievances.

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465 South King Street
Honolulu, HI 96813

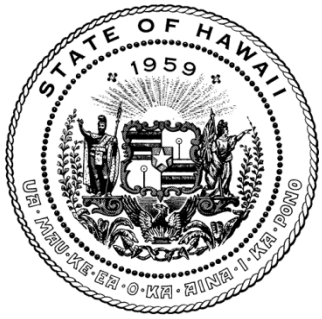
Phone:	**808-587-0770**
Fax:	**808-587-0773**
TTY:	**808-587-0774**

Neighbor island residents may call our toll-free numbers.

Hawaii	**974-4000**
Maui	**984-2400**
Kauai	**274-3141**
Molokai, Lanai	**1-800-468-4644**

Telephone extension is 7-0770
Fax extension is 7-0773
TTY extension is 7-0774

email: **complaints@ombudsman.hawaii.gov**
website: **ombudsman.hawaii.gov**



State of Hawaii

Report of the Ombudsman

For the Period July 1, 2021 - June 30, 2022
Report No. 53

Presented to the Legislature
pursuant to Section 96-16 of
the Hawaii Revised Statutes

February 2023

Mr. President, Mr. Speaker, and Members of the
Hawaii State Legislature of 2023:

In accordance with Section 96-16, Hawaii Revised Statutes, I am pleased to submit the report of the Office of the Ombudsman for fiscal year 2021-2022. This is the fifty-third annual report since the establishment of the office in 1969.

I apologize for the tardiness of this year's report, which, like last year, is due to my decision to focus my office's limited staff resources during the past 12 months toward dealing with the large increase in complaints we received from the public since the start of the COVID-19 pandemic. For the same reason, this year's report includes only a limited number of summaries of cases that were investigated during the fiscal period 2019-2022.

I would like to take this opportunity to thank the Governor, the Mayors of the various counties, and the State and County department heads and employees for their continuing cooperation and assistance.

I would also like to thank the members of my team at the Office of the Ombudsman for their continued dedication and commitment to our mission during another challenging year. I am extremely fortunate to be supported by caring and professional staff who continue to respectfully communicate daily with a frustrated and hostile public in order to improve the level of public administration in Hawaii.

Respectfully submitted,

ROBIN K. MATSUNAGA
Ombudsman

February 2023

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Chapter I

THE ONGOING IMPACT OF CORONAVIRUS

Continued high rates of new and repeat infections in Hawaii from the variants of COVID-19 made it necessary for our office to keep in place the measures developed in the previous fiscal year to prevent the spread of COVID-19 within the office. In addition to our protocol requiring distancing, sanitizing, and the wearing of masks in all shared areas of the office, we continued to limit the number of employees working in-office during the fiscal year to not more than 7 of our 14 employees to minimize the risk of exposure within the office. Although these measures continued to affect our efficiency, we believed it was important to balance the level of service we provide the public with the health and safety of our employees.

We also kept in place for the entire fiscal year the restriction on accepting walk-in complainants in order to further minimize the potential introduction of COVID-19 into our office. However, we believed that the public still had adequate access to our services, as we continued to accept complaints via telephone, postal mail, email, and fax. And we continued to investigate complaints that we determined were appropriate for investigation as timely and thoroughly as possible, without jeopardizing the health of our employees.

As we expected, the number of complaints against state executive branch and county government agencies in fiscal year 2021-2022 did not decrease significantly from the previous fiscal year. We continued to experience a high number of incidences where complainants directed abusive, derogatory, or threatening statements at our staff. Understanding that persons filing complaints with our office are upset or frustrated with government, our staff were exceptionally tolerant of the threats and abusive language directed toward them and continued to treat each complainant respectfully and professionally throughout the fiscal year.

Chapter II

THE YEAR IN BRIEF

Total Inquiries Received

During fiscal year 2021-2022, the office received a total of 5,089 inquiries, a 0.4 percent decrease from the prior fiscal year. Of the total inquiries, 4,136, or 81.3 percent, may be classified as complaints within the jurisdiction of the office. The remaining inquiries consisted of 446 requests for information and 507 non-jurisdictional complaints.

We received 92 more non-jurisdictional complaints during fiscal year 2021-2022, an increase of 22.2 percent over the prior fiscal year. The number of jurisdictional complaints decreased by 2.8 percent from the prior fiscal year. Complaints involving the State's adult corrections programs increased by 10.3 percent, while the number of other complaints decreased by 21.5 percent.

A comparison of inquiries received in fiscal year 2020-2021 and fiscal year 2021-2022 is presented in the following table.

TWO-YEAR COMPARISON

Years	Total Inquiries	Information Requests	Non-Jurisdictional Complaints	Jurisdictional Complaints		
				Total Jurisdictional	Prison Complaints	General Complaints
2021-2022	5,089	446	507	4,136	2,769	1,367
2020-2021	5,111	443	415	4,253	2,511	1,742
Numerical Change	-22	3	92	-117	258	-375
Percentage Change	-0.4%	0.7%	22.2%	-2.8%	10.3%	-21.5%

Staff Notes

In August 2021, Administrative Assistant Carliza Elido resigned to pursue a career in the federal government. Ms. Elido had been a valued member of our team since February 2018. We thank Ms. Elido for her dedication and outstanding service to the public and wish her the best in her new career.

In August 2021, Jessen Corpuz joined our office as an Administrative Assistant. Ms. Corpuz was employed at a law firm in Honolulu prior to joining our team.

In February 2022, Clinton Piper resigned his position as an Analyst in our office to pursue a new career. We thank Mr. Piper for his hard work and contributions to our office and wish him well.

In February 2022, Fahzeela Mohamed joined our office as an Analyst. Prior to joining our team, Ms. Mohamed was employed as a Grants and Evaluation Specialist for a Honolulu non-profit agency.

In March 2022, Abdulrahman Omar joined our office as an Analyst. Mr. Omar previously worked as the Assistant Ombud for Capacity Building in the Office of the Employee Ombud for the City of Seattle, Washington.

In March 2022, Analyst Gansin Li retired after more than 27 years of State service, the last 17 years of which were served as a valued member of our office. In addition to his duties as an Analyst, Mr. Li also helped to maintain the office's computer network, equipment, and applications, which are vital to our operations. We thank Mr. Li for his years of dedicated service to our office and the public and wish him the best in his retirement.

