

# BUDGET AND FINANCE COMMITTEE

Council of the County of Maui

## MINUTES

April 10, 2013

Council Chamber, 8<sup>th</sup> Floor

**CONVENE:** 9:02 a.m.

**PRESENT:** Councilmember Mike White, Chair  
Councilmember G. Riki Hokama, Vice-Chair  
Councilmember Gladys C. Baisa, Member  
Councilmember Robert Carroll, Member  
Councilmember Elle Cochran, Member (In 9:27 a.m.)  
Councilmember Donald G. Couch, Jr., Member  
Councilmember Stacy Crivello, Member  
Councilmember Don S. Guzman, Member

**EXCUSED:** Councilmember Michael P. Victorino, Member

**STAFF:** Scott Kaneshina, Legislative Analyst  
Michele Yoshimura, Legislative Analyst  
Josiah Nishita, Legislative Analyst  
Camille Sakamoto, Committee Secretary  
Ella Alcon, Council Aide, Molokai Council Office (via telephone conference bridge)  
Denise Fernandez, Council Aide, Lanai Council Office (via telephone conference bridge)  
Dawn Lono, Council Aide, Hana Council Office (via telephone conference bridge)

**ADMIN.:** Sananda K. Baz, Budget Director, Office of the Mayor  
Jeffrey T. Ueoka, Deputy Corporation Counsel, Department of the Corporation Counsel  
John D. Kim, Prosecuting Attorney, Department of the Prosecuting Attorney

*Seated in the gallery:*

Kay Tesoro, Administrative Officer, Department of the Prosecuting Attorney

**PRESS:** *Akaku: Maui Community Television, Inc.*

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**ITEM BF-1: PROPOSED FISCAL YEAR 2014 BUDGET FOR THE COUNTY OF MAUI (CC 13-100)**

CHAIR WHITE: . . . *(gavel)*. . . Good morning, Members. This meeting of the Budget and Finance Committee will come to order. This morning I'd like to start by welcoming the Vice-Chair, Hokama.

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VICE-CHAIR HOKAMA: Chairman.

CHAIR WHITE: And Chair of the Council, Gladys Baisa.

COUNCILMEMBER BAISA: Good morning, Chair.

CHAIR WHITE: And Vice-Chair of the Council, Bob Carroll.

COUNCILMEMBER CARROLL: Good morning, Chair.

CHAIR WHITE: And Members Crivello --

COUNCILMEMBER CRIVELLO: Good morning, Chair.

CHAIR WHITE: --Couch --

COUNCILMEMBER COUCH: Good morning, Chair.

CHAIR WHITE: --and Guzman.

COUNCILMEMBER GUZMAN: Good morning.

CHAIR WHITE: And Mr. Victorino is excused this morning, and Elle Cochran will be joining us shortly. So with that I would tell everyone in the audience to turn off their cell phones but there's no one there.

COUNCILMEMBER COUCH: Nobody loves us.

CHAIR WHITE: Except for some support staff. So, Members, please turn off your cell phones. In addition to the Members this morning, we have Committee Secretary Camille Sakamoto and Analysts Scott Kaneshina, Michele Yoshimura, and Josiah Nishita. And from Corp. Counsel we have Jeffery Ueoka. Sandy Baz from our Budget Office, the Budget Director. And we're doing the Prosecuting Attorney's budget this morning, so we're joined by J.D. Kim. Welcome.

MR. KIM: Thank you. Good morning, Chair.

CHAIR WHITE: And, Members, we'll check in...we'll open public testimony and we'll check in with the District Offices to see if we have anyone there. And we'll start by checking with Dawn in Hana.

MS. LONO: Good morning, Chair. This is Dawn Lono at the Hana Office and I have no one waiting to testify.

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CHAIR WHITE: Thank you, Dawn. And we'll check with Denise on Lanai.

MS. FERNANDEZ: Good morning, Chair. This is Denise Fernandez at the Lanai Office and we have no one waiting to testify.

CHAIR WHITE: Okay. And Molokai, Ella.

MS. ALCON: Good morning, Chair. This is Ella Alcon on Molokai and we have no one here waiting to testify.

CHAIR WHITE: Thank you, ladies. And since there's no one here in the Chambers either, Members, without objection, we'll close public testimony.

COUNCIL MEMBERS: No objections.

CHAIR WHITE: Thank you. Thank you, ladies. See you tomorrow. Okay, Members, we'll just move right into it. Mr. Kim, would you like to provide us your presentation of the budget?

**DEPARTMENT OF THE PROSECUTING ATTORNEY**

MR. KIM: Thank you. Department of the Prosecuting Attorney's mission is to seek justice. Through leadership, the Prosecuting Attorney ensures that justice is done in a fair, effective, and efficient manner, and through a vertical prosecution model. This will further enhance a victim-centered approach in prosecution and assist the prosecuting attorneys in being efficient, effective, and responsible in all their cases. We have 32 attorneys.

COUNCILMEMBER BAISA: Thirty-two.

MR. KIM: Yeah, so actually 30, there's 2 in Administration, but my First Deputy does a lot of child sex assault cases and murder cases. I have taken on the responsibility to do the administrative work. We also have a Division in Victim Witness Counseling headed by Lena Lorenzo, and we also have an investigative unit of four investigators. And that's just a brief summary and outline of what we do. Other than that, we prosecute, are responsible for prosecution of all criminal and traffic laws or rules and regulations for the State of Hawaii and the County of Maui. We also service the agencies of the Department of Land and Natural Resources from the State, and the Department of Liquor Control Countywide. We also assist in education and domestic violence education in the community. Our jurisdiction lies in Maui, the island of Maui, Lanai, and Molokai. Also Kahoolawe. From our proposal this year, it's pretty much flat. You will notice that a lot of our positions we have lost through retirement, and so the reallocations of those positions have to go down because we're not able to...we have not been successful in recruiting at that upper level in, for legal clerks, and we start off at the bottom and train them as we go up. So there's opportunities for a lot of movement. And so our budget is pretty much flat. I believe total budget increases \$141.

