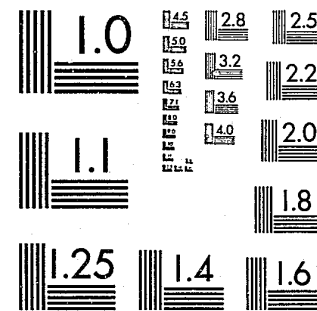


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United States Department of Justice
Washington, D. C. 20531

9/14/83

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ANNUAL
REPORT
OF
FISCAL YEAR 1980-81

A REPORT TO THE
HAWAII STATE LEGISLATURE

NCJRS

OCT 8 1982

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BY THE
HAWAII CRIME COMMISSION
STATE CAPITOL
HONOLULU, HAWAII 96813

THOMAS T. OSHIRO
CHAIRMAN

JULY 1981

George R. Ariyoshi
Governor

Jean S. King
Lt. Governor

This report is respectfully submitted to the Legislature,
State of Hawaii, pursuant to Act 16, First Special Session,
Ninth Legislature, State of Hawaii, 1977 as amended.

THOMAS T. OSHIRO
Chairman
Hawaii Crime Commission

Commission Members

RAFAEL ACOBA

GENE ALBANO (resigned Oct. 1980)

MAGGIE BUNSON (resigned Oct. 1980)

A. VAN HORN DIAMOND

ALWYN KAKUDA

NEAL OKABAYASHI

BORICK PEROFF

NAPUA STEVENS POIRE

FRANK WHITE, JR.

Edward J. Hitchcock
Staff Director

FOREWORD

This report provides a summary of the activities
of the Hawaii Crime Commission during the fiscal year
July 1, 1980 - June 30, 1981.

At a meeting on February 7, 1980 the Commission
approved the issuance of annual reports on a fiscal
year basis. This is the first such report. A supple-
ment will be issued annually to bring the Legislature
up to date on the Commission's work through December
of each year.

ACKNOWLEDGEMENTS

The Commission wishes to acknowledge the invaluable assistance and cooperation received throughout the year from the Governor, Lt. Governor, legislature, government agencies, private agencies, individuals and staff. Without such continuing cooperation, its work would have been greatly hampered. The Commission asks that this cooperation continue.

Thomas T. Oshiro
Chairman

Commission Members

RAFAEL ACOBA	NEAL OKABAYASHI
GENE ALBANO (resigned Oct. 1980)	BORICK PEROFF
MAGGIE BUNSON (resigned Oct. 1980)	NAPUA STEVENS POIRE
A. VAN HORN DIAMOND	FRANK WHITE, JR.
ALWYN KAKUDA	

The Director and staff also wish to acknowledge the invaluable cooperation received from the above named agencies and individuals.

Edward J. Hitchcock and Staff

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I.

INTRODUCTION

The basic function of the Commission is to provide the legislature, government agencies, and the public an overview of the criminal justice system on selected important topics. It conducts research, investigations incident to that research, education, and review of laws on many areas that affect all the people of Hawaii--the victims, the offenders, the courts, the prosecutors, public defenders, law enforcement agencies, and the executive and legislative branches of government. By taking a broad view in each study, the Commission assumes a unique and important role in the system. Furthermore, the commissioners are representative of the community and understand the average citizen's viewpoint on the issues raised.

A. THE COMMISSION

The Hawaii Crime Commission was created by Act 16 of the First Special Session, Ninth Legislature, 1977. The statute was substantially amended in 1978 by Act 219 which provides that the Commission be placed within the Office of the Lieutenant Governor for administrative purposes only, but that the Chairman of the Commission was the chief administrative officer. The Commission was composed of twelve authorized members who, with the exception of the Chairman, were appointed by the Governor with the advice and consent of the Senate.

Act 145, passed during the 1980 legislative session, altered the Commission's structure. Beginning July 1, 1981 and extending to January 30, 1984, the Commission will consist of nine members, all of whom will be appointed by the Governor with the advice and consent of the Senate. The Governor appointed a chairman in the same manner. Act 145 eliminated the requirement that the members be representative of the population of the state. It also specified that each nominee undergo a security screening by the Attorney General.

1. Members

On July 21, 1977, the Governor appointed eleven members to serve on the Commission. The Commissioners are all private citizens.

Thomas T. Oshiro, Chairman
Served as acting Chairman from January 1980 to June 1981. Was appointed Chairman by the Governor for a term from July 1, 1981 to January 30, 1984. Born and educated in Honolulu. Presently manages a family business. Has served as a member of the Kalihi-Palama Community Council, the Liliha-Palama Business Association, and Neighborhood Board No. 15. Served as treasurer to the Susannah Wesley Community Center.

Rafael Acoba
Educated on Maui and at Honolulu Business College. Served for twenty years in the Maui Police Department and is now a real estate broker.

Gene Albano (Resigned October, 1980 after election to the State House of Representatives)
Born and educated in the Philippines. Holds degrees in business administration and law. Has been active in Filipino community organizations and other community groups such as the Chamber of Commerce. Was Assistant Vice-President and Manager of a savings and loan institution.

Maggie Bunson (Resigned October, 1980)
Holds a B.A. in English and an M.A. in Theology. Has served as a teacher, editor and writer. Published three books on Catholicism. Currently is Secretary to the Bishop of Honolulu.

A. Van Horn Diamond (Executive Committee Member)
Born and raised in Hawaii. Holds a B.A. from the University of Notre Dame. Active

in politics and was twice a delegate to the National Democratic Convention. Has served on numerous State Government committees and is active in community affairs. Served as Executive Secretary and Vice-President of the State AFL-CIO; Special Assistant to President of the Musician's Union. Presently, serves as Deputy Director, Alu Like, Inc.

Alwyn Kakuda

Born on Kauai. Attended Business College in Honolulu. Currently manages a family wholesale business and is an active member of the West Kauai Jaycees.

Neal Okabayashi

Born in Honolulu. Presently a staff attorney for Bancorp Hawaii, Inc. Served as a Researcher for the Hawaii Criminal Justice Standards and Goals Project and also worked in the Public Defender's Office.

Borick Peroff

Born on the island of Hawaii and educated on Maui. A former police officer. Currently an employee of Matson and President of ILWU Local 160, Security Section.

Napua Stevens Poiré

Born on the island of Hawaii. Educated at Hilo High School. Has substantial experience and recognition as an entertainer, author, historian, and an expert on the Hawaiian language. Has had numerous radio programs, taught hula, and for ten years had her own TV show. She is currently on the advisory board for the Bishop Museum; Trustee, King William Charles Lunalilo Trust Estate; and was Director of Guest Activities at the Prince Kuhio Hotel.

Frank White, Jr. (Executive Committee Member)

Holds an M.A. in Physical Education and has experience as a teacher and coach. Formerly served as the president of a trucking company. Currently president of a local company providing leasing and distribution services. Is active in local sports activities.

The new Commission, effective July 1, 1981 to January 30, 1984, consists of:

Thomas T. Oshiro, Chairman
Rafael Acoba
A. Van Horn Diamond
George Iranon
Alwyn Kakuda
Neal Okabayashi
Borick Peroff
Frank Slocum
Frank White, Jr.

The two new members of the Commission will be:

George Iranon

Born and raised on the island of Hawaii. Holds a B.S. in social sciences. Served for twenty-five years with the Hawaii Police Department, retiring as an inspector. Actively involved in community sports and service organizations.

Frank Slocum

Educated in New Jersey. Holds a B.A. and M.A. in secondary education and formerly taught high schools. Retired after twenty years with the United States Secret Service as Special Agent in Charge. Presently employed in security by the United States Air Force and is a Colonel in the Army Reserve. Actively involved in local volunteer organizations.

2. Structure and Terms

Commissioners. The 1980 legislative session extended the terms of the present Commissioners to June 30, 1981. Any vacancy on the Commission, except the chairmanship, was to be filled by the Governor, with the advice and consent of the Senate. The chairman and members of the Commission were not compensated for their services but were reimbursed for reasonable expenses necessary to the performance of their duties, including travel expenses.

Chairman. The chairman of the Commission is empowered to develop and identify general areas for Commission study and review and to direct the work and activities of the Commission. Act 219 provided for the appointment of the chairman by a joint session of the House and Senate but as no action was taken, the incumbent chairman has remained in office. By two-thirds vote of each house in joint session, the Legislature may remove or suspend the chairman from office but only for neglect of duty, misconduct, or disability. The chairman has the power to vote only in the event of a tie vote.

Act 145, 1980 legislative session, amended the structure of the Commission and terms of the Commissioners. Beginning July 1, 1981, the Commission itself, by a two-thirds vote of its members, may initiate the removal or suspension of the chairman from office. Also, the chairman will be compensated for his services at the rate of \$75 per day for each day's attendance at a meeting and each day in which he spends four hours or more on Commission business.

