



SB60
RELATING TO VICTIMS OF CRIMES
Senate Committee on Judiciary and Labor

February 5, 2013

10:00 a.m.

Room 016

The Office of Hawaiian Affairs (OHA) **SUPPORTS WITH AMENDMENTS** SB60, which notifies victims of their right to participate in the restorative justice process.

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. A copy of the NHJTF 2012 legislative report and related materials are available at: www.oha.org/nativehawaiianjusticetaskforce

This bill furthers the findings and recommendations under section "F" of the NHJTF report, which relate to "Restorative justice practices and their application to Native Hawaiians." In general, the concept of "restorative justice" is similar to cultural practices like ho'oponopono. Both seek to put things right for the offender, victim, family and community.

OHA suggests amending SB60 by adding "ho'oponopono" as a form of restorative justice in the list of practices. Separating out "ho'oponopono" is necessary because the catchall "restorative justice group process" requires a "trained restorative justice facilitator" and this training requirement might improperly keep out cultural practitioners. The suggested amendment would occur on page 3, starting at line 20:

For the purposes of this paragraph, restorative justice processes include 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 trained restorative justice facilitator.

Therefore, OHA urges the committee to **PASS WITH AMENDMENTS** SB60. Mahalo for the opportunity to testify on this important measure.

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COMMITTEE ON JUDICIARY AND LABOR

Sen. Clayton Hee, Chair

Sen. Maile Shimabukuro, Vice Chair

Tuesday, February 5, 2013

10:00 a.m.

Room 016

SUPPORT FOR SB 60 - THE RIGHTS OF VICTIMS TO PARTICIPATE IN RESTORATIVE JUSTICE

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 60 requires victims of crimes and surviving immediate family members to be notified of their right to participate in the restorative justice process.

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

Restorative practices have been proven to reduce crime and victimization, promote understanding, and build community.

The Research

Research clearly shows that restorative justice interventions are more effective at reducing repeat crime and reducing recidivism than our current mainstream justice systems (Sherman & Strang 2007) ¹

Conclusions from the evidence

1. Crime victims who receive restorative justice do better, on average, than victims who do not, across a wide range of outcomes, including post-traumatic stress.
2. In many tests, offenders who receive restorative justice commit fewer repeat crimes than offenders who do not.

¹ Restorative justice: the evidence, The Smith Institute, 2007.
http://www.smithinstitute.org.uk/pdfs/RJ_full_report.pdf

3. In no large-sample test has restorative justice increased repeat offending compared with criminal justice.
4. Restorative justice reduces repeat offending more consistently with violent crimes than with less serious crimes.
5. Diversion from prosecution to restorative justice substantially increases the odds of an offender being brought to justice.
6. Diversion from prosecution to restorative justice is almost impossible in the UK because of an evidentiary requirement that far exceeds the bar found in other common law nations.
7. The best evidence on success in implementing restorative justice from tests to date is associated with specially trained police officers providing restorative justice from a base in a police RJ unit.
8. RJ does not conflict with the rule of law, nor does it depart from the basic paradigm of the common law of crime.
9. Restorative justice can do as well as, or better than, short prison sentences, as measured by repeat offending.
10. Restorative justice reduces stated victim desire for violent revenge against offenders.

Restorative justice reduces crime by 27%²

The experience of “restorative justice,” in which offenders confront their crime victims, reduces the frequency of reconviction by an average of 27%, the independent evaluators of the scheme have found.

The report includes seven experiments designed and directed by the Wolfson Professor of Criminology at Cambridge, Lawrence Sherman, and his co-director Dr. Heather Strang, who directs the Centre for Restorative Justice at the Australian National University. The experiments began in 2001 and were conducted in collaboration with the Justice Research Consortium, under the chairmanship of Sir Charles Pollard, former Chief Constable of Thames Valley Police and former Chairman of the Youth Justice Board for England and Wales.

The findings appear in a University of Sheffield³ report evaluating seven Cambridge University-led experiments in restorative justice. They will be presented to the Cambridge Conference on Evidence-Based Policing today, July 1, by Professor Joanna Shapland, from the University of Sheffield School of Law, who led the evaluation team.

This report takes our evaluation up to the end of the restorative justice event and any follow up by schemes of outcomes. The three schemes covered very different stages of criminal justice - diversion, pre-sentence, during community sentences, pre-release.