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CHAIR WHITE: Okay. Members, questions? Or would you prefer moving on to the pages with a little more detail?

COUNCILMEMBER BAISA: Yes, yes.

CHAIR WHITE: Okay. Please proceed.

MR. KIM: Any questions?

MR. BAZ: We'll start off on Page 565. This is the Administration Program.

COUNCILMEMBER COUCH: Five what?

MR. BAZ: Five fifty-five, excuse me.

CHAIR WHITE: Yeah. I thought --

MR. BAZ: I can't read this morning.

CHAIR WHITE: --you said 65, too.

MR. BAZ: No, I did say 65. Sorry about that.

MR. KIM: I have different page numbers. Oh, okay.

COUNCILMEMBER COUCH: Mr. Chair?

CHAIR WHITE: Mr. Couch.

COUNCILMEMBER COUCH: Thank you. I'm assuming we did like...we're going to do like we did yesterday which includes goals.

CHAIR WHITE: Yes.

COUNCILMEMBER COUCH: Mr. Kim, on Page 556, your Goal 1, Objective No. 1, apply vertical prosecution method on all felony cases, and then the percent of number of cases charged to the total number of cases received at 77 percent. That's pretty high, congratulations, I guess.

MR. KIM: Thank you.

COUNCILMEMBER COUCH: So you do receive cases that you say this isn't worth it and dismiss them or...

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MR. KIM: We receive cases where there may have been constitutional violation in searches and seizures or withdrawal of prosecutions where, for instance, I just had a case this morning that I reviewed where a neighbor went into someone's house, the neighbor's house, slept there. A young teenager was drinking and decided to sleep it off before he went home and took a soda and some snacks, and that was counted as a burglary charge. The neighbor forgave him for that knowing that they were young, didn't want to ruin that reputation so they withdrew prosecution. Called her this morning, she said fine, I don't want to see them go through the criminal prosecution. So those types of cases we can't do anything about. We have other cases where just based on the case law, if I get arrested on a warrant and as I'm being searched they open my wallet or open my purse and methamphetamine or some kind of drug or a controlled substance is found, based on our Hawaii case law, those cases cannot be prosecuted. So we have to, yeah, it's called an inventory search which is not allowed in the State of Hawaii. Our Supreme Court has decided that what should be, happen is the purse or the wallet should be bagged, the perpetrator is supposed to look at it and say yeah all my money's there, and then when they're released they're given a closed bag; however, the Police Department does not want to be sued so they inventory everything to make sure that the personal property of a prisoner is then transferred and then is ready for pick up after they are released. And so when we find drugs in that manner those cases cannot be prosecuted, so.

COUNCILMEMBER COUCH: Wow.

MR. KIM: And we have several cases where victims cannot be found or they don't want to prosecute and so we go with their wishes. And oftentimes we will abide by their wishes. Sometimes we don't because if the perpetrator is a career criminal we will go after them, and for example our abuse cases. The partners don't want to make a statement after, you know, they've...not testified but have already made a report, we still go forward.

COUNCILMEMBER COUCH: Thank you. That still, that is a really nice, high number. Also, the percent of number of cases convicted to the total number of cases charged at 77 percent. How close are you in 2013 to obtaining that goal?

MR. KIM: I believe we're real...that is...we have that.

MR. BAZ: Mr. Chair, Member Couch, the second quarter report, the budget . . .(inaudible). . . report shows a 76 percent, so they're right, very close to that 77 percent.

COUNCILMEMBER COUCH: Right on. It's good staff. Three quarters of conviction rate, that's pretty good. And lastly, how are we doing on, you know, we've had some cases that we've heard in executive session but that also have been in the paper recently. How are we doing on training for...

MR. KIM: The County policies on...

COUNCILMEMBER COUCH: The policies and to avoid what we've had to recently go through.

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MR. KIM: We...all our new employees go through the orientation. Every employee on an annual basis will go over our County policies on harassment, discrimination, violence in the workplace action plan, the computer policy, and all our policies, our mandated policies.

COUNCILMEMBER COUCH: Okay. Thank you, Chair.

CHAIR WHITE: Ms. Baisa.

COUNCILMEMBER BAISA: Yes, thank you, Chair. This year I have a little different perspective, and I just wanted to ask you, you know, there's a lot of action going on at the Legislature with the Judiciary. Changes in laws and wording and, you know, what's going to be automatically a mandatory sentence or what is defined as felonies and whatever. How involved are you in that?

MR. KIM: We're very much involved because it affects our work product.

COUNCILMEMBER BAISA: What's the conduit for your participation?

MR. KIM: We send a deputy who has worked for the Legislature and has a lot of experience in doing that kind of work. We participate with the Hawaii Prosecuting Attorney's Association in line with the Law Enforcement Coalition. We propose legislation and we also testify. We keep close tabs on those bills that we believe will hurt us. For example, a House bill that proposed the decriminalization or making possession of marijuana a violation. We couldn't see that, especially the proposed legislation when it initially came out did not apply to minors. And so we had to point that out and that we cannot support any type of legislation in that fact. And so we've proposed three different pieces as an office, and right now we believe they're going to be passed.

COUNCILMEMBER BAISA: Thank you very much. I just wanted to maybe think about next session. You know we have a lobbying team that's been going to Honolulu on a regular basis. Unfortunately, we're not aware of the bills that you guys are pushing. The reason why I know some of them 'cause I'm involved in the Community Alliance on Prisons, and of course reintegration and justice reinvestment are things that I personally care very much about. But, you know, we could offer you guys support also, so maybe for next year we need to touch base little bit more and try to take, include some of that in our lobbying package. Because, you know, together we're much more powerful. Thank you.

MR. KIM: I appreciate that. Thank you.

COUNCILMEMBER BAISA: Thank you.

CHAIR WHITE: Mr. Guzman, did you have your hand up?

COUNCILMEMBER GUZMAN: Yes.

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CHAIR WHITE: Okay. So Mr. Guzman --

COUNCILMEMBER GUZMAN: Thank you.

CHAIR WHITE: --followed by --

COUNCILMEMBER GUZMAN: Thank you, Chair.