Executive Committee. There is an executive committee of the Commission that consists of the chairman and two persons elected by the Commission from among its members. During fiscal year 1980-81. A. Van Horn Diamond and

Frank White served as executive committee members, with Mr. Diamond vice-chairman. The executive committee is also empowered to develop and identify general areas for Commission study and review.

B. STAFF

To enable the Commission to carry out its duties, the Commission has hired a widely diversified professional staff. This group includes experienced investigators, lawyers, academic researchers, and highly qualified clerical staff.

1. Staff Organizational Chart

The following staff organization was approved by the Commission, effective July 1, 1980, and signed by the Governor August 30, 1980.

All positions were authorized by the Commission to be filled as of July 1, 1980, but not all have been filled due to financial constraints.

Edward J. Hitchcock
Director

Richard Kawana
Legal Counsel
(7/1/80-12/31/80)

Gerald Miyoshi
Acting Legal Counsel
(1/1/81-6/1/81)

Research

John Bassford
Chief of Research

Gerald Reardon
Researcher

Martha Torney
Researcher

Joseph Zarembo
Researcher

Delia Bolosan
Secretary
(resigned 3/31/81)

Gwen Kometani
Secretary

Legal Research

Shelton Jim On
Chief of Legal
Research
(resigned 10/31/80)

Gerald Miyoshi
Chief of Legal
Research
(effective 11/1/80)

Rowena Adachi
Legal Researcher

Dexter Higa
Legal Researcher
(began 5/27/81)

Carrie Miyashita
Legal Researcher

Amy Tatsuno
Secretary

Investigators

Rex Hitchcock
Chief Investigator

David Kekumano
Investigator

Gaylord Lyman
Investigator

Louis Staunton
Investigator

Tamar Gates
Secretary

Support Staff

Frances Asato
Secretary to the Director

Christopher Chun
Clerk-Typist
(began 6/1/81)

Eva Malia Diamond
Clerk-Typist
(began 6/1/81)

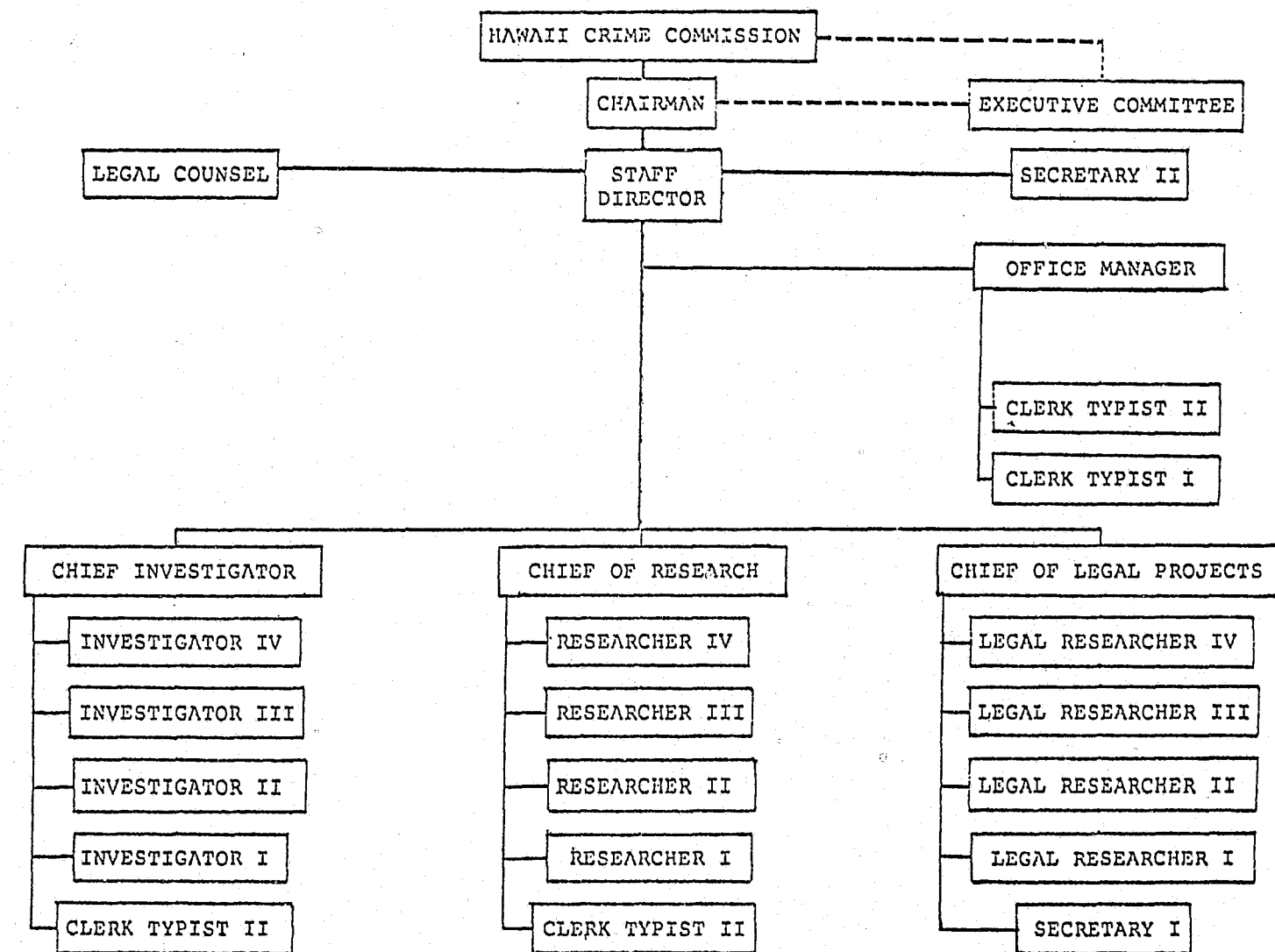
Robert Kaneshiro
Clerk-Typist
(began 5/15/81)

Arleen Miyashiro
Administrative Services Assistant

Education

Eugenie Parnar
Education Specialist

Gil Silva
Education Specialist
(resigned 1/31/81)



C. STATUTORY JURISDICTION OF THE COMMISSION

The duties and functions of the Hawaii Crime Commission as stated in Act 219, which was codified in Chapter 843, Hawaii Revised Statutes, were to:

- (1) Develop, recommend, and where appropriate, implement public education programs relating to educating the public as to the nature of crime;
- (2) Develop, recommend, and where appropriate, implement programs of public education to provide defensive living education to the public, and information regarding affirmative steps which may be taken to avoid occurrence of crime, eliminate the possibility of becoming a victim of crime and other information designed to defend against any aspect of crime;
- (3) Review and make recommendations regarding the operations of existing programs, agencies, and other projects relating to crime, including but not necessarily related to the courts, police and prosecutorial agencies;
- (4) Review and make recommendations regarding existing substantive laws, procedures, and

practices in relation to criminal matters or procedures, and the justice systems;

- (5) Study and make recommendations for facilitating the reduction and prevention of destruction of public property, school violence, business, and other white collar crimes and criminal activity;
- (6) Study, develop and make recommendations for the protection of the community, including name check systems for businesses, and other measures designed to protect individuals and the State from crime and direct and indirect criminal influence;
- (7) Report, to the legislature prior to the convening of each legislative session, on its activities of the preceding year and on a program of action for the coming year;
- (8) Investigate and collect evidence necessary to study criminal activity or the operation of the criminal justice system;
- (9) Hold public and closed hearings;
- (10) Receive, manage, and tender funds for reward for apprehension and conviction of criminals; and
- (11) Perform other functions and duties necessary to carry out the procedures established in Section 843-6.

Beginning July 1, 1981, the duties and functions of the Commission, as stated in Act 145, 1980 legislative session, will be:

- (1) Research and collect information regarding crime in Hawaii;
- (2) Investigate incident to research in order to study crime, criminal activity, and the operation of the criminal justice system;
- (3) Evaluate and make recommendations regarding the operations of existing programs, agencies, and other projects relating to crime, including but not necessarily related to the courts, police, and prosecutorial agencies.
- (4) Review and make recommendations regarding existing substantive laws;
- (5) Develop, recommend, and where appropriate, implement public education programs relating to educating the public as to the nature of crime;
- (6) Develop, recommend, and where appropriate, implement programs of public education to provide defensive living education to the public, and information regarding affirmative steps which may be taken to avoid the occurrence of crime, eliminate the possibility

of becoming a victim of crime, and other information designed to defend against any aspect of crime;

- (7) Study and make recommendations for facilitating the reduction and prevention of destruction of public property, school violence, business and other white collar crimes, and criminal activity;
- (8) Study, develop, and make recommendations for the protection of the community, including name check systems for businesses, and other measures designed to protect individuals and the State from crime and direct and indirect criminal influence;
- (9) Report, to the legislature prior to the convening of each legislative session, on its activities of the preceding year and on a program of action for the coming year;
- (10) Hold public and closed hearings;
- (11) Receive, manage, and tender funds for rewards for apprehension and conviction of criminals; and
- (12) Perform other functions and duties necessary to carry out the procedures established in Section 843-6.

