

We Need an Audit of the Department of the Attorney General

January 21, 2022

Aloha Senate Judiciary Committee Members,

This is my fifth letter [since December 9th](#) to the Committee concerning the State of Hawaii Department of the Attorney General violating [HRS §662-15\(4\)](#). I submitted a Request for Government Records to find out how many times in the last 5 years our State DAG has defended individual state employees in civil torts alleging any of the ILLEGAL offenses listed in [HRS §662-15\(4\)](#). The State of Hawaii Department of the Attorney General claims that they don't have this information (see response below).

Well, it's obvious that the State Department of the Attorney General needs to be audited!

The legislature needs to know how our tax money is being spent. The DAG Overview webpage even says that the DAG spends the bulk of its resources "*defending the State and state officials against claims for violations of federal law, improper execution of state laws, or money damages for property loss, personal injury or death.*" How much of that money is being spent to defend state employees who commit the illegal actions that are **supposed** to be exempt from the State Tort Liability Act and its protections?

The illegal acts listed in [HRS §662-15\(4\)](#) are NEVER part of an employee's job duties! Taxpayers should not be funding these people's legal defense when they are sued for committing these *illegal* offenses while on the job. Taxpayers should *not* be supporting the defense of illegal acts against its own citizens! This is immoral. I'm not talking about defending the State and state employees who make judgment calls, and are then sued for performing their job duties. I'm talking about individual employees who, while on the job, commit any of these illegal acts: assault, battery, false imprisonment, false arrest, malicious prosecution, abuse of process, libel, slander, misrepresentation, deceit, or interference with contract rights.

A good start for the legislature to correct this problem, would be to find out what's happening. The Department of the Attorney General is not going to cooperate with *me*. Who can find out what's really going on? Here is a copy of *my* request for government record and the DAG's response:

I WOULD LIKE THE FOLLOWING GOVERNMENT RECORD:

Describe the government record as specifically as possible so that it can be located. Try to provide a record name, subject matter, date, location, purpose, or names of persons to whom the record refers, or other information that could help the agency identify the record. A complete and accurate description of the government record you request will prevent delays in locating the record. Attach a second page if needed.

I request a list of the case numbers with Plaintiff and Defendant names for all complaints filed in the State of Hawai'i courts for the years 2017 through 2021 in which the Department of the Attorney General represented a State of Hawai'i Employee in matters of assault, battery, false imprisonment, false arrest, malicious prosecution, abuse of process, libel, slander, misrepresentation, deceit, or interference with contract rights regardless of disposition. "Regardless of disposition" means all cases in which Attorneys General spent time working on a case whether it was settled out of court, dismissed with or without prejudice, settled in court, withdrawn, etc.

THIS NOTICE IS TO INFORM YOU THAT YOUR RECORD REQUEST:

- Will be granted in its entirety.
- Cannot be granted. Agency is unable to disclose the requested records for the following reason:**
- Agency does not maintain the requested records. (HRS § 92F-3)
Other agency that is believed to maintain records: _____
 - Agency needs further clarification or description of the records requested. Please contact the agency and provide the following information: _____
 - Request requires agency to create a summary or compilation from records, but requested information is not readily retrievable. (HRS § 92F-11(c))

Please, do something about this problem.

You could start by passing a bill that requires the DAG to keep a public database of all the cases it's defending.

Mahalo,
Vanessa Ott
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