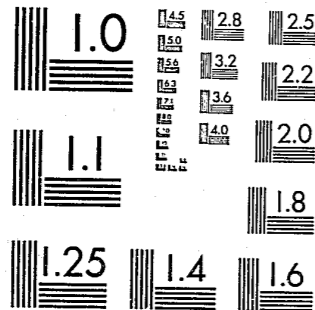


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ANNUAL REPORT OF 1978

A REPORT TO THE
HAWAII STATE LEGISLATURE

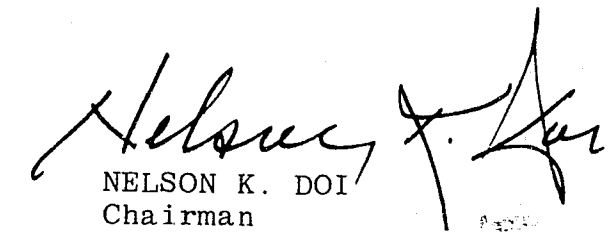


BY THE
HAWAII CRIME COMMISSION
State Capitol
Honolulu, Hawaii 96813

January 1979

86964

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.


NELSON K. DOI
Chairman
Hawaii Crime Commission

Hawaii Crime Commission **NCJRS**

OCT 6 1982

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ACQUISITIONS
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I.

INTRODUCTION

This report is a summary of the status and activities of the Hawaii Crime Commission during the twelve-month period from January through December 1978.

The Commission issues separate reports on specific topics, which include factual revelation of crime and criminal activity, analysis of crime patterns and causes, review of the institutions and procedures of the criminal justice system, review of laws, and study of the kind of impact that crime has made on Hawaii's society, government and people. In most reports, the Commission will offer recommendations on legislation, institutions and procedures.

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, but that the chairman and executive officer of the Commission be appointed by the Legislature. The Commission is composed of 12 members, all, with the exception of the Chairman, appointed by the Governor with the advice and consent of the Senate.

1. Members

On July 21, 1977, the Governor officially appointed 11 members to serve on the Commission. The Commissioners are all private citizens, with the exception of the chairman:

Nelson K. Doi, Chairman

Recent Lieutenant Governor of the State of Hawaii. Formerly a County Attorney and Senior Judge of the Third Circuit Court. Served as State Senator, including Senate President and Floor Leader. Was twice a delegate at Hawaii Constitutional Conventions. Also served as delegate to Washington, D.C. for Hawaii Statehood.

Rafael Acoba

Graduated from Maui High School and Honolulu Business College. Served for twenty years in the Maui Police Department and currently works as a real estate broker. Has been active in several church and community groups on Maui.

Gene Albano

Born and educated in the Philippines. Holds degrees in business administration and law. Has been active in Filipino community organizations as well as other community groups, such as the Chamber of Commerce. Works as Assistant Vice President and Manager of a savings and loan.

John Beck

Born and raised in China, holds a B.A. and M.A. in Sociology and an M.A. in Theology. Has taught in China and served as a minister in several countries. Until 1976 was a special counselor for the Department of Education in Hilo and has served as Chairman of the County Committee on Children and Youth. Currently Pastor Emeritus of the First United Protestant Church of Hilo.

Maggie Bunson

Holds a B.A. in English and an M.A. in Theology. Has served as a teacher, editor, and free-lance writer, having published three books on Catholicism. Currently is Secretary to the Bishop of Honolulu.

A. Van Horn Diamond

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. Currently is Executive Secretary of the State AFL-CIO.

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.

Thomas Oshiro

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. Currently serves as treasurer to the Susannah Wesley Community Center.

Borick Peroff

Born on the island of Hawaii and educated at St. Anthony's High School, Maui. A former police officer, currently is a security officer for Matson and President of ILWU Local 160, Security Section.

Napua Stevens Poire

Born on the island of Hawaii, educated at Hilo High School. Has extensive experience as an entertainer, author, and expert on the Hawaiian language. Has had numerous radio programs, taught hula, and for ten years had her own TV show, "Napua's Kitchen."

Frank White, Jr.

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 works as an executive in a leasing company. Is active in local sports activities and serves as director of the Hawaii Trucking Association.

2. Structure and Terms

The 1978 legislative session extended the terms of the Commissioners to June 30, 1980. Any vacancy on the Commission, except the chairmanship, is to be filled by the governor, with the advice and consent of the Senate. Act 219 also provides for the appointment of the chairman by a joint session of the House and Senate for a term from July 7, 1979 to June 30, 1980. If no new chairman is named, the incumbent chairman will remain 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, and may fill any vacancy. The chairman has the power to vote only in the event of a tie vote.

