

# **REPORT OF THE JUDICIAL COUNCIL OF THE SUPREME COURT OF HAWAII**

For the Period  
January 1, 2014 through December 31, 2015

## **I. COUNCIL MEETINGS**

The Judicial Council held two meetings during this reporting period

- May 8, 2014
- April 30, 2015

## **II. CAMPAIGN SPENDING COMMISSION**

### **A) Judicial Council's Role**

Hawai'i Revised Statutes § 11-192 provides that members of the Campaign Spending Commission shall be appointed by the Governor from a list of ten nominees submitted to him/her by the Judicial Council. The Judicial Council may solicit applications for the list of nominees through community organizations and advertisements in any newspapers of general circulation. The Judicial Council shall meet and expeditiously select additional persons for the list of nominees whenever the number of the eligible nominees falls below five.

### **B) Action Taken**

At the start of this reporting period, the current list of nominees from which the Governor may appoint individuals to the Campaign Spending Commission was dated June 28, 2013 and contained seven names.

On February 23, 2015, in anticipation of upcoming term expirations on the Commission, a news release was issued by the Judicial Council seeking applicants to increase the list of nominees, with an application deadline of March 13, 2015.

In response to the news release, nine applications were received. The Judicial Council conducted interviews of the top six ranking applicants at its meeting on April 30, 2015, and voted on the names of the individuals who would be nominated.

On May 4, 2015, in accordance with the Judicial Council's vote, four names were added to the list of nominees, increasing the list from seven to eleven eligible nominees.

### **III. STATE ETHICS COMMISSION**

#### **A) Judicial Council's Role**

Hawai'i Revised Statutes § 84-21 provides that the State Ethics Commission shall consist of five members appointed by the Governor from an initial panel of ten persons nominated by the Judicial Council. A vacancy on the commission shall be filled for the remainder of the unexpired term in the same manner as the original appointment, except that the Judicial Council shall nominate for gubernatorial appointment two persons for a vacancy. If the Governor fails to appoint a person to a vacant office within sixty days after receipt of the list of nominees from the Judicial Council, the Judicial Council shall select a person from its list of nominees to fill the vacant office.

#### **B) Action Taken**

There were three term expirations of State Ethics Commission members during this reporting period. As a result, the following actions were taken by the Judicial Council:

##### **1) Term expirations of David O'Neal and Cassandra Abdul on June 30, 2014**

The terms of commission members David O'Neal and Cassandra Abdul were due to expire on June 30, 2014. On February 4, 2014, a news release was issued by the Judicial Council seeking applicants for the anticipated vacancies, with an application deadline of February 28, 2014. That deadline was further extended to March 31, 2014.

In response to the news releases, eleven applications were received. One applicant subsequently withdrew his application prior to the interview process. The Judicial Council conducted interviews of the remaining 10 applicants at its meeting on May 8, 2014, and voted on the names of the individuals who would be nominated. Following the interview process, one applicant withdrew her application.

On May 12, 2014, in accordance with the Judicial Council's vote, two names were submitted to Governor Neil Abercrombie for selection to fill the term expiration of David O'Neal, and two names were submitted for selection to fill the term expiration of Cassandra Abdul.

## **2) Term Expiration of Edward Broglio on June 30, 2015**

The term of commission member Edward Broglio was due to expire on June 30, 2015. On February 23, 2015, a news release was issued by the Judicial Council seeking applicants for the anticipated vacancy, with an application deadline of March 13, 2015.

In response to the news release, nineteen applications were received. The Judicial Council conducted interviews of the top five ranking applicants at its meeting on April 30, 2015, and voted on the names of the individuals who would be nominated.

On May 1, 2015, in accordance with the Judicial Council's vote, two names were submitted to Governor David Ige for selection to fill the term expiration of Edward Broglio.

#### **IV. LEGISLATION**

Pursuant to House Concurrent Resolution No. 155, Senate Draft 1, adopted by the 2015 Legislature, the Judicial Council was tasked with convening a Penal Code Review Committee to conduct a study of the Hawai'i Penal Code and to recommend amendments to the penal code for consideration during the 2016 Legislative Session.

The Penal Code Review Committee was comprised of twenty-nine members, including judges (appellate, circuit and district courts); the Chair of the Senate Committee on Judiciary and Labor; the Chair of the House Judiciary Committee; the Attorney General; the Director of the Department of Public Safety; the Prosecuting Attorneys for the County of Maui, the County of Hawai'i, and the County of Kauai; a representative from the Prosecuting Attorney, City and County of Honolulu; a representative from the Office of the Public Defender; representatives from the Honolulu Police Department; a representative from the Office of Hawaiian Affairs; a member of the Judicial Council; representatives of the criminal defense bar; crime victim advocates; and community advocates.

The committee met in plenary sessions on seven occasions between June 19 and December 18, 2015. Additionally, the five subcommittees met separately on a number of occasions to consider and prepare proposals which the subcommittees were responsible for submitting to the entire Committee for consideration.

On December 30, 2015, the Final Report of the committee was transmitted to the Senate President and the Speaker of the House of Representatives. The committee's report provided the Legislature with a total of eighty-four proposals and recommendations, consisting of amendments to fifty existing statutes, the recommendation to adopt four new statutes, the recommendation to move an existing statute to a different chapter of the penal code, and two recommendations going forward with regard to parts of the penal code.

**V. MEMBERSHIP**

The Judicial Council lost its long-time member of 17 years, Dr. Irwin Schatz, who passed away on April 1, 2015. As of December 30, 2015, the current list of Judicial Council members are:

- Chief Justice Mark Recktenwald (Chair)
- Chief Lee D. Donohue (ret.)
- Andrew D. Friedlander
- Hon. Eden E. Hifo (ret.)
- Sharon R. Himeno, Esq.
- Alan Ho
- Rex K.C. Kim, Esq.
- Darolyn H. Lendio, Esq.
- Rodney A. Maile
- Jon T. Miho
- Glenn K. Miyataki, Ph.D.
- Russell K. Okata
- Wesley T. Park
- Hon. Shackley F. Raffetto (ret.)
- Robert S. Toyofuku, Esq.