At the end of fiscal year 2022, our office staff consisted of Ombudsman Robin Matsunaga; First Assistant Melissa Chee; Analysts Megan Ito-Shigetomi, Yvonne Jinbo, Matthew Kajiura, Marcie McWayne, Fahzeela Mohamed, Abdulrahman Omar, and Ryan Yeh; Administrative Services Officer Cindy Yee; and Administrative Service Assistants Sheila Alderman, Jessen Corpuz, and Debbie Goya.

Staff Activities

In August 2021, Ombudsman Robin Matsunaga met via video conference with Allison Posner, Director of External Relations, and Carla Fall, Chief of Case Management, of the Office of the Immigration Detention Ombudsman at the United States Department of Homeland Security. The purpose of the meeting was to share information about the similarities and differences between the two offices and to discuss general standards of practice for governmental ombudsman offices.

In September 2021, Mr. Matsunaga began his eighth consecutive two-year term as a Director of the United States Ombudsman Association (USOA) Board of Directors. The 2021-2023 Board of Directors elected Mr. Matsunaga to serve as its President, a position he has served in since 2011.

In December 2021, Mr. Matsunaga served as one of four instructors of the USOA's New Ombudsman Training course, which was conducted virtually in 4-hour sessions over a period of 4 days. The 40 attendees in the training included staff from ombudsman offices across the United States, as well as Canada and Bermuda.

In May 2022, Mr. Matsunaga met via video conference with Bernardo Granwehr, who started his term as the Ombudsman for the State of Iowa on July 1, 2021, to discuss the case handling processes used in the Hawaii Ombudsman Office. The Iowa Ombudsman Office was established in 1972 and provides essentially the same services as the Hawaii Ombudsman Office.

Chapter III

STATISTICAL TABLES

For all tables, the percentages may not add up to a total of 100% due to rounding.

TABLE 1
NUMBERS AND TYPES OF INQUIRIES
Fiscal Year 2021-2022

Month	Total Inquiries	Jurisdictional Complaints	Non-Jurisdictional Complaints	Information Requests
July	458	370	55	33
August	516	436	47	33
September	536	439	56	41
October	385	310	38	37
November	453	375	48	30
December	419	328	43	48
January	510	428	48	34
February	392	321	34	37
March	385	321	31	33
April	327	265	31	31
May	362	279	46	37
June	346	264	30	52
TOTAL	5,089	4,136	507	446
% of Total Inquiries	--	81.3%	10.0%	8.8%

TABLE 2
MEANS BY WHICH INQUIRIES ARE RECEIVED
Fiscal Year 2021-2022

Month	Telephone	Mail	Email	Fax	Visit	Own Motion
July	390	44	22	0	2	0
August	457	21	38	0	0	0
September	490	20	26	0	0	0
October	345	14	25	0	0	1
November	400	22	29	1	0	1
December	381	23	15	0	0	0
January	450	36	23	0	0	1
February	349	14	27	2	0	0
March	345	9	31	0	0	0
April	296	6	24	0	1	0
May	308	19	35	0	0	0
June	316	1	28	0	1	0
TOTAL	4,527	229	323	3	4	3
% of Total Inquiries (5,089)	89.0%	4.5%	6.3%	0.1%	0.1%	0.1%

TABLE 3
DISTRIBUTION OF POPULATION AND INQUIRERS BY RESIDENCE
Fiscal Year 2021-2022

Residence	Population*	Percent of Total Population	Total Inquiries	Percent of Total Inquiries
City & County of Honolulu	1,000,890	69.4%	4,061	79.8%
County of Hawaii	202,906	14.1%	453	8.9%
County of Maui	164,303	11.4%	325	6.4%
County of Kauai	73,454	5.1%	91	1.8%
Out-of-State	--	--	159	3.1%
TOTAL	1,441,553	--	5,089	--

*Source: The State of Hawaii Data Book 2021, A Statistical Abstract. Hawaii State Department of Business, Economic Development, and Tourism, Table 1.06, "*Resident Population, by County: 2000 to 2021.*"

TABLE 4
DISTRIBUTION OF TYPES OF INQUIRIES
BY RESIDENCE OF INQUIRERS
Fiscal Year 2021-2022

	TYPES OF INQUIRIES					
	Jurisdictional Complaints		Non-Jurisdictional Complaints		Information Requests	
Residence	Number	Percent of Total	Number	Percent of Total	Number	Percent of Total
C&C of Honolulu	3,352	81.0%	349	68.8%	360	80.7%
County of Hawaii	356	8.6%	60	11.8%	37	8.3%
County of Maui	255	6.2%	39	7.7%	31	7.0%
County of Kauai	79	1.9%	10	2.0%	2	0.4%
Out-of-State	94	2.3%	49	9.7%	16	3.6%
TOTAL	4,136	--	507	--	446	--

TABLE 5
MEANS OF RECEIPT OF INQUIRIES
BY RESIDENCE
Fiscal Year 2021-2022

Residence	Total Inquiries	Means of Receipt					
		Telephone	Mail	Email	Fax	Visit	Own Motion
C&C of Honolulu	4,061	3,702	142	208	2	4	3
% of C&C of Honolulu	--	91.2%	3.5%	5.1%	0.0%	0.1%	0.1%
County of Hawaii	453	359	36	57	1	0	0
% of County of Hawaii	--	79.2%	7.9%	12.6%	0.2%	0.0%	0.0%
County of Maui	325	305	4	16	0	0	0
% of County of Maui	--	93.8%	1.2%	4.9%	0.0%	0.0%	0.0%
County of Kauai	91	80	4	7	0	0	0
% of County of Kauai	--	87.9%	4.4%	7.7%	0.0%	0.0%	0.0%
Out-of-State	159	81	43	35	0	0	0
% of Out-of-State	--	50.9%	27.0%	22.0%	0.0%	0.0%	0.0%
TOTAL	5,089	4,527	229	323	3	4	3
% of Total	--	89.0%	4.5%	6.3%	0.1%	0.1%	0.1%

