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STATE OF HAWAII
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NATIVE HAWAIIAN JUSTICE TASK FORCE

DATE: September 4, 2012
TIME: 2:00 p.m. - 4:00 p.m.
PLACE: Library, Office of Hawaiian Affairs
711 Kapi'olani Boulevard Suite 500
Honolulu, HI 96813

MINUTES

Attending:

- Michael F. Broderick, Chair (President, CEO YMCA of Honolulu) Public member
- Dr. Kamana`opono Crabbe, OHA
- 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

Sterling Wong, OHA, Public Policy Manager
Jeff Kent, OHA, Public Policy Advocate III
Sonny Ganaden, Writer

Public:

Kat Brady, Community Alliance on Prisons
Lorraine Robinson, Ka Hale Ho'āla Hou Nā Wāhine

I. Minutes

August minutes were approved.

II. Legislative Report Status

Sterling reported on the status of OHA's Research department. The final analysis is expected in mid-September. The findings are consistent with the preliminary analysis so the report and findings can go forward based on that understanding.

A list of possible policy proposals were distributed to assist in starting a discussion on policy findings. Those findings are needed soon in order to meet OHA's internal board scheduling for their legislative package.

Sonny Ganaden reported that he has met individually with the task force members and has emailed them their proposed findings for review. He is going to take each individual member's findings and compile them for the group to review. Policy recommendations will be pulled from there. Goal is to have compilation done in about one week.

Sonny is also working on how to contextualize the work of the Task Force with the Kassebaum studies.

The Task Force decided to move the next meeting from 10/02 to 10/09 to ensure full attendance to discuss findings.

The Task Force discussed whether findings would be representative of their agencies. Consensus was that the findings would be representative. Voting on any issue will indicate how people voted. It is also possible for a Task Force member to take no position on an issue. Task Force will endeavor to get preliminary findings back to members quickly so they can run through any internal vetting process they might have.

Task Force indicated that the proposals should cover the entire spectrum of the criminal justice system and not only focus on incarceration.

IV. Site Visit Observations

The Task Force discussed their recent site visits to Halawa Correctional Facility and the Womens Community Correctional Center. The Task Force thanked Martha Torney for coordinating the visits. Observations included:

- Inmates had an easier time relating to their experience than commenting on the system as a whole.
- Inmates found value in connecting to their culture.
- The women were vocal in recognizing that trauma in their lives impacted them and the decisions they made.
- Many of the inmates that did time on the mainland preferred those sites because they had:
 - Less crowding, generally two to inmates to a cell.
 - More programming available and less dead time.
 - More respectful treatment from the corrections officers.
- Lack of consistency in treatment and procedures from the corrections officers here in Hawai'i
- Lack of services, programs, and reentry options on the neighbor islands
- Need a way to assess risk in youths. Many of the inmates had a parent that was abusing them or in the criminal justice system. Something like the Judiciary's Kids First program for children whose parents are divorcing, but tailored to children whose parents are in the criminal justice system.
- The inmates had a desire to give back to the community through service, counseling, and telling their story.
- They are frustrated by parole and probation terms and conditions that keep them from associating with other former inmates. Sometimes these people are part of their recovery support network and allowing this contact for support groups or in a case by case basis could be beneficial.

The task force observed that the mainland facility is contractually required to maintain a level of programming and

not overcrowd while the State's own facilities are not held to that same standard.

At first glance, costs for the mainland facilities are cheaper but it's not clear if all associated costs are incorporated. Ultimately, the task force would like the facilities in Hawai'i to have the programs, inmate density, and corrections officer care that the mainland facilities have.

One issue that arose at the site visits was a general frustration that the parole board can set a longer sentence than the minimum set by the judge at sentencing. The task force briefly went over the role of the judge at sentencing, evolution of the penal code for the parole board, and what information they use when setting sentences. The chair of the parole board can really set the tone of sentencing and that can swing from being punitive to rehabilitative. Justice and safety are paramount but if someone is locked up too long they can lose hope and are at risk for becoming a worse criminal. This is of concern to the task force because Native Hawaiians are disproportionately represented at the sentencing and parole. The inmates were aware of the Justice Reinvestment Initiative changes affecting parole and had positive things to say about Judge Michael Town's presence on the parole board.