The members of the Commission are not compensated for their services but are reimbursed for reasonable expenses necessary to the performance of their duties, including travel expenses. There is an executive committee of the Commission which consists of two persons elected by the Commission from among its members. This year the two members are Gene Albano and A. Van Horn Diamond. The executive committee includes the chairman of the Commission and is empowered to develop and identify general areas for

Commission study and review, and generally direct the work and activities of the Commission.

B. STATUTORY JURISDICTION OF THE COMMISSION

The duties and functions of the Hawaii Crime Commission, as stated in Act 219, are 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; and
- (10) Perform other functions and duties necessary to carry out the procedures established in Section 843-6.

Act 219 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. Act 219 also requires 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.

C. MEETINGS

During 1978, the Crime Commission held seven meetings.

The Commission met on:

- (1) January 16 to approve a draft wiretap statute and discuss the Sex Abuse Treatment Center;
- (2) March 2 to hear testimony on extortion;
- (3) April 27 in an open meeting to approve a study of the grand jury in Hawaii, the establishment of a court observer program, the creation of a seminar on terrorism, and, in executive session (closed hearing), extortion and organized crime;
- (4) June 28 to hear testimony on the grand jury system;
- (5) July 21 to approve a recommendation to the Constitutional Convention on the grand jury in Hawaii;
- (6) September 8 in a closed meeting to discuss organized crime; and
- (7) December 20 to discuss changes in the sexual assault laws and the court observer program.

Further, there was one executive committee meeting on April 9, 1978.

D. STAFF

The Commission has employed staff members and employees whose background reflect the general approach of the Commission, namely to integrate academic, legal and investigative skills in its investigations and studies of crime and the criminal justice system.

Hikaru Kerns, Director

A former Rhodes Scholar and a National Defense Fellow. Graduated from Oxford University with a specialty in defense policy and foreign affairs. Since July 1977 has served as investigator and director of staff.

Richard S. Kawana, Staff Attorney*

Graduated from Willamette University and Georgetown University Law Center. Served as Intelligence Officer, U.S. Air Force. Clerked for a U.S. District Court Judge and was a trial attorney for the Public Defender's Office.

_____, Investigative Attorney
(position to be filled)

Edward J. Hitchcock, Chief Investigator

Served as Assistant Chief of Police in the Honolulu Police Department. Also as Chief of Investigations for the Attorney General's Office, and as Chief of Police, County of Maui.

*James T. Countiss served from July 1977 to November 1978, as Legal Counsel, and is currently an Assistant Professor of Law at the University of Hawaii School of Law.

David Kekumano, Investigator
Served as officer and detective with
the Honolulu Police Department for
19 years; also as security investigator
for the Attorney General's office.

John Louis Bassford, Research Analyst
A former teacher and participant at the
East-West Center. Currently is a Ph.D.
candidate in history at the University
of Hawaii.

Rowena A. E. Adachi, Legal Assistant-Researcher
Graduated from the University of Hawaii and
Kapiolani Community College in the legal
assistant program.

Julie T. Chiya, Administrative Secretary
Graduated from the University of Hawaii.
Has worked as a photographer, secretary
and editorial assistant.

Martha Chantiny, File Clerk
Graduated from the University of Hawaii
at Hilo.

E. OUTSIDE ASSISTANCE

The Commission was able to accomplish more than its
appropriated funds would have permitted, owing to the aid
of volunteers and various institutions. The Commission
views itself partly as a development and coordinating center
for those untapped skills and resources in the community that
can be applied to the problems of crime and the criminal
justice system, without cost to the State. During 1978 the
Commission received assistance on its projects from the
following persons and groups:

(1) Extortion survey and report:

The Commission received assistance in collating materials and preparing them for mail in connection with a questionnaire to small businesses. Senior citizens from Lanakila Center, several groups from the Church of Jesus Christ of Latter Day Saints, and students from Castle High School Key Club contributed some 1200 hours of volunteer assistance. Other individuals who donated labor and skills include Evelyn Oshiro, Annette Camacho, and George Tamashiro. The Commission also recieved valuable technical assistance from Dr. Dan Tuttle, Milton Goto, Colin Miyabara and Dr. Ross Prizzia.

