

Staff Memorandum 2023-02
Draft Minutes of November 29, 2022 Meeting

The Committee on Revision of the Penal Code held a meeting on November 29, 2022. Draft Minutes for that meeting are attached for Committee members to review.

The draft will be deemed final after it is approved by a vote of the Committee. When voting, the Committee may make specific changes to the Minutes. If so, those changes will be memorialized in the Minutes for the meeting at which the vote occurred.

Respectfully submitted,

Thomas M. Nosewicz
Legal Director

DRAFT MINUTES OF MEETING
COMMITTEE ON REVISION OF THE PENAL CODE
November 29, 2022

A meeting of the Committee on Revision of the Penal Code was held on November 29, 2022. Consistent with Government Code Section 11133, the meeting was held as an online video webinar.

Committee:

Present: Michael Romano, Chairperson
Hon. Peter Espinoza, Ret.
Hon. Thelton Henderson, Ret.
Assembly Member Isaac Bryan
Hon. Carlos Moreno, Ret.
Senator Nancy Skinner

Staff:

Present: Brian Hebert, Executive Director
Thomas M. Nosewicz, Legal Director
Joy F. Haviland, Senior Staff Counsel
Rick Owen, Senior Staff Counsel

Invited Presenter:

Mariano-Florentino Cuéllar, President, Carnegie Endowment for International Peace;
former Associate Justice, California Supreme Court

Other Persons:

Up to 36 members of the public observed the meeting as attendees. The Committee did not prepare a list of those attendees.

Approval of Actions Taken

Unless otherwise indicated, the Committee decisions noted in these Minutes were approved by all members present at the meeting. If a member who was present at the

meeting voted against a particular decision, abstained from voting, or was not present when the decision was made, that fact will be noted below.

Ongoing Business

The Committee considered Memorandum 2021-19, which presented a draft of the 2021 Annual Report. After discussion, the Committee directed staff to make the following modifications:

- Establish a State-Funded Restitution System for Crime Victims:
 - Specify there should be a cap on restitution payments.
 - Explain the current court process for setting restitution orders.
 - Clarify the differences between restitution and victims compensation.
 - Include any research on benefits to public safety.
- Expand Victim Right to Civil Compromise
 - Clarify relationship to restorative justice.
 - Provide examples of offenses where expanded civil compromise would apply.
- Prohibit Stops for Technical Traffic Infractions
 - Include the data from or a reference to a recent *Los Angeles Times* article on the Los Angeles Police Department's policy change around pretext stops.
- Ensure Public Defense Counsel Before Arraignment
 - Clarify that counties and courts would have flexibility in providing earlier appointment of counsel.
 - Provide more details about how earlier appointment of counsel functions in another state.
- Encourage Data Sharing to Address Frequent Utilizers
 - Specify that this recommendation should include that the state fund a pilot program linking and using data about frequent utilizers.
- Codify *Humphrey's* Elimination of Wealth-Based Detention
 - Refer to success of pretrial services in improving public safety and helping improve court appearance rates.

The Committee voted to approve the draft with the understanding that further non-substantive revisions may be made by the staff, with approval of the Chair, before the report is formally submitted to the Governor and Legislature.

In addition, following a presentation by the Legal Director, the Committee discussed potential topics for study for the 2023 agenda. After discussion, the Committee directed staff to prepare Committee meetings on these general topics for the rest of the year:

- Impact of recent reforms
- Common offenses and dispositions
- Families and the Penal Code

The Committee may also take up additional topics. The first meeting in 2023 will be scheduled to be in February or March and will consider the impact of recent reforms.

Administrative Matters

The Committee considered Memorandum 2022-14 presenting draft Minutes for the Committee's October 2022 meeting.

The Committee approved the Minutes without change.