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**THE HONORABLE MARCUS R. OSHIRO, CHAIR
HOUSE COMMITTEE ON FINANCE**

**Twenty-sixth State Legislature
Regular Session of 2011
State of Hawai'i**

April 4, 2011

RE: S.B. 986, S.D. 2, H.D. 2; RELATING TO CRIMINAL JUSTICE SYSTEM.

Chair Oshiro, Vice Chair Lee, members of the House Committee on Finance, the Department of the Prosecuting Attorney of the City and County of Honolulu submits the following testimony in support of S.B. 986, S.D. 2, H.D. 2 with recommended amendments.

The House Judiciary Committee agreed that the study did not show a disparate treatment of Native Hawaiian people in the criminal justice system. In contrast, the report showed that a disproportionate amount of Native Hawaiians are in contact with criminal justice system. However, the House Judiciary Committee inserted language, "disproportionate impact." We talked to the House Judiciary Committee and they are aware of this, and intend to correct it. We kindly request that "disproportionate impact" be replaced with "disproportionate representation of Native Hawaiians in the criminal justice system."

Aside from any disproportionate representation of Native Hawaiians in prison, statistics kept by our Victim Witness Kokua Services suggest that Native Hawaiians are also the second (or first) most prevalent ethnicity among our crime victims, with 22% of all crime victims identifying themselves as Hawaiian/Part-Hawaiian.¹ Such disproportionate representation among

¹ VWAD statistics indicate that 26% of our clients/crime victims were "Caucasian," but no further specification or breakdown of "Caucasian" was requested, so this category is likely comprised of numerous ethnicities. Aside from Hawaiian and Caucasian, approximately 18% of our clients/crime victims identified themselves as Mixed or Other, and the rest were reported in decreasing amounts as Filipino, Asian/Pacific Islander, Japanese, Black, Samoan, Korean, Chinese, Hispanic, Other Polynesian, Vietnamese and Other Asian. All ethnicities were self-reported, self-identified, and approximately 45% of all clients provided no response regarding their ethnicity.

victims is also of great concern to us, as these statistics are most likely due to a number of complex societal factors, rather than anything occurring in the criminal justice system.

For these reasons, the Department of the Prosecuting Attorney of the City and County of Honolulu supports S.B. 986, S.D. 2, H.D. 2 with amendments. Thank you for this opportunity to testify.



The Judiciary, State of Hawaii

Testimony to the House Committee on Finance
Representative Marcus R. Oshiro, Chair
Representative Marilyn b. Lee, Vice Chair

Monday, April 4, 2011, 5:00 p.m.
State Capitol, Conference Room 325

by

Rodney A. Maile
Administrative Director of the Courts

WRITTEN TESTIMONY ONLY

Bill No. and Title: Senate Bill No. 986, S.D. 2, H.D. 2, Relating to the Criminal Justice System.

Purpose: Establishes a task force to lessen the instances of the people of Hawaii, especially Native Hawaiians, becoming entangled in the criminal justice system.

Judiciary's Position:

In September 2010, the Office of Hawaiian Affairs ("OHA") produced a report entitled "The Disparate Treatment of Native Hawaiians in the Criminal Justice System." In his introduction at the beginning of the report, OHA's Chief Executive Officer, Clyde Namu'o states that "[I]t is clear that when a Native Hawaiian person enters the criminal justice system, they serve more time in prison and more time on probation than other racial or ethnic groups. Native Hawaiians are also likely to have their parole revoked and be returned to prison compared to other racial or ethnic groups." He also states that the results and recommendations of this study are needed to initiate policy reform and systemic change for Hawai'i.

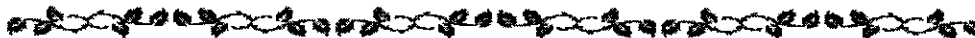
These are important issues that should be carefully reviewed. In its continued commitment to improving the judicial system, the Judiciary is open to participating in efforts to assess these issues through the process envisioned by this measure.