Haw. Rev. Stat. §843-6 gives to the Commission all powers conferred under Chapters 91 and 92 of the Hawaii Revised Statutes, which include the power to hold hearings, issue subpoenas, administer oaths and affirmations, and appoint a master or masters to hold hearings.

In addition, the Commission may subpoena persons and documents in connection with a public or closed hearing, or in connection with the Commission's authority to investigate and collect evidence whether or not in connection with any hearing. Commission hearings may be closed when matters are to be considered which, if made public, may threaten the effectiveness of a study of criminal activity or of the criminal justice system.

Section 843-6 also required all agencies of the state and county governments to cooperate with the Commission. In conjunction with the duty to investigate and collect evidence and the power to subpoena persons and documents and take testimony under oath, the 1978 legislative session made the unauthorized disclosure of confidential information by any Commission member, staff member, or employee a Class C felony, which is punishable by a maximum five years imprisonment and a \$5,000 fine.

D. ADMINISTRATIVE PROCEDURES ACT UPDATE

Near the end of 1980, the APA of the Hawaii Crime Commission was amended. Public hearings on these amendments were held December 19, 1980, and the changes were forwarded to the Attorney General. The Commission rules were amended to make them consistent with changes in the Commission's statute.

II. REPORTS

A. INTRODUCTION

During fiscal year 1980-81 the Commission completed and published the following reports. Each examined in detail a specific topic relevant to the criminal justice system and made recommendations for statutory and procedural changes. The reports completed this fiscal year were:

1. Extortion;
2. Principles of Criminal Proceedings in Hawaii's Judicial System;
3. Court Observer, Pilot Project;
4. Violence and Vandalism in Hawaii's Public Schools, Volumes I & II;
5. Citizen's Handbook;
6. Sexual Assault;
7. Victim Protection;
8. Hawaii's RICO Statute;
9. Obstruction of Justice;
10. Loitering;
11. Reevaluation of the Wiretap Law; and
12. Victim/Witness Assistance.

B. BRIEF SUMMARY OF REPORTS

1. Extortion

Problem. In late 1977, the Commission commenced research on extortion, a vicious crime of control over the victim, because there had been only three cases of extortion brought to trial on Oahu from 1974 to 1977. It was suspected that this figure represented a great understatement of the seriousness of the problem. With reason to believe that a far larger number of extortion incidents were unreported or unprosecuted, the Commission examined all dimensions of the crime of extortion.

Recommendations. The primary recommendation, offered in a preliminary report on extortion, was that a new extortion statute be enacted in Hawaii. The 1979 Regular Session of the Hawaii State Legislature passed the statute recommended by the Crime Commission. This new statute eliminated some problems with the old law, making extortion investigations and prosecutions easier and more effective.

The final report on extortion included a set of specific and general recommendations to agencies of the criminal justice system, some of which are listed below:

- * that a witness protection program be established;
- * that a firm stand be taken against public corruption at all levels;
- * that the criminal justice system recognize the viciousness of extortion, giving some priority to those cases;
- * that extortion victims be given attention by the criminal justice system;
- * that sophisticated, modern equipment be available for investigation;
- * that prosecutors ask that extortionists be considered dangerous persons and held without bail;
- * that defense attorneys not be allowed to continually postpone trials; and
- * that swift justice be encouraged and well publicized.

2. Principles of Criminal Proceedings in Hawaii's Judicial System

Problem. With the increasing concern over the problems of crime and the methods of the criminal justice system, it is important that each citizen understand what is going on in the courts of our State. To fulfill this need, the Hawaii Crime Commission has written and published Principles of Criminal Proceedings in Hawaii's Judicial System.

Contents. The monograph contains (1) a substantive description of the organizational structure and processes within the district, circuit, and appellate court system

of Hawaii; (2) an analysis of the roles of the various court personnel, the prosecutor and the defense attorney; (3) an explanation of key concepts; (4) an explanation of evidentiary rules and types of evidence; (5) a discussion of major procedures that occur prior to a trial; and (6) an examination of what occurs at a trial by jury from the initial procedure of voir dire through sentencing. It also includes the most recent legislation affecting Hawaii's criminal justice system.

An illustration of a typical scenario, from arrest to trial, and a glossary of terms used in the judicial system make the book useful to the general public.

Many schools throughout the State are now using Principles as a supplementary text in political science, sociology and law-related courses. Principles has also received recognition from police, prosecutors, and defense attorneys as an important and worthwhile guide to our court system. Many mainland law schools have asked for and been provided copies of the report.

3. Court Observer, Pilot Project

Problem. The purpose of the Court Observer Pilot Project was threefold: to establish a method of evaluating the quality and efficiency of the judicial process, to educate the public about the courts, and to

identify subject areas for future court-watching projects. To achieve this, the Hawaii Crime Commission collected and analyzed data on a) audibility, b) comprehensibility, c) continuances, d) recesses, and e) delays under actual trial conditions. Furthermore, the Pilot Project provided an example of the usefulness of such a practice in the ever-growing, complex criminal justice system.

Recommendations. Specific recommendations were offered for each area considered in the project. These included:

- a. Audibility
better sound systems to increase audibility and better courtroom design to minimize outside distractions are needed;
- b. Comprehensibility
the public should be better educated about the judicial system;
- c. Continuances
trial scheduling and handling of witnesses should be more efficient; the deadline for making or waiving motions should be strictly enforced; and periodic meetings of all relevant agencies should be held;
- d. Recesses
pre-trial conferences should be more extensively used; participants should better organize the scheduling of witnesses; and sanctions should be imposed on attorneys who cause recesses without good cause;
- e. Delays
attorneys should confer with clients and witnesses prior to trial; the prosecuting attorney's office should work to reduce case overload; and both the court and the correctional facilities should cooperate to avoid defendant tardiness or absenteeism.

4. Violence and Vandalism in Hawaii's Public Schools, Volumes I & II Problem

This study was initiated during the summer of 1979 to assess the nature and extent of violence and vandalism in the public secondary schools of Hawaii. These problems had been a matter of serious concern for several years, yet no comprehensive study had been done to measure them or determine the steps necessary to provide solutions. It was the purpose of this study to fill that need.

Recommendations

A major conclusion of this study is that violence and vandalism are more than strictly security concerns. They are reflective of the whole learning environment on campus. The Commission's recommendations, based on survey and interview data, focus on improving the general atmosphere of Hawaii's secondary schools.

- *Principal Training - it is strongly recommended that regular seminars for principals be conducted within each district to share information and creative ideas, to commend those who are successful, and to stimulate all principals to make the commitment to excellent school management;
- *Principal Rotation - in many cases, school principals are moved frequently. This creates a problem of administrative continuity. The Crime Commission recommends less frequent rotation of principals;
- *Parent & Community Relations - principals are urged to initiate more positive parent and community relations; and
- *Principal Support - principals need more clerical assistance and more vice-principals;

*Security - improve the training and working conditions for security aides;

*Discipline - clear and consistent school discipline is needed on most campuses;

*Teachers - teachers need strong administrative support;

*Attendance - attendance procedures need to be strengthened and organized;

*Physical Plant - more rapid repairs of physical damages are needed to discourage further vandalism;

*Alternative Education Programs - alternative learning centers need to be increased.

Results

The Department of Education responded favorably to a number of the Commission's recommendations. A new, stricter attendance policy was instituted during the 1980-81 school year. The D.O.E. has begun to work closely with the Honolulu Police Department in an effort to reduce truancy. Also, several areas singled out for improvement by the Commission were addressed through the D.O.E. budget request. That request included more money for additional vice-principals, counselors, security aides, and alternative education and special motivation teachers. All of these extra positions were deleted from the budget, but after extensive testimony by the Commission and the D.O.E. they were reinstated by the legislature.

The Board of Education has also expressed great interest in the report. It has formed a special violence and vandalism sub-committee to seek ways of instituting

positive changes indicated in the report. Commission staff members have been active participants in that committee's meetings and have offered any aid and assistance which they may provide.

Violence and vandalism in the schools became an important area of concern for both the Senate and House Education Committees during the 1981 session of the legislature. Interest was particularly focused on the needs identified by the Commission report. Many bills, resolutions, and budget items directed at these areas were heard by the Committees. Again, Commission staff members spent many hours testifying and assisting the Education Committees. Besides the budget increases, the more important items passed were SB1699, which requires reporting of all serious crimes on campus to the police, and several resolutions calling for more attention to the issue.