CHAIR WHITE: --Mr. Hokama.

COUNCILMEMBER GUZMAN: Good morning, Mr. Kim.

MR. KIM: Good morning.

COUNCILMEMBER GUZMAN: First of all I just wanted to commend your office for doing such a good job, and I know the dedication and sacrifices that your deputies endure during the years and the workload that they have to complete every week and day in, day out. And the staff is very supportive, you come from a very good Department.

MR. KIM: Thank you.

COUNCILMEMBER GUZMAN: Well my first question is I know that the District Court system has now implemented their electronic filing system, and so how is that affecting your staff as well as are you becoming more efficient? Is it causing more work, overtime? And how does that relate to your flat line budget?

MR. KIM: Well it has caused some concern and it has increased our overtime budget which we basically have none at this point, but we're trying to make that up. And that's just to be able to keep up with the work. Once we get...learn the system better, once they work all the, the judiciary works their glitches out, we'll be more efficient. And it's a learning curve for the older clerks who's been there. They're not old but they just worked there a long time.

COUNCILMEMBER GUZMAN: Right, right, right.

MR. KIM: They're used to paper filing, and so with the scanning it should become easier. And the newly hired clerks that we've had who hadn't had to do the paper filing, this is, you know, for them it seems second nature. So it's intuitive yet there are certain things that we can do manually that we cannot do electronically, and so we're trying to work that out.

COUNCILMEMBER GUZMAN: So basically in terms of the overtime that you've had to, I guess your shoulder, your Department has to shoulder, has that been a period of six months time that you've been having to do overtime? And when is that...I guess that's . . .(inaudible). . . but if you can answer that question in terms of what, how long has it been from the time that the District Court

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has implemented their electronic system to the time that you're fairly comfortable of not taking overtime.

MR. KIM: Well I believe it should be almost a year. The, what happened was the contract for the Judiciary was running out and they pushed this system on us in June.

COUNCILMEMBER GUZMAN: Right.

MR. KIM: They had to extend it because there was, they just couldn't go live. What we found out is they couldn't handle the volume from First Circuit which is Honolulu. We have maybe 20 to 30 filings in a day, they have 100, and so they have the five times as much as we do. So their system was overloaded. We found out that our computers were not able to communicate properly so we had to fix those glitches. Once that was fixed we had issues with manpower, people retiring from our Division, and so there was a shuffle and a shift. We had a lot of work put on us in 2005 in the District Court level when the courts ruled that, they promulgated a rule that every complaint that we file has to be in writing. In the days when I practiced --

COUNCILMEMBER GUZMAN: Right.

MR. KIM: --in District Court, we could orally arraign a person, that's no longer true. So every defendant who comes into court charged with a traffic crime or misdemeanor crime has to be served with a paper. And so it seems like it would be counterintuitive that it would be efficient to file these electronically; however, we still have to serve every defendant with a piece of paper. And so our clerks have been doing a great job trying to keep up and doing that. So I see maybe another year. Maybe by the end of this fiscal year we should be able to get it in line.

COUNCILMEMBER GUZMAN: So basically another year of overtime?

MR. KIM: Well...

COUNCILMEMBER GUZMAN: Would it be more sensible to put in your budget --

MR. KIM: Yeah, in August we actually went...

COUNCILMEMBER GUZMAN: --an extra...

MR. KIM: I'm sorry. In August we went live and so I believe maybe by next August we should be able to cut down on that overtime, that the system would be ready to go.

COUNCILMEMBER GUZMAN: Okay.

MR. KIM: I mean, I'm sorry.

COUNCILMEMBER GUZMAN: Yeah.



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MR. KIM: Yeah.

COUNCILMEMBER GUZMAN: So thank you. I guess my other follow-up question to that would be, when that happens we now are going to be facing the Circuit Court level transition into electronic filing. So, you know, what are you doing in terms of your Department anticipating that transition? Are we going to go into another cycle of overtime, you know? I'm just laying it out there. So maybe it might be, makes more sense to just put in your budget an extra clerk.

MR. KIM: That would be helpful. We would need an extra, two extra clerks in District Court and an extra clerk in Circuit Court. We have been filing in District Court through our Screening Division as well as our District Court Division. The extra filings...actually we're doing electronic filing now with all information charges, I believe, so we're slowly transitioning and there's spillover from working in District Court and doing that kind of filing, the electronic filing. So I don't believe the learning curve will be that great when we go to Circuit, and we haven't heard any news from the Judiciary whether or not they're going to start. We initially started electronic filing with all our appeals, they worked on that first and then they went to District, and the Circuit Court is the last one to follow.

COUNCILMEMBER GUZMAN: Okay. I have more questions, Chair, but I'll let other Members ask theirs.

CHAIR WHITE: Okay, thank you. Mr. Hokama.

VICE-CHAIR HOKAMA: Chair, thank you. I just have a couple simple ones. On Page 16-10, Mr. Kim, you show a position and your, the explanation is correction of title, no change in salary amount, and this is for the Legal Clerk IV, PA-0055. What was the actual change? I mean it looks the same to me so I may be missing it.

MR. KIM: I would have to get back to you. I don't recall what this is.

MR. BAZ: Mr. Chair, Member Hokama, it looks like just the SR level in the budget description. While it was described as a SR-16A it looked like it was budgeted as an SR-16D, and so that's why there's no change in dollar amount 'cause it was budgeted correctly. But there's probably just a change in the description, but we can verify that.

VICE-CHAIR HOKAMA: Okay, thank you. My other question I wanted to ask you, Mr. Kim, is do you know where your resources are going as far as types of prosecutorial [*sic*] cases? And for me maybe you can help me in seeking how we're viewing the appropriation for Police and whether or not it aligns with what's going on with your Department. So you're in, you know, pretty much everything, right? District Court, Circuit Court, and Family Court. What areas do you see that is growing in the type of cases and how would that...you know 'cause that might affect how I look at the Police request also.

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MR. KIM: Okay. Currently right now, 60...that's wrong, 75 percent of our cases deal with drug and property crimes. Those are the cases I prescreen and...