TABLE 6
DISTRIBUTION AND DISPOSITION OF JURISDICTIONAL COMPLAINTS BY AGENCY
Fiscal Year 2021-2022

Agency	Juris-dictional Complaints	Percent of Total	Completed Investigations		Discon-tinued	Declined	Assisted
			Substan-tiated	Not Substan-tiated			
State Departments							
Accounting & General Services	15	0.4%	1	2	1	10	1
Agriculture	4	0.1%	0	0	0	4	0
Attorney General	25	0.6%	0	1	2	22	0
Budget & Finance	66	1.6%	2	6	6	42	10
Business, Economic Devel. & Tourism	14	0.3%	0	0	7	6	1
Commerce & Consumer Affairs	68	1.7%	4	10	10	41	3
Defense	3	0.1%	0	0	0	3	0
Education	86	2.1%	5	6	12	59	4
Hawaiian Home Lands	9	0.2%	0	2	0	5	2
Health	117	2.9%	4	17	14	72	10
Human Resources Development	2	0.0%	0	1	1	0	0
Human Services	330	8.2%	2	19	37	186	86
Labor & Industrial Relations	142	3.5%	0	1	19	106	16
Land & Natural Resources	49	1.2%	0	6	7	35	1
Office of Hawaiian Affairs	0	0.0%	0	0	0	0	0
Public Safety	2,734	67.9%	45	293	670	1,433	293
Taxation	27	0.7%	0	0	6	18	3
Transportation	19	0.5%	1	2	3	11	2
University of Hawaii	9	0.2%	0	0	3	6	0
Other Executive Agencies	24	0.6%	0	1	14	7	2
Counties							
City & County of Honolulu	179	4.4%	5	8	21	130	15
County of Hawaii	59	1.5%	2	3	10	42	2
County of Maui	31	0.8%	1	0	2	28	0
County of Kauai	14	0.3%	0	0	9	5	0
TOTAL	4,026	--	72	378	854	2,271	451
% of Total Jurisdictional Complaints	--	--	1.8%	9.4%	21.2%	56.4%	11.2%

TABLE 7
DISTRIBUTION AND DISPOSITION OF SUBSTANTIATED JURISDICTIONAL COMPLAINTS BY AGENCY
Fiscal Year 2021-2022

Agency	Substantiated Complaints	Complaints Rectified	Not Rectified/ No Action Necessary
State Departments			
Accounting & General Services	1	1	0
Agriculture	0	0	0
Attorney General	0	0	0
Budget & Finance	2	2	0
Business, Economic Devel. & Tourism	0	0	0
Commerce & Consumer Affairs	4	4	0
Defense	0	0	0
Education	5	5	0
Hawaiian Home Lands	0	0	0
Health	4	3	1
Human Resources Development	0	0	0
Human Services	2	2	0
Labor & Industrial Relations	0	0	0
Land & Natural Resources	0	0	0
Office of Hawaiian Affairs	0	0	0
Public Safety	45	38	7
Taxation	0	0	0
Transportation	1	1	0
University of Hawaii	0	0	0
Other Executive Agencies	0	0	0
Counties			
City & County of Honolulu	5	5	0
County of Hawaii	2	2	0
County of Maui	1	1	0
County of Kauai	0	0	0
TOTAL	72	64	8
% of Total Substantiated Jurisdictional Complaints	--	88.9%	11.1%
% of Total Completed Investigations (450)	16.0%	14.2%	1.8%

TABLE 8
DISTRIBUTION OF INFORMATION REQUESTS
Fiscal Year 2021-2022

Agency	Information Requests	Percent of Total
State Departments		
Accounting & General Services	6	1.3%
Agriculture	0	0.0%
Attorney General	9	2.0%
Budget & Finance	11	2.5%
Business, Economic Devel. & Tourism	1	0.2%
Commerce & Consumer Affairs	15	3.4%
Defense	2	0.4%
Education	3	0.7%
Hawaiian Home Lands	0	0.0%
Health	33	7.4%
Human Resources Development	0	0.0%
Human Services	13	2.9%
Labor & Industrial Relations	6	1.3%
Land & Natural Resources	5	1.1%
Office of Hawaiian Affairs	0	0.0%
Public Safety	70	15.7%
Taxation	1	0.2%
Transportation	9	2.0%
University of Hawaii	1	0.2%
Other Executive Agencies	2	0.4%
Counties		
City & County of Honolulu	26	5.8%
County of Hawaii	13	2.9%
County of Maui	5	1.1%
County of Kauai	0	0.0%
Miscellaneous	215	48.2%
TOTAL	446	--

TABLE 9
DISTRIBUTION OF NON-JURISDICTIONAL COMPLAINTS
Fiscal Year 2021-2022

Jurisdictional Exclusions	Number of Complaints	Percent of Total
Collective Bargaining	6	1.2%
County Councils	1	0.2%
Federal Government	25	4.9%
Governor	12	2.4%
Judiciary	61	12.0%
Legislature	10	2.0%
Lieutenant Governor	3	0.6%
Mayors	7	1.4%
Multi-State Governmental Entity	5	1.0%
Private Transactions	329	64.9%
Miscellaneous	48	9.5%
TOTAL	507	--

TABLE 10
INQUIRIES CARRIED OVER TO FISCAL YEAR 2021-2022 AND THEIR DISPOSITIONS, AND INQUIRIES CARRIED OVER TO FISCAL YEAR 2022-2023

Types of Inquiries	Inquiries Carried Over to FY 21-22	Inquiries Carried Over to FY 21-22 and Closed During FY 21-22	Balance of Inquiries Carried Over to FY 22-23	Inquiries Received in FY 21-22 and Pending	Total Inquiries Carried Over to FY 22-23
Non-Jurisdictional Complaints	1	1	0	3	3
Information Requests	0	0	0	6	6
Jurisdictional Complaints	120	111	9	110	119
		Disposition of Closed Complaints: Substantiated 13 Not Substan. 46 Discontinued 52 111			
TOTAL	121	112	9	119	128

Chapter IV

SELECTED CASE SUMMARIES

The following are summaries of selected cases investigated by the office. Each case summary is listed under the State government department or the county government involved in the complaint or inquiry. Although some cases involved more than one department or involved both the State and the county, each summary is placed under what we believe to be the most appropriate agency.

To view a cumulative index of all selected case summaries that appeared in our Annual Report Nos. 1 through 53, please visit our website at ombudsman.hawaii.gov and select the “Cumulative Index” link from the home page.

If you do not have access to our cumulative index via the Internet, you may contact our office to request a copy.

LIST OF SUMMARIES

DEPARTMENT OF EDUCATION

(22-01243 and 22-02868) Using State vehicle to pick up child from school during work hours. We received a complaint about an individual who was using a State vehicle to pick up a minor child every day from school.

During our investigation, we discovered the individual who was using the State vehicle was an employee of the Student Transportation Services Branch (STSB), Department of Education (DOE).

We spoke to the STSB Administrator, who confirmed the employee had permission to use the State vehicle to pick up her daughter from school when the employee was already conducting business at the daughter's school. However, the STSB Administrator was not aware this practice was occurring on a daily basis or when the employee was not conducting business at the daughter's school.

