



SB 986 SD2
RELATING TO THE CRIMINAL JUSTICE SYSTEM
House Committee on Hawaiian Affairs
House Committee on Public Safety & Military Affairs

March 16, 2011

11:00 a.m.

Room 329

The Office of Hawaiian Affairs (OHA) strongly **SUPPORTS** SB 986 SD2, 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, representing 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. Mahalo for the opportunity to testify on this important measure.



The Judiciary, State of Hawaii

Testimony to the House Committee on Hawaiian Affairs

Representative Faye P. Hanohano, Chair

Representative Chris Lee, Vice Chair

and

House Committee on Public Safety and Military Affairs

Representative Henry J.C. Aquino, Chair

Representative Ty Cullen, Vice Chair

Wednesday, March 16, 2011, 11:00 a.m.

State Capitol, Conference Room 329

by

Rodney A. Maile

Administrative Director of the Courts

WRITTEN TESTIMONY ONLY

Bill No. and Title: Senate Bill No. 986, S.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.

Council Chair
Danny A. Mateo

Vice-Chair
Joseph Pontanilla

Council Members
Gladys C. Baisa
Robert Carroll
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Mike White



Director of Council Services
Ken Fukuoka

COUNTY COUNCIL
COUNTY OF MAUI
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WAILUKU, MAUI, HAWAII 96793
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March 15, 2011

TO: The Honorable Faye Hanohano, Chair
House Committee on Hawaiian Affairs
The Honorable Henry Aquino, Chair
House Committee on Public Safety & Military Affairs

FROM: Gladys C. Baisa
Council Member

SUBJECT: **HEARING OF MARCH 16, 2011; TESTIMONY IN SUPPORT OF SB 986, SD 2,
RELATING TO THE CRIMINAL JUSTICE SYSTEM**

Thank you for the opportunity to testify in support of this important measure. The purpose of this measure is to establish a task force to lessen the instances of the people of Hawai'i, especially Native Hawaiians becoming entangled in the criminal justice system and appropriate funds.

The Maui County Council has not had the opportunity to take a formal position on this measure. Therefore, I am providing this testimony in my capacity as an individual member of the Maui County Council.

I support this measure for the following reasons:

1. According to September 2010 OHA report, *The Disparate Treatment of Native Hawaiians in the Criminal Justice System*, Native Hawaiians are 24% of the population and in 2009 made up the largest percentage (32%) of the people admitted to prison for drug offenses.
2. Native Hawaiians serve longer prison terms than most other racial or ethnic groups.
3. Native Hawaiians are the largest group of people incarcerated in out-of-state facilities.
4. Hawai'i has the largest population of women in prison with Native Hawaiian women comprising the largest disproportionate number of women in prison.
5. Parole revocations contribute to the number of Native Hawaiians in prison in Hawai'i.

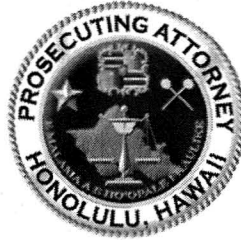
For the foregoing reasons, I support this measure.

GCB:amm

DEPARTMENT OF THE PROSECUTING ATTORNEY
CITY AND COUNTY OF HONOLULU

ALII PLACE
1060 RICHARDS STREET • HONOLULU, HAWAII 96813
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KEITH M. KANESHIRO
PROSECUTING ATTORNEY



ARMINA A. CHING
FIRST DEPUTY PROSECUTING ATTORNEY

**THE HONORABLE FAYE P. HANOHANO, CHAIR
HOUSE COMMITTEE ON HAWAIIAN AFFAIRS**

**THE HONORABLE HENRY J.C. AQUINO, CHAIR
HOUSE COMMITTEE ON PUBLIC SAFETY & MILITARY AFFAIRS**

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

March 16, 2011

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

Chair Hanohano, Vice-Chair Lee, members of the House Committee on Hawaiian Affairs, Chair Aquino, Vice-Chair Cullen, and members of the House Committee on Public Safety & Military Affairs, the Department of the Prosecuting Attorney of the City and County of Honolulu submits the following testimony in opposition to S.B. 986, S.D. 2.

Although disproportionate representation of Native Hawaiian people in the criminal justice system is certainly of great concern, there is absolutely no indication of any disparate treatment—of Native Hawaiian people nor any other ethnicity—within the criminal justice system. S.B. 986, S.D. 2 fails to recognize the distinct difference between disproportionate representation and disparate treatment, and attempts to "correct" something that does not exist.