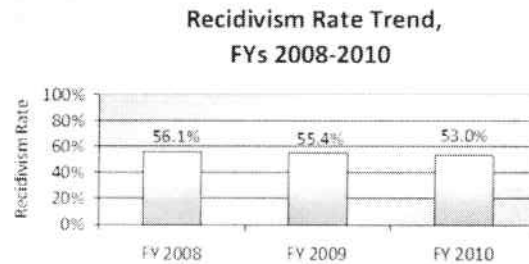
² **Restorative justice reduces crime by 27%**, University of Cambridge, July 2008.
<http://www.admin.cam.ac.uk/news/dp/2008070103>

³ **Restorative Justice in Practice, The Second Report from the Evaluation of Three Schemes**, Joanna Shapland, Anne Atkinson, Helen Atkinson, Becca ChapmanEmily Colledge, James Dignan, Marie Howes, Jennifer Johnstone Gwen Robinson, Angela Sorsby, July 2006.
http://www.shef.ac.uk/polopoly_fs/1.783!/file/RestorativeJustice2ndReport.pdf

A fourth report⁴ from the same researchers found that:

Summed over all three restorative justice schemes, those offenders who participated in restorative justice committed statistically significantly fewer offences (in terms of reconvictions) in the subsequent two years than offenders in the control group.

Prison without rehabilitation only creates more crime. Hawai'i's prison recidivism rates averages 54.8%⁵ across probation, parole and public safety. of all the people being released from and prison returning within three years of their release.



Note: Recidivism is defined as rearrest, revocation, or criminal contempt of court, tracked over a three-year period.

Aotearoa (New Zealand), which provides more rehabilitation in its prisons than Hawai'i, has almost a 15% lower rate with 37% of their incarcerated people back into prison within two years, but that is bad news for the Kiwis who would like to see even less recidivism.⁶

A recent powerful story in AlterNet⁷ reported:

A storm of comments swirled around a story about teen murder in the New York Times last weekend. The parents of a young woman named Ann forgave her boyfriend, Conor, for murdering her. Andy and Kate Grosmaire had loved Conor before he killed Ann, their youngest daughter. But they said they did not so much forgive him for his sake as for their own, to free

⁴ Does restorative justice affect reconviction? The fourth report from the evaluation of three schemes, , Joanna Shapland, Anne Atkinson, Helen Atkinson, Becca ChapmanEmily Colledge, James Dignan, Marie Howes, Jennifer Johnstone, Gwen Robinson, Angela Sorsby, June 2008. http://webarchive.nationalarchives.gov.uk/+http://www.justice.gov.uk/restorative-justice-report_06-08.pdf

⁵ Scorecard Report: Indicators and Trends 2008-2010, Timothy Wong, ICOS Research Analyst, Hawai'i Department of the Attorney General, April 18, 2012. <http://hawaii.gov/icis/documents/Scorecard%20Report%20-%20Selected%20Indicators%20and%20Trends,%20FYs%202008-2010.pdf>

⁶ Prison Fellowship fund shortfall will cost us all, Thursday, 3 July 2008, Press Release: United Future NZ Party. <http://www.scoop.co.nz/stories/PA0807/S00086.htm>

⁷ Radical Compassion: Restorative Justice Program Meets Needs of Both Victims and Perpetrators A new program allows victims' forgiveness to play a role in prosecution., AlterNet, By David Belden, January 20, 2013 <http://www.alternet.org/radical-compassion-restorative-justice-program-meets-needs-both-victims-and-perpetrators?akid=9946.17368.9WqRm0&rd=1&src=newsletter779986&t=13&paging=off>

themselves from being imprisoned in hate and anger, and to follow the teachings of Christ (they are committed Catholics).

What shocked many readers, though, was that they sought a "restorative justice" process, in which Conor, the two sets of parents and other involved individuals met in a circle with the prosecutor and bared their souls to one another – and thereby succeeded in persuading the prosecutor to give Conor a lower sentence than he would otherwise have received.

Individuals who participated in a Hawai'i state court program, *Pono Kaulike: A Hawaii Court Provides Restorative Justice Practices for Healing Relationships*, found that the people who participated in Pono Kaulike have a significantly lower rate of recidivism--18% compared--to the control group, which had a 51% rate of repeating crime.⁸

Community Alliance on Prisons has partnered with Hawai'i Friends of Justice in restorative reentry circles and has seen the transformation occur when relationships are moved toward healing. We, therefore, strongly support restorative practices and urge the committee to pass this bill so that victims of crime have the opportunity to heal.

Mahalo for this opportunity to testify.

⁸ *Pono Kaulike: A Hawaii Court Provides Restorative Justice Practices for Healing Relationships*, Walker & Hayashi, Federal Probation Journal, Vol. 71, No. 3, 18-24, 2007.
http://www.uscourts.gov/fedprob/December_2007/hawaiianCriminalCourt.html

hee2 - Kathleen

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, February 03, 2013 7:36 PM
To: JDLTestimony
Cc: ypeia01@yahoo.com
Subject: *Submitted testimony for SB60 on Feb 5, 2013 10:00AM*

SB60

Submitted on: 2/3/2013

Testimony for JDL on Feb 5, 2013 10:00AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
christine johnson	Individual	Support	Yes

Comments:

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