(2) Organized Crime Report:

Richard Miller, Professor of Torts, and Addison Bowman, Professor of Criminal Law, of the University of Hawaii Law School, assisted the Commission with its Organized Crime report. They contributed valuable legal counsel on several aspects of the report including civil liability and examination of evidence.

(3) Court Observer Program:

Volunteers from the League of Women Voters underwent six hours of training, participated in the pilot program and helped evaluate the results and the program. Jerry Hess and Anne Kent contributed special assistance.

(4) Reform of Sexual Assault Laws:

Kathy Kamo and individuals associated with the Sex Abuse Treatment Center, Kapiolani Hospital, rendered assistance in the review of the proposed statute.

(5) Seminar on Terrorism:

The Chamber of Commerce of Hawaii has agreed to coordinate aspects of the seminar on anti-terrorism, anti-extortion, and anti-bombing measures for businesses.

II.
ACTIVITIES

A. ORGANIZED CRIME

1. Background and Objectives

The Crime Commission was created at a time when public concern about organized crime had become acute. Stories of contract murders, police corruption, political influence and economic domination by the Syndicate were freely circulated. Extreme fear of organized crime was expressed in daily conversation by government officials, by commercial workers, by news reporters, by laborers, by housewives--in short, encompassing the spectrum of society. This fear was all the greater because it was often expressed privately. As the Commission later articulated in its report on Extortion, this climate of fear was an integral part of the lives and politics of Hawaii's people.

Late in 1977, the executive committee of the Commission authorized the staff to investigate and study organized crime in Hawaii. Because of the complex nature of the problem and the lack of readily available information, it was decided to issue intermittent reports focusing on narrow subjects. It was believed that such a sequential approach would lead to an earlier release of the findings and results, rather than if the entire report had been issued in one comprehensive volume.

The objectives of the investigation are to:

- (1) expose the leaders of organized crime, as well as the rank and file members;
- (2) describe in detail their structures, their income, their characteristics, their origins, and their strengths and weaknesses;
- (3) collect evidence; and
- (4) discover legislative and other remedies to diminish the problem of organized crime.

The first volume of the organized crime report was released to the legislature and the public in August 1978. It consisted of four sections: 1) a general theory of organized crime in Hawaii; 2) a description and analysis of all known organized crime killings in the state; 3) a specific case study of the island of Kauai, including the naming of the relevant individuals; and 4) recommendations and proposed statutes. A brief summary of each of the sections is reproduced below.

2. A General Theory of Organized Crime in Hawaii

This section establishes a theoretical basis for understanding organized crime, including a definition, a comparison with organized crime on the mainland, and

an analysis of its impact on society. It concluded that the greatest potential for harm exists when organized crime can form a "linkage" between the illegitimate world of street crime and the power centers of legitimate society. Such a linkage has been shown to exist in every locality where organized crime has grown significantly. What occurs is the duping, timidity, or corruption of officials who by active or passive involvement strengthen organized crime activities. Breaking this linkage is an important aim of the Commission's investigations and recommendations.

The Commission discovered both similarities and differences between organized crime in Hawaii and criminal syndicates on the Mainland. Both use violence and terroristic threatening as a foundation for their authority. Unlike the sophisticated mainland organizations, however, organized crime in Hawaii at the street level is not stable and ongoing, with clear and definite lines of authority and communication. Nor, in Hawaii, is there evidence of a complex division of labor. Instead, the local syndicate is relatively new, unstable and unstructured. Its members are usually paid in fee per specific work instead of a steady salary. The organizations display more the character of "gangs" rather than of "corporations."

method employed and the status of the cases. Victims of attempted murder and missing persons were also described.

Several conclusions were reached as a result of this part of the study. First, victims were not limited to organized crime members but rather included a cross-section of our society--hardened criminals and innocent citizens, men and women, old and young, rich and poor, and people from all ethnic groups. However, nearly all the victims had established some kind of relationship with organized criminals. Second, for the last ten years organized crime killings averaged five or six per year, which accounted for some 10-15% of the total number of murders each year in Hawaii. Third, beyond their significance for specific purposes, these killings maintained the general aura of violence surrounding organized crime. This reputation has been responsible for generating the atmosphere of general fear in Hawaii, which is fundamental to the success of syndicate activities.

