



Supreme Court — THE JUDICIARY • STATE OF HAWAII

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Ronald T.Y. Moon
CHIEF JUSTICE

DEPT. COMM. NO. 26

December 29, 2005

The Honorable Robert Bunda
President, Hawai'i State Senate
State Capitol, Room 003
415 South Beretania Street
Honolulu, Hawai'i 96813

**Re: Final Report of the Committee to Conduct Comprehensive
Review of the Hawai'i Penal Code**

Dear Mr. President and Members of the Senate:

Pursuant to the mandate of Act 125, 2005 Hawai'i Session Laws (H.B. 1763, H.D.2, S.D.2, C.D.1), I have the pleasure of transmitting for your consideration and review the final report of the Hawai'i Judicial Council's Committee to Conduct a Comprehensive Review of the Hawai'i Penal Code ("Penal Code Review Committee" or "the Committee"), dated December 29, 2005.

The final report is the work product of hundreds, probably thousands, of volunteered hours. The report contains a number of recommendations to the legislature, which the Committee has concluded are necessary to conform to the principles of the code and are in harmony with the entire criminal justice system.

The Penal Code Review Committee was comprised of twenty-three members, consisting of judges (appellate and First and Second Circuit) and representatives from the Department of the Prosecuting Attorney (First Circuit), the Office of the Prosecuting Attorney (Second and Third Circuit), the Office of the Public Defender, the private criminal defense bar, the Department of the Attorney General, the United States Attorney's Office, the Hawai'i Paroling Authority, the Department of Public Safety, the Honolulu Police Department, and advocates groups. Each of the counties was represented. In addition, the Committee members resourced to relevant stakeholders for suggestion and comment.

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The Committee met in plenary session on nine occasions between July 15 and December 16, 2005, and, in addition, each of the five subcommittees met to collect, consider, and prepare proposals which they were responsible for submitting to the entire Committee.

Of course, due to the breadth of representation of jurisdictions, professional viewpoints, and represented constituencies, the final report's goal of representing a perfect consensus was difficult to achieve. In large measure, however, the goal was, in fact, achieved. Where appropriate, the report points out differing opinions and the reasons therefor. At the end of the day, of course, the Penal Review Code Committee and each of its individual members were driven by the best interests of our citizens.

Further, due to the enormity of the task and the short time frame within which to accomplish it, not all matters which the subcommittees deemed worthy of review and consideration could be reached. Accordingly, in addition to the proposals which are set forth in the Committee's final report, there is also an Appendix of those topics that were beyond the Committee's ability to address.

On behalf of the Penal Code Review Committee, I thank you for the opportunity to be of service to the legislature and the people of Hawai'i.

Respectfully submitted,


Ronald T. Y. Moon
Chief Justice

Enclosure