We also spoke to the employee in question, and the employee confirmed she was using the State vehicle during her lunch break every day to pick up her daughter from school.

We reviewed Chapter 105, Hawaii Revised Statutes (HRS), the State's Policy on Perquisite Administration in the Hawaii State Government, the DOE's Policies for Personal Use of Government Motor Vehicles, and the employee's personal use card, all of which allow the personal use of a State vehicle when such use is incidental to driving to and from work.

We also spoke to the Administrator of the Automotive Division of the Department of Accounting and General Services (DAGS) about the STSB employee's personal use of the State vehicle, and the Automotive Division Administrator did not believe the STSB employee's use of the State vehicle was a proper personal use. The Automotive Division Administrator confirmed he is the person who approves each department's policies for personal use of State-owned vehicles.

We again spoke to the STSB Administrator, who agreed to discuss the matter with the DAGS Automotive Division Administrator. The STSB Administrator confirmed that the DAGS Automotive Division Administrator did not believe the STSB employee's use of the State vehicle was proper.

Based on our investigation, we determined the employee's use of the State vehicle was improper under Chapter 105, HRS, the State's Policy on Perquisite Administration in the Hawaii State Government, and the DOE's Policies for Personal Use of Government Motor Vehicles. We notified the STSB of our findings. The STSB informed us that the employee agreed to not use the State vehicle to pick up her daughter unless she received a personal use card which explicitly allows such use.

Subsequently, we received another complaint about the same individual using the same State vehicle to pick up the same minor child every day from school. We spoke to the STSB Administrator, who informed us that the employee was under the impression that she could use the State vehicle because the STSB had contacted DAGS about her personal use of the State vehicle. The STSB Administrator informed our office that the employee agreed that she would not be using the State vehicle unless DAGS gave her express permission to use the State vehicle during her lunch break to pick up her daughter from school.

DEPARTMENT OF PUBLIC SAFETY

(19-03301) Delay in scheduling presentence investigation assessment of inmates temporarily housed at the Women's Community Correctional Center. While undergoing facility renovations, the Oahu Community Correctional Center (OCCC) temporarily re-housed some female inmates to the Women's Community Correctional Center (WCCC). One of these women contacted our office to complain that a WCCC case manager was preventing a Probation Officer (PO) from coming to the facility to see her to complete a presentence investigation assessment (assessment). The inmate alleged that a PO had informed her that the WCCC had not responded to repeated requests to schedule a meeting for her assessment. A delay in completing this assessment, which the court reviews when considering a convicted person's sentence, could delay the convicted person's release from custody if the person was sentenced to probation.

A WCCC case manager supervisor informed us that the facility did not have a process in place to arrange for these assessments because the WCCC normally only houses sentenced felons. Due to the temporary housing of OCCC inmates who were not yet sentenced, the WCCC had to create a process for POs to schedule these assessments. Thus, the supervisor informed us that the POs were supposed to contact her office to arrange the meeting with the inmate and to request a memorandum for entry into the facility. The supervisor informed us that she found no record of a meeting request for the inmate.

We contacted the PO and asked about her attempts to schedule the assessment with WCCC staff. The PO claimed that she had left two messages for a WCCC case manager, and when she did not receive a response, she left a message for the assistant of the case manager's supervisor. The PO said she later learned that the assistant had been on leave. The PO also believed that the assessment was further delayed because the WCCC also required POs to contact the WCCC a week in

advance of the requested meeting time. The PO informed us that she had finally been able to schedule the assessment meeting with the inmate, but when she arrived at the WCCC, she learned that the inmate had already been transferred back to the OCCC, had attended a court hearing, and was released from custody on a supervised release order.

We asked the WCCC case management office to explain why they needed a week's notice to arrange the assessment meeting between the PO and an inmate. We were informed that a full week was not a requirement, but it was true that there were several things that needed to be coordinated before the meeting could be held. For example, because the WCCC does not have meeting rooms next to housing modules to conduct such meetings, the WCCC staff would need to find and secure an appropriate space within the WCCC for the PO and inmate to meet. In addition, the facility security office needed to make arrangements to provide a staff member to monitor the meeting. Lastly, the facility needed time to review and process the entry memorandum to allow the PO to enter the facility.

We asked the Chief of Security (COS) of the WCCC to explain the necessity of an entry memorandum for POs. The COS provided us with a memorandum to his staff stating that POs only needed to show their identification badge to enter the WCCC. Based on this information, we recommended that the case management office contact the COS to clarify the requirement that a PO obtain an entry memorandum. The supervisor of the case management office subsequently informed us that she eliminated the entry memorandum requirement for POs to conduct assessments.

We found the case management office's requirement of an entry memorandum contributed to a delay in conducting the inmate's assessment. However, we also found that other factors contributed to the delay that were not clearly the fault and/or the responsibility of the WCCC. Thus, we only partially substantiated this complaint.

(20-00804) Required notification of a detainer request being lifted before releasing an inmate on parole. During a separate investigation of a complaint against the Hawaii Paroling Authority (HPA), we learned that a Department of Public Safety (DPS) correctional facility would not release an inmate on parole as approved by the HPA unless it received notification from the United States Department of Homeland Security (DHS) that a 48-hour DHS detainer request made under DHS Form I-247D (5/15) was lifted, even if the hold was beyond the 48 hours requested. We were told by the DPS that this was an "unwritten policy" because there were concerns that DPS staff would be penalized for releasing inmates subject to the detainer request without first being told by the DHS that it had lifted its hold request. However, DPS staff could not cite any statutory or regulatory authority for the basis of their concerns.

We also learned that an inmate who was not released on parole as scheduled would need an additional hearing by the HPA to get a new release date. As a result, the decision by a facility to not release an inmate on parole as scheduled could result in the inmate remaining incarcerated for a significant period before finally being released on parole. Therefore, we initiated an investigation to determine whether it was reasonable for the DPS to delay releasing an inmate on parole until it received notice from the DHS that the DHS had affirmatively lifted its detainer request.

We reviewed DHS Form I-247D and found that the form requests that a person in the custody of a local enforcement authority (LEA) be held for a period "not to exceed 48 hours" beyond the time the person would have been released so that the DHS could arrange to take custody of the person. The form also states that the request does not "authorize or request" the LEA to hold the person beyond 48 hours. The form also states that the request "should not impact decisions about the subject's bail, rehabilitation, parole, release, diversion, custody classification, work, quarter assignments, or other matters."