Non-governmental groups have also become concerned. Commission staff members spoke to the annual principal's union meetings on Oahu, Hawaii, and Maui; to the annual meeting of the state PTSA; to a special League of Women Voter's conference on school crime; and to numerous community groups. All were grateful that the Commission was interested in this topic and eager to do their part to help.

5. Citizen's Handbook

Introduction

Many people experience the problem of being circuitously referred from agency to agency when attempting to obtain government services. Generally, this is the result of not knowing which agency performs which function. The Citizen's Handbook was written to serve as a guide to government agencies for the citizen with a specific problem in mind. It is a clear and concise guide to government services available on Oahu. It gives descriptions, addresses and phone numbers, and is written from the viewpoint of a person with a question, a complaint or just a vague notion of what information or help he requires.

Contents

Many government departments and social agencies exist to provide the public with specific kinds of services. These organizations, especially where they serve victims of crimes or persons in potentially desperate situations, are included in the Handbook. The Handbook consists of:

DEPARTMENTS, DIVISIONS AND OFFICES OF THE:

- * UNITED STATES GOVERNMENT
- * STATE OF HAWAII GOVERNMENT
- * CITY AND COUNTY OF HONOLULU GOVERNMENT

as well as:

- * EMERGENCY SERVICES
- * RELIEF AGENCIES

* HOSPITALS AND CLINICS

Users of the Handbook think in terms of the subjects of their queries. Therefore, a problem list was written, putting problems in common terms and referring users to the appropriate agencies.

Results

The Handbook was distributed widely to government agencies, schools, and libraries. The Commission has received numerous positive comments about its usefulness.

6. Sexual Assault

Problem

The victims of sexual assault are often reluctant participants in the criminal justice proceedings against their attackers because of the lack of sympathetic treatment by the criminal justice system. This study, which specifically addresses this problem, includes work by a task force of experts, a survey of professionals in the field, and independent, in-depth research by the Commission staff. The changes embodied in the model statute recommended therein would improve the victim's treatment in our criminal justice system and afford equal protection for all citizens against all acts of violence. These provisions have been tried elsewhere and are proven to work.

Recommendations

All available studies, without exception, recommend revising the sex offense laws. The case for such revision is so strong that Hawaii now should only be concerned with what form the new statute will take. A new law must accomplish two things. First, it must afford equal protection for all citizens against any act of violence. Second, it must move the focus of prosecution from the conduct of the victim to that of the defendant. The model statute proposed by the Commission incorporates specific changes which would accomplish both these goals. It would improve the victim's treatment in the criminal justice system, foster increased reporting, and greatly facilitate the prosecution of sex offenses.

Because of the importance of statutory reform to improving the system, the Commission limited its recommendation solely to proposing a model statute. That statute achieves the goals outlined above by a) modifying certain definitions; b) adding three new definitions; c) consolidating the offenses of rape, sodomy, and sex abuse into the offense of sexual assault; and d) offering four degrees of sexual assault.

Results

As a result of the Commission's work on sexual assault, carefully reasoned arguments and a carefully considered model statute were available to be called upon

when the issue arose during the 1981 legislative session. The Commission introduced its statute as Senate Bill 610, which was heard but not passed. However, parts of it were incorporated into House Bill 300 which was subsequently passed. House Bill 300 came about after public outcry over and dissatisfaction with the verdict in the celebrated "Anna" rape case.

House Bill 300 accomplished three things. It redefined "forcible compulsion," modified the "voluntary social companion" provision, and eliminated the "prompt complaint" proviso. "Forcible compulsion" was the focal point of the controversy over statutory reform, especially during the March 25, 1981 public hearing, which several hundred interested persons attended. The testimony at that hearing was so strongly in favor of changing "forcible compulsion" that it left little doubt in the senators' minds that this needed to be and could be done.

During the ensuing month, the Senate Judiciary Committee worked continuously with the Hawaii Crime Commission, the Prosecutor's Office, the Attorney General's office and other groups and individuals to try and reach a consensus on how the new statute should read. There was general agreement on what needed to be done but many different perspectives on how to do it. The Governor's office took the position that the Hawaii Crime Commission's definition of forcible compulsion should be used as the basis for statutory reform because it was the most

carefully studied and well documented and that it was not concocted as a reaction to any individual case. This argument finally prevailed after many other proposals had been considered. Two components of the Hawaii Crime Commission definition were deleted from the final proposal--the multiple offender clause and the concealment or element of surprise clause.

The final bill to emerge from the joint conference committee and be passed unanimously incorporated the following changes to Hawaii sexual offense statutes:

- 1) "Forcible compulsion" means the use of or attempt to use one or more of the following to overcome a person:
(a) A threat, express or implied, that places a person in fear that the person or another person will be kidnapped;
(b) A dangerous instrument; or
(c) Physical force."
- 2) "The other person is not, upon the occasion, his voluntary social companion who had within the previous thirty days permitted him sexual intercourse of the kind involved," (reduced from twelve months)
- 3) the prompt complaint provision was completely removed.

During the interim the Commission continued to work closely with the legislature, other government agencies, and interested community groups to reach a consensus on comprehensive statutory reform of Hawaii's sexual assault laws. The legislative intent of the previous session was that such reform would be thoroughly studied during the interim and that a package of laws would be ready

for passage during the 1982 session.

7. Victim/Witness Protection

Problem

The Commission study was generated by the sharp cut-backs in federally sponsored witness protection and the growing need for a program appropriate to Hawaii. Many witnesses were not being provided adequate protection under existing conditions. Law enforcement authorities from all islands voiced strong support for a state-sponsored victim/witness protection program.

Recommendations

The Commission proposed a five-point plan to create a victim/witness protection program in Hawaii. This plan called for:

- *state funding;
- *housing the program in the office of the Attorney General
- *including in the program the witnesses, their immediate families, and other persons closely associated with them;
- *not only providing for protection from bodily injury but also otherwise assuring the health, safety and security of the witness; and
- *continuing the protection for as long as the danger exists.

Priority was to be given to those witnesses in organized crime, racketeering and career criminal prosecutions.

Results

The Crime Commission plan was proposed to the legislature during the 1981 session. House Bill 595 and Senate

Bill 615, "Witness Security and Protection", attempted to establish a statewide witness security and protection program. Neither bill was heard but similar bills were heard in the Senate. Commission staff members testified on those bills but none was passed. The Commission will seek to have its bills reintroduced in the 1982 session.

8. RICO Proposal

Problem

In 1972, the Hawaii State Legislature added Chapter 842 entitled "Organized Crime" to the Hawaii Revised Statutes. This was an attempt to outlaw criminal organizations engaged in legitimate business acquired through illegal means or with funds generated by illegal means. This chapter, otherwise known as the RICO (Racketeer Influenced and Corrupt Organization) statute, also contained two sections relating to the failure to report income or pay the income and/or general excise taxes due thereon.

During the past eight years that Hawaii's RICO Statute has been in effect, no member of any police department has applied for and used an order allowing the inspection of the tax returns and records of a person suspected of the willfully failing to report income or pay taxes. Although the RICO statute provides an effective tool for fighting organized crime, it has not been uti-

lized.

Recommendations

The recommendations to the legislature proposed that the Hawaii Crime Commission and the county prosecutors also be given the authority to initiate the tax investigations of individuals involved in organized crime who were suspected of failing to report income or pay taxes thereon.

It was believed that members of the Commission's present staff could successfully accomplish this added task. No additional funding would have been required.

Results

Appropriate statutory changes to effect these recommendations were submitted to both houses of the legislature during the 1981 session. House Bill 593 and Senate Bill 611, "Inspection of Tax Records", would have authorized the Crime Commission and county prosecutors to inspect the tax records of suspected organized crime figures. Senate Bill 611 was passed by the Senate Judiciary Committee but killed by the Senate Ways and Means Committee. It was later incorporated into another bill, Senate Bill 1009, which was passed by the Senate but not by the House. The Commission will attempt to have these bills heard again during the next session.

9. Obstruction of Justice

Problem

Hawaii's obstruction of justice statute did not provide adequate protection for witnesses and jurors. Therefore, this study sought to find specific areas where Hawaii's statute could be improved. Hawaii's law was compared to the Federal Obstruction of Justice Statute on a section-by-section basis. In addition, U.S. Senate Bill S.1722, under consideration by the 96th Congress to amend the Federal law, was also reviewed.

Recommendations

The federal law differs in numerous ways from state law. However, to a large extent these are apparently minor differences and there may be concurrent applicability of other sections of the Hawaii Revised Statutes.

The Commission proposed model legislation to add two sections to Hawaii law. These made retaliating against a juror both Class C felonies.