VICE-CHAIR HOKAMA: Seventy-five percent?

MR. KIM: About, yeah. And then there's another 25 percent that's crimes of violence. I believe...that's a ballpark figure that I'm throwing out to you --

VICE-CHAIR HOKAMA: Okay.

MR. KIM: --because what I see, the bulk of the cases coming on a monthly basis is property crimes and drug crimes. We receive a lot, and I guess as the economy gets better maybe it'll get better. But violent crimes, they take up a lot of our time because of the victim witness counseling and victim-centered prosecution that we go through. Drug crimes, normally it's just police officers doing their bit, and so they don't need a lot of preparation. Property crimes, that has increased, and again, a lot of it is...I wouldn't say a lot, there's white-collar crimes where checks are forged or employees are taking advantage of the till. And so that's not a lot of prep, it's pretty much cut and dry.

VICE-CHAIR HOKAMA: Okay. Do you think a lot of the violent crimes is continuation of situations gone wrong in the drug and property crime area?

MR. KIM: I don't think it's...

VICE-CHAIR HOKAMA: There's no correlation?

MR. KIM: No, not really. It's just guys getting mad at each other or being, trying to be macho and outdoing each other, or sometimes we can, we want to say it's attributable to maybe a hate crime but racial slurs are not uttered, they just beat each other up. And it's just rivalries, mostly it's the young. We have some, unfortunately most recently domestic violence, and so we try and focus in on those types of education programs.

VICE-CHAIR HOKAMA: Okay. I'm good at this point, Chair. Thank you.

CHAIR WHITE: Okay. Members, other questions? Ms. Crivello.

COUNCILMEMBER CRIVELLO: Are you able to...thank you, Chair. Good morning.

MR. KIM: Good morning.

COUNCILMEMBER CRIVELLO: Are you able to give some percentage with the domestic violence cases that you have?

MR. KIM: I don't have that right offhand but I can get that to you.

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COUNCILMEMBER CRIVELLO: Okay, thank you.

MR. KIM: You want domestic violence as a percentage of our overall cases?

COUNCILMEMBER CRIVELLO: Yes, right.

MR. KIM: Okay.

COUNCILMEMBER CRIVELLO: Thank you.

CHAIR WHITE: And would you like us also to request information on trends so we can get a couple years of that information?

COUNCILMEMBER CRIVELLO: That would be good. Thank you.

CHAIR WHITE: Okay. Thank you. Ms. Baisa.

COUNCILMEMBER BAISA: Yeah. I'll probably...I'll try to...I don't expect a long answer because I know we're trying to get through the budget. But, you know, this is really interesting having this discussion about domestic abuse. You know what we've been seeing lately is really horrible, and to me the idea that a person could just show up on somebody's step and shoot them in cold blood, I mean it's just so horrible. But yet as, you know, as the public when we watch, we kind of really I guess don't understand the legal implications of this, because we know and we hear that these people have records, they're well known, they, you know, they've threatened people before, they've broken their TROs and whatever. Is there any effort to try to change that law so that you don't have to wait until you kill somebody before somebody steps in? Or when there's eminent danger, you cannot do nothing? We still have to wait until they do something?

MR. KIM: Yes.

COUNCILMEMBER BAISA: That's the frustration with the whole system. You know a woman goes with her heart in her hand to get a TRO against some guy and then really feels powerless to do anything with that paper until he actually shows up on her step with a gun or whatever, and it's really frustrating. I don't know, J.D., if the public understands your limitations.

MR. KIM: It's we actually come after the fact and try to clean up what was done. It's the police that have the very tough duty in trying to prevent this type of situations. You can recall in Kailua or was it Kaneohe where the guy shows up and she's driving a car, he chases her down and shoots her in the car. And so, you know, emotions run high, we...it's just what can you do to change this perception or, you know, if I can't have you, no one else will. We try our best to educate, especially the young in school with our violence program, violence in the work, school program.

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COUNCILMEMBER BAISA: I think that's probably one of the best things we can do is we cannot tolerate violence and we can't laugh at it, it's not something funny. You know when somebody threatens somebody we need to take it seriously and we have to say this is unacceptable behavior, and that might someday down the road change things. But it is really scary to know that, you know, if you're around people and you watch their behavior, you're afraid already, but legally nobody can step in and doing anything. And I don't know how we could ever do something else because we live in a country of rights, but it's a scary thing that we have to wait until somebody's dead before oh my God, now we can do something. Yeah.

MR. KIM: Yes, ma'am.

COUNCILMEMBER BAISA: We understand your frustration. It must be a very, very difficult position to be in. Thank you.

MR. KIM: Thank you.

CHAIR WHITE: Members, other questions? Mr. Guzman.

COUNCILMEMBER GUZMAN: Thank you, Chair. Mr. Kim, you noted earlier that you have about 31 or including Robert, excuse me, your First Deputy, line deputies. Can you give me the breakdown in terms of how many you have, what's the ratio per section? I'm just trying to get a good idea of the manpower that you have on the line.

MR. KIM: Starting with our intake, Screening Division has two attorneys and they handle the daily cases that come up in custody. They farm out or actually they do a triage and look at what types of cases. We have a property crime team, a drug unit, as well as a domestic violence unit, and then they in turn...

COUNCILMEMBER GUZMAN: How many do you have in your property \_\_\_\_\_?

MR. KIM: In the property we have four.

COUNCILMEMBER GUZMAN: Four.

MR. KIM: In the drug unit we have four. The domestic violence units we have three. The sex assault unit, violence sex assault...violent crimes unit we have two, and appeals we have four, I believe. I'm sorry, drug unit we have five including the deputy assigned to the Maui Drug Court program.

COUNCILMEMBER GUZMAN: And then this is inclusive of your staff as well? Or no, are these just attorneys?

MR. KIM: Attorneys.

COUNCILMEMBER GUZMAN: Okay. What about District Court?

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MR. KIM: District Court, currently we have I believe four.

COUNCILMEMBER GUZMAN: Four, okay.