4. Kauai

The situation on Kauai was chosen as the first specific case because it offered the least legal problems and

provided a form of testing ground for methods in the investigation, the naming and the reporting of larger and more complex subjects. All statements about organized crime activities on Kauai were supported by a coded reference to the source of the information. In that way, a maximum amount of information could be provided, while preserving confidentiality. Subpoenas were served on most of the individuals investigated. They were offered a chance to refute any charges with presence of counsel.

The report on Kauai was the result of investigations made during the course of several trips to that island by the Commission staff. It was learned that organized crime mainly concentrated on gambling activities from which extortion, tax evasion, assault, terroristic threatening and other organized crime activities derive. The principal figure was Fendel "Ding" Oclit, who came from Honolulu to Kauai in 1970. Other figures include Robert "Bobby" Wilson, Louis Rego Sr., and Floro Villabrillo.

The situation on Kauai represents the most rudimentary form of organized crime. Even so, its impact on the residents of Kauai has been substantial, many of whom expressed fear that they would fall victim to threats and terroristic activities.

5. Recommendations

The recommendations reflected the theory of organized crime which was outlined in the first section (under definition and characteristics). The first characteristic is that the catering to illegal vices, including gambling, prostitution and narcotics, is made into a system through a division of labor. In order to diminish the profitability of gambling enterprises, two changes in the law were recommended.

The first recommendation is a mandatory graded system of fines. This law would discourage and punish the source of funds, namely the income from the repeat gamblers, while still giving fair treatment for the first offenders. The following scale of fines was recommended:

First offense.....	\$25.00
2nd through 5th offense.....	\$100.00
6th through 9th offense.....	\$500.00
10th and subsequent offenses.....	\$1,000.00

The second recommendation is a more severe forfeiture provision. The property used in the commission of the crime would be forfeited to the State, thus increasing the risk to the organizers for undertaking gambling and other organized crime activities. Both of these recommendations

would tend to make arrests even for misdemeanors forceful and thus a better tool for fighting organized crime.

The text of the forfeiture provisions is as follows (deletions to the current law are bracketed, additions are underlined):

§ 712-1230 Forfeiture of Property used in Illegal Gambling [devices, records, and proceeds]. Any gambling device, fighting animals or birds and paraphernalia, implements, furniture, property, vehicles, vessels, aircraft, or gambling record possessed or used in violation of a section in this part, or any money or property used as a bet or stake in gambling activity in violation of a section in this part, may be [is] forfeited at the court's discretion, where the owner knew or should have known of the illegal use of the property to be forfeited, subject to the requirements of section 701-119, to the State; provided that no property used only in connection with social gambling may be forfeited.

The third recommendation is a reconceptualization and strengthening of the terroristic threatening statute. The other characteristic of organized crime described in the section on theory, which proved to be important on Kauai, was that terroristic threatening or violence is used in a conspiracy to take money from individuals catering to illegal vices.

It is probable that threats are more frequently used by organized crime--and more effective--than violence, since the behavior of the victim is not only controlled but also because the making of threats is not a major offense. Terroristic threatening has also not been a high priority for investigation or prosecution. The Commission has repeatedly come across incidents in which organized crime figures were able to realize their desires by a well-versed threat. Terroristic threatening is related to the problem of extortion. In extortion, the element of seeking gain must be proven in addition to the threat.

Without the ability to instill fear, organized crime would be unable to establish the consent to its systems and rules that are necessary to the operation of large-scale conspiratorial crime. One important method of fighting organized crime is, therefore, to strike at the one tool that it uses to instill fear: terroristic threatening. The final recommendation in this first volume of the organized crime report is to reconceptualize and provide higher penalties for the crime of terroristic threatening. The text of the proposed statute is as follows (deletions to the current law are bracketed, additions underlined):

§ 707-715 Terroristic threatening. (1) A person commits the offense of terroristic threatening if he threatens, by word or conduct, to cause bodily injury to another person or serious damage to property of another or to commit a felony criminal offense:

(a) With intent to terrorize, or in reckless disregard of the risk of terrorizing, another person; or

(b) With intent to cause, or in reckless disregard of the risk of causing evacuation of a building, place of assembly, or facility of public transportation.

(2) Terroristic threatening is a misdemeanor except in the case of repeated threats, a pattern of conduct involving the use of threats, threats made to public officials, or when firearms, explosives or any dangerous weapons are used in connection with any threat under this section, where terroristic threatening is a Class C felony.

In addition, the Commission will submit during this legislative session substantial changes to the laws of extortion and criminal coercion, as well as recommend the adoption of an extortionate credit transaction act.