We then spoke with DHS staff and asked whether the DHS had any expectation that the LEA would detain a person beyond the 48 hours that is requested in the I-247D form. The DHS staff informed us that they did not have that expectation, and the detainer request was only for 48 hours. We also asked the DHS staff if there were any negative legal consequences if the LEA did not honor the detainer request and failed to inform the DHS of a person's pending release. The DHS staff informed us that they were not aware of any legal consequences, and they were only aware of a log that was maintained of LEAs that were not cooperative. The DHS staff said that it was possible that this information was also disseminated to Congress and the media. We then asked about the promulgating authority of the requests. We were referred to the Immigration and Customs Enforcement (ICE) website for further information.

We reviewed the information on the ICE website, which confirmed that the detainer requests only authorized detainment for 48 hours beyond a person's scheduled release time and required certain documentation to be included with the detainer request to make the detainer request valid. The ICE website also specifically stated that no detainment by the LEA based on the request was to continue beyond 48 hours, no matter the circumstances.

After speaking with the DHS staff and reviewing the ICE website, we spoke with DPS staff and reviewed the information that we had obtained regarding the I-247D detainer requests. We informed the DPS that based on what we learned in our investigation, we determined that the "unwritten policy" by the DPS to not release inmates for parole as scheduled unless it received notice from the DHS that the detainer request had been lifted was unreasonable. Based on the seriousness of the situation, we recommended to the DPS that it rescind the "unwritten policy" and inform each correctional

facility of the correct process to be used for inmates who are subject to a DHS I-247D detainer request.

Based on our recommendations, DPS staff issued a written directive to each facility warden explaining the actions to be taken in response to the DHS I-247D detainer requests. The actions included notifying the DHS of the affected inmate's scheduled release date not less than 48 hours prior to the scheduled release date. The directive also specified that unless there was some other binding legal authority, the facilities should not hold an affected inmate beyond the inmate's scheduled release date, regardless of when the DHS is notified. We were satisfied with the corrective action taken.

(20-01133) Data entry error extended inmate's release date. In September 2019, an inmate complained that a correctional facility had failed to release him from custody on the day he contacted our office. Based on a document he had previously received from the Hawaii Paroling Authority (HPA), the inmate believed his maximum term of imprisonment had expired that day.

The inmate informed us that he had attempted to resolve the matter by contacting the case management staff at the facility where he was housed. He said that his case manager informed him that the Department of Public Safety's computer database, called Offendertrak, showed his maximum term release date was not for another two years. Thus, the facility was not going to release him yet.

During our investigation, we contacted staff at the facility where the inmate was housed. The facility staff confirmed that the Offendertrak database showed the inmate's sentence started in 2018 and that his maximum sentence release date was calculated as September 2021.

We next contacted the HPA to get more information about the document that allegedly showed that the inmate's maximum term expiration date was in September 2019. As soon as the HPA reviewed the inmate's file and sent us a copy of their record, the HPA staff contacted the facility to discuss the inmate's release date.

Based on this inquiry, the facility staff reviewed the inmate's entire file and found that an error had been made when staff entered the inmate's sentence start date into Offendertrak. The inmate's sentence start date should have been entered as 2016 instead of 2018, and thus it was true that the inmate's maximum term of imprisonment had just expired. The facility corrected the data entry in Offendertrak and immediately released the inmate from custody.

Based on this information, we found this complaint to be substantiated.

(20-01443) Inmate not released on time. On October 23, 2019, an inmate in the custody of the Department of Public Safety (DPS) complained that the facility did not release her on October 8, 2019, pursuant to the court's order. The complainant explained that on October 8, 2019, she went to court and was sentenced to time served and four years of probation. When the complainant returned to the facility, the complainant told the adult corrections officer (ACO) that the court released her. The ACO told the complainant that the facility needed to wait for the paperwork from the court before it could release her. Over the next two weeks, the complainant informed the facility that the court released her on October 8, 2019, but the facility staff told the complainant that it did not have any paperwork from the court regarding her release and would not release her until it received the paperwork.

Immediately after receiving the complaint, we notified the facility staff, who informed us that they were not aware of the complainant's concern and that the facility did not have any paperwork from the court regarding her release, but that they would follow up on the matter. The facility staff checked eCourt Kokua, the State Judiciary's online system to access court records, and noticed that the complainant was sentenced on October 8, 2019. The facility staff printed out the information from eCourt Kokua and processed the complainant's release. The complainant was subsequently released on the same day that she called us.

Although the inmate was released, we continued our investigation to find out why the facility did not have the complainant's paperwork from the court and why the facility did not attempt to obtain the paperwork until we contacted the facility. We learned that in the complainant's case, the court faxed the paperwork to the facility. However, due to an apparent technical issue with the facility's fax machine caused by construction work near the facility, the facility did not receive the faxed paperwork for the complainant.

Regardless of whether or why it did not receive the paperwork faxed by the court, we were concerned that the facility had not attempted to obtain the complainant's paperwork. We had learned during our investigation of a similar complaint that this facility had a procedure to address situations where an inmate returned from court without any paperwork from the court. The procedure called for the inmate's file to be placed in an update tray for the facility's records office staff to monitor, review, and process. The records office staff who checked the update tray had access to eCourt Kokua, which allowed them to find out what happened at a court hearing and to obtain a copy of the paperwork, without relying on the court to provide the paperwork. The records office staff then updated the inmate's file and processed the inmate's release. This procedure was established to ensure that inmates are released on time even if the facility does not have any paperwork from the court due to technical issues out of the facility's control.

Thus, we asked the facility if it had followed its procedures when the complainant returned from court without any paperwork. The facility staff

stated that it appeared the procedure was not followed and agreed that the complainant would have been released earlier if the procedure had been followed. The facility staff acknowledged the error and reminded other facility staff about the importance of following the procedures it had in place. We were satisfied with the facility's action to prevent a similar error from reoccurring.

We were not able to notify the complainant of our findings and the actions taken by the facility as the complainant was no longer in custody and had not provided us any other contact information.

(21-00335) Did not allow an inmate to be removed from a no-carbohydrate and no-sugar diet. In July 2020, an inmate at a Department of Public Safety (DPS) correctional facility complained that the correctional facility's medical unit was refusing to take her off a no-carbohydrate and no-sugar diet. The inmate informed us that she had been placed on the diet by a nurse practitioner, starting approximately two weeks before the inmate called our office. The inmate also informed us that she had lost four pounds since being placed on the diet and believed that the reason for the diet was in response to her mild epilepsy that had resulted in her having two seizures since being placed in the correctional facility in October 2019. The inmate said that she had made requests to the medical unit to have the dietary restriction lifted but had not received any response. We investigated the complaint.