MR. KIM: Oh, five. I'm sorry.

COUNCILMEMBER GUZMAN: Oh, five. Okay. And juvenile section?

MR. KIM: One.

COUNCILMEMBER GUZMAN: One, okay. Well --

MR. KIM: Does that come out?

COUNCILMEMBER GUZMAN: --it looks like over a period of time it's never changed but the workload has increased. How are you guys being able to handle that?

MR. KIM: They're on salary so they have to work. They've worked tirelessly. We have not approached Administration for an increase in the past I think two or three Administrations. We do have grant...

COUNCILMEMBER GUZMAN: Yeah, it's like ten years, yeah.

MR. KIM: Yeah. We have grant positions and they come and go, and we've been able to keep up with our grants through our office administrator. And so hopefully come next fiscal year we will ask for an increase, but our current situation is a flat budget throughout. And so there is a need, being in the administration position for the last two years I see there is a need in trying to shuffle people around, try to get things covered.

COUNCILMEMBER GUZMAN: So on...in regards to the amount of attorneys you have per section, does...and the workload because of the minimal amount of attorneys per sections like DV units is, that's heavy duty and so is the juvenile section, they've got a lot of casework there. Is that affecting any, a large amount of turnover over a period of time because of the workload versus the amount of attorneys that you need in that, in those certain divisions?

MR. KIM: There hasn't been turnovers. What we've done is reassign people so that they get a fresh, a different perspective of where they fit in into to the prosecuting unit, as well as giving them a chance and opportunity to do different types of cases. And so the, just the workload has increased. What I'm faced with now is to try to move the people who have been in District Court for a number of years to get them the jury trial experience to move them out of that division --

COUNCILMEMBER GUZMAN: Right.

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MR. KIM: --and move people back in. So we're going to have to rotate unless we get more positions.

COUNCILMEMBER GUZMAN: So and you mentioned salary earlier, and I noticed in the budget you have it as, at least in the detailed budget it's \$104,772 allocated or distinguished for each attorney. I know under the statute it's by years of admitted to the practice of law, your license, the year that you became an attorney, and then I mean you could sit out for ten years and then come back and go apply to the Prosecutor's Office and be paid at a ten-year salary rate. What do you do with...I know that not all the line deputies are being paid \$104,000. What do you do with the extra amount of monies that are...

MR. KIM: We use that to pay the overtime to our Legal Clerks.

COUNCILMEMBER GUZMAN: Oh, okay. The overtime. Overtime. Okay.

MR. KIM: And so and we also have the discretion at that level, say a deputy comes in with ten years past the Bar, we have a discretion of going down 25 percent...24 percent or 18 percent above that, but we don't go up, we usually go down.

COUNCILMEMBER GUZMAN: Very good. And then I have more questions but if the other Council members...

CHAIR WHITE: Go for it.

COUNCILMEMBER GUZMAN: Okay. Maybe we should just go out to lunch, J.D. . . .*(inaudible)* . . .

CHAIR WHITE: Yeah, but that wouldn't allow us to hear the answers.

COUNCILMEMBER GUZMAN: Oh, okay. Okay.

CHAIR WHITE: I'm sorry.

COUNCILMEMBER GUZMAN: My next question would be...

CHAIR WHITE: Actually, before you proceed let me recognize that Elle Cochran has joined us.

COUNCILMEMBER COCHRAN: Oh, thank you, Chair --

CHAIR WHITE: Good morning.

COUNCILMEMBER COCHRAN: --for the recognition. Aloha.

MR. BAZ: And, Member Guzman, your question about overtime for, just for the General Prosecution program, year-to-date expenditures is close to \$36,000. Last year...I can get that, hold on.

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COUNCILMEMBER GUZMAN: And that's going to be contributed to the electronic filing process, right? Or is that because we're increasing in the number of criminal crimes that are being processed through the system?

MR. KIM: That can be attributed to both the electronic filing as well as the preparation of the case files with the written complaints for each and every defendant, and just trying to keep up with our daily activities.

COUNCILMEMBER GUZMAN: Yeah.

MR. BAZ: Fiscal Year '12's Premium Pay for the General Prosecution program was 6,500, Fiscal Year '11 was 3,500, Fiscal Year '10 was 1,000, Fiscal Year '09 was 1,384, so it fluctuates as you can see. But definitely I think that his expression of their need. They have some savings in other areas that they've been able to cover this with.

COUNCILMEMBER GUZMAN: Well that makes sense to me because of the fact that crime tends to increase during the low economic time periods, and then that combined with the electronic filing, there would be a fluctuation like that. But that, yeah, that does make sense to me. On the, I guess my next question would be the Victim Witness program. I know they're doing wonderful work within the Department and relating to the general public victims in their ability to recoup some of those property crime monies. How is that program going?

MR. KIM: We just hired two new Victim Witness Counselors to the Justice Reinvestment Initiative that was promulgated by the Governor. It's under his budget.

COUNCILMEMBER GUZMAN: Right.

MR. KIM: We see that those two positions as tracking and working with the Judiciary's Probation Department. When defendants are put on probation and ordered to pay restitution, they will assist from the victim side to ask whether or not those monies are being paid, informing the Judiciary whether or not the defendants are keeping up with their payments, and how to file their free-standing order of restitution so that it becomes a civil judgment. It will follow a defendant for at least ten years, and how to re-file those things after ten years, so.

COUNCILMEMBER GUZMAN: Just for the general public to know that this, Mr. Kim's explanation is basically will allow the public to have a security in recouping their property damage monies through the civil side of it, and the two new Victim Witness Counselors are to assist in that process.

MR. KIM: That's correct.

COUNCILMEMBER GUZMAN: Right. And that was incorporated when?

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MR. KIM: That just started this past fiscal year.

COUNCILMEMBER GUZMAN: Have you seen a number of increase in terms of the victims being able to be accommodated?