V. Status of Contract for Data Study

The Task Force discussed a draft scope of services for a data study. The study would be limited to State of Hawaii Native Hawaiians in the criminal justice system rather than expand to Federal incarceration or Native Hawaiians incarcerated from other state governments.

The Task Force focused on whether developing the groundwork for a study was necessary and the best use of resources. Feedback from the community summits was that another study was not wanted. People wanted action.

On the other hand, there was a desire to lay a foundation of solid data for future work in this field. There was also a concern of how additional data collection could be a burden for agencies, who would pay for the full study after this initial phase, and the possibility that a full study could cost hundreds of thousands of dollars.

The task force discussed narrowing the data work to just focus on "What data needs to be collected to be able to answer questions on disproportionate impact. What can be answered with limited data."

The task force also discussed the possibility of just recommending to the legislature that the task force recommends better data integration and infrastructure in the criminal justice system. There is also a need for an audit of data collected by agencies like public safety. If the collected data is poor then conclusions are not reliable.

The task force voted on the matter:

- Go forward with the full \$10,000 proposal
1 vote: Paul Perrone.
- Limit the proposal to "What data needs to be collected to be able to answer questions on disproportionate impact. What can be answered with limited data."
4 votes: Mike Broderick, Kamana'o Crabbe, Cheryl Marlow, and Jack Tonaki.
- Do not conduct a study at all.
4 votes: RaeDeen Karasuda, Martha Torney, Judge Perkins, and Tricia Nakamatsu.

Due to the lack of consensus the Task Force decided to discuss the matter and vote again. They noted that:

- Some felt a study is needed to give a data based answer as to why Native Hawaiians are overrepresented the criminal justice system
- Some felt that there needs to be a better baseline and integration of data from the criminal justice system in order to develop better responses
- Some felt that there was no need for a further study because the reasons are known and resources are better used in supporting solutions.

The Task Force voted again:

- For a survey of research on disproportionate racial effect in the criminal justice system to include:
 - Review of where the field is heading, what is considered state of the art.

- What answers regarding disproportionate racial impact can be found from the studies and what can and cannot be answered.
- What data needs to be collected to be able to answer questions on disproportionate impact. What can be answered with limited data.

6 votes: Mike Broderick, Kamana'o Crabbe, Cheryl Marlow, Jack Tonaki, Paul Perrone, and Martha Torney.

Against the survey

3 votes: RaeDeen Karasuda, Judge Perkins, Tricia Nakamatsu.

Some of the six who voted for a survey asked those who opposed the survey for their rationale.

After hearing the thinking, five of the six Task Force members (Paul Perrone did not change his vote) joined the other three so that eight of the nine Task Force members voted to not commission a study but instead to have the legislative report identify as part of the task force findings a need for:

- Better data integration in the criminal justice system
- Better data infrastructure in the criminal justice system
- What data needs to be collected to be able to answer questions on disproportionate impact.

VI. Public Testimony

Kat Brady-The Kids First model for children of incarcerated parents is a great idea to look at as a way to increase prevention. Other groups have tried this approach through the school system but there are roadblocks based on constitutional issues related to privacy. Using the judiciary might be a way to work around that barrier.

Kat Brady-The programming that mainland prison providers looks good on paper but there's a disconnect when those inmates return to Hawai'i. Their credentials aren't recognized by local trade groups. Abuse of criminal background checks is also creating a barrier to reentry for recently released inmates looking for jobs.

Kat Brady-There's a wealth of skilled researchers and data to look at these issues and they should be tapped into.

Lorraine Robinson-Regarding parole terms and conditions you can work out parolees interacting with each other on a case by case basis. You need to have a working relationship with their parole officers. She asked her residents what was most helpful and have provided the Task Force their responses in this handout. A lot of work has been done on trauma. It's complex and affects development and how brains work. How inmates are treated and opportunities to be successful are keys to recovery from trauma.

VII. Next Steps

Meeting on October 9, 2012 from 2-4pm at OHA library.