B. WIRETAPPING STATUTE

During 1977, the Commission did extensive work on the issue of wiretapping. It prepared a lengthy preliminary report which described and analyzed in detail the (then current) Hawaii law prohibiting wiretapping; the current technology of wiretapping; the constitutional limitations on wiretapping; the federal wiretap statute; wiretap statutes in twenty-three states and the District of Columbia; and the effectiveness of wiretapping determined from statistics on the use of wiretaps nationwide since 1968. It held a public hearing at which 20 distinguished members of the community presented testimony for and against court-ordered wiretapping. In December 1977, the Commission voted to recommend to the Legislature the adoption of a state wiretapping statute with several innovative provisions.

This statute was sent to the Legislature along with the Commission's final report on Wiretapping. This report included the findings of the preliminary report, the testimony received, and the recommendations of the Crime Commission. The Commission statute incorporated many of the best features of the federal and other state wiretap statutes, as well as several unique provisions suggested by

research and by testimony at the public hearing. During the 1978 session, the Legislature adopted the Commission's model statute, leaving it virtually intact. The following are the main points of the statute:

(1) Hawaii's wiretap law is targeted primarily at organized crime activities, but is also more protective of the privacy rights of individual citizens than the wiretap statutes of the federal government and most other states. The Hawaii statute, for example, outlaws the use of "bugs" placed at or near the object of surveillance; authorizes court-ordered wiretapping only for organized crime felonies or very serious offenses such as murder, kidnapping, or arson; establishes rigorous requirements for notice, disclosure, and destruction; and imposes stricter standards for minimization than is found elsewhere. It continues to permit consensual monitoring.

(2) One of the provisions recommended in the statute and enacted into law is the "challenger" clause. This provision attempts to further protect citizens' rights by requiring a court-appointed attorney to challenge the wiretap application in a closed-door adversary hearing. This procedure also protects law enforcement officials from acting on defective applications. At the time of its enactment into law, this clause had no counterpart or predecessor in federal or state law.

(3) The Commission's recommendation for a sunset provision, amended to impose a six-year life on the wiretap law, was also adopted by the Legislature. The provision provides for a commission to evaluate the wiretap law prior to its termination date and to report its findings to the Legislature. The Legislature will thus be provided with an independent, informed opinion as to the efficacy of wiretapping in Hawaii.

In summary, the wiretap law as enacted attempts to strike a balance between the need for such a tool in the fight against organized crime and the threat to individual privacy which wiretapping poses.

C. EXTORTION

On September 7, 1977, the Commission authorized the staff to conduct an investigation and a study of the problem of extortion. During 1977, certain cases and complaints were dealt with, preliminary research was carried out, and a survey of 15,000 small businesses was conducted. The work on extortion was continued in 1978. A larger survey (30,000 more small businesses) was sent out and the results were combined with the original data. By mid-1978, a preliminary report was written and a special blue ribbon

committee on extortion was formed to study the problem independently of the Commission. A public meeting dealing with extortion is to be held early in 1979, to be followed by a final report to the Legislature which will include recommendations for legislation. Besides viewing extortion as a theoretical problem, the Commission also dealt with, in cooperation with the law enforcement agencies, three individual cases and a large number of complaints. As far as it can be determined, a comparable investigation and study has never been attempted in Hawaii or in any other area of the United States.

1. Purpose

The purpose of the project has been defined as follows:

- (1) To discover and examine unreported or unprosecuted incidents of extortion in Hawaii;
- (2) To examine the police procedures, the prosecutorial practices and the laws in connection with extortion;
- (3) To develop legislative and procedural recommendations.

2. Background

There were only two cases of extortion brought to trial in Hawaii from 1974 to 1977. The Commission suspected that this figure represented a great understatement of the

seriousness of the problem. It was believed that there was a far larger number of extortion incidents either unreported or unprosecuted.

3. Method

The first step was to open new channels of information-- to find new ways of allowing extorted businesses to come forward or give anonymous information about their problem, and also to encourage citizens who knew of extortion cases to present their information.

First, there was the Confidential Message Center. Citizens were able to call in and leave their message on a tape-recorder. The Message Center was a way of letting people deposit their information without coming into direct contact with a government official. Sometimes callers left their name and phone number; sometimes not. The phone number of this Message Center was included in various articles about the Crime Commission and also in occasional advertisements.