MR. KIM: We just started the program and I think it's been maybe less than a month, so we haven't seen any progress. But we have seen on the victim side is in Drug Court, when I was a deputy in handling those cases. The Second Circuit Administrative Judge Shackley Raffetto made sure that as part of their justice reinvestment...not reinvestment but just their Restorative Justice Program, before a graduate was allowed to graduate from Drug Court that the restitution was paid. And so that was...this is sort of like an offshoot of that. He made sure as the judge to, that the, you know, before you get out of this program, in order to make yourself whole and feel good about yourself and as well as the victims that you pay them back. And so most of the times it was property crimes...it was always property crimes. They don't allow in Drug Court violent crimes to be part of that program.

COUNCILMEMBER GUZMAN: So on the two new positions that were incorporated through the grant, are those listed in the budget or...

MR. KIM: Yes, they should be.

COUNCILMEMBER GUZMAN: Okay. And then were there any additional funds that you receive aside from the...was it earmarked specifically for new hires or was it a lump sum that you could use for that type of victim witness...

MR. BAZ: Mr. Chair, Member Guzman and Members, starting on Page 561 is the grant revenue funds.

COUNCILMEMBER GUZMAN: Oh sorry.

MR. BAZ: And 562 lists, they list the total of 12 E/Ps funded by grant revenue, and a total proposed grant revenue of \$1.4 million, nearly \$1.4 million. Each grant is then described on Pages 563 and 564.

COUNCILMEMBER GUZMAN: Oh yeah.

VICE-CHAIR HOKAMA: Chair?

COUNCILMEMBER GUZMAN: Chair? Chair? I have more questions but I'd like to allow other Members to...

CHAIR WHITE: Mr. Hokama.

VICE-CHAIR HOKAMA: You're confident you're going to get all your grant requests that's been proposed to us, Mr. Kim?



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MR. KIM: Yes.

VICE-CHAIR HOKAMA: Okay. And I know, you know, it's throughout the budget, but do you ever get less than what you're telling us you've applied for?

MR. KIM: No, except maybe this year I understand that our Career Criminal Prosecution budget might be slashed. That's been ongoing since they've mandated that we have a career criminal program. Initially we had three positions...four positions, excuse me, and now we're down to one, and which we still have to supplement. And I understand that the Attorney General had put in monies under his budget to continue this Career Criminal program that's mandated by law; however, we just got notice last week that the Senate committee who was listening to it slashed it by half. So from 1.5 million it went down to...1.7 million it went down 850,000. We...

VICE-CHAIR HOKAMA: This is at the State level?

MR. KIM: That's at the State level. So we're...went and...contacting our Senators to make sure that they try to put that back in.

VICE-CHAIR HOKAMA: Is the sequester hurting any of your other justice grant requests?

MR. KIM: No, not at this time. We haven't had that trickle-down effect yet.

VICE-CHAIR HOKAMA: Yeah, well my understanding it's coming, you know, it should be hitting us, you know, now and the next few months, so.

MR. KIM: Yeah, we'll probably see it in the Federal traffic programs and that type of training that they used to sponsor.

VICE-CHAIR HOKAMA: Just one question regarding the Highway Safety Grant program which is a new grant that you're anticipating for the upcoming year, Mr. Kim. Is there a way to include cell phones?

MR. KIM: I'm sorry?

VICE-CHAIR HOKAMA: Is there a way to add cell phones in this program of Highway Safety since it says specifically, prosecuting of intoxicated drivers. Can you be intoxicated with your cell phone?

MR. KIM: We have an ordinance regarding use of electronic devices while you're driving.

VICE-CHAIR HOKAMA: That's right. Right.

MR. KIM: And...

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VICE-CHAIR HOKAMA: So I'm just wondering if that can be folded in or allowed within the parameters of your grant request.

MR. KIM: We would have to explore whether or not...there might be a separate grant on distracted drivers and not intoxicated drivers, and so we could explore that and approach the Highways to see whether or not there'll be funds available to make sure that...

VICE-CHAIR HOKAMA: Because when I look at the, just the program title, it's pretty wide.

MR. KIM: Right, that's correct.

VICE-CHAIR HOKAMA: So, you know, again, just this morning, you know, I saw another adult dropping off a child at Iao School with the cell phone. I'm going like this is pretty interesting, you're driving youth and you're on the phone and you're taking them to school.

MR. KIM: Yeah, it's always too late when you appreciate what you're doing is, you know, oh this is manini but however when you get into trouble and then you want to blame somebody else but.

VICE-CHAIR HOKAMA: I always get touchy because the minor has, you know, is depending upon the adult to exercise good decision --

MR. KIM: That's correct.

VICE-CHAIR HOKAMA: --in that kind of situation. So, you know, usually it's the youth that gets the injury or the fatality. So that's my concern. But, you know, if possible, that would be great, and if you can get another grant that would be better, too. So thank you.

MR. KIM: Thank you.

CHAIR WHITE: Mr. Couch.

COUNCILMEMBER COUCH: Thank you, Mr. Chair. As long as we've moved over kind of to that area. I noticed that...I guess this is for Mr. Baz, that they had, on Page 561 they had Wages and Salaries actually went down by 79,000 but Fringes went up. Is that because of all the Grant Revenue or?

MR. BAZ: I'm sorry, what page was that on?

COUNCILMEMBER COUCH: Five sixty-one.

MR. BAZ: Five sixty-one is just Grant Revenue, and the, like I mentioned before, the Fringes, we've never shown in detail before, we're showing that now for you, for your perspective.

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COUNCILMEMBER COUCH: Because of the Grant Revenue?

MR. BAZ: Because it's Grant Revenue.

COUNCILMEMBER COUCH: Not because the Salaries went down?

MR. BAZ: No.

COUNCILMEMBER COUCH: Okay.

CHAIR WHITE: And just to be clear, it's not that we weren't charging the Fringe to the Grant monies before, right?

MR. BAZ: That's correct.

CHAIR WHITE: You're just now showing it.

MR. BAZ: We just weren't showing it.

CHAIR WHITE: Yeah. Was that it, Mr. Couch?

COUNCILMEMBER COUCH: Yeah, that's it. Thanks.

CHAIR WHITE: Ms. Cochran.