Results

The proposed legislation was enacted into law during the 1981 session. The Commission's proposals passed as House Bill 597, House Draft 1, Senate Draft 1. It prohibits (1) the use of force or threat upon, or the damaging of property to, any witness or other person because of the witnesses' attendance, testimony, or production of any record, document or other object in any official proceeding; or (2) the use of force or threat upon a juror

or other person because of the juror's vote, opinion, decision, or other action in any official proceeding. Violation of this statute is a class C felony.

10. Loitering

Problem

Police in Hawaii cannot arrest loiterers because Hawaii's loitering law was found unconstitutional. Therefore, the Commission conducted a study to see if a useful loitering law could or should be adopted in Hawaii. The Commission examined all existing state loitering laws to see what would be possible and applicable.

Recommendations

It was found that only statutes that are narrowly defined should be considered for Hawaii. Those have the only real chance of surviving a constitutional challenge. An overly broad law improperly prohibits conduct which is otherwise innocent or constitutionally protected; a vague law fails to give a citizen reasonable notice of what conduct is proscribed.

The Commission concluded that the situations covered by other states' loitering laws are already adequately dealt within various provisions of Hawaii law. It decided not to recommend a statute for adoption, but did draft a model statute for the legislature's convenience should it choose to consider such a law.

Results

That statute was subsequently introduced in the 1981 session as House Bill 591/Senate Bill 606 "Offenders Against the Public Order." It was never heard by either house.

11. Review of the Wiretap Statute

Problem

In an effort to find out if changes were needed in the Hawaii Wiretap statute, passed in 1978, the Commission interviewed professionals in the criminal justice system throughout the state who regularly work with the law.

Recommendations

The Commission recommended that the wiretap statute be left intact for the time being. During 1981 several cases resulting from the use of court ordered wiretapping will come up for trial, after which a better judgement can be made about the merits of the law. At that time, reevaluation of the statute should again be considered.

12. Victim/Witness Assistance

Problem

Court administrators and criminal justice system professionals have come to recognize that many victims will not participate in court proceedings if they are traumatized by their interactions with the system and that, conversely, if they are physically protected and given emotional support then they will be more willing to press

charges and present evidence. This study categorizes the efforts being expended across the nation and in Hawaii to restore the balance in our criminal justice systems, too long concerned only with defendants. It also thoroughly assesses the situation in Hawaii in terms of how present services are meeting the needs of victims and witnesses and offers concrete recommendations as to what may be done to improve or add to these services.

Recommendations

The report contains specific recommendations as to how services presently being offered can be made more efficient and effective, how present problems which are not being addressed or being inadequately addressed can be resolved in the most cost effective manner, and how the trauma, inconvenience, and "cost" of being a victim or witness of crime can otherwise be minimized. The Hawaii Crime Commission recommended:

1. Increasing the operating budget of the Criminal Injuries Compensation Commission to allow for hiring an additional staff person to alleviate the heavy workload and backlog of cases;
2. Authorizing the Criminal Injuries Compensation Commission to establish a revolving fund. This fund would allow monetary compensation to be awarded without undue delay to victims whose cases have been favorably closed by the Compensation Commission; and

3. The passage of three statutes: a bill of rights for victims of crimes; including a special indemnity fund to pay for victim services; a law guaranteeing a witness's job and pay in the event he is subpoenaed to testify in court; and a law limiting commercial exploitation of sensational crimes.

Results

These three statutes were proposed to the 1981 session of the legislature but none of them passed. House Bill 594/Senate Bill 612 "Rights of Victims and Witnesses in Criminal Proceedings" would have established a victim's bill of rights. It was not heard by either house. House Bill 598/Senate Bill 616, "Employees as Witnesses in Criminal Proceedings" would have guaranteed a witness's job and pay. It was passed in the Senate, recommitted in the House, and killed by the House. Finally, House Bill 599/Senate Bill 613 "Limiting Commercial Exploitation of Crime" was not heard by either house. The Commission will attempt to resubmit all of these bills for reconsideration by the 1982 session.

C. Studies in Progress

Several projects were begun in fiscal year 1980-81 which continued on into fiscal year 1981-82.

1. Criminal Justice Academy

Problem

There is a need to standardize the training of cri-

minal justice personnel who deal with law enforcement, the judicial process and corrections. The purpose of this study is to investigate the feasibility of establishing a statewide Criminal Justice Academy.

Recommendations

At the completion of its study the Crime Commission will offer a set of recommendations concerning criminal justice training in Hawaii. These will include lessons learned from the experiences of other states as well as provisions particularly relevant to Hawaii. It will be the aim of these recommendations to improve the administration of justice in Hawaii by providing the best possible training for its personnel in a cost efficient and yet effective manner.

2. Sentencing

Problem

There are two fundamental areas of sentencing practices which have been questioned recently in jurisdictions around the country. The first of these is sentence disparity. It has been found that in many cases, offenders with similar backgrounds who have committed identical crimes receive widely different sentences. The second is the indeterminate sentence. The assumption which supports this type of sentence is rehabilitation. Many penal institutions offer a minimal rehabilitation program, yet insist that inmates prove rehabilitation

as a condition of parole eligibility. These are questions which need to be considered here in Hawaii.

An additional consideration is the cost factor. Incarceration is very expensive and alternatives are needed to relieve these high costs.

Recommendations

The Hawaii Crime Commission study is examining various sentencing guideline schemes and determinate sentencing programs in an attempt to produce concrete recommendations aimed at increasing equity in our sentencing practices. Further, the various methods employed in alternative sentencing (e.g., restitution and community service) are being studied with a similar end in view.

3. Citizen's Handbook, for Outer Islands

The Hawaii Crime Commission is presently expanding its popular "Citizen's Handbook: Guide to Government Services, Oahu Edition" to include the governmental and social agencies of all the islands--Hawaii, Maui, Molokai, Lanai, and Kauai. The other editions will increase the use of this convenient guide by more of Hawaii's people.

4. Plea Bargaining

Problem

Plea bargaining, the practice of the government making certain concessions to criminal defendants in exchange for their voluntarily entering pleas of guilty for criminal acts, has existed in this country for more than one hundred

years. It has repeatedly been the source of controversy because its very nature raises questions as to its propriety, legality and necessity.

In recent times, some jurisdictions have experimented with banning plea bargaining totally, while others have attempted to bring more accountability into their existing practices. This study is an attempt to document the practice of plea bargaining here in Hawaii, primarily on Oahu, by the careful analysis of several hundred felony cases which were resolved in 1980; to see how the practice functions; to determine whether problems other jurisdictions have faced are also present here; and to ascertain whether Hawaii's practice can be improved, based on the experience of other jurisdictions.

Recommendations

At the completion of the study the Crime Commission will propose a set of recommendations concerning the practice of plea bargaining in Hawaii. These recommendations will be made with the more just and efficient functioning of the criminal justice system in mind as the overall objective.

III.

LEGISLATION

One of the functions of the Crime Commission is to propose legislation to improve Hawaii's criminal justice system. The model statutes proposed by the Commission are the end products of careful studies conducted during the year. These statutes are accompanied by detailed supporting testimony.

The Commission also makes its services available each session to aid and assist the legislature in any way possible. Staff members do research, prepare testimony, and work closely with committees and individual legislators throughout the session.

A. Crime Commission Bills

During the 1981 legislative session, the Commission introduced a total of fourteen bills which were submitted to both the House and the Senate. Several of these passed, others were referred for further study. Proposed legislation included the following:

1. Sexual Assault

S.B.610 "Offenses Against the Person"
This bill sought to modify certain definitions; add three new definitions; consolidate the offenses of rape, sodomy, and sex abuse into the offense of sexual assault; and offer four degrees of sexual assault. These changes were to first, afford equal protection

for all citizens against any act of violence; and second, to move the focus of prosecution from the conduct of the victim to that of the defendant. It was hoped that improving the victim's treatment in the criminal justice system would foster increased reporting and facilitate the prosecution of sex offenses. Senate Bill 610 was not passed but parts of it were incorporated into S.B.300, "Offenses Against the Person" which did pass unanimously.

2. Witness Protection

H.B.595/S.B.615 "Witness Security and Protection"

This statute provided for the creation of a statewide witness protection program housed in the Attorney General's Office. It allowed for the protection of witnesses or potential witnesses, their immediate families, and any other persons closely associated with them for as long as a danger should exist. It called for greatest priority being given witnesses in organized crime, racketeering activity, or career criminal prosecutions. This bill was heard in the Senate but was not passed out.

3. Obstruction of Justice

H.B.597, H.D. 1, S.D. 1, "Offenses Against Public Administration"
This bill amended Hawaii's obstruction of justice statute by adding two new sections. It made retaliating against a witness and retaliating against a juror class C felonies. It passed as H.B.597, H.D. 1, S.D. 1.