We spoke with the correctional facility regarding the complaint that we had received. The correctional facility informed us that the medical staff had prescribed a no-carbohydrate and no-sugar diet for the inmate in response to a medical condition the inmate had. The correctional facility informed us that the special diet prescription was designed in a way to possibly combat the effects of the inmate's medical condition. We asked the correctional facility whether the inmate had the right to refuse the prescribed treatment. The correctional facility staff informed us that the inmate could refuse treatment, but a normal tray of food would not be provided as an alternative and the inmate would be forced to purchase her own food from the commissary as an alternative to eating the prescribed meal.

We reviewed DPS Policy and Procedures (P&Ps) COR.10.1I.02, titled "Involuntary Emergency Treatment and Medication," and COR.10.1I.05, titled "Informed Consent and Right to Refuse." We did not find that the correctional facility's actions were compliant with the P&Ps and felt it was necessary to address our concerns with the DPS. We informed the DPS of our finding regarding the correctional facility staff's actions regarding the inmate's right to refuse treatment and recommended that the DPS take appropriate action to ensure that the inmate was allowed to exercise her right to refuse treatment without negative consequences. We further recommended that the DPS reverse the correctional staff's actions and allow the inmate to refuse the

special diet and be allowed to have regular meals served to her. The DPS agreed with our findings and informed us that appropriate corrective action would be discussed with the correctional facility staff.

As we monitored the steps taken by the DPS to correct the correctional facility's action, we reviewed the following statutes:

Section 353-13.6, Hawaii Revised Statutes (HRS), titled "Involuntary medical treatment criteria," stated in part:

> (a) An inmate or detainee in the custody of the department may be ordered to receive involuntary medical treatment, including the taking or application of medication, if the court finds that: (Emphasis added.)
>
> (1) The inmate or detainee poses a danger of physical harm to self or danger of physical harm to others;
>
> (2) Treatment with medication is medically appropriate; and
>
> (3) Considering less intrusive alternatives, treatment is essential to forestall the danger posed by the inmate or detainee.

Section 353-13.7, HRS, titled "Initiation of proceeding for involuntary medical treatment," stated in part:

> (a) The director, or the director's designee, may file a petition for involuntary medical treatment alleging that a person in the custody of the department meets the criteria for involuntary medical treatment under section 353-13.6.

Upon reviewing these statutes and comparing them to the P&Ps that had been previously reviewed, we found that the P&Ps, which had been created in 2008, were not compliant with the statutory provisions, that were enacted in 2017.

We informed the DPS of our findings that the P&Ps were outdated and no longer valid. Based on the findings above, we recommended the following corrective actions:

1. Revise any existing DPS policy, including, but not limited to, COR.10.1l.02 and COR.10. 1l.05, to comply with Sections 353-13.6 and 353-13.7, HRS.

2. Unless these policy revisions can be effectuated expeditiously, we also recommend that they immediately issue a directive to

all applicable facility medical unit staff stating that they are to adhere to the requirements of Sections 353-13.6 and 353-13.7, HRS. The recommended directive should also inform staff that the department policies will be revised but provide the staff with interim instructions for the issuance of Form DOC 0417 to inmates and instructions for processing/recording a Form DOC 0417 when received by the facility.

The DPS reviewed our recommendations and agreed with them. The DPS informed us of steps that were being taken to implement our recommendations. After monitoring the DPS' initial steps towards implementing our recommendations, we requested that the DPS inform us once all the recommendations had been fully implemented.

(21-00590 and 21-00594) Inadequate inmate clothing. Two male inmates housed in the special holding unit (SHU) at a community correctional center complained that they were not provided adequate clothing for several days. One inmate said he only had one pair of boxers to wear, and the other inmate said he only had one pair of pants. Both inmates claimed the facility laundry staff was not working due to the COVID-19 virus outbreak.

The SHU security staff disputed the claims that any inmate did not have a full set of a facility uniform. He informed us that several inmates had recently flooded multiple floors of the SHU by flushing their clothes down the toilet. The facility staff also explained that the SHU has a "one-for-one" clothing exchange policy, i.e., inmates receive a laundered uniform set only after they take a shower and turn in their used uniform set.

The laundry manager also informed us that the "one-for-one" clothing exchange policy in the SHU had been in place for years. He opined that this policy existed because inmates in the SHU are not allowed to keep extra uniforms in their cells.

We reviewed Department of Public Safety (DPS) Policy COR.17.03, titled "Inmate Clothing." Section COR.17.03.3.1 specifically sets forth the policy that "[a]ll inmates shall be adequately clothed during their period of incarceration." Further, COR.17.03.3.1 provided the minimum clothing each male inmate shall be issued the following items:

a. Male uniforms

1) Three pants
2) Three shirts
3) Three T-Shirts
4) One pair slippers
5) Three pair underwear (boxer/brief)

We asked the DPS Institutions Division Administrator (IDA) to review the complaints with regard to policy COR.17.03. During our initial conversation, the IDA confirmed that the "one-for-one" clothing exchange policy for inmates in the SHU had been in place for years. He stated that inmates in the SHU cannot keep any property, including extra uniform sets, in their cells.

Subsequently, the IDA informed us that the facility's Chief of Security (COS) confirmed that there was a two-day period when certain inmates in the SHU were not provided clean clothing items and were only provided bedding, slippers, and underwear. He noted that these inmates were repeatedly flushing their clothes down the toilet in order to flood certain parts of the SHU, but he acknowledged that this was not an acceptable reason for the staff to withhold clean clothes.

The IDA agreed that inmates in the SHU should always have one clean, full uniform set. He informed us that the COS would speak to the sergeants and adult corrections officers about this situation to ensure that inmates are not left in dirty clothes. Further, the COS would instruct the staff to provide a clean, full uniform set during the "one-for-one" exchange after the inmates take a shower.

Although the SHU was not following policy COR.17.03, we determined that due to security concerns, the "one-for-one" exchange was reasonable. However, because the SHU staff, on at least two days, did not provide a clean, full uniform set to the inmates who complained to our office, we substantiated the complaint. We believed the IDA and COS took reasonable corrective action in response to our investigation and therefore, we did not make any further recommendations to the agency.

