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**THE HONORABLE GILBERT S.C. KEITH-AGARAN, CHAIR
HOUSE COMMITTEE ON JUDICIARY**

**Twenty-sixth State Legislature
Regular Session of 2011
State of Hawai'i**

February 1, 2011

RE: H.B. 256; RELATING TO PENAL CODE.

Chair Keith-Agaran, Vice-Chair Rhoads, and members of the House Committee on Judiciary, the Department of the Prosecuting Attorney of the City and County of Honolulu submits the following testimony, supporting the intent of House Bill 256.

The purpose of House Bill 256 is to amend Sections 707-716 (terroristic threatening in the first degree) and 708-840 (robbery in the first degree), Hawaii Revised Statutes, to include offenses involving the use of a replica firearm, and provide specific definitions for a replica firearm.

Current laws outline the circumstances that constitute terroristic threatening or robbery in first degree, including those instances where the offense is perpetrated "with the use of a dangerous instrument." At present, this would not include the use of a replica firearm, as a replica (by definition) would not be considered a dangerous instrument capable of producing death or serious bodily injury.

Nevertheless, a victim or witness to the crime of terroristic threatening or robbery will feel the same heightened fear and apprehension anytime a firearm is used, whether that firearm is a replica or real. Moreover, someone who commits such an offense using a replica firearm clearly intends for his or victims or witnesses to feel that same fear and apprehension, to aid in pursuit of the crime. The Department of the Prosecuting Attorney believes that House Bill 256 will be a deterrent for those who would consider committing terroristic threatening or robbery with a replica firearm.

For this reason, the Department of the Prosecuting Attorney of the City and County of Honolulu supports House Bill 256. Thank you for the opportunity to testify on this matter.