4. RICO Statute

H.B.593/S.B.611 "Inspection of Tax Records"

This bill amended Hawaii's Racketeer Influenced and Corrupt Organization statute. In order to improve the fight against organized crime, it added the county prosecutors and the

Hawaii Crime Commission to the chiefs of police as those entitled to examine tax returns of those suspected of willfully failing to report income and pay taxes. This bill was passed by the Senate Judiciary Committee but killed in the Ways and Means Committee. It was then incorporated into S.B.1009 which passed the Senate but failed in the House.

5. Mandatory Minimum Gambling Fines

H.B.592/S.B.250 "Mandatory Gambling Fines"

This bill sought to impose mandatory minimum fines on offenders repeatedly convicted of misdemeanor gambling violations. It intended to separate the professional gamblers, more severely punish them, and thereby reduce organized crime's income. This bill was not heard by either house.

6. Victim's Bill of Rights

H.B.594/S.B.612 "Rights of Victims and Witnesses in Criminal Proceedings" This bill sought to establish a bill of rights for victims which would recognize the cooperative citizen's important place in law enforcement efforts. It would ensure that all victims and witnesses of crimes were treated with dignity, respect, courtesy, and sensitivity and that the rights extended by the bill were honored and protected by law enforcement agencies, prosecutors, and judges in a manner no less vigorous than the protections afforded criminal defendants. This bill was not heard during the 1981 session.

7. Prostitution

H.B.600/S.B.608 "Mandatory Minimum Periods of Imprisonment and Fines for Prostitution"

The purpose of this bill was to increase the deterrence of prostitution

in Hawaii. The bill set mandatory minimum jail sentences and fines for offenders, graded so as to more severely punish repeat offenders. H.B.567, H.D.1, S.D.2, C.D.1 passed both houses. It provides for a mandatory \$500 fine for a first conviction for prostitution and a \$500 fine and 30 day term of imprisonment for any subsequent conviction.

8. Witnesses' Rights

H.B.598/S.B.616 "Employees as Witnesses in Criminal Proceedings"

This bill attempted to protect the job and pay of any employee called as a witness in a criminal proceeding. It would have precluded an employer from disciplining the employee because of his or her participation in the proceeding. This bill was designed to protect the rights of witnesses and facilitate cooperation with the criminal justice system.

This bill passed in the Senate but failed in the House.

9. Limiting Commercial Exploitation of Sensational Crimes

H.B.599/S.B.613 "Limiting Commercial Exploitation of Crimes"

This bill was an attempt to limit the possibility of someone committing a sensational crime and profiting therefrom by writing a book or article or selling the rights thereto to movie, radio, or television company. Any monies that would have accrued from such a transaction would have gone to the Criminal Injuries Compensation Commission to help repay the victim. This bill was not heard during the 1981 session.

10. Carrying of Firearms

H.B.601/S.B.627 "Firearms, Ammunition, and Dangerous Weapons."

This bill attempted to close a gap in the law which allows members of the state or United States military forces to be exempt from the provisions of the Hawaii law prohibiting the carrying of firearms. It would have allowed such an exemption only for on duty military personnel authorized to carry firearms. The bill passed in the House but failed in the Senate.

11. Loitering

H.B.591/S.B.606 "Offenses Against Public Order"
This bill attempted to reinstate a constitutionally sound loitering law. It was drafted by the Commission staff as a result of the loitering study but introduced for discussions purposes only as a courtesy to another agency. This bill was not heard during the 1981 session.

12. Felons in Possession of Firearms

H.B.590/S.B.609 "Sentencing"
This bill was an attempt to require courts to sentence persons convicted for a firearm violation along with another felony to a consecutive, rather than concurrent, term of imprisonment for the firearm violation. It was felt that although the law prohibiting felons from possessing firearms existed, it was ineffective as long as the law required judges to make sentences for that crime run concurrent with other sentences. Such sentencing practices did not adequately curb the crime. This bill was heard in the Senate but not passed.

13. Crime Commission Staff

H.B.589/S.B.614 "The Hawaii Crime Commission"
This bill attempted to secure civil service status for the Crime Commission

staff, except for the staff director. The bill was heard in the Senate but did not pass.

14. Crime Commission Chairman

H.B.1376/S.B.1687 "The Hawaii Crime Commission."
This bill was an attempt to secure compensation for the Chairman of the Crime Commission for the fiscal year 1980-81. It was not heard during the 1981 session.

B. Other Bills

The Crime Commission staff spent many hours testifying on other bills and bills and resolutions dealing with crime or relating to the Commission or matters of general interest. Specifically, the Crime Commission testified on the following:

Budgetary Hearings:

The Commission testified on the Crime Commission budget and also the Judiciary and Department of Education budgets. In addition, the Commission testified in support for Grant-in-Aid programs such as the Sex Abuse Treatment Center and the Sexual Assault Support Service.

School Violence

The Commission testified on bills and resolutions relating to violence in schools and the need for security and preventive measures to alleviate the problem of such violence. One of the more important bills was S.B.1699, S.D. 1, H.D.2, C.D. 1.

S.B.1699, S.D. 1, H.D. 1, C.D. 1. Violence and Vandalism in the Public Schools.

This bill requires the reporting to the

appropriate authority any incident in which a student, officer, or employee of the Department of Education is threatened, assaulted, or extorted within the meaning of the Penal Code sections on terroristic threatening, assault, or extortion.

Criminal Proceedings

The Commission testified on bills allowing for less than unanimous verdicts in criminal cases and permitting preliminary hearing as an alternative to the grand jury. In addition, testimony was given on sentencing bills--consecutive/concurrent terms of imprisonment.

Firearms

The Crime Commission testified on various firearms measures. Eventually the different versions were condensed into one bill, H.B.293, H.D. 1, S.D. 1, C.D. 1. This bill amends provisions of the penal law relating to permits, registration, use by minors, prohibits ownership by persons with mental disorders, amends the penalties, amends the qualifications of persons carrying a concealed firearm, and substitutes gender neutral terms.

Uniform Controlled Substances

The Chairman of the Commission actively testified on H.B. 1103, H.D. 1, S.D. 1, C.D. 1, which adds to the list of schedule I controlled substances covered by the Uniform Controlled Substance Act bulk dextropropoxyphene (nondosage form) and Phenacetone (PZP). The bill also deletes apomorphine from the schedule.

Park Rangers

The Commission closely monitored the bills and resolutions on park rangers which requested positions within the Department of Land and Natural Resources,

Division of Conservation and Resource-
ment Enforcement to allow for rangers
to patrol state parks.

Boards and Commissions

The Commission testified in favor of S.B. 1069, S.D. 1, which attempts to make it mandatory for the Governor to remove members of boards or commissions who have been absent from 50 percent or more of the meetings in one calendar year.

C. Legislative Support

The Hawaii Crime Commission Chairman and staff spent many long hours at the Legislature testifying on bills and resolutions and helping senators and representatives with various legislative measures. Staff researcher Carrie Miyashita worked as legislative liaison, following the progress of all pertinent bills and keeping track of relevant hearings. Chairman Tom Oshiro and Director Ed Hitchcock both attended numerous hearings and meetings, offering testimony and providing other assistance as necessary. Acting Legal Counsel Gerald Miyoshi worked closely with both judiciary committees and other committees and legislators. Chief of Research John Bassford testified before both education committees and at budget hearings in support of the Department of Education budget requests. Staff researcher Gerald Reardon worked with the education and judiciary committees. Researcher Joseph Zaremba actively followed park ranger legislation and testified concerning the Commission's report on

park security.

The Crime Commission Chairman, the Staff Director, the Acting Legal Counsel, and members of the research staff spent hundreds of hours at the State Capitol testifying at public hearings both in the House and Senate on various bills and resolutions, and observing actions taken by the legislators at public hearings, conference committee hearings, and floor actions during the 1981 legislative session. The support staff spent additional time researching, writing, and preparing testimony for submission at public hearings. Upon special request by the Governor, two staff members, Gerald Miyoshi and Martha Torney were assigned to work with the Governor's office on the widely publicized rape bill (H.B. 300, S.D. 1, C.D. 1). This special assignment continued for approximately five weeks, until the final passage of the bill.

Gerald Miyoshi, John Bassford, and Gerald Reardon spent many hours working closely with Senator Neil Abercrombie and Representatives Charles Toguchi and Yoshiro Nakamura. They assisted in researching and drafting the violence and vandalism bill (S.B. 1699, S.D. 1, H.D. 2, C.D. 1).

IV.

EDUCATION PROJECTS

Part of the Commission's mandate is to educate the public about crime and its preventive. This task is partially

accomplished with the publishing of its reports on selected topics. Beyond this research effort, however, the Commission also has established several ongoing projects and holds occasional meetings to disseminate information. These included for fiscal year 1980-81 the speaker's bureau, an education program, and the sexual assault seminar.

