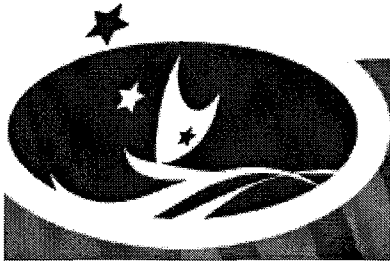


SB 560



WOMEN'S CAUCUS

DEMOCRATIC PARTY OF HAWAII

Hawai'i State Democratic Women's Caucus 1050 Ala Moana Blvd #D-26, Honolulu, HI 96814 Email: hidemocraticwomenscaucus@yahoo.com

February 26, 2009

To: Senator Donna Mercado Kim, Chair
Senator Shan Tsutsui, Vice Chair and
Members of the Committee on Ways and Means

From: Jeanne Ohta, Chair of Legislative Committee, Hawai'i State Democratic Women's Caucus

Re: SB 560 SD1RELATING TO PUBLIC SAFETY
(Thursday, February 26, 2009, 9:00 a.m., Conference Room 211)

Position: STRONG SUPPORT

Thank you for hearing this bill and for allowing me to present testimony today, in strong support of SB 560 SD1 which requires the Office of Hawaiian Affairs to conduct a study on the disparate treatment of Native Hawaiians and other ethnic groups in the State's criminal justice system.

The Hawai'i State Democratic Women's Caucus (HSDWC) is a catalyst for progressive, social, economic, and political change through action on critical issues facing Hawai'i's women and girls. It is because of this mission, the Women's Caucus strongly supports this measure.

A resolution supporting this study was adopted by the Hawai'i State Democratic Party at its 2008 convention. That resolution also urges that legislation be introduced to reduce disparities in the state and federal criminal justice systems. The resolution (HLTH 08-07) is attached.

The HSDWC believes that all citizens are entitled to a fair and just judicial system. Disparities in the criminal justice system foster mistrust in the system, which also impedes the promotion of public safety. This study would be a first step to reducing disparity. The purpose of this study is to determine points in the system where disparities occur and identifying the causes. Then, appropriate intervention and action can be taken to reduce disparities.

The Sentencing Project recently released a report "Reducing Racial Disparity in the Criminal Justice System a Manual for Practitioners and Policymakers." (The report is available at: <http://www.sentencingproject.org/PublicationDetails.aspx?PublicationID=626>). This report defines racial disparity as "when the proportion of a racial or ethnic group within the control of the system is greater than the proportion of such groups in the general population.

Native Hawaiians make up between 40% and 60% of the incarcerated population; but account for 20% of the state's population; and are twice as likely to be incarcerated as any other group. High rates of incarceration have

profound social impacts on families and communities; have long-term negative impacts on health, family instability, diminished lifetime wages, social stigma, and educational limitations.

The Justice Policy Institute in a 2007 report “The Vortex” also found racial disparities in incarceration rates for drug offenses. Although reports such as this have been done on a national level, policy makers would be able to make better policy decisions and enact legislation to reduce racial disparities with a report on Hawai`i’s criminal justice system. Hawai`i has a unique and multi-cultural population and understanding those nuances requires its own report.

There are many causes of racial disparity; some are institutionalized and long-standing, some are unintended consequences of policies. The study will help determine how we will make the necessary changes.

I urge the committee to pass SB 560 SD1 so that we may take the first step in making our criminal justice system fair for everyone. Thank you for allowing me to testify.

HLTH 08-07 URGING THE REDUCTION IN DISPARATIES IN TREATMENT IN HAWAI'I'S CRIMINAL JUSTICE SYSTEM

Whereas, the Hawai'i State Democratic Party believes that all citizens of Hawai'i are entitled to a fair and just judicial system; and

Whereas, the country's foremost researchers on race and the criminal justice system have analyzed the impact of race on policing, arrests, prosecution, and sentencing; the studies have uniformly found overwhelming disparities based on race; and

Whereas, Native Hawaiians make up only 9.1% of the total population of the State, yet many correctional facility workers estimate the Native Hawaiian inmate population to be close to 60%; Native Hawaiians average 23% of all arrests in Hawai'i and are twice as likely to be incarcerated as any other group in the State; and

