



**SB316**  
**RELATING TO JUVENILES**  
Senate Committee on Judiciary and Labor

February 7, 2013

10:00 a.m.

Room 016

The Office of Hawaiian Affairs (OHA) **SUPPORTS WITH AMENDMENTS** SB316, which adds restorative justice participation as an option for juveniles.

In 2010, OHA produced a comprehensive report detailing the disparate treatment of Native Hawaiians in the criminal justice system. Since then, OHA has administered the Native Hawaiian Justice Task Force (NHJTF), which was tasked by the Legislature to address this multi-faceted issue. The NHJTF 2012 legislative report is available at: [www.oha.org/nativehawaiianjusticetaskforce](http://www.oha.org/nativehawaiianjusticetaskforce).

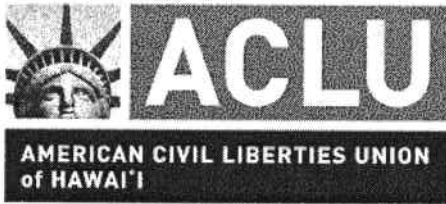
The NHJTF recognizes the importance of intervening at the youth stage, noting in recommendation C.1. of the report that:

The 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 system on Native Hawaiian adults in order to comply with 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.

Under this bill and SB60, there is a possibility that "restorative justice program" as a term of art could limit access to Native Hawaiian cultural practices like ho'oponopono. In that case, OHA suggests adding the following language:

"Restorative justice program" includes restorative dialogues, restorative conferences, restorative justice circles, restorative session, Native Hawaiian reconciliation practices like ho'oponopono, or any type of restorative justice group process where victims meet individually or with their loved ones, with a facilitator.

OHA urges the committee to **PASS** SB316. Mahalo for the opportunity to testify on this important measure.



Committee: Committee on Judiciary and Labor  
Hearing Date/Time: Thursday, February 7, 2013, 10:00 a.m.  
Place: Conference Room 016  
Re: Testimony of the ACLU of Hawaii in Support of S.B. 316 Relating to Juveniles

Dear Chair Hee and Members of the Committee on Judiciary and Labor:

The ACLU of Hawaii supports S.B. 316 and every effort to develop programs and policies that are more cost-efficient and more effective at reducing recidivism than incarceration. Every effort should be made to provide Hawaii's juvenile offenders with the support and services they need to become productive and responsible community members.

Thank you for this opportunity to testify.

Sincerely,

Laurie A. Temple  
Staff Attorney and Legislative Program Director  
ACLU of Hawaii

*About the American Civil Liberties Union of Hawaii*

*The American Civil Liberties Union of Hawaii ("ACLU") has been the state's guardian of liberty for 47 years, working daily in the courts, legislatures and communities to defend and preserve the individual rights and liberties equally guaranteed to all by the Constitutions and laws of the United States and Hawaii.*

*The ACLU works to ensure that the government does not violate our constitutional rights, including, but not limited to, freedom of speech, association and assembly, freedom of the press, freedom of religion, fair and equal treatment, and privacy.*

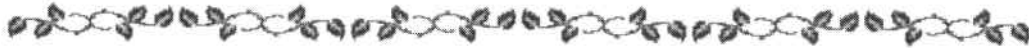
*The ACLU network of volunteers and staff works throughout the islands to defend these rights, often advocating on behalf of minority groups that are the target of government discrimination. If the rights of society's most vulnerable members are denied, everyone's rights are imperiled.*

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# COMMUNITY ALLIANCE ON PRISONS

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## COMMITTEE ON JUDICIARY AND LABOR

Sen. Clayton Hee, Chair

Sen. Maile Shimabukuro, Vice Chair

Thursday, February 7, 2013

10:00 a.m.

Room 016

## SUPPORT FOR SB 316 – RESTORATIVE JUSTICE OPTION FOR JUVENILE WRONGDOING

Aloha Chair Hee, Vice Chair Shimabukuro and Members of the Committee!

My name is Kat Brady and I am the Coordinator of Community Alliance on Prisons, a community initiative promoting smart justice policies for more than a decade. This testimony is respectfully offered on behalf of the 5,800 Hawai'i individuals living behind bars, always mindful that approximately 1,500 individuals are serving their sentences abroad, thousands of miles away from their loved ones, their homes and, for the disproportionate number of incarcerated Native Hawaiians, far from their ancestral lands.

