
HOUSE CONCURRENT RESOLUTION

REQUESTING A STUDY OF DISPARATE TREATMENT IN HAWAII'S CRIMINAL
JUSTICE SYSTEM.

1 WHEREAS, the country's foremost researchers on race and the
2 criminal justice system have analyzed the impact of race on
3 policing, arrests, prosecution, and sentencing; the studies have
4 carefully controlled for case differences such as severity of
5 the crime and the defendant's criminal background and have
6 uniformly found overwhelming disparities based on race; and
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8 WHEREAS, there is compelling evidence that Native Hawaiians
9 have received disparate treatment in the Hawaii criminal justice
10 system, for example:
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- 12 (1) According to studies based on data from the 2000
13 United States Census, Native Hawaiians are
14 overrepresented in Hawaii's prisons and jails;
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- 16 (2) Native Hawaiians make up only about twenty per cent of
17 the total population of the State, yet they make up a
18 higher percentage of the State's prison population,
19 with estimates varying;
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- 21 (3) According to the Department of Public Safety's inmate
22 population data of June 2006, about twenty-two per
23 cent of the State's prison population was Native
24 Hawaiian;
25
- 26 (4) Approximately thirty-nine per cent of all inmates
27 identified themselves as Hawaiian or part Hawaiian;
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- 29 (5) Other recent statistics establish Hawaii's inmate
30 population at about forty-five per cent Native
31 Hawaiian; and
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1 (6) Many correctional facility workers estimate the Native
2 Hawaiian inmate population to be close to sixty per
3 cent; and
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5 WHEREAS, Native Hawaiians average twenty-three per cent of
6 all arrests in Hawaii, and are twice as likely to be
7 incarcerated as any other group in the State; and
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9 WHEREAS, in Maui County, Native Hawaiian women
10 disproportionately comprise sixty-one per cent of inmates in
11 work furlough and Native Hawaiian men comprise seventy-three per
12 cent of male Maui County reintegration program participants
13 (Being Empowered and Safe Together, or "B.E.S.T.", 2003); and
14

15 WHEREAS, Native Hawaiian males and females make up forty-
16 five per cent of all parolees statewide (Brown, 2003), and
17 scholars have concluded that Native Hawaiians are at the
18 greatest risk of being re-arrested and returning to prison
19 (Umemoto and Oh, 1993); and
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21 WHEREAS, studies suggest that incarceration-related risks
22 are more problematic in families where a mother has been
23 incarcerated; adult children of incarcerated mothers are two and
24 one-half times more likely to be incarcerated than adult
25 children of incarcerated fathers; ninety-five per cent of the
26 one hundred twenty female Hawaii inmates incarcerated at a
27 single mainland prison facility are mothers; and seventy-one per
28 cent of the female participants in an Oahu furlough program are
29 mothers of minor children; and
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31 WHEREAS, Native Hawaiian youth arrests are most likely to
32 end in adjudication; forty-seven per cent of all girls appearing
33 in circuit court are Native Hawaiian; Native Hawaiians comprise
34 sixty-four per cent of all circuit court juvenile defendants;
35 and Native Hawaiian youth make up 50.5 per cent of all youth in
36 custody at Hawaii Youth Correctional Facility; and
37

38 WHEREAS, Native Hawaiian families are greatly impacted, as
39 almost sixty per cent of children who are placed in child
40 protective services are of Native Hawaiian descent, and of those
41 children, 8 per cent to thirty-three per cent of their parents
42 are incarcerated; and
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1 WHEREAS, in Hawaii County, fifty-eight per cent of
2 incarcerated parents reported are of Native Hawaiian descent;
3 forty per cent of those parents had involvement with Child
4 Welfare Services; children are now being cared for by their
5 mothers (thirty per cent), grandparents (twenty-two per cent),
6 foster parents (ten per cent), or on their own (seventeen per
7 cent); and the negative effects of incarceration on children can
8 lead to emotional, behavioral, and psychological disturbances;
9 and

10
11 WHEREAS, thirty-nine per cent of the 1,844 inmates from the
12 State who are residing in contracted out-of-state correctional
13 facilities are Hawaiian; there is growing concern that
14 correctional facilities in Hawaii will remain overcrowded and
15 continue to grow; and Hawaiian offenders sentenced to
16 incarceration will continue to be transferred to contracted out-
17 of-state facilities, further removing and disconnecting them
18 from their families, which may lead to a higher rate of
19 recidivism and contribute to their children's deviant behavior;
20 and

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22 WHEREAS, a study would be helpful in determining the
23 extent, nature, and impact of disparate treatment of Native
24 Hawaiians in Hawaii's criminal justice system; now, therefore,
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26 BE IT RESOLVED by the Senate of the Twenty-fifth
27 Legislature of the State of Hawaii, Regular Session of 2009, the
28 House of Representatives concurring, that the Office of Hawaiian
29 Affairs is requested to contract with a nationally respected and
30 objective consulting firm to conduct a study of disparate
31 treatment of Native Hawaiians in Hawaii's criminal justice
32 system; and

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34 BE IT FURTHER RESOLVED that in conducting the study, the
35 consultant is requested to include, but not be limited to, the
36 following:

- 37
38 (1) The extent of disparate representation of Native
39 Hawaiians in Hawaii's criminal justice system,
40 focusing on conviction rates and sentencing outcomes,
41 to include data from the entry point (911 calls,
42 assessment, and arrest) to the actual process (court
43 appearances, prosecutorial review, plea bargain,



1 sentencing) and exit (parole, probation, and
2 recidivism rates) of the criminal system;

3
4 (2) The causes of any disparities, including but not
5 limited to Hawaii's sentencing policies and drug laws;
6 and

7
8 (3) The barriers that disparate treatment poses to
9 preventing recidivism and facilitating the offenders'
10 successful re-entry into the community; and

11
12 BE IT FURTHER RESOLVED that the Office of Hawaiian Affairs
13 is requested to submit, not later than twenty days prior to the
14 convening of the Regular Session of 2010, the consultant's
15 findings and recommendations, including any proposed
16 legislation, for reducing disparate treatment of Native
17 Hawaiians in Hawaii's criminal justice system; and

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19 BE IT further resolved that all government agencies
20 involved in Hawaii's criminal justice system are requested to
21 provide their full cooperation and all relevant data and other
22 information to the Office of Hawaiian Affairs and its consultant
23 during the planning and implementation of the study; and

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25 BE IT FURTHER RESOLVED that certified copies of this
26 Concurrent Resolution be transmitted to the Governor, the
27 Chairperson and all members of the Board of Trustees of the
28 Office of Hawaiian Affairs, the Chief Justice of the Hawaii
29 Supreme Court, the Attorney General, the Administrator of the
30 Hawaii Criminal Justice Data Center, the Director of Public
31 Safety, the Director of Human Services, the Mayor, Chief of
32 Police, and the Prosecuting Attorney for each county, and the
33 state and federal Public Defender.

