

OFFICE OF THE COUNTY ATTORNEY

I. Mission Statement

To diligently render competent legal services as an advisor and as an advocate, ethically and honorably, to the various municipal entities which comprise the County of Kauai.

II. Department Goals

To provide timely legal advice and legal representation to the Mayor, to the County Council and to all Departments, Commissions, Boards, and Agencies.

Powers, Duties and Functions

1. The county attorney shall be the chief legal adviser and legal representative of the county administration, all county agencies, the county council, and all county officers and employees in matters relating to their official powers and duties. The county attorney shall also perform all other services incident to the county attorney's office as may be required by law.
2. The county attorney shall have the power to appoint such deputy county attorneys and necessary staff authorized by the council, within the appropriation made therefor. Such deputies shall serve at the pleasure of the county attorney.
3. The council may, by vote of five members, authorize the employment of special counsel for any matter necessitating such employment. Any such authorization shall specify the compensation, if any, to be paid for said services. (Article VIII, Section 8.06, Kauai County Charter)
4. Legal process against the county shall be served upon the county attorney or any of the deputies.
5. Legal adviser of the council. (Article VIII, Section 8.04, Kauai County Charter)
 - a. Attend their meetings when required.
 - b. Oppose all claims and accounts against the county when the county attorney deems them unjust and illegal.
6. Legal advisor of the county administration. Render opinions to county officers on matters relating to the duties of their respective offices. Give, when required and without fee, an opinion in writing to county officers on matters relating to the duties of their respective offices.
7. Defend county officers, acting within their official capacities, in civil actions. The county attorney is not required to defend any officer in any matter or case out of which criminal proceedings against such officer may arise.

OFFICE OF THE COUNTY ATTORNEY

8. Counsel for police officers. (Sections 52D-8 and 52D-9, HRS)

Section 52D-8 "Police officers; counsel for. Whenever a police officer is prosecuted for a crime or sued in a civil action for acts undertaken in the performance of the officer's duty as a police officer, the police officer shall be represented and defended:

- (1) In criminal proceedings by an attorney to be employed and paid by the county in which the officer is serving; and
- (2) In civil cases by the . . . county attorney . . ."

"Section 52D-9 Determination of scope of duty. The determination of whether an act, for which the police officer is being prosecuted or sued, was undertaken in the performance of the officer's duty, so as to entitle the officer to representation by county-provided counsel, shall be made by the county police commission. Before making a determination, the police commission shall consult the county attorney or the corporation counsel, who may make a recommendation to the police commission with respect thereto. The determination of the police commission shall be conclusive for the purpose of this section and section 52D-8."

9. Legal adviser of the Board of Water Supply. (Section 54-16, HRS)

Prosecute and defend any and all actions and proceedings involving matters under the jurisdiction of the Board of Water Supply.

10. Legal adviser of the Liquor Control Commission. (Chapter 281, HRS, as amended)

Defender of investigators and employees.

a. Section 281-104. "Whenever any investigator or other employee of the liquor commission shall be . . . sued in any civil cause for acts done in the performance of the investigator's or employee's duty as such investigator or employee, the investigator or employee shall be represented and defended . . . (2) in any such civil cause by the . . . county attorney, of the county in which the investigator or employee is serving. . . ."

b. Section 281-105. Determination whether acts were in scope of duty shall be made by the liquor commission after consultation with the county attorney who may make a recommendation to the commission. Such determination shall be conclusive for such purpose only.

11. Act as counsel for appointing authority under Chapter 76, HRS, (Civil Service Law). (Section 76-47, HRS)

OFFICE OF THE COUNTY ATTORNEY

12. Duty under Chapter 480, HRS: Monopolies; Restraint of Trade.

Section 480-20: "(a) . . . The county attorney . . . shall investigate and report suspected violations of this chapter to the attorney general. (b) Whenever this chapter authorizes or requires the attorney general to commence any action or proceeding, including proceedings under Section 480-18, the attorney general may require the county attorney . . . holding office in the circuit where the action or proceeding is to be commenced or maintained, to maintain the action or proceeding under the direction of the attorney general."