SB 316 permits a court to dispose of a juvenile case by referring the defendant to a restorative justice program when the court deems it would be in the best interest of the child and the child admits guilt.

Community Alliance on Prisons is in strong support of this measure.

The restorative justice option not only save the court time, it actually promotes community building through understanding. There have been many studies about brain development in youth and their ability to understand the consequences of their actions. Restorative justice is a great way to promote empathy and understanding in the wrongdoer and the victim.

A recent article<sup>1</sup> in Civil Beat reported:

### **Native Hawaiian, Pacific Islander and mixed-race youth are disproportionately represented in Hawaii's juvenile justice system, a recent study concludes.**

The statewide analysis found that Hawaiian, Samoan and Filipino youth "fare worse than Caucasians at the stages of arrest," a pattern that continues as the young people move through detention, probation and protective services. The problem seems to be related to racism and discrimination and how mixed-race people are treated in society.

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<sup>1</sup> Why So Many Hawaiian, Samoan And Filipino Youth In Justice System?, By Chad Blair 10/24/2012.  
<http://www.civilbeat.com/articles/2012/10/24/17448-why-so-many-hawaiian-samoan-and-filipino-youth-injustice-system/>

The report makes a series of recommendations for improving equality in the juvenile justice system, including calling for greater collaboration among agencies, anti-bias and youth development training, and better data collection, monitoring and analysis.

Community Alliance on Prisons is a member of the Disproportionate Minority Contact Committee of the Juvenile Alternatives to Detention Initiative. The final report<sup>2</sup> dated June 2012 supports restorative practices for youthful lawbreakers.

Hawai'i must address the issue of youthful wrongdoing by using culturally sensitive and evidence-based practices such as restorative justice that can help our youth develop to their fullest potential.

We, therefore, urge the committee to pass this bill.

Mahalo for hearing this and other restorative justice bills and for this opportunity to testify.

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<sup>2</sup> Disproportionate Minority Contact in the Hawai'i Juvenile Justice System, Juvenile Justice State Advisory Council and the State of Hawai'i Office of Youth Services, Karen Umemoto, James Spencer, Tai-an Miao, Saiful Momen, page 106, June 2012. [http://archive.jan2013.hawaii.gov/dhs/youth/jjsac/DMC%20FINAL.%20REPORT%202012%20\(for%20printing\).pdf](http://archive.jan2013.hawaii.gov/dhs/youth/jjsac/DMC%20FINAL.%20REPORT%202012%20(for%20printing).pdf)

February 5, 2013

TO: Senator Clayton Hee, Chair Senate Committee on Judiciary and Labor  
Senator Maile S.L. Shimabukuro, Vice Chair  
Senator Mike Gabbarb  
Senator Les Ihara Jr.  
Senator Sam Slom

February 7, 2013 10:00 Conference Room 016

FROM: Roxanne Cafaro

RE: SB 316 Relating to Juveniles - **SUPPORT**

Senator Clayton Hee Chair, Senator Maile Shimabukuro Vice Chair, and members of the Senate Committee on Judiciary and Labor, I am Roxanne Cafaro, a masters of social work student at the University of Hawaii at Manoa. I strongly support SB 316 Relating to Juveniles.

I strongly support this bill for the following reasons:

- According to the Justice Policy Institute traditional methods of juvenile justice are not highly successful in reducing rates of recidivism. Rather, they can be damaging to youth and communities.
- Shifting resources away from traditional juvenile justice systems and into community based programming and youth development has been found successful. Implementing SB 316 will be one positive step towards improving Hawaii's juvenile corrections system.
- Restorative justice has been found to be a successful intervention with when used with juveniles who admit their wrongdoing.
- Restorative justice is based on indigenous values and reflects the traditional circle based healing practices of Hawaii, such as Ho'oponopono. Therefore it is culturally sensitive and appropriate intervention for our State.

I urge your favorable consideration of SB 316.

Thank you for this opportunity to testify.

Roxanne Cafaro