



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-NINTH LEGISLATURE, 2017**

ON THE FOLLOWING MEASURE:

H.B. NO. 84, RELATING TO CRIMINAL JUSTICE.

BEFORE THE:

HOUSE COMMITTEE ON OCEAN, MARINE RESOURCES, AND HAWAIIAN
AFFAIRS

DATE: Tuesday, January 31, 2017 **TIME:** 10:00 a.m.

LOCATION: State Capitol, Room 312

TESTIFIER(S): Douglas S. Chin, Attorney General, or
Randall S. Nishiyama, Deputy Attorney General

Chair Ing and Members of the Committee:

The purpose of this bill is to authorize the Department of the Attorney General to administer a statewide program for management of data related to the overrepresentation of Native Hawaiians in the criminal justice system. The Department of the Attorney General needs more time to study this matter and its consequences.

Preliminarily, we do note that the Department had serious concerns about the methodologies, conclusions, and recommendations of the 2010 and 2013 reports that were the impetus for this measure. We expect to provide more substantive comments in the near future.

Thank you for the opportunity to testify on this matter.

gates2 - Thomas

From: mailinglist@capitol.hawaii.gov
Sent: Monday, January 30, 2017 11:20 AM
To: omhtestimony
Cc: blawaiianlvr@icloud.com
Subject: Submitted testimony for HB84 on Jan 31, 2017 10:00AM

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HB84

Submitted on: 1/30/2017

Testimony for OMH on Jan 31, 2017 10:00AM in Conference Room 312

Submitted By	Organization	Testifier Position	Present at Hearing
De MONT R. D. CONNER	Ho'omana Pono, LLC.	Support	Yes

Comments: We FULLY SUPPORT this bill. As a primarily native Hawaiian Advocacy corporation, who is vested in the reform of our corrections system, this is an excellent bill that can help stakeholders to know, for example, how many people in our jails are native Hawaiian & what other services could we provide them to avoid detention in a jail, if they are deemed to not be a threat. We need the data to make a full & educated decision, BEFORE, we throw hundreds of millions of dollars at building a new jail, which we may not actually need.

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Unity, Equality, Aloha for all



To: HOUSE COMMITTEE ON OCEAN, MARINE RESOURCES, & HAWAIIAN AFFAIRS
For hearing Tuesday, January 31, 2016

Re: HB 84

RELATING TO CRIMINAL JUSTICE.

Authorizes the Department of the Attorney General to administer a statewide program for management of data related to the overrepresentation of Native Hawaiians in the criminal justice system. Establishes positions. Makes appropriation.

TESTIMONY IN OPPOSITION

HB84 proposes to amend HRS Section 28-10.5 "Criminal and juvenile justice resource coordination; administrator and staff" by adding the following proposed section 5:

"Administer a program for statewide data collection and analysis and improvement of integrated data infrastructure related to native Hawaiian overrepresentation in the criminal justice system across state agencies."

The whole basis for this bill HB84 is the claim that ethnic Hawaiians are overrepresented in the criminal justice system. That claim is at best unfounded, and at worst it is completely false.

The present testimony will show two main reasons why that claim is unfounded. If the legislature nevertheless unwisely decides to pass this bill, then the two reasons explaining why the claim is unfounded become two requirements for how data must be collected and analyzed in any future studies of alleged ethnic Hawaiian overrepresentation in the criminal justice system.

The two main reasons why the claim of ethnic Hawaiian overrepresentation in the criminal justice system is unfounded are:

(1) According to Census 2010, the median age of "Native Hawaiians" living in Hawaii is 26, while the median age of everyone else in Hawaii is 42. Crimes, and especially violent crimes deserving long prison sentences, are disproportionately committed by young people whose raging hormones and lack of self-control get them into trouble. That's why Native Hawaiians appear to be disproportionately arrested, incarcerated, and sentenced to longer prison terms -- it's not because they are nasty people and not because they are being discriminated against, but merely because they are enormously younger. If any future study hopes to be statistically respectable, it must compare ethnic groups within the same age ranges: for example 15-19, 20-24, 25-29, etc.