13. Legal assistance to Chief of Police in enforcement of Automobile Safety Regulations. (Section 287-2, HRS)
14. Prosecute violations of Food, Drug and Cosmetic Act. (Section 328-28, HRS)
15. Legal assistance to Tax Collector.
16. Other duties.

Provide legal advice and advocacy upon request for commissions, boards, hearings, regular and special council and committee meetings, department and division meetings, conferences with Mayor and staff, including;

Mayor's Task Force Committee
Charter Review Commission
Arborist Advisory Committee
Historic Preservation Review Commission
Ethics Commission
Land Use Commission
Commission on the Status of Women
Fire Commission
Public Access, Open Spaces Natural Resources Preservation Fund Committee
Planning Commission
Building Board of Appeals
Housing Agency
Police Commission
Liquor Commission
Board of Water Supply
Civil Service Commission
Real Property Assessment Appeals
Cost Control Commission
Salary Commission
State Department of Commerce and Consumer Affairs Bid
State Department of Health
Collective Bargaining

OFFICE OF THE COUNTY ATTORNEY

Hawaii Labor Relations Board
Workers' Compensation Appeals

III. Program Description

The county attorney is the legal advisor and representative to the Council, the Mayor, all departments and agencies, all boards and commissions, and all officers and employees in matters relating to their official powers and duties.

a. Objectives

1. Assess all claims filed against the County, efficiently process those which this office determines to be valid, and vigorously defend against all others.
2. Produce and review all documents generated for the purpose of facilitating the delivery of governmental services by the County of Kauai to its citizens.
3. To provide such continuing legal education to the Mayor, the County Council, Departments, Commissions, Boards, and Agencies, as shall keep them current on changes in the law which affect the efficient and fair discharge of the duties of the County to its citizens.

b. Program Highlights and Items of Note

1. The Office of the County Attorney continues to actively assist various departments with issues relating to endangered birds.
2. The Office of the County Attorney provided sexual harassment and discrimination training to all County employees.
3. The Office continues to assist the Planning Department and the County Council on transient accommodation units as it relates to the Charter Amendment.
4. The Office continues to assist the Department of Public Works in siting of a new landfill and establishing a new contractor for Puhi metals.
5. The Office assisted the Department of Parks and Recreation with various park rules including rules relating to use of parks and park facilities by peddlers and concessionaires.
6. The Office actively assists the various departments with their personnel issues, defending and/or representing various departments in personal injury, planning, personnel, foreclosure cases, and labor and employment matters.
7. The Office actively assisted the Department of Finance with the refunding of General Obligation Bonds and Community Facilities District Bonds. The

OFFICE OF THE COUNTY ATTORNEY

Office actively assists the Real Property Tax Division in promulgating new tax initiatives for the County.

c. Activities

1. The Office of the County Attorney will provide training to all County officers and employees on endangered birds.
2. The Office participated in the Mayor’s furlough force Friday community service activities.
3. The Office assisted with the Kaua’i Marathon aide station.
4. The Office participated in various parades with the Mayor’s Office.
5. The Office participated in the Employees’ Council activities.
6. Two Deputies attended the Complete Streets Workshop.
7. The Office attended the Adolescent Healing Center’s first community meeting.
8. The Office attended the Mayor’s Community Outreach meetings.

IV. Program Measures – Accomplishments/Evaluation

The Office of the County Attorney serves to provide legal support services to all other County departments and agencies.