A. SPEAKER'S BUREAU

In August 1980 the Commission extended an offer to civic organizations, schools and universities to provide public speakers. The response has been favorable and to date, representatives of the Commission have spoken to sixty-seven groups. This number includes appearances on radio and television programs, keynote addresses at large annual meetings, and an invitation to address the student body of Maui Community College. The subjects of talks have ranged from the role of the Crime Commission in Hawaii's criminal justice system to the findings of Commission reports, such as Sexual Assault and Violence and Vandalism in Hawaii's Public Schools. Principal speakers have been Mr. Edward Hitchcock, Director, and John Bassford, Jerry Reardon, Louis Staunton, Martha Torney, and Rex Hitchcock.

Following is a list of speaking engagements for fiscal year 1980-81.

SPEAKER'S BUREAU

<u>DATE</u>	<u>NAME OF ORGANIZATION/ASSN.</u>
Sept. 9, 1980	Makaha Rotary Club
Sept. 11, 1980	Leeward Jaycees
Sept. 16, 1980	Kaneohe Lions Club
Sept. 18, 1980	Waikiki Sunrise Club
Sept. 18, 1980	Haiku Gardens Lions Club
Sept. 22, 1980	East Honolulu Rotary Club
Sept. 23, 1980	Kamehameha Lions Club
Sept. 24, 1980	Land of Rainbow Lioness
Sept. 24, 1980	Moanalua Merchants Assn.
Sept. 26, 1980	Maui Community College
Oct. 2, 1980	Kailua High School
Oct. 2, 1980	Wahiawa-Waialua Rotary Club
Oct. 9, 1980	Kaneohe Kiwanis Club
Oct. 14, 1980	KNDI Radio Station
Oct. 14, 1980	Hawaii State Retired Teacher's Assn.
Oct. 15, 1980	Pearl City High School
Oct. 15, 1980	West Pearl Harbor Rotary
Oct. 15, 1980	Chaminade Sociology Class
Oct. 21, 1980	Am. Business Women's Honolulu Chapter
Oct. 21, 1980	Chaminade University
Oct. 22, 1980	Waikiki Community Center
Oct. 22, 1980	Makakilo Lions Club
Oct. 22, 1980	Leeward Lions Club

DATENAME OF ORGANIZATION/ASSN.

Oct. 23, 1980	Honolulu Chinatown Lions Club
Oct. 28, 1980	Kiwanis of Honolulu
Oct. 28, 1980	Hawaii Loa Kiwanis Club
Nov. 6, 1980	Hale Oha Ole Senior Citizens
Nov. 6, 1980	Chaminade University
Nov. 18, 1980	Honolulu Community College
Nov. 20, 1980	KNDI Radio Station
Nov. 21, 1980	West Honolulu Rotary Club
Dec. 3, 1980	University of Hawaii Campus Road
Dec. 12, 1980	Mililani Lions Club
Jan. 6, 1981	Honolulu Lions Club
Jan. 6, 1981	Mauians for Justice
Jan. 15, 1981	Kona Crime Prevention Committee
Jan. 15, 1981	D.O.E. Principals' Annual Meeting
Jan. 17, 1981	The Honolulu Lioness Club
Jan. 19, 1981	Women's Legislative Coalition
Jan. 20, 1981	Kaimuki Lions Club
Jan. 21, 1981	Brigham Young University Student Assn.
Feb. 2, 1981	HGEA Ninth Annual Educational Officer's Institute
Feb. 3, 1981	HGEA Ninth Annual Educational Officer's Institute
Feb. 11, 1981	Hawaii Kai Rotary
Feb. 13, 1981	State Commission on the Status of Women

<u>DATE</u>	<u>NAME OF ORGANIZATION/ASSN.</u>
Feb. 21, 1981	League of Women Voter's of Hawaii
Feb. 23, 1981	Department of Women's Studies, U.H.
Mar. 5, 1981	KITV Program
Mar. 7, 1981	Affirmative Action Office, U.H.
Mar. 12, 1981	Neighborhood Board #16
Mar. 31, 1981	Honowai School, Waipahu
Apr. 2, 1981	Kauai High School
Apr. 2, 1981	Kauai Women's Center
Apr. 3, 1981	Waimea High School
Apr. 3, 1981	Kapaa Community Center
Apr. 7, 1981	School of Public Health, U.H.
Apr. 11, 1981	Seekers and Searchers
Apr. 14, 1981	Kamehameha Lions Club
Apr. 23, 1981	East-West Center, U.H.
Apr. 23, 1981	Honolulu Community College
Apr. 27, 1981	Aiea Shriners Club
Apr. 28, 1981	Kaneohe Rotary Club
May 12, 1981	Royal Elementary School
May 14, 1981	Kahului Lions Club
May 26, 1981	Waianae Coast Rotary Club
June 26, 1981	Hawaii Congress of Parents, Teachers, and Students
June 27, 1981	Hawaii Congress of Parents, Teachers, and Students

B. EDUCATION PROGRAM

During fiscal year 1980-81, the Crime Commission began a program for disseminating specialized information to State educational institutions in accordance with its legislative mandates. Two specialists were hired to implement this program.

The Commission has planned to greatly expand its activities in the field of public education. In accordance, a staff reorganization has been proposed which would create an education department. Staff members will be drawn from among the researchers, legal researchers, and investigators currently employed by the Commission such that no additional staff costs will be incurred. It will be the duty of these staff members to produce and disseminate educational materials about crime and the criminal justice system, to carry on and expand the current speaker's bureau activities, to conduct crime prevention and safety programs in Hawaii's schools, and to cooperate with the media, governmental agencies, and community groups in increasing public awareness about crime and crime prevention.

C. SEXUAL ASSAULT SEMINAR

During fiscal year 1980-81 the Commission co-sponsored

a seminar on sexual assault. The two day seminar held April 15-16, 1981 was entitled "Sexual Assault: The Victim and the Offender." It was co-sponsored by the Sex Abuse Treatment Center. The need for such a workshop became apparent to the Commission during its work on the Sexual Assault report, published in 1980.

The seminar was presented by Dr. A. Nicholas Groth, Director of the Sex Offender Program at Connecticut Correctional Institution, who is an internationally known expert in the field. Dr. Groth divided his presentation into three basis areas:

- 1) RAPE: THE VICTIM AND THE OFFENDER. Focus: dynamics and motivation of the offender; patterns of sexual assault; victim selection; impact on the victim.
- 2) CHILD MOLESTATION: THE VICTIM AND THE OFFENDER. Focus: typology of offenders, their motivations, patterns, personality characteristics; perception and selection of victims; special aspects of incest offenses.
- 3) MANAGEMENT OF THE SEXUAL OFFENDER: PROBLEMS AND APPROACHES. Focus: Methods of treatment of the sexual assault offender in the correctional setting.

The workshop was well attended (about 150 in all) by people from many different disciplines--social workers, teachers, nurses, medical doctors, psychologists, police, attorneys, and corrections personnel. It was also well received. The eighty participants who filled out evaluation forms on the workshop all gave Dr. Groth the highest marks for his presentation.

V.

MEETINGS

During fiscal year 1980-81 the Commission held twelve meetings. Nine of these included the full Commission; three were the Executive Committee. Meetings were held on the following dates: August 21, September 19, October 3, November 14, November 19, November 25, and December 19, 1980; January 23, February 20, April 29, and May 21, 1981. The May 21, 1981 meeting was held on Molokai as the beginning of an effort to regularly bring the Commission to all the islands of the state.

VI.

PUBLIC HEARINGS

Public hearings were held in Honolulu daily during the week of December 15-19, 1980. The Commission received testimony concerning its victim/witness assistance and victim/witness protection projects. It also took testimony concerning the modification of its rules of operation. The Commission held public forums on Maui, Kauai, and Hawaii in October in connection with its victim/witness projects.

VII.

INVESTIGATIVE DIVISION

A. Function

The investigators form one of the three staff divisions. During fiscal year 1980-81, this section performed the following functions:

1. Interviewed over 250 victims regarding their treatment by the criminal justice system;
2. Subpoenaed victims to testify at public hearings on Oahu and at public forums on Hawaii, Maui, and Kauai.
3. Handled and processed all of the calls received in confidential message center. Performed whatever investigative services required to gather pertinent information and forwarded data to the proper agencies;
4. Processed requests received during normal working hours--telephone calls, correspondence, in-person interviews;
5. Gathered, maintained and updated confidential information on organized crime: Hawaiian syndicates, Yakuza, Cosa Nostra, criminal immigrant groups, California prison gangs, and organized drug groups;
6. Gathered data on suspects connected with organized crime and/or drug traffic and forwarded the information to State and Federal agencies; and
7. Conducted investigations when needed in connection with research projects.

B. General Information

The investigative section's work is highly confidential in nature. However, the following general information is provided for the public.