Second, a few people came in person to disclose information or file a complaint.

Third, the Commission conducted an extensive survey by mail. Since victims would be reluctant to respond to such a survey, considering the nature of this topic, it was

decided to blanket a large number of small businesses with a questionnaire in order to obtain absolute figures-- and also to obtain leads, or tips, that the staff could follow up on.

4. 1978 Survey

The second survey (of 30,000 businesses) was sent out in July 1978. It was a laborious process, but it was done at minimal cost to the State, since nearly all of the manpower was provided by volunteers--senior citizens, members of various churches, and students. As in the initial returns, the Commission was interested mainly in the written comments in which the respondents had a chance to express themselves fully. The multiple choice questions were key-punched into a computer for analysis. The results of this survey will appear in the final report on Extortion early in 1979.

5. Final Phase

It has been possible to arrive at tentative conclusions about the extent of extortion in regard to geography, method of operation, business type, total money amount and so forth.

There was staff expertise developed in dealing with a variety of extortion complaints and cases. After the blue ribbon committee on extortion has completed its work and the Commission has conducted a public hearing, formal interviews and discussions with the police, prosecutors and the courts will be held in order to determine how this problem can be diminished. In anticipation of this phase the Commission has already researched extortion laws in other states and possesses a working draft of a model statute to be tested by a public hearing.

D. CITIZEN INFORMATION AND COMPLAINT

1. Confidential Message Center

One of the legislative mandates of the Crime Commission is to secure citizen input concerning the working of the criminal justice system. The Commission has therefore not only welcomed suggestions, complaints and information from the public; it has actively sought them. One such project has been the Confidential Message Center. This is an automatic tape recorder attached to a telephone, which allows citizens to call in at any hour of the day. Those who call

have the choice of leaving their message anonymously or leaving their phone number and name for the staff to return the call.

This service was established in 1977 and has since received a large response. Many of the calls were crank or frivolous. But many others, roughly one-third of the total, contained useful information leading to criminal prosecution, ideas for reform, or complaints about agencies in the criminal justice system. The charts in this section give an idea of the kind of legitimate and substantive calls received during 1978 and their disposition.

The following are examples of the kinds of calls that have been received.

CONFIDENTIAL MESSAGE CENTER

1978

	January	February	March	April	May	June	July	August	September	October	November	December	TOTAL
Assistance						3	3	2					8
Gambling			1	1				1					3
Drugs	2	4	2		1	1				1		2	13
Extortion		1	1				1		1				4
Fencing	1												1
Government	1			2						1			4
Murder					1								1
Threats	1						1	1			1		4
Theft							1		1				2
Rape													0
Schools										1			1
Prosecution													0
General Information				1			1	2		1	1		6
Miscellaneous	5		3	3	3	2	8	2		2			28
TOTAL	10	5	7	7	5	6	15	8	2	6	2	2	75
<u>DISPOSITION</u>													
Handled by HCC	4	1	4	2		1	9	5		3	1	1	31
Refer Police	3	3	1	1	2	4	1	1	1			1	18
Refer Other	2		1	2			2			1			8
Filed	1	1	1	2	3	1	3	2	1	2	1		18
TOTAL	10	5	7	7	5	6	15	8	2	6	2	2	75

2. Walk-ins and Telephone Callers

In addition, a large number of citizens walked into the office or called by telephone with their particular information or problems. Owing to the severe lack of manpower, most of the information dealing with criminal activity was referred to proper Federal and local law enforcement officials. In some cases, however, the staff conducted its own inquiry, settled a dispute, or followed through on a complaint. The reasons that citizens turn to the Commission rather than to one of the traditional law enforcement agencies are still not clear. Citizens may feel more comfortable with an agency that is new; or with an agency that is committed to protecting the sources of its information in conformity with the law. Citizens may have had disappointing or traumatic experiences with other agencies. In any event, there are a large number of people who have sought the services of the Commission, or given information, who would otherwise have kept silent. As the Commission becomes more widely known, there may be a dramatic increase in the number of such calls.

In addition, the Commission has received requests for information about the criminal justice system, or for services to supplement the work of community organizations. The Commission was able to satisfy many of these requests.

E. STUDY OF THE GRAND JURY

On April 27, 1978, the Commission authorized the staff to undertake a study of the Grand Jury in Hawaii with a view toward recommending changes for consideration by the Constitutional Convention.

