



STATE OF HAWAII
OFFICE OF HAWAIIAN AFFAIRS
711 KAPI'OLANI BOULEVARD, SUITE 500
HONOLULU, HAWAII 96813

NATIVE HAWAIIAN JUSTICE TASK FORCE

DATE: October 22, 2012
TIME: 2:00 p.m. - 4:00 p.m.
PLACE: Directors Conference Room

Department of Public Safety
919 Ala Moana Blvd., Room 400
Honolulu, Hawai'i 96814

MINUTES

I. Call to order

Attending:

- Michael F. Broderick, Chair (President, CEO YMCA of Honolulu) (Public member)
- Tricia Nakamatsu, Deputy Prosecuting Attorney City & County of Honolulu
- Jack Tonaki, Public Defender
- Honorable Richard K. Perkins, 1st Circuit Court Judge
- Martha Torney, Deputy Director of Administration, Public Safety
- Cheryl Marlow, Adult Client Services Branch Administrator
- Paul Perrone, Chief of Research & Statistics, Department of the Attorney General
- RaeDeen Karasuda, Ph.D., Criminologist member selected by the Governor. Her work here is not representative or associated with her position at Kamehameha Schools Bishop Estate

Sonny Ganaden, Contracted Writer

Not Present:

Dr. Kamana`opono Crabbe, Ka Pouhana, OHA
Jeff Kent, OHA, Public Policy Advocate III

Public:

Kat Brady, Community Alliance on Prisons

Joshua Wisch, Department of the Attorney General

Sonny Ganaden was asked to keep minutes of the meeting because Jeff Kent was not present.

II. Approval of Minutes

The draft minutes from the 10/09/12 meeting will be distributed at a subsequent meeting.

III. Findings

The Task Force (TF) reviewed the Amended findings provided by Sonny Ganaden as updated from the meeting on 10/09/12. Chair Michael Broderick suggested the following process for reviewing the rest of the findings:

- A. Continue reviewing Draft Findings at this meeting.
- B. On October 23, 2012 meeting, begin by discussing the Draft Minutes of the October 9 meeting, as well as the Amended findings document produced by Sonny Ganaden.
- C. On October 23, 2012 meeting, set a series of meetings to discuss the Draft Recommendations, which are forthcoming, and will be produced after the approval of the *Draft Findings*.
- D. When complete, the proposed final TF Report will be sent to each TF member for final review. The TF will not revisit findings or recommendations, but TF members will be asked to identify any votes not properly recorded, any findings not agreed to but not in the Report or recommendations not agreed to but the Report and so forth.

The TF agreed to the process and might also schedule a weekend meeting as needed.

[Note on voting:

- *If the TF did not reach consensus on a finding the issue was put to a vote.*
- *Any position taken by Paul Perrone as designee for the Attorney General is provisional based on approval from the Attorney General.*
- *Task Force members not present did not vote on the findings.]*

B. Writer's Finding (WF) 6:

There are clear connections between poverty, access to legal counsel in all courts, and criminality.

Comment:

The TF discussed and the finding was redrafted.

Approved amended finding to be renumbered as **B7:**

There are clear connections between poverty, access to counsel in all courts, and criminality. The Task Force acknowledges that there has been adherence to American common law, there has been a disproportionate impact upon Native Hawaiians.

BWF4:

Ex-offenders continue to be discriminated against based on their arrest and court record, despite such discrimination being illegal. This has led to a higher recidivism rate for Native Hawaiians.

Comment:

TF discussed, redrafted to remove the term "illegal," as several forms of discrimination are legal.

Approved amended finding to be renumbered as **B8:**

In the present economy, ex-offenders face barriers in employment, housing, and reintegration into the community based on their arrest and court record. These barriers may affect the recidivism rate for Native Hawaiians.

New Finding:

The TF discussed adding a finding that covered the conflict between American law and Native Hawaiian values.

Proposed New Finding to be listed as **B9:**

There has historically been a conflict between American law and Native Hawaiian values. This conflict may explain some of the disproportionate representation of Native Hawaiians in the criminal justice system.

B.WF5:

The Hawai'i Paroling Authority has more discretion as compared to other states, or the federal government's paroling authority. This authority has been used to unequal effect due to the lack of programs for inmates. The Hawai'i Paroling Authority has recently enacted policies that address perceptions of inequality.

Comment:

The TF discussed the draft finding and decided to revisit it at the recommendations stage of the report.

Approved amended finding to be renumbered as **B10:**

The Hawai 'i Paroling Authority has more discretion than its counterparts in other states or the federal government regarding inmates' length of stay, _____, _____, and _____. An inmate's program enrollment is a factor that the Hawai' i Paroling Authority considers. The expanded discretion of the Hawai' i Paroling Authority may have been used to unequal effect due to the lack of programs for inmates. [Blanks to be filled in later.]

The TF did not have consensus. Voting went as follows:

6 voted in favor.

2 against

- Tricia Nakamatsu, Deputy Prosecuting Attorney City & County of Honolulu as representative from the department of the prosecuting attorney for the city and county of Honolulu.
- Paul Perrone, Chief of Research & Statistics, Department of the Attorney General as designee of the Attorney General.

C. Early Intervention Programs for Native Hawaiians

Comment:

The TF approved the heading.