Thank you for the opportunity to testify on Senate Bill No. 986, S.D. 2, H.D. 2.

COMMUNITY ALLIANCE ON PRISONS

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COMMITTEE ON FINANCE

Rep. Marcus Oshiro, Chair

Rep. Marilyn Lee, Vice Chair

Monday, April 4, 2011

Room 308

5:00 p.m.

SB 986 SD2, HD2 - SUPPORT with Amendments

<http://www.capitol.hawaii.gov/emailtestimony>

Aloha Chair Oshiro, Vice Chair Lee and Members of the Committee!

My name is Kat Brady and I am the Coordinator of Community Alliance on Prisons, a community initiative working on prison reform and justice issues in Hawai'i for more than a decade. We respectfully offer our testimony always being mindful that Hawai'i has some 6,000 people behind bars with almost 1,800 individuals serving their sentences abroad, thousands of miles away from their loved ones, their homes and, for the disproportionate number of incarcerated Native Hawaiians, far from their ancestral lands.

SB 986 SD2, HD2 establishes a task force to reduce the unnecessary involvement of individuals, particularly Native Hawaiians, with the criminal justice system. Effective July 1, 2011.

The HD2 focuses the Task Force on disproportionate impact, rather than disparate treatment, removes language requiring consideration of and recommendations on specific strategies, and replaces the community member on the Task Force with a representative from the Department of the Prosecuting Attorney of the City and County of Honolulu.

The September 2010 OHA report, *The Disparate Treatment of Native Hawaiians in the Criminal Justice System* www.oha.org/disparatetreatment builds upon prior research by Gene Kassebaum and Meda Chesney-Lind, among others.

Community Alliance on Prisons (CAP) supports this measure if the following amendments are adopted.

- 1) Increasing the Task force by adding two more members: a member of the general public and a public defender,
- 2) Add language to include selection of criminologist and member of the general public by adding (d) *The Senate President and the Speaker of the House shall submit three (3) names to the Governor for selection of a criminologist and a member of the general public.*
- 3) Amend the following sections as: (e), (f), (g), and (h).

The findings in the report are not a surprise to anyone who works within the criminal justice system:

- Native Hawaiians are 24% of the population
- Native Hawaiians are no more likely than any other group to commit crime
- In 2009 Native Hawaiians made up the largest percentage (32%) of the people admitted to prison for drug offenses
- Native Hawaiians do not use drugs at drastically different rates from other races or ethnicities

- Native Hawaiians go to prison for drug offenses more often than people of other races or ethnicities
- Majority of defendants plead guilty
- Given a determination of guilt, Native Hawaiians are more like to get a prison sentence than other any other group
- Native Hawaiians serve longer prison terms than most other racial or ethnic groups
- Native Hawaiians are the largest group of people incarcerated in out-of-state facilities
- Hawai'i has the largest population of women in prison with Native Hawaiian women comprising the largest a disproportionate number of women in prison
- Parole revocations contribute to the number of Native Hawaiians in prison in Hawai'i

Martin Luther King said it best when he opined that *we as a nation must undergo a radical revolution of values. A radical approach to the criminal justice system means we must go to the root of the problem. Not reform. Not better beds in better prisons. We are not called to only trim the leaves or prune the branches, but rip up this unjust system by its roots.*

It is important that we have a criminal justice system that is truly blind, just and respected by the community. Sadly the war on drugs has compromised the integrity of the system while mass incarceration has become a rite of passage in some communities. A clarion call for us was to hear some of our keiki say that they believe they will serve prison time like other members of their families. This is the norm for them. This is the shame on us. We need to rip up this unjust system by its roots.

Reviewing policing and sentencing policies and recommending policy changes for our legislature to pass will be crucial to reduce interaction with the criminal justice system while reducing the number of individuals that Hawai'i imprisons.