On June 28 a public hearing was held and testimony was taken from the following individuals:

- 1) Addison Bowman, Professor of Law, University of Hawaii;
- 2) Paul De Silva, Prosecuting Attorney, County of Hawaii;
- 3) Judge John Lanham, First Circuit Court, Honolulu;
- 4) Andrea DeHarne, ex-grand juror;
- 5) Steve Tom, Deputy Prosecuting Attorney, Honolulu;
- 6) Rick Eichor, Deputy Attorney General;
- 7) Chris Ferrara, Attorney (California and Hawaii);
- 8) Lt. Gordon Lee, Honolulu Police Department;
- 9) Chris Slayton, graduate student, political science, University of Hawaii;
- 10) Mark Davis, Attorney & President, American Civil Liberties Union;
- 11) Judge Masato Doi, First Circuit Court, Honolulu;
- 12) Dennis Chu, Deputy Public Defender;
- 13) Jon Van Dyke, Professor of Law, University of Hawaii;
and
- 14) Donald K. Tsukiyama, Public Defender, Honolulu.

At the July 21 meeting, the Commission voted to recommend to the Constitutional Convention the substitution of a requirement for a preliminary hearing in all felony cases for the current requirement of a grand jury hearing. It was also recommended that the investigative grand jury be retained and an independent counsel be made available to it. The Constitutional Convention adopted the latter recommendation.

A report was issued to the Constitutional Convention in August which included a study of the current grand jury system, the testimony given at the hearing and the recommendations of the Crime Commission. Testimony was also presented to the Constitutional Convention by Commission Chairman Nelson Doi.

F. REVIEW OF LAWS RELATING TO RAPE, SODOMY, AND SEXUAL ABUSE

On September 14, 1977, approximately twenty persons familiar with or representing agencies dealing with the problem of rape met by the Commission's invitation. There was near unanimous opinion by the attending persons that the Commission ought to create a special advisory task force, under the Commission's umbrella, for the purpose of coordinating

the efforts of existing legal and social organizations involved in the problem of rape and to conduct a public education program based on the best information and research available. On November 22, 1977, the Commission formally recognized this body as a special advisory committee to the Commission. The members currently serving on the Task Force are as follows:

Earl Benson	Detective, Honolulu Police Dept.
Addison Bowman	Professor of Law, U.H.
David Chandler	Professor of Sociology, U.H.
Roy Chang	Deputy Prosecuting Attorney
Paula Chun	Sex Abuse Treatment Center
Yuriko Hiramoto	Tripler Army Medical Center
Ramona Hussey	People Against Rape
Lila Johnson	Community
Marie Milks	Deputy Public Defender, Honolulu
Pat Putman	Associate Dean, U.H. Medical School
Geraldine Senner	Child Protective Services
Bill Woods	Sexual Identity Center

The moderator of this group was Anson Rego, a Commissioner, until his resignation on July 10, 1978.

The goals of this Task Force, as stated in its rules and regulations, are to:

- (1) Conduct comprehensive research and evaluate penal code offenses dealing with sexual assault.
- (2) Identify problem areas associated with these crimes.
- (3) Recommend changes, policies or procedures that will significantly reduce the incidence of these crimes and improve the care and treatment of the victims.
- (4) Review the current sexual assault offense statutes and recommend revisions if appropriate.

- (5) Identify, evaluate, and recommend improvement and expansion in existing programs for victims and offenders.
- (6) Assist in implementation of public education programs.
- (7) Improve communication and coordination of efforts among the agencies that deal with victims and offenders.

During 1978 the Task Force concentrated on the evaluation of Hawaii's laws dealing with the related offenses of rape, sodomy, and sex abuse. A subcommittee of the Task Force began work on a draft of a model statute. The Task Force met on January 11, February 1, March 15, June 9, June 21, July 19, August 30, November 29, November 30, and December 15. By December 1978, the Task Force had compiled research and, more importantly, on-the-record statements regarding the various issues from representatives of nearly every relevant agency and expert in the State. Based on these primary materials, any recommended changes in the current law may be certain to be worthy.

G. COURT OBSERVER PROGRAM

Court watching projects have been conducted in cities across the nation, reflecting the recent growth in citizen concern regarding the criminal justice system. These projects, although varying in scope, focus and design, share a basic pattern: Citizen volunteers are given training as court observers and sent to local courtrooms with instructions to monitor various activities that affect the administration of justice. Collected data are used to identify inefficiencies and inequalities in the judicial system. Recommendations for reform are then submitted to the local judiciary or to the legislature.

