

**SB 986**



**SB 986**  
**RELATING TO THE CRIMINAL JUSTICE SYSTEM**  
Senate Committee on Hawaiian Affairs

February 9, 2011

2:45 p.m.

Room 224

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The Office of Hawaiian Affairs (OHA) strongly **SUPPORTS** SB 986. This bill creates a task force that will develop solutions to reduce unnecessary involvement with the criminal justice system.

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. Our 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, 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. Mahalo for the opportunity to testify on this important measure.

DEPARTMENT OF THE PROSECUTING ATTORNEY  
**CITY AND COUNTY OF HONOLULU**

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**THE HONORABLE BRICKWOOD GALUTERIA, CHAIR  
SENATE COMMITTEE ON HAWAIIAN AFFAIRS**

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

February 9, 2011

**RE: S.B. 986; RELATING TO CRIMINAL JUSTICE SYSTEM.**

Chair Galuteria, Vice-Chair Ryan, and members of the Senate Committee on Hawaiian Affairs, the Department of the Prosecuting Attorney of the City and County of Honolulu submits the following testimony in opposition to S.B. 986.

This bill is based on a study conducted by the Office of Hawaiian Affairs and representatives from other organizations, which was specifically 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." In keeping with this premise, S.B. 986 aims to establish and appropriate funds for a task force "to formulate policies and procedures to eliminate the disparate treatment of all peoples in Hawaii's criminal justice system, with particular focus on Native Hawaiian[ people]."

Although the study compiled a wide array of statistics and other information, there was ultimately no basis to conclude that there is disparate treatment of people—of any ethnic group—in Hawaii's criminal justice system. Most notably, the study did not appear to review the criminal histories of any of the adults surveyed, nor the severity or specific pertaining to the crimes committed. Thus, even if we accept the study's findings and assume that there is disproportionate representation of Native Hawaiian people within the criminal justice system, disproportionate representation is not tantamount to disparate treatment.

Statistics kept by our Victim Witness Advocate Division suggest that Native Hawaiian may also be the second (or first) most prevalent ethnicity among our crime victims, with 22% of

all clients/crime victims identifying themselves as Hawaiian/Part-Hawaiian.<sup>1</sup> Such disproportionate representation among victims is of great concern.

Because the study referenced in S.B. 986 was unable to draw a clear connection to indicate any 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.

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

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<sup>1</sup> 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.

*ASSOCIATION OF HAWAIIAN CIVIC CLUBS*  
**TESTIMONY OF PRESIDENT SOULEE STROUD**

**SENATE BILL 986**  
**RELATING TO THE CRIMINAL JUSTICE SYSTEM**  
**In the**  
**SENATE COMMITTEE ON HAWAIIAN AFFAIRS**

Wednesday, Feb. 9, 2011; 2:45 pm; Room 224

Aloha Chairman Galuteria and member of the Senate Committee on Hawaiian Affairs. I am Soulee Stroud president of the Association of Hawaiian Civic Clubs here to testify in support of **Senate bill 986, Relating to the Criminal Justice System.**

The Office of Hawaiian Affairs released a study recently entitled “The Disparate Treatment of Native Hawaiians in the Criminal Justice System.” The purpose of SB986 would be to create statutes that would begin to address the dismal findings and hopeful recommendation to create a task force to identify strategies that would reduce unnecessary contact with the criminal justice system.

At our civic club convention, in November 2010, we adopted a resolution quite similar to **SB986**. On January 22, 2011 our board of directors met and this is one of the OHA package of bills that was approved by our directors. I bring to this measure the support of five councils and sixty clubs, here in Hawaii, as well as on the continent.

Thank you for the opportunity to testify. We urge passage of this bill. Mahalo.

Contact: Jalna Keala, [jalna.keala2@hawaiiantel.net](mailto:jalna.keala2@hawaiiantel.net)

## galuteria1 - Ikaika

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, February 08, 2011 11:51 AM  
**To:** HWN Testimony  
**Cc:** SapphoDD40@aol.com  
**Subject:** Testimony for SB986 on 2/9/2011 2:45:00 PM  
**Attachments:** SB986\_2011.doc

Testimony for HWN 2/9/2011 2:45:00 PM SB986

Conference room: 224  
Testifier position: support  
Testifier will be present: Yes  
Submitted by: Carmael Kamealoha Stagner  
Organization: Individual  
Address: 45 563 Kukane Street Kaneohe, Hawaii  
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Submitted on: 2/8/2011

Comments:

## galuteria1 - Ikaika

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, February 07, 2011 7:56 PM  
**To:** HWN Testimony  
**Cc:** clampton@hawaii.edu  
**Subject:** Testimony for SB986 on 2/9/2011 2:45:00 PM

Testimony for HWN 2/9/2011 2:45:00 PM SB986

Conference room: 224  
Testifier position: oppose  
Testifier will be present: No  
Submitted by: Catherine Lampton  
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Submitted on: 2/7/2011

**Comments:**

I support this with the amendment to include three more positions on the task force: criminologist/sociologist/researcher; prosecutor; defense attorney. Mahalo.

# COMMUNITY ALLIANCE ON PRISONS

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## COMMITTEE ON HAWAIIAN AFFAIRS

Sen. Brickwood Galuteria, Chair

Sen. Pohai Ryan, Vice Chair

Wednesday, February 9, 2011

Room 224

2:45 pm

### **SB 986 - TASK FORCE TO REDUCE CONTACT WITH CRIMINAL JUSTICE SYSTEM SUPPORT with Amendment**

<http://www.Capitol.Hawaii.gov/emailtestimony>

Aloha Chair Galuteria, Vice Chair Ryan 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 approximately 1,800 individuals serving their sentences abroad, thousands of miles away from their homes and loved ones.

SB 986 establishes a task force to reduce contact with the criminal justice system.

#### *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](http://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.

Please support SB 986.

Mahalo for this opportunity to share our mana`o.

Robert K. Merce  
2467 Aha Aina Place  
Honolulu, Hawaii 96821  
February 8, 2011

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COMMITTEE ON HAWAIIAN AFFAIRS

Senator Brickwood Galuteria, Chair

Senator Pohai Ryan, Vice Chair

Wednesday, February 9, 2011

2:45 p.m.

Room 224

SB 986 – Task Force To Reduce Contact With Criminal Justice System

Support with Amendments

Dear Chair Galuteria and Vice Chair Ryan:

I am a retired member of the Hawaii State Bar. Before retiring, my practice included the representation of prison inmates on a wide array of issues. This made me aware of the many ways in which our justice system is failing inmates and the community, and since retiring I have decided to try to do something about it.

I support SB986 with the amendments recommended by Kat Brady and the Community Alliance on Prisons, particularly the inclusion of researcher with a background in criminology or sociology, and a defense attorney. I also strongly support Ms. Brady's position that the task force should be data driven so that so that any proposals it comes up with will evidenced based.

Thank you for the opportunity to testify on this important bill.



Committee: Committee on Hawaiian Affairs  
Hearing Date/Time: Wednesday, February 9, 2011, 2:45 p.m.  
Place: Room 224  
Re: Testimony of the ACLU of Hawaii in Support of S.B. 986,  
Relating to The Criminal Justice System

Dear Chair Galuteria, Vice Chair Ryan, and Members of the Committee on Hawaiian Affairs:

The American Civil Liberties Union of Hawaii (“ACLU of Hawaii”) writes in support of S.B. 986, 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 seek 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,

Daniel M. Gluck  
Senior Staff Attorney  
ACLU of Hawaii

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