(2) We all know that there are hardly any "pure" Hawaiians. Indeed, it is probably true that 3/4 of people classified as Native Hawaiian each have more than 3/4 of their heritages being from ethnicities that are not Hawaiian -- although we do not know for sure because it is politically incorrect to ask a "Native Hawaiian" what his blood quantum is. THE WAY CRIMINALS ARE COUNTED IS THAT ANYONE WITH EVEN A SMALL FRACTION OF HAWAIIAN NATIVE ANCESTRY IS COUNTED AS FULLY NATIVE HAWAIIAN AND IS NOT COUNTED AS ANY OF THE

OTHER ETHNICITIES THAT COMPRISE MOST OF HIS HERITAGE. This way of allocating arrested or incarcerated people to ethnic groups is clearly BOGUS. It's actually a SCAM. It explains why ethnic Hawaiians appear to be disproportionately overrepresented and other ethnicities are underrepresented among criminals -- it's a matter of definition of who is Hawaiian. Any future study that wants to have any hope of being considered statistically respectable must allocate any individual criminal to every ethnic group with fractional tally marks equal to the fraction of each ethnicity in the criminal's heritage.

For a general analysis of these two factors see the webpage "Native Hawaiian victimhood -- malpractice in the gathering and statistical analysis of data allegedly showing disproportionate Native Hawaiian victimhood for disease and social dysfunction. How and why the Hawaiian grievance industry uses bogus statistics to scam government and philanthropic organizations, politicians, and public opinion" at <http://big11a.angelfire.com/NatHwnVictimhoodStatScam.html>

For a specific, detailed, devastating analysis of the 2010 OHA report "The Disparate Treatment of Native Hawaiians in the Criminal Justice System" cited in this bill HB84, and the followup "Native Hawaiian Justice Task Force Report" published by OHA in December 2012, see webpage: "Abusive disparate treatment of ethnic Hawaiians by the judiciary and the criminal justice system? Rebuttal to a report by the Hawaiian grievance industry" at <http://www.angelfire.com/big09a/DisparateTreatmentCriminal.html>

My dear legislators: In case you find statistics boring and would prefer a humorous parody of the absurdity of counting low-quantum ethnic Hawaiians as fully Hawaiian and not as anything else, here's a webpage I strongly recommend: "How the Obama Family Will Benefit from the Caucasian Government Reorganization Act of 2040" <http://www.angelfire.com/big09a/CaucasianGovReorgAct.html>

The webpage poses a hypothetical future when Caucasians are a poor, downtrodden minority group throughout the United States and are

given the same racial entitlement programs "for Caucasians only" which are currently given to Native Hawaiians. Congress passes the Caucasian Government Reorganization Act of 2040 to create a Caucasian Governing Entity and to establish a U.S. Office of Caucasian Affairs. The job of the OCA will be to oversee federal handouts for Caucasians and coordinate Caucasian racial entitlement programs among various federal departments and state governments.

The elderly former president Barack Obama and his wife Michelle and their children will be eligible for membership in the Caucasian Governing Entity because they are Caucasians. Everyone knows that Barack's mother was Caucasian, so Barack has 50% Caucasian blood and is eligible for a 99 year lease at one dollar per year on a Caucasian homestead. The New York Times on October 8, 2009 published details of careful research into Michelle Obama's genealogy including an interactive family tree with mouse-over information about each known member through six generations: her great-great-great grandfather was a Caucasian slave owner, thus giving her 1/32 Caucasian blood quantum and making her eligible for all Caucasian entitlement programs except a homestead lease. Barack and Michelle's daughters Malia and Sasha each have 17/64 Caucasian blood, so neither of them qualify for a homestead lease in their own right because that requires 50% Caucasian blood quantum. However, either Malia or Sasha would be eligible to inherit Barack's homestead lease, since the right to inherit requires only 25% quantum. Of course, if any members of this family, or their still more Caucasian-attenuated descendants down through future generations forever, suffer disease, drug abuse or incarceration then their victimhood will be awarded 100% to the Caucasian race and not at all to their Black ancestry, including Michelle right now who is 97% Black.

Isn't that a hoot?

Please defeat the ridiculous expenditure of hard-earned tax dollars called for in this boondoggle bill HB84.

gates2 - Thomas

From: mailinglist@capitol.hawaii.gov
Sent: Monday, January 30, 2017 4:46 PM
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Subject: *Submitted testimony for HB84 on Jan 31, 2017 10:00AM*

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HB84

Submitted on: 1/30/2017

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Submitted By	Organization	Testifier Position	Present at Hearing
Javier Mendez-Alvarez	Individual	Support	No

Comments:

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Kaniela Ing
House Committee on Ocean, Marine Resources, and Hawaiian Affairs

LATE

RE: H.B. 84

Conference Room 312, Tuesday, January 31, 2017 at 10:00 am

My name is Erin Paulin and I am a student at UH Manoa's Myron B. Thompson School of Social Work. I am testifying on behalf of HB 84. I am in support of HB 84.

