



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

NATIVE HAWAIIAN JUSTICE TASK FORCE

DATE: October 23, 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, Hawaii 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
- 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
- Cheryl Marlow, Adult Client Services Branch Administrator
- Dr. Kamana`opono Crabbe, Ka Pouhana, OHA

Sonny Ganaden, Contracted Writer

Jeff Kent, OHA, Public Policy Advocate III

Public:

Four members of the public were present.

II. Approval of Minutes

The minutes from 10/09/12, 10/22/12 and 10/23/12 meeting will be ready for review and approval by the next meeting.

III. Findings

[Note on voting:

- If the TF did not find 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.]*

D. Writer's Finding (WF) 1:

Prisoners in private facilities may be at a disadvantage in parole hearings as hearings are conducted remotely

Comment:

The TF discussed and wanted follow up on the status of remote and in person parole hearings at the out of state facilities. Also wanted follow up on whether there are problems with the remote conferencing technology being unreliable.

Approved amended finding to be renumbered as **D5:**

Prisoners in private correctional facilities may be at a disadvantage in parole hearings as hearings are conducted remotely. Some of those disadvantages include...[to be determined based on research].

DWF2:

Prisoners of Hawaiian descent who are sent to mainland facilities are effectively given an unequal sentence in relation to non-Hawaiian prisoners.

Comment:

The TF discussed what they thought was implied by "unequal sentences" and the finding was redrafted.

Approved amended finding to be renumbered as **D6:**
Native Hawaiians who are sent to mainland correctional facilities are effectively given an unequal burden in relation to non-Hawaiian prisoners. This burden includes ... [to be determined]

DWF3:

There are economic costs associated with inaction. The increase in the state's contract with private facilities has cost _____ annually, has increased exponentially since its inception in 1994. The costs of the state's relationship with private prisons will likely continue to increase without action.

Comment:

The TF discussed what costs are not accounted for and the finding was redrafted to include a more accurate date and reflect that recently the number of out of state prisoners has decreased. Will seek out current figures from Martha Torney.

Approved amended finding to be renumbered as **D7:**

There are economic costs associated with inaction. The increase in the state's contract with private facilities has cost _____ annually, has increased exponentially since its inception in December, 1995. The costs of the state's contract with private prisons may increase without action. [to include language about hidden costs]

DWF4:

Many released offenders do not have transition plans, or any form of continued care beyond compliance with parole.

Comment:

The TF discussed and the finding was redrafted to clarify whether this covers parolees or inmates that have completed their sentence.

Approved amended finding to become **D8:**

Due to their incarceration on the mainland, many released offenders do not have effective transition plans [examples to be inserted] beyond compliance with parole.

New Finding Proposed:

Offenders who complete their full sentence ("max out") do not have transition plans, or any form of continued care once they are released.

Comment:

The TF discussed the difficulty of tracking inmates who max out on the mainland and are a low priority in returning to Hawai'i and begin the transition process. Kat Brady, a member of the public, mentioned that there is an unused reentry law that requires a return to Hawai'i if the inmate has one year left on their sentence. The cite is believed to be Act 8, 2007, that is under Hawai'i Revised Statutes 353H.

Approved amended finding to be numbered **D9**:

There has been concern expressed regarding inmates being lost in the system and being released at the completion of their maximum sentence ("maxing out") without transitional programming, follow up services, or housing. As a result, these individuals have a more difficult time reintegrating into the community.

Heading E:

Issues in State and County Prisons and their Impact on Native Hawaiians

Comment:

The TF discussed the heading and it was redrafted to be less restrictive.

Approved amended Heading:

Issues in State-Operated Correctional Facilities and their Impact on Native Hawaiians

E1:

Inmates released from state correctional institutions often do not have any form of identification. A form of identification is necessary to apply for employment, find housing, and comply with conditions of parole.

Comment:

The TF discussed stylistic changes.

Approved amended finding:

Inmates released from state correctional institutions often do not have any form of official identification. Identification is necessary to apply for employment, find housing, and comply with other conditions of parole.

E2:

A new high security correctional facility is not needed and would not be a proper use of state resources. As the majority of criminal defendants have been charged with property and substance abuse crimes, state resources should be directed towards rehabilitating offenders in relation to those offenses.

Comment:

The TF discussed the overall intent of the finding to be about investing in rehabilitation rather than incarceration.