COUNCILMEMBER COCHRAN: Thank you, Chair. Excuse my tardiness this morning. Glad to be here. Mr. Kim, you mentioned that you see a slash in the Career Criminal Prosecution, and I'm reading that this is a Stated-mandated program? So yet we need to do the program but they're not, they're slashing the funding for us to carry out the program that they're mandating us to do?

MR. KIM: Yes, ma'am. That has been historical with respect to the Career Criminal program. When I first started in the Prosecutor's Office in 1985, I believe there were four positions funded by what we call the Career Criminal Unit, and they take the repeat offenders and prosecute them. And normally we don't back down on those types of individuals. Right now we're carrying three positions as career criminal prosecutors and we have one that's funded. And we also...it's underfunded, we have to supplement that.

COUNCILMEMBER COCHRAN: Right. Okay. And then jumping down to another grant in Sexual Assault Prosecution program, it looks like also you're anticipating a slash there. And I'm trying to find in the definition sort of section, Mr. Baz or whoever, that I don't see exactly what this program is about and the details on it. Everything else is listed except for this one, so I was just wondering exactly what does this program entail and how are we going to, is this another mandated type thing and are we now...

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MR. KIM: No, this was a grant we applied for to get, to beef up our Sex Assault Unit team, and basically it's for our Child Sex Assault Unit team. And to get, bring in an experienced prosecutor so that we don't have to go through all that training or that learning curve. So we did that and as a result she has been able to train younger deputies in that position.

MR. BAZ: And also, Member Cochran, the reason why there's no description in, on Page 563 or 564 is because we're not expecting to receive money, the Department's not expecting to receive money in Fiscal Year '14 for that grant.

MR. KIM: That's correct, that grant is going to be terminated. So we've achieved that purpose for that grant.

COUNCILMEMBER COCHRAN: Oh, okay. Right. But the Career Criminal program is...and we're not expecting funding either. So anyways, just...

MR. KIM: Well no, that, there is still hope that it can turn around, and --

COUNCILMEMBER COCHRAN: Okay.

MR. KIM: --they will restore the amount that they slashed.

COUNCILMEMBER COCHRAN: Very good.

MR. KIM: Yeah.

COUNCILMEMBER COCHRAN: I'm glad we have hope.

MR. BAZ: We received ARRA funded career criminal monies last year.

COUNCILMEMBER COCHRAN: Oh, okay.

MR. BAZ: That's not there, but yeah.

COUNCILMEMBER COCHRAN: Okay. Thank...

MR. BAZ: The regular . . . *(inaudible)* . . . Thank you.

COUNCILMEMBER COCHRAN: Great. Thank you for clarification. And just one follow-up?

CHAIR WHITE: Sure.

COUNCILMEMBER COCHRAN: Because I was late I believe you folks had already gone through Page 552, Department Summary, and external factors description. Department also faces inadequate space for its employees and requiring additional leasing of office space and

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exorbitant rental costs. So I'm just wanting to see how are we addressing that. And, Mr. Kim, I appreciate the time and efforts. Your staff had given me the tour of I think the Ueoka building or...

MR. KIM: The former Ueoka building.

COUNCILMEMBER COCHRAN: Right, the former Ueoka Building area, and I think you folks did an awesome job. And it really helped make it a much more comfortable place for especially the adolescent children that have to go through the, this versus the vault at the court house.

MR. KIM: Thank you.

COUNCILMEMBER COCHRAN: But so anyways, just to address that particular sentence.

MR. KIM: We believe the Administration is trying to acquire that piece of property so we don't have to pay rent, and there's also a bottom floor to that. So we...our plans was to turn that into like a one-stop shop where we understand the Child Justice Center, their lease might be up, and so if we could move them in there along with investigators from the Police Department, we would have a unit like no other in the State. And the child wouldn't have to be shuttled back and forth, and that's one of our, on a wish list to acquire that piece of property.

COUNCILMEMBER COCHRAN: Okay. Thank you, Mr. Kim. So I guess for Mr. Baz, is this coming through anywhere this year?

MR. BAZ: Mr. Chair and Member Cochran, as far as I know, no. I know the Administration approached the landowner. The building is condominiumized. There's two floors and there's two condominium, basically two condominium units for that. The...I know that they couldn't come up to an agreement on a price that was reasonable when they first discussed it. I don't know if there's been subsequent conversations or not.

COUNCILMEMBER COCHRAN: Okay. Thank you for the update, Mr. Baz. Thank you, Chair.

CHAIR WHITE: Members, other questions? Well if there are no further questions...

COUNCILMEMBER GUZMAN: Thank you, Chair.

CHAIR WHITE: Yeah.

COUNCILMEMBER GUZMAN: Yeah, I was going to ask Mr. Kim some questions in regards to the goals and objectives. One of the goals here it says to expedite charging decisions. In relating to the measurement of success, how is the vertical prosecution method working in terms of taking one deputy, screening the case, and taking it all the way through to trial and then conviction? How is that process working in comparison to previous years' methods?

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MR. KIM: Well the comments we get from our deputies is that it works for them because they have to do less prep time. They've already prepared the case by, from the beginning, and so as maybe new information comes in, it's easy to digest and put it in a place where they know that they can use it at trial. So that's helped a lot. We've getting, we've been getting pushback from the Judiciary because the cases are assigned as they come in, so for example, if I'm in Court Room No. 1 and I have a defendant, and then I also get that case, another case for that defendant to be screened. If I file a case or indict that person --

COUNCILMEMBER GUZMAN: Right.

MR. KIM: --the Judiciary's assignment system is you cannot ask or request for Court Room 1, it just goes where it goes, and so you may have to be in two different court rooms for the same defendant. I don't see that as a problem, some of the judges do, but, you know, they're assigned the same defense attorney or may not be. So the defendant has to move, so does the prosecutor, and so in my mind it's more efficient. And the deputies have to do less prep work because they already know the case.