We were only able to notify one of the inmates of our findings and the action taken by the facility because the other inmate had been released from custody prior to the completion of our investigation.

(21-02027) Did not include presentence credit when calculating release date for escape charge. On November 17, 2020, we received a complaint from an inmate at the Halawa Correctional Facility (HCF), Department of Public Safety (DPS), that his release date for his escape charge was incorrect. The inmate stated that he believed that the problem was the HCF had not credited him with the time he served presentence when doing its release date calculations. The inmate cited recent appellate caselaw in support of his complaint and said that his attorney was also trying to communicate with the HCF to discuss the issue. The inmate said that his current release date calculated by the HCF was April 19, 2021, and he believed his correct release date was in mid-January 2021, but he was not sure because he had absconded multiple times while on parole. At the time, the inmate was referred to attempt to resolve his issue through one step of

the inmate grievance process, which normally takes around 30 days to complete, and to call the Office of the Ombudsman back if he did not receive a timely or satisfactory response.

On January 21, 2021, the inmate called back and stated that he had filed a grievance regarding his release date calculation, but he had not received a response that was due on January 12, 2021. We agreed to investigate the complaint at that time.

We reviewed the caselaw that the inmate had cited, State of Hawaii vs. Allan H. Abihai, 146 Haw. 398. As part of its decision in the Abihai case, the Hawaii State Supreme Court (Supreme Court) considered the language of Section 706-671, Hawaii Revised Statutes (HRS), which governs "Credit for time of detention prior to sentence; credit for imprisonment under earlier sentence for same crime."

The Supreme Court interpreted the plain language of Sections 706-671(1)[1] and 706-671(3)[2], HRS. The Supreme Court found that the plain language of Section 706-671(1), HRS, required that a defendant who is sentenced to imprisonment for a crime be given credit for any detainment of the defendant for that same crime prior to sentencing. The Supreme Court found that the plain language of Section 706-671(3), HRS, made its provisions not applicable in cases where the credit was being given for detainment on that specific crime. Therefore, the Supreme Court in a 3-2 decision held that a defendant was to be given presentence credit for detainment from the time bail was set on an escape charge even while the defendant is serving time for a separate and unrelated crime.

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[1] When a defendant who is sentenced to imprisonment has previously been detained in any State or local correctional or other institution following the defendant's arrest for the crime for which sentence is imposed, such period of detention following the defendant's arrest shall be deducted from the minimum and maximum terms of such sentence. The officer having custody of the defendant shall furnish a certificate to the court at the time of sentence, showing the length of such detention of the defendant prior to sentence in any State or local correctional or other institution, and the certificate shall be annexed to the official records of the defendant's commitment.

[2] Notwithstanding any other law to the contrary, when a defendant is convicted for a crime committed while serving a sentence of imprisonment on a separate unrelated felony conviction, credit for time being served for the term of imprisonment imposed on the defendant for the separate unrelated felony conviction shall not be deducted from the term of imprisonment imposed on the defendant for the subsequent conviction.

HCF sentence calculation documents dated December 9, 2015 for the inmate was reviewed on January 26, 2021. The documentation provided at that time showed that the HCF had not included presentence credit from the time bail was set on the escape charge until his sentencing on the escape charge in its release date calculation. The issue was discussed with HCF and DPS staff. The HCF and DPS staff stated they were aware of the issues with the inmate's calculated release date, and on January 29, 2021, DPS staff stated that after consultation with the State Attorney General, the inmate's release date had been recalculated with presentence credit being given to the inmate from the time bail was set.

On February 2, 2021, the HCF provided us revised release date calculations for the inmate, which we immediately reviewed. The HCF recalculated the inmate's release date to be February 6, 2021, based on the of credit being given from the date bail was set until sentencing. The revised calculations provided by the HCF appeared to be consistent with the Supreme Court's decision in Abihai. On February 3, 2021, the inmate called us and stated that he had just received notice about his new release date and was satisfied with the information and felt his complaint was now resolved.

Although the inmate was satisfied that his release date had been recalculated, we continued our investigation. On February 4, 2021, we asked HCF staff to explain the timeline of when they first became aware of the Abihai decision and what, if any, direction was provided by the DPS about it. HCF staff stated that they learned of the Abihai decision in the summer of 2020 but had not received any direction from the DPS on any actions the HCF needed to take with regard to reviewing release date calculations prior to our office investigating the inmate's complaint. HCF staff also stated that direction had now been received from the DPS to proactively locate cases that could be affected by the Abihai decision and recalculate release dates consistent with the Abihai decision, if necessary.

We found that the lack of action by the DPS and the HCF from April 2020, when the Abihai decision was made, until January 2021, when the DPS finally directed the HCF to review and revise certain inmate release dates, was unreasonable. Therefore, we substantiated the complaint.

Based on the representation by the HCF that it would proactively search for inmate cases that may be subject to the Abihai decision and review and recalculate the release dates of affected inmates, we had no further recommendations for the HCF or DPS. We notified the HCF staff of our findings.

CITY AND COUNTY OF HONOLULU

(21-04794) Refused to waive over ten years in back taxes, fees, and penalties, despite previously advising that only one year in back taxes and fees would be owed. We received a complaint that the Motor Vehicle, Licensing and Permits Division (MVLD), City and County of Honolulu, refused to waive the taxes, fees, and penalties for two vehicles owned by the complainant's family member who had recently passed away. The complainant explained that he wanted to register the two vehicles, but the MVLD informed him that he would first have to pay for over 10 years in overdue taxes, fees, and penalties for the two vehicles before the MVLD would register the vehicles. The complainant argued that in 2010, an MVLD employee advised the decedent against placing the two vehicles in storage because he would only owe one year in overdue taxes, fees, and penalties if and when the decedent decided to re-register the vehicles. The complainant stated that the MVLD acknowledged that an MVLD employee was providing erroneous information to the public, but the MVLD would not waive any amounts owed.

In our investigation, we reviewed Chapter 249, Hawaii Revised Statutes (HRS), titled "County Vehicular Taxes." Sections 249-2 and 249-10, HRS, set forth the imposition of taxes and accrual of delinquent penalties, respectively. There is an exception for "stored vehicles;" but this exception cannot be applied retroactively. We also reviewed Chapter 41 of the Revised Ordinances of Honolulu titled "Regulated Activities Within the City." Article 17 discusses motor vehicle weight taxes and penalties. Article 18 discusses the motor vehicle registration fee. These ordinances do not place a limit on delinquent taxes or fees, nor do they allow discretion for the MVLD to waive any owed amounts. Therefore, we determined that the MVLD requiring payment of all owed taxes, fees, and penalties was in accordance with the relevant statutes and ordinances.