S.B. 986, S.D. 2 is based on a study conducted by the Office of Hawaiian Affairs and representatives from other organizations, which was expressly formulated to "examine[] the impact of the criminal justice system on Native Hawaiian[people,] with the purpose of effecting policy change...and serving as a tool for communities to advocate for change within the criminal justice system." Based on this predisposition, the study apparently found disproportionate representation of Native Hawaiian people in the criminal justice system, and automatically concluded that this was due to disparate treatment of these individuals. Although the study compiled a wide array of statistics and other information regarding the number of Native

Hawaiian people in the criminal justice system, there was no basis to conclude that this is due to any type of disparate treatment—of any ethnicity—in Hawaii's criminal justice system.

In particular, this study neglected to incorporate two of the most important factors considered for sentencing-purposes, within the criminal justice system: criminal history and specific facts of the case. Aside from one (1) national juvenile court analyses discussed on page 68, none of the other analyses discussed in this study controlled for the criminal histories of any of the perpetrators, and none of the analyses—including the national juvenile court analyses—reviewed the specific facts and circumstances of each crime for which each person was imprisoned. Thus, even if we accept the study's findings that there is disproportionate representation of Native Hawaiian people within the criminal justice system, disproportionate representation does not amount to disparate treatment.

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 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.

Because the study referenced in S.B. 986, S.D. 2 was unable to draw any connection to indicate disparate treatment of Native Hawaiians in the criminal justice system, the Department strongly believes that it would be very premature, or perhaps even misguided, to formulate a task force to "fix" a system that may not even be "broken" in the manner put forth. In a prior hearing on this bill, there were comments that many people are currently in prison for drug offenses, as these types of convictions often come with mandatory sentencing. Should OHA or any other organization wish to establish drug treatment centers that cater specifically to Native Hawaiian drug offenders—thereby placing them into treatment and diverting them from the criminal justice system—our Department would certainly be willing to work with those programs and dismiss any pending criminal charges as appropriate.

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

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.

POLICE DEPARTMENT
CITY AND COUNTY OF HONOLULU

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PETER B. CARLISLE
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LOUIS M. KEALOHA
CHIEF

DELBERT T. TATSUYAMA
RANDAL K. MACADANGDANG
DEPUTY CHIEFS

OUR REFERENCE LM-NTK

March 16, 2011

The Honorable Faye P. Hanohano, Chair
and Members
Committee on Hawaiian Affairs
The Honorable Henry J. C. Aquino, Chair
and Members
Committee on Public Safety and Military Affairs
House of Representatives
State Capitol
Honolulu, Hawaii 96813

Dear Chairs Hanohano and Aquino and Members:

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

I am Lester Hite, Captain of the Criminal Investigation Division of the Honolulu Police Department, City and County of Honolulu.

The Honolulu Police Department opposes Senate Bill No. 986, S.D. 2, Relating to the Criminal Justice System. This bill seeks to include a chief of police from a county to participate in a task force to prepare recommendations for Native Hawaiians to reduce contact with the criminal justice system.

The Honolulu Police Department recommends that lines 1 and 2 be changed from ". . . the chief of one of the county police departments. . ." to ". . . the designee of the chief of one of the county police departments. . ."

The Honolulu Police Department urges you to oppose the bill as written and recommends that the language be revised.

Thank you for the opportunity to testify.

Sincerely,

Handwritten signature of Lester Hite in black ink.

LESTER HITE, Captain
Criminal Investigation Division

APPROVED:

Handwritten signature of Louis M. Kealoa in black ink.

LOUIS M. KEALOHA
Chief of Police

Serving and Protecting With Aloha

COMMUNITY ALLIANCE ON PRISONS

76 North King Street, Suite 203, Honolulu, Hawai'i 96817

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COMMITTEE ON HAWAIIAN AFFAIRS

Rep. Faye Hanohano, Chair

Rep. Chris Lee, Vice Chair

COMMITTEE ON PUBLIC SAFETY & MILITARY AFFAIRS

Rep. Henry Aquino, Chair

Rep. Ty Cullen, Vice Chair

Wednesday March 16, 2011

Room 329

11:00 a.m.

SB 986 SD2 - SUPPORT with Amendment

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

Aloha Chairs Hanohano and Aquino and Members of the Committees!

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, their ancestral lands.

SB 986 SD2 establishes a task force to lessen the instances of the people of Hawai'i, especially Native Hawaiians becoming entangled in the criminal justice system and appropriates funds.

CAP's suggested amendment:

SECTION 2. (c) The task force shall consist of nine members: the state attorney general, the director of public safety, the chief executive officer of the Office of Hawaiian Affairs, the chief of one of the county police departments to be selected by the county police chiefs, the administrator of the adult client services branch of the first circuit court, researcher (criminologist or sociologist); prosecutor; defense attorney and one circuit court judge to be selected by the chief justice of the Hawai'i Supreme Court.