V. Budget

Resources (General Fund)

<u>ExpenseType</u>	<u>FY 2011 Appropriation</u>	<u>FY 2011 Actual</u>
Equivalent Personnel (E/P)	16	15
Salaries and Wages	\$ 1,673,257	\$1,534,568
Operations	\$ 1,904,338	\$ 582,322
Equipment	\$ 0	\$ 0
Total	\$ 3,577,595	\$ 2,116,890

OFFICE OF THE COUNTY ATTORNEY

VI. Statistics

Document Preparation, Review and Approval Statistics

FY 2010-2011

Opinions

Number of opinions 229

Legal documents

(proclamations, ordinances, and resolutions) 127

Contracts

(materials, labor, supplies, equipment, consultant appraisal, services, and construction) 1,528

Conveyances

(dedication, warranty, quitclaim and correction deeds, easements, and miscellaneous agreements) 842

Miscellaneous documents

(revocable permits, waiver and indemnity agreements, permits, right-of-entry documents, releases, leases, concession agreements, charter of incorporation and by-laws, legislative bills, court pleadings) 4,525

Documents reviewed

4,846

Documents approved as to form and legality

1,601

OFFICE OF THE COUNTY ATTORNEY

Court Matters

	Pending <u>7/1/10</u>	Cases Filed 7/1/10- <u>6/30/11</u>	Closed	Pending <u>7/1/11</u>
<u>CASES FILED AGAINST COUNTY</u>				
U.S. Supreme Court	2	0	0	2
9th Circuit Court of Appeals	4	0	3	1
U.S. District Court	7	1	3	5
U.S. Bankruptcy Court	0	0	0	0
Hawaii Supreme Court	2	0	1	1
Intermediate Court of Appeals	1	2	1	2
Circuit Court, 1st - 3rd	10	1	2	9
Circuit Court - 5th	82	26	35	73
District Court	0	3	3	0
Department of Health, State of Hawaii	0	0	0	0
Land Court, State of Hawaii	1	0	0	1
Admin. Hearings, State of Hawaii	0	0	0	0
U.S. EPA	0	0	0	0
Tax Appeal Court	19	16	11	24

CASES FILED BY COUNTY

U.S. Supreme Court	0	0	0	0
9th Circuit Court of Appeals	0	0	0	0
U.S. District Court	0	0	0	0
U.S. Bankruptcy Court	0	0	0	0
Hawaii Supreme Court	0	0	0	0
Inter. Court of Appeals	0	0	0	0
Circuit Court, 1st - 3rd	0	0	0	0
Circuit Court - 5th	9	2	4	7
District Court	26	17	28	15
Tax Appeal Court	0	0	0	0

OFFICE OF THE COUNTY ATTORNEY

	Pending 7/1/09	Cases Filed 7/1/09 6/30/10	Closed	Pending 7/1/10
<u>CLAIMS AGAINST COUNTY</u>	18	18	10	26
<u>CLAIMS FILED BY COUNTY</u>	6	1	6	1
<u>WORKERS' COMPENSATION</u>	5	4	4	5
<u>GRIEVANCES</u>	2	0	2	0
<u>CIVIL SERVICE COMMISSION</u>	0	0	0	0
<u>HAWAI'I LABOR RELATIONS BD</u>	3	1	2	3
<u>EEOC</u>	2	1	2	1
<u>DLIR, EMPLOYMENT SECURITY APPEALS</u>	0	1	1	0
<u>MISCELLANEOUS</u>				
Land Use Commission & Public Utilities Commission	5	1	1	5

VII. Holo Holo 2020 Projects & Status

1. Assisted with the Hanalei Beach expansion. The project is completed.
2. Assisted with drafting the amendments to State and County rules and regulations to regulate activities in parks and is currently in the community meeting stage.
3. Assisted with the increase of native Hawaiian group stewardship programs/partnerships.

VIII. Office Staff as of June 30, 2011

Alfred B. Castillo, Jr.County Attorney
 Amy I. Esaki First Deputy
 Jennifer S. Winn..... Deputy
 Mona W. Clark..... Deputy
 Ian K. Jung Deputy
 Jodi Higuchi Deputy

OFFICE OF THE COUNTY ATTORNEY

Mauna Kea Trask Deputy
Marc E. Guyot..... Deputy
Justin F. Kollar..... Deputy
Andrea A. Suzuki..... Deputy
Pamela Y. Cox Law Office Manager
Barbara S. Montemayor Supervising Legal Clerk
Allison A. Hiranaka Legal Clerk IV
Owen L. Tango Legal Clerk III
Michelle I. Vierra..... Legal Clerk I