After several months of research, planning and preparation, the Commission has established a court observer program for Hawaii. It will consist of several consecutive, self-contained stages, each comprising the following:

- 1) Specific objectives and goals
- 2) Volunteers
- 3) Time schedule
- 4) Data forms tailored to project objectives
- 5) Selection of courtrooms
- 6) Training seminar for observers
- 7) Evaluation of data
- 8) Report on project findings

In December 1978, the Court Observer Program began its "pre-pilot" phase, a two-week project designed to identify basic defects in the mechanics and logistics of the general

program. The next phase, the "pilot," will start in January of 1979 and will last two to four months. All district and circuit courts dealing with criminal cases will be observed. The general objectives of the Program in these early stages are: 1) to collect and evaluate data on factors affecting the quality and efficiency of the judicial process; 2) to educate the public regarding the criminal justice system; 3) to promote the involvement of citizens in improving the judicial system; 4) to identify deficiencies in the judicial system that will be the focus of future projects; and 5) to refine the direction of the Court Observer Program and determine the possibilities of its expansion.

The specific objectives are to obtain data regarding punctuality and reasons for continuances and other delays.

Volunteers for the pre-pilot and pilot projects have been recruited from the Hawaii Chapter of the League of Women Voters. Twenty-five people are currently participating in the pre-pilot program and it is anticipated that sixty people will participate in the pilot. Eventually, court observers will be recruited from other civic organizations.

A six to nine hour training seminar conducted by staff and contracted attorneys is mandatory for all volunteers. Instruction includes basic information on Hawaii's criminal

justice system and major pre-trial and trial proceedings. In addition, volunteers are briefed on the practical aspects of court watching, from the value of objectivity to the location of courtrooms. To supplement the training seminar, an instruction manual has been prepared by the Commission that supplies the information necessary for court observers to perform their duties. The manual is required reading for all volunteers. Finally, in order to be certified an official court observer, each volunteer will be required to pass a qualifying examination based on the training seminar and the instruction manual.

H. ANTI-TERRORISM/EXTORTION SEMINAR FOR BUSINESSES

At the April 27, 1978 public meeting, the Commission approved the sponsoring of a special seminar on terrorism and extortion for businessmen in Hawaii. This program came in response to a growing interest and concern within the business community about these problems. It was decided that the seminar should be conducted by a well known national expert rather than by the Commission staff. A search was conducted to locate such an expert; the topics of the seminar were clarified; and arrangements were made for the seminar to take place.

It was decided to invite Mr. H.H.A. Cooper to conduct the seminar. Mr. Cooper has written extensively on terrorism and has served as the staff director for the National Advisory Committee Task Force on Disorders and Terrorism as well as special consultant to the National Wiretapping Commission. Currently, he is a consultant on terrorism to the International Association of Chiefs of Police.

Mr. Cooper will conduct an intensive two-day seminar to be held in Honolulu in February. He will prepare special presentations applicable to Hawaii. The topics to be covered include terrorism, personal security, hijacking, extortion, and kidnapping.

I. PROJECTS FOR 1979

Several of the projects which were conducted during 1978 will carry over into 1979. The investigation and study of organized crime and extortion will be continued during the coming year. The court observer program and terrorism seminar will both come to fruition during 1979. As some of the projects which are carried over into the new year are completed, the Commission will begin new projects.

Among them will be investigations, study and review of the most critical problems in crime and the criminal justice system consistent with Commission resources.

J. LEGISLATIVE RECOMMENDATIONS

The Commission plans to recommend several statutory changes in the 1979 Legislative session. These include changes in the Crime Commission bill; possible recommendations regarding libel and slander; revisions in the extortion, gambling, forfeiture, terroristic threatening, and criminal coercion laws; as well as an extortionate credit transaction act; and possibly changes in the rape laws. These will be presented to the legislature as part of the Commission's reports.

III. REPORTS OF THE CRIME COMMISSION, STATE OF HAWAII

A Survey of Crime and the Criminal Justice System

January 1978.

Wiretapping

January 1978.

Extortion: A Preliminary Report

February 1978.

A Study of the Grand Jury in Hawaii

June 1978.

Organized Crime in Hawaii: Volume I

August 1978.

Instruction Manual for Court Observers: Principles
of Criminal Justice in Hawaii

December 1978.

Final Report on Extortion

expected date of publication: January 1979

END