We are proud that Hawai'i's leaders (Governor Abercrombie, Senate President Tsutsui, Speaker Say, Chief Justice Recktenwald, and Interim PSD Director Jodie Maesaka-Hirata) have submitted a letter to the Department of Justice asking to be considered for Justice Reinvestment Initiative technical assistance to analyze our system, make recommendations and evaluate the changes made.

Hawai'i can be a model for rehabilitation and reentry that build strong, healthy, and safe communities. But first we must ask ourselves the hard questions:

- *If Native Hawaiians comprise 24% of the general population and the data show that they are no more likely to commit crimes than any other group, why is at least 40% of our prison population Native Hawaiian?*
- *Are Native Hawaiians being targeted?*
- *Why do Native Hawaiians serve longer terms than other groups?*
- *Why are we imprisoning individuals with substance abuse problems when the research is clear that community-based treatment is more effective and less costly?*

We need to rip up this unjust system by its roots. This report is a call to action for all of us to speak out for this injustice to be addressed or the phrase... AND JUSTICE FOR ALL ...means nothing.

Mahalo for this opportunity to share our thoughts with the committees.



SB986 SD2 HD2
RELATING TO THE CRIMINAL JUSTICE SYSTEM
House Committee on Finance

April 4, 2011

5:00 p.m.

Room 308

The Office of Hawaiian Affairs (OHA) strongly **SUPPORTS** SB986 SD2 HD2, which is a bill in OHA's 2011 Legislative Package. This bill establishes a task force to lessen the instances of the people of Hawai'i, especially Native Hawaiians, becoming entangled in the criminal justice system. The bill also appropriates funds.

OHA's recent report, "The Disparate Treatment of Native Hawaiians in the Criminal Justice System," shows that the number of Native Hawaiians in the criminal justice system accumulates at each stage from arrest through parole. While Native Hawaiians are arrested at a comparable rate to other populations, they are more likely to be incarcerated, have longer sentences and have their parole revoked.

Existing task forces and groups such as the Interagency Council on Intermediate Sanctions and Corrections Population Management Commission focus their efforts on sentenced offenders. The proposed task force would fill a different need by approaching the issue of pre-incarceration.

OHA's study indicates that early intervention will decrease the need for incarceration and lighten the impact on the judiciary and other stakeholders in the criminal justice system. The task force members, who will be key stakeholders, can create internal policy shifts without increasing the need for resources. They will bring the expertise required to make decisions that will balance the need to protect public safety with the need to ensure the Native Hawaiians are treated fairly.

Therefore, OHA urges the committee to PASS SB 986 SD2 HD2. Mahalo for the opportunity to testify on this important measure.

ASSOCIATION OF HAWAIIAN CIVIC CLUBS
TESTIMONY OF PRESIDENT SOULEE STROUD

SENATE BILL 986,SD2,HD1
RELATING TO THE CRIMINAL JUSTICE SYSTEM

Before the
HOUSE COMMITTEE ON JUDICIARY
Tuesday; March 22, 2011; 2:00 p.; Rm. 325

Aloha Chairman Keith-Agaran, vice chairman Rhoads and members of the House Committee on Judiciary. I am Soulee Stroud, President of the Association of Hawaiian Civic Clubs here to lend support to SB986, SD2, HD1.

On January 22, 2011 the Board of Directors of the Association of Hawaiian Civic Clubs, representing sixty component clubs, including eleven states on the continent, voted to support the legislative package of the Office of Hawaiian Affairs, of which this is one.

Those of us in the Hawaiian community are painfully aware of the dismal arrest and incarceration statistics of Hawaiians in the criminal justice system. A recent study conducted by the Office of Hawaiian Affairs revealed astounding new research of a high percentage of incidents of disparate treatment as well as a other negative behavioral factors.

This bill would create a task force to examine OHA's research with the intent to make corrective recommendations that can be implemented to alleviate the conditions that are currently occurring. We would hope that the recommendations would include some cultural training to build self-esteem, pride and a change in behavior eliminating recidivism.

Thank you for the opportunity to testify today.