We discussed this complaint with the MVLD. While the MVLD confirmed that there was an employee who was providing erroneous information to the public, it stated that the Director of the Department of Customer Service does not have the discretion to waive any amounts owed. As we found this to be in accordance with the statutes and ordinances, the complaint was not substantiated.

Nevertheless, we had concerns regarding the fact that the decedent was provided with erroneous information by an employee of the MVLD. Thus, we continued to speak to the MVLD to determine what recourse the complainant had. We were informed that the complainant could file a notice of appeal with the court, as the court had the authority to waive any owed vehicular taxes, fees, and costs.

We notified the complainant that we did not substantiate the complaint and informed him that he could pursue the waiving of the taxes, fees, and penalties by filing an appeal with the court. The complainant expressed his appreciation for our assistance.

(22-01958) Refuse Division not scheduling bulky item pick up at multi-unit residential property. We received a complaint that the Refuse Division, Department of Environmental Services (DES), City and County of Honolulu, refused to schedule an appointment for bulky item pick up at a multi-unit residential complex in Mililani and did not provide an explanation.

We contacted and informed the Refuse Division of the complaint that we were investigating. We were told that the Refuse Division does not offer bulky item pick up for the subject property because the Refuse Division does not service the subject property's regular trash. Subsequently, the complainant provided photographic evidence that the Refuse Division does provide regular trash service at the subject property.

Upon providing evidence of the Refuse Division servicing the subject property's regular trash to the Refuse Division, we were told that the DES does not offer bulky item pick up at the subject property because it is the responsibility of the commercial property to dispose of bulky items. We asked the Refuse Division to cite the rule or guideline that supported this position and were told that the matter would need to be researched, and we would be provided the information.

While waiting for the Refuse Division to provide the relevant citation, we reviewed Chapter 9, Revised Ordinances of Honolulu (ROH), titled "Collection and Disposal of Refuse." Section 9-1.3, ROH, tasked the Refuse Division with administering the collection and disposal of refuse, including bulky items, and the collection and processing of recyclable materials as designated by the DES Director. The only times when the DES is not responsible is when a property owner has made its own provisions, or when the owner has an on-site incinerator. Section 9-3.2(a), ROH, stated, "Every owner of a private dwelling shall arrange or provide for the collection and disposal of all refuse therefrom." Section 9-3.2(b), ROH, stated, "Where the collection of refuse is to be made by the division, the owner or occupant of a private dwelling shall prepare and place refuse for collection in the manner set forth in Section 9-1.4." Section 9-3.4(a), ROH, stated that "multi-unit residential buildings" shall make arrangements in accordance to Section 9-3.2(b) unless other enumerated arrangements were made. Section 9-1.4(d), ROH, stated, "Bulky wastes shall be collected under procedures determined by the director."

We also reviewed numerous brochures by the Refuse Division regarding bulky item pick up that we found on its website. According to brochures provided by the DES, bulky items have been collected by

appointment only for all areas of Oahu since July 1, 2020. According to the DES, it services approximately 180,000 single family homes and multi-unit residential buildings. The brochures from the DES all provided the same instructions on how multi-unit residential buildings may schedule five (5) bulky items per collection appointment and two (2) metal appliances per separate appliance appointment. Additionally, the publications noted that association of apartment owners may choose to schedule up to twenty (20) bulky items per collection appointment and eight (8) metal appliances per separate appliance appointment.

Based upon our review of the ROH and the Refuse Division guidelines, we determined that the Refuse Division should provide bulky item pick up service for the subject property.

We subsequently received a call from the Acting Chief of the Refuse Division. The Acting Chief agreed with our position that bulky item pick up should be offered for residents at the subject property. The Supervisor of the Wahiawa Collection Yard also confirmed that the Refuse Division's original refusal to schedule bulky item pick up was improper and agreed to assist the complainant with scheduling an appointment.

We notified the complainant that we substantiated the complaint and asked the complainant to follow up with the Supervisor of the Wahiawa Collection Yard, Refuse Division, DES.

COUNTY OF MAUI

(20-01790) Required to pay motor vehicle registration fee for vehicle being transferred for salvage purposes. A woman complained that staff at a Motor Vehicle Registration (MVR) office required her to pay the registration renewal fee on her vehicle, which she was transferring the title of to her insurance company for salvage purposes, before the transfer of title could take place.

The complainant had recently been in an automobile accident. She had entered into a settlement with her insurance company that required her to transfer title of the vehicle to the insurance company and had gone to the MVR office to obtain a duplicate copy of her vehicle's title. While explaining to MVR staff that she would then be transferring the title of the vehicle to the insurance company, staff informed the complainant that she would be required to pay the registration renewal fee on the vehicle because the transfer of title transaction was taking place within 45 days of the expiration of the vehicle's registration. This made no sense to the complainant, who asked why she would need to pay to renew the registration of a vehicle that was going to be salvaged by her insurance company.

This particular situation was further complicated by the fact that the title of the complainant's vehicle was still in the name of the creditor. Although the loan on the vehicle had been paid off, the complainant had not yet submitted the lien release document to the MVR office so that the vehicle title could be updated.

In our investigation, we discussed the registration renewal requirement with several staff at the MVR office. We were informed that when processing a transaction to change a vehicle's title, the MVR computer system will not allow changes to be made if the registration of the vehicle expires within 45 days of the transaction. Hence, in the complainant's situation, the vehicle registration renewal fee, which was due within 45 days, would need to be paid before any changes to its title could take place. We asked MVR staff for the legal basis for this and were initially told that this requirement is built into the MVR computer system. We inquired further with the county's Director of the Department of Finance, who asked MVR staff to respond to us, and were directed to a section of the Hawaii Revised Statutes that did not specifically address the complainant's situation. Following further discussion with MVR staff, we were directed to the Motor Vehicles, Licensing and Permits office in Honolulu for clarification.

We learned that the motor vehicle licensing and registration system is a statewide system that includes this 45-day restriction that was affecting the complainant. However, the system also allows for a manual override by an administrator for situations such as the complainant's, where it does not logically make sense to charge a registration renewal fee on a vehicle that is being salvaged. We found this to be a reasonable response.

We were informed during the course of the investigation that the complainant had only been charged the fee for a duplicate title, and was not charged a fee for the registration renewal. We notified the complainant of the outcome.