

MAR 13 2008

SENATE CONCURRENT RESOLUTION

REQUESTING A STUDY OF DISPARATE TREATMENT IN HAWAII'S CRIMINAL
JUSTICE SYSTEM.

1 WHEREAS, the country's foremost researchers on race and the
2 criminal justice system have analyzed the impact of race on
3 policing, arrests, prosecution, and sentencing; the studies have
4 carefully controlled for case differences such as severity of
5 the crime and the defendant's criminal background and have
6 uniformly found overwhelming disparities based on race; and
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8 WHEREAS, there is compelling evidence that native Hawaiians
9 have received disparate treatment in the Hawaii criminal justice
10 system, for example:
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- 12 (1) According to studies based on data from the 2000
13 United States Census, native Hawaiians are
14 overrepresented in Hawaii's prisons and jails;
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- 16 (2) Native Hawaiians make up only 9.1 per cent of the
17 total population of the State, yet they make up a
18 higher percentage of the State's prison population,
19 with estimates varying;
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- 21 (3) According to the Department of Public Safety's inmate
22 population data of June 2006, about 22 per cent of the
23 State's prison population was native Hawaiian;
24
- 25 (4) Approximately 39 per cent of all inmates identified
26 themselves as Hawaiian or part Hawaiian;
27
- 28 (5) Other recent statistics establish Hawaii's inmate
29 population at about 45 per cent native Hawaiian; and
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1 (6) Many correctional facility workers estimate the native
2 Hawaiian inmate population to be close to 60 per cent;
3 and
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5 WHEREAS, native Hawaiians average 23 per cent of all
6 arrests in Hawaii, and are twice as likely to be incarcerated as
7 any other group in the State; and
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9 WHEREAS, in Maui County, native Hawaiian women
10 disproportionately comprise 61 per cent of inmates in work
11 furlough and native Hawaiian men comprise 73 per cent of male
12 Maui County reintegration program participants (Being Empowered
13 and Safe Together, or "B.E.S.T.", 2003); and
14

15 WHEREAS, native Hawaiian males and females make up 45 per
16 cent of all parolees statewide (Brown, 2003), and scholars have
17 concluded that native Hawaiians are at the greatest risk of
18 being re-arrested and returning to prison (Umemoto and Oh,
19 1993); and
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21 WHEREAS, studies suggest that incarceration-related risks
22 are more problematic in families where a mother has been
23 incarcerated; adult children of incarcerated mothers are two and
24 one-half times more likely to be incarcerated than adult
25 children of incarcerated fathers; 95 per cent of the one hundred
26 twenty female Hawaii inmates incarcerated at a single mainland
27 prison facility are mothers; and 71 per cent of the female
28 participants in an Oahu furlough program are mothers of minor
29 children; and
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31 WHEREAS, native Hawaiian youth arrests are most likely to
32 end in adjudication; 47 per cent of all girls appearing in
33 circuit court are native Hawaiian; native Hawaiians comprise
34 64 per cent of all circuit court juvenile defendants; and native
35 Hawaiian youth make up 50.5 per cent of all youth in custody at
36 Hawaii Youth Correctional Facility; and
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38 WHEREAS, native Hawaiian families are greatly impacted, as
39 almost 60 per cent of children who are placed in child
40 protective services are of native Hawaiian descent, and of those
41 children, 8 per cent to 33 per cent of their parents are
42 incarcerated; and
43



1 WHEREAS, in Hawaii County, 58 per cent of incarcerated
2 parents reported are of native Hawaiian descent; 40 per cent of
3 those parents had involvement with Child Welfare Services;
4 children are now being cared for by their mothers (30 per cent),
5 grandparents (22 per cent), foster parents (10 per cent), or on
6 their own (17 per cent); and the negative effects of
7 incarceration on children can lead to emotional, behavioral, and
8 psychological disturbances; and
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10 WHEREAS, 39 per cent of the 1,844 inmates from the State
11 who are residing in contracted out-of-state correctional
12 facilities are Hawaiian; there is growing concern that
13 correctional facilities in Hawaii will remain overcrowded and
14 continue to grow; and Hawaiian offenders sentenced to
15 incarceration will continue to be transferred to contracted out-
16 of-state facilities, further removing and disconnecting them
17 from their families, which may lead to a higher rate of
18 recidivism and contribute to their children's deviant behavior;
19 and
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21 WHEREAS, a study would be helpful in determining the
22 extent, nature, and impact of disparate treatment of native
23 Hawaiians and other ethnic groups in Hawaii's criminal justice
24 system; now, therefore,
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26 BE IT RESOLVED by the Senate of the Twenty-fourth
27 Legislature of the State of Hawaii, Regular Session of 2008, the
28 House of Representatives concurring, that the Legislative
29 Reference Bureau is requested to conduct a study of disparate
30 treatment in Hawaii's criminal justice system; and
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32 BE IT FURTHER RESOLVED that in conducting the study, the
33 Legislative Reference Bureau is requested to include, but not be
34 limited to, the following:
35

- 36 (1) The extent of disparate representation of native
37 Hawaiians and other ethnic groups in Hawaii's criminal
38 justice system, focusing on conviction rates and
39 sentencing outcomes, to include data from the entry
40 point (911 calls, assessment, and arrest) to the
41 actual process (court appearances, prosecutorial
42 review, plea bargain, sentencing) and exit (parole,
43 probation, and recidivism rates) of the criminal
44 system;



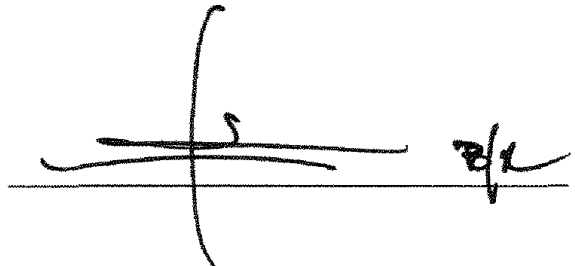
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- (2) The causes of any racial disparities, including but not limited to Hawaii's sentencing policies and drug laws; and
- (3) The barriers that disparate treatment poses to preventing recidivism and facilitating the offenders' successful re-entry into the community; and

BE IT FURTHER RESOLVED that the Legislative Reference Bureau is requested to submit, not later than twenty days prior to the convening of the Regular Session of 2009, its findings and recommendations, including any proposed legislation, for reducing disparities in the criminal justice system; and

BE IT FURTHER RESOLVED that certified copies of this Concurrent Resolution be transmitted to the Governor, the Director of the Legislative Reference Bureau, the Chairperson of the Office of Hawaiian Affairs, the Chief Justice of the Hawaii Supreme Court, the Attorney General, the Administrator of the Hawaii Criminal Justice Data Center, the Director of Public Safety, the Director of Human Services, the Chief of Police and the Prosecutor for each county, and the state and federal Public Defender.

OFFERED BY:

A handwritten signature consisting of a large, stylized 'f' with a horizontal line through it, followed by the initials 'B/K'.