Approved amended finding:

If the state of Hawai'i had sufficient and appropriate community-based alternatives to incarceration for substance abuse, mental health treatment, and housing at all points within the criminal justice system, the state may reduce the state' reliance on incarceration.

TF discussed finding and did not have consensus so they put the matter to a vote.

Voting went as follows:

8 voted in favor.

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.

E3:

Prisoners in state facilities may be receiving inconsistent treatment from staff. This inconsistent treatment by staff leads to inefficient effectuation of programs and policies.

Comment:

The TF discussed and suggested stylistic changes.

Approved amended finding:

Prisoners and ex-prisoners report that they received inconsistent treatment from staff, which leads to inefficient effectuation of programs and policies.

E4:

There are rehabilitative models currently being followed within the state that are informed by the trauma that the majority of inmates have experienced, and attempt to mitigate future traumatic experiences while incarcerated.

Comment:

The TF discussed rewording to focus on where trauma informed care is being implemented.

Approved amended finding:

The trauma informed care model has been instituted at the women's community correctional center on O'ahu. This model reacts to the trauma that the majority of inmates have experienced, and attempts to mitigate future traumatic experiences while incarcerated.

E5:

It is essential for inmate rehabilitation that they be allowed an appropriate and safe environment to visit with family members, including extended family members.

Comment:

The TF discussed the finding and changes.

Approved amended finding:

Prisoners do not get regular and consistent visitation with family members, including extended family members. It is important for an inmate's rehabilitation that they be allowed regulars visit with family members and extended family.

New Finding:

The Task Force discussed that they should consider a finding about the construction of facilities but tabled the matter until they finished the existing findings.

EWf1:

The 2011 United States Supreme Court decision *Plata v. Brown*, No. 09-1233, slip op. U.S.S.C.(2011) creates binding authority for the State of Hawaii. In *Plata*, the Supreme Court held that California violated constitutional guarantees against cruel and unusual punishment by failing to provide basic medical, mental health and dental care for inmates. The *Plata* decision ordered the State of California to develop a plan to reduce its inmate population significantly. California is currently releasing and transferring thousands of prisoners as a result of the *Plata* decision.

Comment:

The TF discussed the purpose of making a finding based on *Plata*. Hawai'i's criminal justice system is challenged with meeting the

health and service needs of inmates that have mental health issues or are chronically homeless.

Approved amended finding to be renumbered as **E6**:

Services to prisoners with mental health issues and the chronically homeless will continue to be a major challenge for the Department of Public Safety. PSD is in a settlement with the federal Department of Justice regarding mental health treatment at O'ahu Community Correctional Center. There continues to be a concern about meeting the mental health needs of inmates.

Heading F:

Restorative Justice Practices and Their Application to Native Hawaiians

Comment:

The TF discussed the heading and it was redrafted.

Approved amended Heading:

Restorative Justice Practices and Cultural Programs for Native Hawaiians

F1:

Appropriate models in ameliorating the disproportionate impact of the criminal justice system on indigenous communities can be found outside of American common law. Nations such as New Zealand, Australia, and Canada have had recent successes in work that is similar to that of this task force.

Comment:

The TF discussed and the finding was redrafted to reflect that nations have found success in adopting indigenous cultural practices in their justice system.

Approved amended finding:

Indigenous cultural practices present appropriate models in ameliorating the disproportionate impact of the criminal justice system on indigenous communities. The Native Hawaiian community and nations such as Aotearoa, Australia, and Canada have had recent successes in adopting indigenous cultural practices.

IV. Public Testimony

Pono Kealoha:

- Would like to see the Hawaiian National perspective addressed.
- There is cultural trauma passed on to each generation. It is like post traumatic stress disorder. Substance and alcohol abuse is a response to this trauma.
- Suggested looking into the Kū`ē petitions.

Kat Brady:

- When there is a parole visitation by videoconference the private prison will give someone a baseless write up just before the hearing date so the prisoner shows up in shackles to their hearing. It looks bad for them even though charges are dismissed a week later.
- It's difficult to effectively monitor out of state facilities.
- Private mainland facilities like Native Hawaiians because they are thought to be easier to manage.
- It is important to focus on out of state prisoners because the majority are Native Hawaiian.

V. Next Meeting

The Task Force agreed to hold meetings on October 30, 2012 from 12-4pm and November 4 from 10am-2pm.

The location will be at:

Office of Hawaiian Affairs
711 Kapiolani Blvd. Ste 500
Honolulu, HI 96813