As a student who has had practicum at both TJ Mahoney and Hawaii Youth Correctional Facility, I have seen the disproportionate representation of native Hawaiians involved in the criminal justice system. While many suggestions for early interventions have been recommended, there is not enough data or research to show best practice or method for cutting down number of native Hawaiians incarcerated. HB 84 requests that the data be collected and explored for solutions in regards to the growing population of native Hawaiians in the criminal justice system. By having a team focused on the data collection and program implementation it is possible to find positive intervention methods and programs which can reduce native Hawaiian incarceration. The data collected would also be useful in giving a picture as to what programs geared for native Hawaiians are successful, and can help build programs that are successful.

This would not just benefit the criminal justice system but the community as a whole. I support HB 84 and strongly believe that it will have a big impact on the overall goal of cutting the number of native Hawaiians incarcerated.

Erin Paulin

808-664-9654

gates2 - Thomas

From: mailinglist@capitol.hawaii.gov
Sent: Monday, January 30, 2017 10:08 PM
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Cc: mkhan@hawaiiintel.net
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HB84

Submitted on: 1/30/2017

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Submitted By	Organization	Testifier Position	Present at Hearing
Leimomi Khan	Individual	Support	No

Comments: Fully support the Native Hawaiian Justice Task Force's recommendation to identify what data is being collected at different points within the criminal justice system, improve data integration, and improve data infrastructure amongst state agencies. The proposed statewide program for management of data related to the overrepresentation of Native Hawaiians in the criminal justice system is needed and will be helpful to inform future policy decisions regarding the disproportionate representation of Native Hawaiians in the criminal justice system. Please pass HB 84.

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LATE

January 31, 2016

Testimony in Support: HB 84

To: Chair Kaniela Ing, Vice Chair Cedric Asuega Gates, and Members of the House Committee on Ocean, Marine Resources, and Hawaiian Affairs

From: Sonny Ganaden, Esq.

Re: Testimony in Support of HB 84 RELATING TO CRIMINAL JUSTICE.

I offer my support of HB 84, which authorizes the Department of the Attorney General to administer a statewide program for management of data related to the overrepresentation of Native Hawaiians in the criminal justice system.

I am a practicing attorney, journalist, and instructor at the University of Hawai'i at Manoa. I offer my testimony as a private individual. In 2012, I had the opportunity to be the lead author for the Native Hawaiian Justice Task Force Report, produced for and delivered to the 2013 Hawaii state legislature.

Foremost, I believe the bill, as drafted, may be deemed unconstitutional under the federal and state constitutions, specifically the 5th and 14th Amendment of the U.S. constitution. The bill would best achieve the goal of creating a more equitable criminal justice system if it were broadened to track the data of all individuals by the characteristics protected under the constitution of the state of Hawai'i. Specifically, Article I, Section 5 of the Hawai'i Constitution, which provides that "no person shall be denied the enjoyment of civil rights or be discriminated against in the exercise thereof because of race, religion, sex or ancestry." The bill should further extend to individuals housed by the Department of Public Safety or its contractors.

The lack of a functioning data set, shared amongst state agencies and with the public, has been raised before the legislature for years. This issue was discussed in the 2010 Management Audit of the Department of Public Safety, the 2012 Justice Reinvestment Initiative, the Native Hawaiian Justice Task Force Report, and several other documents since delivered to the state legislature. Journalists and attorneys have been given massive bills from the state when asking for public information. (*See, Hawaii Prison Officials Say It Will Cost \$23,000 For Public Records, Kaneya, Honolulu Civil Beat, <http://www.civilbeat.org/2016/10/hawaii-prison-officials-say-it-will-cost-23000-for-public-records/>*)

As an advocate for justice reform, I have seen learned professionals continually stumble over the most basic facts regarding the demographic makeup of individuals involved in the criminal justice system. Data sets which do exist were created for the purpose of the production of immediate policy papers. Some data collected is shared amongst state agencies. As the state has made significant policy progress in public health

administration, energy use, and environmental management using aggregated data, it has not made the same strides in the administration of justice.

The lack of a coherent data set would clear the way for effective policy, and forthcoming development of facilities throughout the state. Appropriate policy in criminal justice cannot be effectuated without a shared data set which is shared with the public at reasonable cost.

I urge the Committee to pass HB 84, with an amendment to broaden its scope to include those characteristics protected by the state constitution, and to include the Department of Public Safety. Mahalo.

Aloha All,

I previously sent out a request to support HB 84, which I attached.

After review, though I support the bill, I do not believe it will pass constitutional muster, and have drafted testimony to expand its scope.

gates2 - Thomas

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, January 31, 2017 5:17 AM
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Subject: *Submitted testimony for HB84 on Jan 31, 2017 10:00AM*

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Kama Hopkins	Individual	Support	No

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