COUNCILMEMBER GUZMAN: Yeah. The only reason why I asked that question is because it's kind of difficult to measure, you know, the screening percentage versus the amount of cases charged, and making that measurement, kind of like if you're doing it vertically it's hard to subcategorize that and measure that, that portion of it. So the only thing that I'm thinking in my mind in terms of how it measures is the efficiency, is it causing more work on the deputy, the line deputy as opposed to previous years when they were just assigned a certain section and not having to do the screening process. Is it putting more work on that line deputy, and is it making it less efficient to prosecute the case?

MR. KIM: It's not putting any more work on that deputy other than that they have to now screen the case, because once you screen it you know the case inside out.

COUNCILMEMBER GUZMAN: Yeah.

MR. KIM: What happens on the efficiency side is if this defendant has other cases, what normally happens is we package all the cases together so that they're not faced with separate charges on down the line and we're called unjust. Because we may prosecute them at the beginning of the year and say oh, we got another case and then we file another case in March. They cop to those cases and we find another case, says oh, here we go again, we get another case in June. So what we try to do is let the defendant know through his attorney we got all these cases, do you want to package them or are you going to let us, do you want to force us to do it piecemeal. By and large, everyone wants to get it all done and out. For judicial economy's sake we try to package all those cases together.

COUNCILMEMBER GUZMAN: So in your opinion, the vertical prosecution method is more efficient and actually saves more money for the Department?

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MR. KIM: I believe so.

COUNCILMEMBER GUZMAN: Okay. Thank you.

CHAIR WHITE: Members, other questions? I just have a couple. On Page 16-...I've lost it, 16-8 of the details. As I'm looking at the list of vacancies we show a Victim/Witness Counselor II, Position No. 0031, and it's not shown on the detail list, so is that being eliminated? There's no request to fill the job on the vacancy list.

MR. KIM: That position will be reallocated to a Victim/Witness Counselor I. Currently, that position, that counselor left for Texas and is still on vacation, and I believe at the end of the month then we can send in the paperwork to request to fill.

MR. BAZ: Mr. Chair, that was PA-0031?

CHAIR WHITE: Correct.

MR. BAZ: That's on Page 16-18, grant funded.

CHAIR WHITE: Oh, the grants. Okay.

MR. BAZ: Yeah.

CHAIR WHITE: Okay. And the other position is 0079, the same question. There's no request to fill --

MR. KIM: Currently...

CHAIR WHITE: --but it looks like it's being re-described to a Legal Clerk I.

MR. KIM: Zero zero seven nine, one moment please. That's on Page 16-11?

CHAIR WHITE: Sixteen eleven, yes.

MR. KIM: That's correct. Right now currently we have been using that position as a temporary assignment for a clerk who has been, who was injured on the job and is being rehabilitated and to do as light duty as possible. And so that position is being re-described to a lower level so that we can recruit and get more candidates. But once the current employee rehabilitates and gets to full function, we'll be able to fill that position.

CHAIR WHITE: Okay. And the other question is you mentioned that the State funding for the Career Criminal program is likely or at this point is cut by about 50 percent. So do you anticipate that if that goes through that our allocation of 146,000 will be cut in, by about half?

MR. KIM: That's what I believe.

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CHAIR WHITE: Okay. But I note that you've done very well because overall your increases in grant revenues is up about 150,000, so even with a cut in that particular one, we'll still be ahead of last year.

MR. KIM: That's correct.

CHAIR WHITE: Okay. Members, any other questions for the Prosecutor? Mr. Hokama.

VICE-CHAIR HOKAMA: If you don't mind, Chair. I was just going to ask him about the two potential CIP projects that affects his primary place of work.

CHAIR WHITE: Thank you for bringing that up.

VICE-CHAIR HOKAMA: If I may, Chair? Any comment from you regarding the air chiller, AC chiller replacement for your building, Mr. Kim?

MR. KIM: No comments other than hopefully it'll get done on a timely basis.

VICE-CHAIR HOKAMA: So the current thing is not working at all?

MR. KIM: It works most of the time, depends on the outside temperature, when it fluctuates, and, yeah, I know if it's cold outside it'll be hot inside. Oftentimes when it's hot outside it's real cold inside, and sometimes it just kicks off for whatever reason. I guess because of age.

VICE-CHAIR HOKAMA: Okay.

MR. KIM: And the second project hopefully is still fix the roof.

VICE-CHAIR HOKAMA: Your roof?

MR. KIM: Yes. We've had to move some of the people around so that if it rains it doesn't rain on their computer, and we've put up the blue tarp inside the building to prevent --

VICE-CHAIR HOKAMA: Right.

MR. KIM: --people from getting soaked. But that's been an ongoing problem since the last Administration, and I guess it's coming, finally being able to work its way through the cycle to get the new roof.

VICE-CHAIR HOKAMA: Okay, okay. That's not too good work environment, but thank you very much. Thank you, Chairman.



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CHAIR WHITE: Members, any further questions? Seeing none, I want to thank you very much, Mr. Kim.

MR. KIM: Thank you.

CHAIR WHITE: Unless there's something else you'd like to share with us?

MR. KIM: No, not at this time. Thank you.

**COUNCIL MEMBERS VOICED NO OBJECTIONS.** (excused: DC and MV)

**ACTION: DEFER pending further discussion.**

CHAIR WHITE: Okay, thank you. Members, with that we'll look forward to seeing all of you at the site inspection this afternoon at three o'clock, and that will be followed by our hearing this evening, our public hearing this evening in Lahaina. So we will see you there. And unless there are other questions, we will adjourn. Seeing none, we're adjourned. . . .(gavel). . .

**ADJOURN:** 10:01 a.m.

APPROVED:



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MIKE WHITE, Chair  
Budget and Finance Committee

bf:min:130410:ds

Transcribed by: Daniel Schoenbeck

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CERTIFICATE

I, Daniel Schoenbeck, hereby certify that the foregoing represents to the best of my ability, a true and correct transcript of the proceedings. I further certify that I am not in any way concerned with the cause.

DATED the 18<sup>th</sup> day of April, 2013, in Kula, Hawaii

A handwritten signature in black ink, appearing to read "Daniel Schoenbeck", is written over a horizontal line.

Daniel Schoenbeck