C1.

This Task Force is aware that an individual's contact with the criminal justice system, regardless of race, often begins at youth. This Report has emphasized the impact of the criminal justice on Hawaiian adults in order to comply what the Task Force understood to be the focus of Act 170. The study *Disproportionate Minority Contact in the Hawai'i Juvenile Justice System*, prepared for the Juvenile Justice State Advisory Council and the State of Hawai'i, Office of Youth Services (May 2012) provides guidance regarding effective prospective policy directives regarding juveniles.

Comment:

The TF did not have consensus on how to cite the report in the finding so they put the matter to a vote.

Voting went as follows:

7 voted in favor of using the finding as written.

1 against

- Tricia Nakamatsu, Deputy Prosecuting Attorney City & County of Honolulu as representative from the department of the prosecuting attorney for the city and county of Honolulu.

C2.

The children of incarcerated parents are at risk of having a higher rate of interaction with the criminal justice system.

Comment:

TF would like to add citation to research that supports the finding.

Approved amended finding:

Research indicates that the children of incarcerated parents are at risk of having a higher rate of interaction with the justice system. [Citations to be provided.]

C3.

Pursuant to Act 170, this task force must put forward appropriate budgetary considerations in order to decrease continued contact with the criminal justice system for individuals of all races.

Comment:

TF agreed to eliminate the finding and have it addressed in the executive summary and outline of activities in the legislative report.

C4.

Preventative measures, such as adequate education for at-risk youth, continue to be under-valued.

Comment:

TF discussed stylistic changes.

Approved amended finding to be renumbered as **C3:**

Preventative measures, such as adequate education and programs for at-risk youth, continue to be inadequately funded.

D. Impact of the State's Relationship with Private Prisons on Native Hawaiians

Comment:

TF discussed changing "relationship" to "contracting" to more accurately reflect the relationship.

Approved amended Heading:

D. Impact of the State's Contracting with Private Prisons on Native Hawaiians

D1.

The experience of prisoners in private correctional facilities as compared to state facilities is not equal. Prisoners in private correctional facilities receive better treatment from staff, more consistent and available programs, and live in less crowded conditions. However, prisoners in private facilities are also subject to drastic dislocation from their home, culture, family, job prospects, and community support.

Comment:

TF adopted the finding after rewording the finding to reflect their experiences working with the criminal justice system, community, and the summits.

Approved amended finding:

Prisoners, former prisoners, family members of prisoners, and Task Force members report that prisoners in private correctional facilities receive more consistent and available programs and live in less crowded conditions than prisoners in state prisons. Prisoners in private correctional facilities also receive more respect from staff. However, prisoners in private facilities are subject to drastic dislocation from their home, culture, family, job prospects, and community support.

D2.

There is a lack of an inventory of prisoners in mainland correctional facilities who could return to state facilities for a variety of factors, being ____, ____, ____.

Comment:

TF discussed that this list of factors for return of prisoners should be listed in the recommendations section of the report.

Approved amended finding:

The criteria for sending and returning prisoners to and from private correctional facilities remains unclear.

Voting:

1 against

- Tricia Nakamatsu, Deputy Prosecuting Attorney City & County of Honolulu as representative from the department of the prosecuting attorney for the city and county of Honolulu.

D3.

The recidivism rate for prisoners who were incarcerated on the mainland is slightly lower than the rate for prisoners who were incarcerated in Hawai'i, despite the fact that the mainland prisoners are, on average, more likely to be violent offenders; those with extensive criminal histories, and those serving particularly long sentences.

Comment:

The TF discussed and decided to review D3 with D4 because they are similar.

D4.

The recidivism rate for prisoners incarcerated on the mainland is statistically insignificant. Further, due to the private facilities' ability to choose whom they will house, the recidivism rate is statistically questionable.

Comment:

The TF decided to merge the findings into one.

Approved amended finding to be renumbered as **D3:**

The recidivism rate for prisoners who are incarcerated at private correctional facilities on the continent is slightly lower than the rate for prisoners who are incarcerated in Hawai'i. However, that difference is not statistically significant.

D5.

If the task force suggests that the state place a moratorium on any further contracts with private correctional institutions, the release of present inmates must be accomplished in a planned and responsible manner

Comment:

The TF discussed and decided to review D5 with D6 because they are similar.

D6.

If the task force suggests that the state place a moratorium on any further contracts with private correctional institutions, public safety is a primary concern

Comment:

TF felt that any moratorium would be part of the recommendations section of the report. D5 and D6 are merged into the following:

Approved amended finding to be renumbered as **D4:**

In reaction to recent statements from the Governor, and the Justice Reinvestment Initiative of 2011, any planned return of prisoners to the community should be accomplished in a planned and responsible manner, with public safety being the primary concern.

IV. Public Testimony

Kat Brady:

- Unequal outcomes must be acknowledged for Native Hawaiians.
- Maxing out and reentry is an important issue.
- Criminal background information is not accurate and records are not being updated.

V. Next Meeting

The Task Force will be holding its next meeting on October 23, 2012 from 2-4pm. The location will be at:

Directors Conference Room
Department of Public Safety
919 Ala Moana Blvd., Room 400
Honolulu, Hawai'i 96814