Whereas, studies suggest that incarceration-related risks are more problematic in families where a mother has been incarcerated; adult children of incarcerated mothers are two and one-half times more likely to be incarcerated than adult children of incarcerated fathers; 95% of the 120 female Hawai'i inmates incarcerated at a single mainland prison facility are mothers and 71% of the female participants in an O'ahu furlough program are mothers of minor children; and

Whereas, Native Hawaiian families are greatly impacted, as almost 60% of children who are placed in child protective services are of Native Hawaiian descent and of those children, 8% to 33% of their parents are incarcerated; and

Whereas, a study would be helpful in determining the extent, nature, and impact of disparate treatment of Native Hawaiians and other ethnic groups in Hawai'i's criminal justice system; now, therefore

Be It Resolved by the Democratic Party of Hawai'i that it shall support a study of disparate treatment in Hawai'i's criminal justice systems; and

Be It Further Resolved that legislation be introduced to reduce disparities in the state and federal criminal justice systems; and

Be It Further Resolved that copies of this resolution be transmitted to members of Hawai'i's Congressional Delegation and the Democratic members of the Hawai'i State Legislature.

COMMUNITY ALLIANCE ON PRISONS

76 North King Street, Honolulu, HI 96817

Phone/E-Mail: (808) [533-3454](tel:8085333454)/kat.caphi@gmail.com



COMMITTEE ON WAYS AND MEANS

Sen. Sen. Donna Mercado Kim, Chair

Sen. Shan Tsutsui, Vice Chair

Thursday, February 26, 2009

9:00 AM

Room 211

SUPPORT

SB 560 SD1 - Disparate Treatment of Native Hawaiians in Criminal Justice System

WAMTestimony@capitol.hawaii.gov

Aloha Chair Kim, Vice Chair Tsutsui and Members of the Committees!

My name is Kat Brady and I am the Coordinator of Community Alliance on Prisons, a community initiative working to improve conditions of confinement for our incarcerated individuals, enhance our quality of justice, and promote public safety. We come today to speak for the 6,000+ individuals whose voices have been silenced by incarceration, always mindful that more than 2,000 of those individuals are serving their sentences abroad, thousands of miles from their homes and loved ones.

SB 560 SD1 requires the Office of Hawaiian Affairs to conduct a study on the disparate treatment of native Hawaiians and other ethnic groups in Hawai'i's criminal justice system. The SD1 removed the appropriation.

Mahalo for hearing this important bill. Community Alliance on Prisons is in **STRONG SUPPORT** of this measure. The disparity of people of color in the criminal justice system is an issue that is being raised and addressed all across the nation. The U.S., with 5% of the world's population incarcerates 25% of its people and a majority of those people are people of color, as the Pew Center on the States [One in 100: Behind Bars in America 2008](#) Report highlights.

http://www.pewcenteronthestates.org/uploadedFiles/8015PCTS_Prison08_FINAL_2-1-1_FORWEB.pdf

It is long overdue for Hawai'i to conduct a study of the disproportionate representation of Native Hawaiians in the criminal justice system. There are several bills this session to address this growing injustice and our stumbling economy provides an opportunity to improve the quality of justice in Hawai'i. This study will provide the necessary data to make the changes necessary to provide equal justice for all.

From *Ka Huaka'i*, a Publication of Kamehemeha Schools:

"The strong affiliation of Native Hawaiians with cultural practices, tradition, and identity is also reflected in broader community survey that queried a representative sample of randomly selected Native Hawaiian households about their levels of Hawaiian cultural affiliation, frequency of traditional practices, and desire for greater cultural resources.