In our humble opinion, the task force should be balanced and data-driven. The collection of data is crucial to create sound and defensible public policy.

Community Alliance on Prisons is in support of this measure, which builds upon the September 2010 OHA report *The Disparate Treatment of Native Hawaiians in the Criminal Justice System* www.oha.org/disparatetreatment, a report that builds upon prior research. 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 is 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.

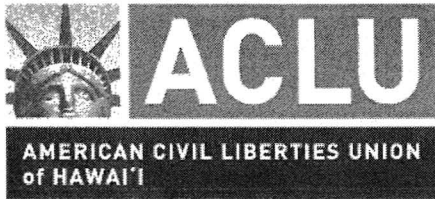
We are proud that Hawai'i's leaders (Governor Abercrombie, Senate President Tsutsui, Speaker Say, Chief Justice Recktenwald, and Interim PSD Director Jodie Maesaka-Hirata) have submitted a letter to the Department of Justice asking to be considered for Justice Reinvestment Initiative technical assistance 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. Asking ourselves the hard questions such as,

- *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.



Committee: Committees on Hawaiian Affairs and Public Safety & Military Affairs
Hearing Date/Time: Wednesday, March 16, 2011, 11:00 a.m.
Place: Room 329
Re: Testimony of the ACLU of Hawaii in Support of S.B. 986, SD2,
Relating to The Criminal Justice System

Dear Chairs Hanohano and Aquino and Members of the Committees on Hawaiian Affairs and Public Safety & Military Affairs:

The American Civil Liberties Union of Hawaii ("ACLU of Hawaii") writes in support of S.B. 986, SD2, Relating to the Criminal Justice System.

The ACLU of Hawaii supports every effort to reduce prison overcrowding and develop a comprehensive reentry system. The ACLU of Hawaii also supports efforts to address the disparate treatment of Hawaiians in the criminal justice system. In furtherance of those goals, we support legislation like S.B. 986 that seeks research-based information that can better inform our state's criminal justice policies.

The mission of the ACLU of Hawaii is to protect the fundamental freedoms enshrined in the U.S. and State Constitutions. The ACLU of Hawaii fulfills this through legislative, litigation, and public education programs statewide. The ACLU of Hawaii is a non-partisan and private non-profit organization that provides its services at no cost to the public and does not accept government funds. The ACLU of Hawaii has been serving Hawaii for over 45 years.

Thank you for this opportunity to testify.

Sincerely,

Laurie A. Temple
Staff Attorney
ACLU of Hawaii

American Civil Liberties Union of Hawai'i
P.O. Box 3410
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clee2 - Matt

From: mailinglist@capitol.hawaii.gov
Sent: Saturday, March 12, 2011 10:56 AM
To: HAWtestimony
Cc: HawaiiVotingProject@gmail.com
Subject: Testimony for SB986 on 3/16/2011 11:00:00 AM

Testimony for HAW/PBM 3/16/2011 11:00:00 AM SB986

Conference room: 329
Testifier position: support
Testifier will be present: Yes
Submitted by: Dorothy I. Cornell
Organization: Individual
Address:
Phone:
E-mail: HawaiiVotingProject@gmail.com
Submitted on: 3/12/2011

Comments:

SB 986 Reducing involvement in the criminal justice system

March 16, 2011

SUPPORT

My name is Carmael Kamealoha Stagner. I support SB 986 in its spirit and its intent.

I ask the task force to please consider current and available data and statistics with such a short time for the convening of this committee, slated to ending 2013.

Please consider a furlough program in Hawaii focusing on the mainland inmate population who are within 24 months of final completion of their sentences and discharge from incarceration.

This group can be interviewed, evaluated and assigned to participate in programming that will allow the task force to test and measure re entry strategies.

Sincerely,

Carmael Kamealoha Stagner, MPsy, CSAC
45 563 Kukane Street
Kaneohe, Hawaii 97744
808 235 2217

ASSOCIATION OF HAWAIIAN CIVIC CLUBS
TESTIMONY OF PRESIDENT SOULEE STROUD

SB986, SD2
RELATING TO THE CRIMINAL JUSTICE SYSTEM

Before the Joint Committees on
HAWAIIAN AFFAIRS
And
PUBLIC SAFETY & MILITARY AFFAIRS
Wednesday; March 16; 11:00 a.; Room 329

Aloha Madam Chair Hanohano and Chairman Aquino of the the joint committees on Hawaiian Affairs and Public Safety and Military Affairs. I am Soulee Stroud President of the Association of Hawaiian Civic Clubs and I wish to testify in support of this bill.

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.

Contact: Jalna Keala; jalna.keala2@hawaiiantel.net