1. Organized crime in Hawaii is fragmented into a number of groups operating throughout the state and is not limited to island of Oahu.

Yakuza primarily prey upon businessmen from Japan, Japanese tourists, massage parlors and Japanese nationals. They also are involved in drug and gun smuggling to Japan.

2. "La Cosa Nostra" is involved in gambling certain types of illegal drug transactions, and prostitution.

3. Immigrants are becoming more involved as "soldiers" for different factions and we feel that eventually they (immigrants) will operate as their own unit.
4. Organized crime has been responsible for murders during the past year and will continue to be involved in the future.
5. Information gathered by the investigative staff aided in our recommendations to the legislature in regard to amending or creating new laws.
6. The Chief Investigator attended a California Department of Justice course dealing with the gathering and analyzing of information pertaining to organized crime. He also made valuable contacts with others specializing in this field which should prove very useful to the Commission.

VIII.

FUTURE PROJECTS

In addition to the studies continuing past July 1, 1981, discussed in Section II-C, the Commission will begin new projects during the coming year. Among those already approved are the following:

1. Terrorism
Due to the increase in terrorism nationwide and worldwide it is important to see how government agencies in Hawaii are equipped to handle acts of terrorism. It is especially necessary for an island state which has important transportation and military facilities and which serves as a regional center for business.
2. Crime in Tourist Areas
Crime in tourist areas is of a unique nature. It is also more important economically than the actual dollar loss and amount of personal injury would indicate. These characteristics single out this topic as one of continuing concern for a broad spectrum of our community.
3. Violence and Vandalism in Hawaii's Elementary Schools
This topic grew out of the Commission's work on violence in secondary schools. Many people in the

education system voiced the belief that the violence which erupts in secondary school is already kindled in the elementary years. They believe that early identification and treatment can prevent much of the later trouble while at the same time benefiting the disruptive children, saving a lot of money, and ultimately preventing crime.

4. Sexual Assault Seminar for the Legislature
The Senate Judiciary Committee requested that the Crime Commission hold a seminar on sexual assault for its members and other legislators before the 1982 session. It will focus on the effect of Hawaii's laws on the reporting, investigation, and prosecution of sexual offenses and the need for statutory reform.
5. Mounted Police Patrols
House Resolution 328, 1981 session, enjoined the Crime Commission to study the feasibility of implementing mounted police patrols in Hawaii parks and beach areas. This study was to supplement the 1979 Honolulu Police Department feasibility study on the same topic.
6. Reevaluation of the Wiretap Law
Hawaii first authorized court ordered wiretapping in 1978 based on the findings of the Crime Commission. By the end of 1981 enough cases involving legal wiretaps will have come to court to enable an evaluation of the law at that time.
7. Ongoing Update and Review of Completed Projects
Almost all completed Commission projects can benefit by periodic review and updating. In that way, Commission reports can remain useful to criminal justice agencies, schools, and interested individuals. Such review is continuously being conducted.
8. Other Projects Requested by the Governor, Legislature, or other Agencies
On any subject within its purview, the Commission is always willing to assist other government bodies in any way it can.

IX.

BIBLIOGRAPHY

Pursuant to its function to study crime and report the

findings, the Commission has periodically issued reports.

These include the following:

- 1) A Survey of Crime and The Criminal Justice System, January 1978.

This report detailed a survey designed by Commission staff and conducted on the Commission's behalf by an independent survey organization. It determined that crime was a primary concern to Hawaii's people; that organized crime was viewed as a serious problem; that fear of being a crime victim had changed peoples' lives; and that only the police were viewed favorably, with both the prosecutor and the courts being rated as poor.

- 2) Wiretapping, January 1978

This project studied the nature and effectiveness of wiretapping statutes in twenty-three states and the District of Columbia as well as the Federal law. It produced a model statute with several innovative features which was adopted as Hawaii law, ending Hawaii's prohibition on court-ordered wiretapping.

- 3) Organized Crime in Hawaii, Volume I, August 1978.

This report attempted to characterize local organized crime by providing a) a general description, b) a thorough treatment of one topic statewide, and c) a look in detail at the problems of one island. The report produced a general theory of organized crime, a complete analysis of the history of organized crime killings in the state, and a history of the syndicate on Kauai. Lacking statutory immunity, the Commission still sought to publicize as much information as possible without breaking confidentiality.

- 4) A Study of the Grand Jury in Hawaii, August 1978.

This report was prepared for the Constitutional Convention which was considering reforming Hawaii's grand jury system. After significant legal and academic research, public hearings, and citizen input, the Commission recommended abolishing the grand jury in favor of the preliminary hearing, retaining only the investigative grand jury. The Constitutional Convention did not adopt this proposal.

5) Extortion, July 1980

To examine the nature and extent of extortion in Hawaii, the Commission examined reported cases, conducted an exhaustive survey of 45,000 businesses in Hawaii to discover unreported cases, interviewed law enforcement officials, and analyzed Hawaii, Federal and other states' laws on extortion. The report resulted in a set of specific recommendations to improve the reporting and handling of extortion cases as well as suggested revisions to Hawaii law, which were enacted during the 1979 session.

6) Principles of Criminal Proceedings in Hawaii's Judicial System, July 1980.

This textbook on Hawaii's court system began as an instruction manual for the Commission's court observer program. It grew to become a general introduction to the system appropriate both for the classroom situation and for the general public.

7) The Court Observer Pilot Project, July 1980

This report describes the pilot court watching project conducted on Oahu in 1978 and 1979. That project was focused on two measurable criteria of efficiency--audibility and delays. Volunteer observers, trained by Commission staff, carried out the project in both Circuit and District courtrooms.

8) Violence and Vandalism in Hawaii's Public Schools, Volumes I and II, September 1980.

This report assessed the nature and extent of these problems and produced a set of general and specific recommendations for improvement. It concluded that violence and vandalism are indeed serious problems in our schools and that the primary focus of attention should be to create excellent school management as the most efficient and manageable solution to the problems.

9) Citizen's Handbook: A Guide to Government Services, Oahu Edition, November 1980

This handbook is a convenient guide to county, state, and federal government services available on Oahu. Designed for easy use by the average citizen, it is organized and indexed by subject. This handbook

should help untangle the maze of government and make the filing of complaints or requests for information and help easier.

10. Sexual Assault, November 1980

This report details a three year study by the Commission of ways to improve the criminal justice system's handling of sex offenses. It proposes a model statute to reform Hawaii's laws. The changes embodied in that statute would first, afford equal protection for all citizens against any act of violence; and second, move the focus of prosecution from the conduct of the victim to that of the defendant. It is hoped that improving the victim's treatment in the criminal justice system will foster increased reporting and facilitate the prosecution of sex offenses.

11. Witness Protection, November 1980

Convinced of the need for witness protection by law enforcement authorities from all counties, the Commission proposed the creation of a statewide witness protection program housed in the Attorney General's Office. It allows for the protection of witnesses or potential witnesses, their immediate families, and any other persons closely associated with them for as long as a danger exists. It calls for greatest priority being given witnesses in organized crime, racketeering activity, or career criminal prosecutions.

12. RICO Proposal, November 1980

This report proposed amending Hawaii's Racketeer Influenced and Corrupt Organization statute. In order to improve the fight against organized crime, it adds the county prosecutors and the Hawaii Crime Commission to the chiefs of police as those entitled to examine tax returns of those suspected of willfully failing to report income and pay taxes.

13. Obstruction of Justice, November 1980

This study compared the federal obstruction of justice statute to Hawaii's with the intention of finding specific areas where Hawaii's law could be improved. It concluded by recommending a model statute. That statute added two new sections which made retaliating against a witness and retaliating against a juror class C felonies.

14. Loitering, November 1980

The Commission examined all existing state loitering laws in the nation to see if a useful loitering law could or should be adopted in Hawaii. It concluded that the acts which would be proscribed by such a statute are already prohibited under existing Hawaii law and thus chose not to recommend a loitering statute to the legislature. However, the research and draft of a possible statute were made available for the legislature's use.

15. Review of the Wiretap Law, November 1980

In order to evaluate the effectiveness of Hawaii's wiretap law, passed in 1978, the Commission contacted the chief of police and prosecutors in each county and the judge in Honolulu assigned to hear wiretap applications. It is the consensus of these professionals regularly working with the law that it is working well and that it need not be restudied at this time.

16. Victim/Witness Assistance Program, January 1981

This study cataloged and categorized victim/witness services in Hawaii, assessed how present services are meeting the present needs of victims and witnesses, and made concrete recommendations as to what may be done to improve or add to these services. Criminal justice system professionals have come to recognize that many victims will not participate in court proceedings if they are traumatized by their interactions with the system. Therefore, it is hoped that by improving victim/witness services our justice system as a whole will benefit.

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