

OVERVIEW

THE AUDITOR
STATE OF HAWAII

Audit of the Collection of Fines, Forfeitures, and Restitutions in the Judiciary

Summary

Among their many activities, courts of Hawaii's Judiciary impose and process a variety of fines, forfeitures, and restitutions and attempt to ensure their enforcement and collection. The State Auditor initiated this audit to assess the Judiciary's management of these collections.

In our report, a fine is a monetary penalty against a person who has committed an offense against the public, regardless of whether the offense is managed as a criminal case or a civil case. By forfeiture, we mean the money surrendered by a defendant in a criminal case (or typically the bail bondsperson) as a penalty for not appearing in court. Restitution refers to a court-ordered monetary payment by an offender to the victim to compensate for the injury.

We concluded that the Judiciary should strengthen its collection of fines and restitutions. The Judiciary has taken steps to improve collections, but more vigorous efforts are needed. The collection of forfeitures, however, does not pose a major problem.

Reasons for ensuring that fines are enforced and collected include preserving the integrity of the court, rehabilitating offenders, teaching responsibility, preventing further illegal activity, and bringing revenue to the State. For restitutions, an additional reason is to compensate victims of crime.

Despite the importance of this effort, we found that the Judiciary has insufficient knowledge of what is owed in fines and restitutions and has allowed millions of dollars in outstanding fines and restitutions to go uncollected over the years. One Judiciary report estimated that the district courts alone had about \$28 million in uncollected traffic fines representing over 588,000 individual cases. Based on other data from the individual courts, we estimate \$1.8 million in unpaid fines in the circuit courts and \$20,000 in unpaid fines in the family courts.

We also found that the Judiciary has not established management controls sufficient to ensure the maximum collection of fines and restitutions. Stronger commitment, central accountability, and strategies are needed. Collection is inconsistent and fragmented among the courts, there is a lack of uniform policies and procedures for collections, computer systems are inadequate, and monitoring and enforcement are weak.

The Judiciary's efforts to address collection problems include the Supreme Court Fine Enforcement Committee, the Committee on the Uniform Enforcement of Judicial Orders, the Attorney General Collections Project, the Clean Slate Project, and planning for a new statewide computer system. Expansion, coordination, and follow-through on collection efforts is needed. Also, alternative collection practices—including garnishment, income tax setoffs, adverse credit reporting, and an internal collections unit—should be examined.

Recommendations and Response

We recommend that the chief justice assign to the administrative director of the courts the responsibility of planning, directing, monitoring, and evaluating collection efforts of the courts, and ensuring that information kept on outstanding fines and restitutions is complete and accurate. The administrative director also should ensure adequate management controls including a clear strategy for collections; a statewide collections policies and procedures manual; a reliable accounts receivable system; and a realistic strategy for a uniform automated computer system linking the accounts receivable information of all courts. Other controls should include a system for ascertaining whether each court has adequate policies and procedures for monitoring and enforcing financial obligations; coordination of and follow-through on Judiciary initiatives to improve collections; and a system for examining alternative enforcement mechanisms.

The Judiciary concurs that improvements are needed to the system of managing and collecting fines and restitution. It says that our report will aid it in continuing to improve its efforts. While questioning parts of our report, the Judiciary provided us with its new four-point plan to improve collections through an automated collection and accounting system, standard statewide procedures for fine collections in all courts, additional coercive collection procedures, and educational programs for the public, judges, and court staff.

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