- Nearly 80 percent of Native Hawaiian respondents felt it is important to “live and practice” Hawaiian culture daily. Among the examples offered by respondents, cultural practices that involved traditional and ancient customs such as food preparation for *lu`au* (large feasts), and Hawaiian values were most frequently cited (20.9 percent), followed by group functions surrounding family and community (16.4 percent) and place-based activities ranging from recreation to learning opportunities.
- Almost two-thirds of respondents with Hawaiian first or middle names (64.1 percent) used their Hawaiian name in public or at work. Overall, 61.8 percent of respondents reported having a Hawaiian first or middle name (not shown), most of whom (88.9 percent) knew the name’s meaning.
- Roughly three-quarters of Native Hawaiian families expressed a desire for Hawaiian language courses. Very few reported Hawaiian as their primary spoken language, although many reported some use of the language (52.8 percent) and exposure to some Hawaiian language in their youth (45.3 percent).
- Four out of five respondents believed that universal Hawaiian language instruction for Native Hawaiian keiki in the state would considerably help overall Native Hawaiian pride and self-respect. Slightly more (81.8 percent) believed it would considerably help the preservation of Hawaiian culture, and 56.7 percent reported it would substantially help with Native Hawaiian political influence in the state.

Crime and Social Justice

Thus far, the discussion of Native Hawaiian social well-being has highlighted some of the community’s greatest strengths: the inclusive nature of `ohana, the cohesive power of communities, and the growing sense of cultural identity. However, the multiple stressors and social imbalances within the Native Hawaiian community have led to troubling outcomes – antisocial, self-destructive, and criminal behavior – that are amplified by an enforcement and justice system in which inequality is an ongoing reality (*Source: Conference of State Court Administrators 2001; Libber and Blowers 2003; MacDonald 2003; Zatz 2000*)

The disproportionately high number of young Native Hawaiian men and women in the state’s correctional system has profound implications for Native Hawaiian education. Not only are educational and other opportunities severely limited for incarcerated adults, but Native Hawaiian children of inmates are also at increased risk of growing up without a parent to support them through critical stages of growth and development. Moreover, the deviant activities that lead to arrests and incarceration—such as crime and drug use—directly influence the safety and stability of communities, which may further hinder the educational prospects for Native Hawaiian children and adults.”

Juvenile Arrests and Family Court Cases

Risky behavior among Native Hawaiian children is often accompanied by early experiences with the criminal justice system. Once youths are involved in crimes and subject to the penal system, they may find it increasingly difficult to redirect their lives toward socially legitimized goals such as high school completion and adult employment (*Source: Freeman 1992; Laub and Sampson 1995; Sampson and Laub 1993*). The brutality of incarcerated life can harden children and squash their hopes and aspirations. Furthermore, the social stigma that accompanies criminal involvement can limit children’s opportunities for educational success.

- Native Hawaiians had the highest juvenile arrest rates for nearly all types of index offenses

- For all index crimes combined, the juvenile arrest rate among Native Hawaiians - 187.4 per thousand - was more than twice that of all other major ethnic groups
- Compared with Filipinos (which accounted for the second-highest arrest rate in most index offenses), Native Hawaiian juveniles were more than four times as likely to be arrested for aggravated assault or robbery, and twice as likely to be arrested for larceny-theft or motor vehicle theft."

All of the above information (within quotes) is from Ka Huaka`i - 2005 Native Hawaiian Educational Assessment, published by Kamehameha Schools (Source: KA HUAKA`I - <http://hawaiiidigitallibrary.org/elib/cgi-bin/library?e=q-0nhea-000Sec--11en-50-20-frameset-search-CRIMINAL+JUSTICE-1010escapewin&a=p&p=frameset>)

Anyone who has been in our prisons or jails can attest to the fact that Hawaiians are a large percentage of the incarcerated population. The kind of data that studies such as this can produce can help shape public policy to improve the quality of justice in Hawai`i.

But the study brings up an even larger question and that is the impact of incarceration on the Hawaiian community. Dr. Rae Deen Karasuda's dissertation is on this very topic.

We know that there is generational incarceration among Hawaiians and we need to ask why. We need to ask what the impact to the `ohana is when a parent is incarcerated? We know that the data show that children with incarcerated parents are six to seven times more likely to end up incarcerated themselves. We know that the majority of youth at Hawai`i Youth Correctional Facility are Hawaiian. Dr. Marilyn Brown's dissertation, entitled Motherhood on the Margins revealed that 36% of the women on parole in Hawai`i with at least one minor child in 2000 were products of our juvenile justice system.

Good public policy is thoughtfully enacted based on sound data and research.

Community Alliance on Prisons supports SB 560 SD1 to start collecting data that can help foster equality in Hawai`i's judicial system.

Mahalo for this opportunity testify.