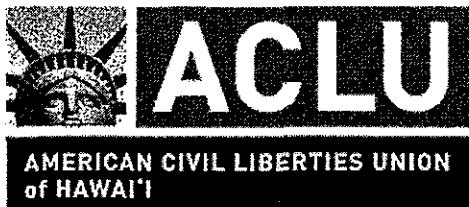


TESTIMONY
SB 560



Via E-mail: WTLTestimony@Capitol.hawaii.gov
Committee: Committee on Water, Land, Agriculture and Hawaiian Affairs and
Committee on Public Safety and Military Affairs
Hearing Date/Time: Friday, February 13, 2009, 2:45 p.m.
Place: Room 229
Re: Testimony of the ACLU of Hawaii in Support of S.B. 560, Relating to
Public Safety

Dear Chair Hee and Members of the Committee on Water, Land, Agriculture and Hawaiian Affairs and Chair Espero and Members of the Committee on Public Safety and Military Affairs:

The American Civil Liberties Union of Hawaii (“ACLU of Hawaii”) writes in strong support of S.B. 560, which requires the Office of Hawaiian Affairs to conduct a study on the disparate treatment of native Hawaiians and other groups in Hawaii’s criminal justice system.

As evidenced in a recent informational briefing, native Hawaiians are disproportionately represented in prison. Studying the reasons why these disparities exist is the first step towards ensuring that our criminal justice system operates in an even-handed and objective manner.

Among other things, this study will help lawmakers identify subjective, rather than objective, points of decision-making in law enforcement.¹ Differences in incarceration may have their inception because of differences in law enforcement officers’ decisions to arrest an individual or issue a warning; detain the individual or let the individual go free; prosecute the individual for all crimes, lesser-included offenses, or no crimes at all. Differences could arise in the types of sentences sought (probation, community custody, or incarceration). Differences can arise in sentencing reports, transfer decisions, and availability of prison-based programs. Examining these points of disparity – and then taking concrete steps to make law enforcement decision-making as objective as possible – has reduced racial disparities in other jurisdictions² and can do so here in Hawaii.

¹ See, e.g., Building Blocks for Youth Initiative, *No Turning Back Summary: Promising Approaches to Reducing Racial and Ethnic Disparities Affecting Youth of Color in the Justice System* (2005), available at http://www.buildingblocksforyouth.org/noturningback/ntb_summary.pdf.

² See *id.*

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Hon. Sen. Hee, Chair, WTL Committee, and Hon. Sen. Espero, Chair, PSM Committee
and Members Thereof

February 13, 2009

Page 2 of 2

The mission of the ACLU of Hawaii is to protect the fundamental freedoms enshrined in the U.S. and State Constitutions. The ACLU of Hawaii fulfills this through legislative, litigation, and public education programs statewide. The ACLU of Hawaii is a non-partisan and private non-profit organization that provides its services at no cost to the public and does not accept government funds. The ACLU of Hawaii has been serving Hawaii for over 40 years.

Thank you for this opportunity to testify.

Sincerely,

Laurie A. Temple
Staff Attorney
ACLU of Hawaii

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February 13, 2009

Testimony in Support: SB 560

To: Senator Clayton Hee, Chair and Senator Jill Tokuda, Vice Chair and Members of the Senate Committee on Water, Land Agriculture and Hawaiian Affairs and Senator Will Espero, Chair and Senator Robert Bunda, Vice Chair and Members of the Senate Committee on Public Safety and Military Affairs.

From: Katie Reardon, Vice President of Government & Public Affairs Planned Parenthood of Hawaii.

Re: Testimony in Support of SB 560

I thank you for allowing me the opportunity to testify today in support of SB560, Relating to Public Safety. This bill calls for a study concerning the disparate treatment of Native Hawaiians in our criminal justice system. Because Planned Parenthood of Hawaii strives for equality for all of Hawaii's citizens and because we are especially concerned with the role the criminal justice system plays in the lives of our families and children, we support this measure.

All citizens of Hawaii are entitled to a fair and just judicial system. Nationally, researchers have analyzed the impact of race on policing, arrests, prosecution, and sentencing and have found overwhelming disparities based on race. According to studies based on data from the 2000 United States Census, native Hawaiians are over represented in Hawaii's prisons and jails. 95 per cent of the one hundred twenty female Hawaii inmates incarcerated at a single mainland prison facility are mothers and 71 per cent of the female participants in an Oahu furlough program are mothers of minor children. The high rate of incarcerated mothers destabilizes families. A Hawaii-based study would be helpful in determining the extent, nature, and impact of disparate treatment of native Hawaiians and other ethnic groups in Hawaii's criminal justice system.

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(A Maui United Way Agency)

**Testimony on SB 560
Relating to Public Safety**

COMMITTEE ON WATER, LAND, AGRICULTURE, AND HAWAIIAN AFFAIRS

Senator Clayton Hee, Chair
Senator Jill N. Tokuda, Vice Chair

COMMITTEE ON PUBLIC SAFETY AND MILITARY AFFAIRS

Senator Will Espero, Chair
Senator Robert Bunda, Vice Chair

**Friday, February 13 2009 2:45 p.m.
Conference Room 229, State Capitol**


My name is Sharon Ferguson-Quick and as Executive Director of the Hawaii State Commission on the Status of Women (HSCSW), I'm providing written testimony on the measure Relating to Public Safety (SB 560). I support this bill in its purpose to require the Office of Hawaiian Affairs to conduct a study on the disparate treatment of native Hawaiians and other ethnic groups in the State's criminal justice system.

In my position of Executive Director of the HSCSW, I chair the Hawaii Women's Coalition. The Coalition who's mission is to be a **catalyst for progressive, social, economic, and political change through action on critical issues facing Hawaii's women and girls, supports multiple issues.** They include, but are not limited to: reproductive freedom, prevention & intervention of violence against women including domestic violence and sexual assault; pay equity, including issues of comparable worth; welfare reform, tenants rights, "houselessness," and support for poverty entitlement activities; and other civil and human rights. The Coalition views the concern of disparate treatment of native Hawaiians by the criminal justice system as a civil and human rights issue and has committed its support to the fight to investigate the issue and correct any factors that contribute to this injustice.

We know from national studies that look at racial impact in the criminal justice system, that there are consistently factors that lead to an over-representation of minority groups in the incarcerated population. We know that native Hawaiians are over-represented in the state's prison population. They make up only 9.1% of the state's total population according to 2000 U.S. Census data. However, they make up anywhere from 22 %, according to the 2006 Department of Public Safety numbers, to as high as 60% according to many correctional facility workers. Based on the impact of that incarceration rate on native Hawaiian families and community this study is positive point for establishing benchmarks and an analytical evaluation of the societal landscape.

Our families today are exposed to a wide range of issues that have a negative impact of all members. They must overcome barriers that impede their success and burdens that must be endured while they try to improve their situation. This study will give all of those advocating on behalf of them a powerful tool. I support this bill and ask this committee to vote to move it forward.

Sharon Ferguson-Quick
Executive Director
Hawaii State Commission on the Status of Women
808-586-5757 Sharon.Y.Ferguson-Quick@hawaii.gov


OFFICE OF HAWAIIAN AFFAIRS
Legislative Testimony
SB 560
Relating Public Safety

Date: February 13, 2009 Time: 2:45pm
Room: 229

The Office of Hawaiian Affairs **supports SB 560 with amendments.**

The Department of Public Safety reports that Native Hawaiians overwhelmingly comprise thirty-nine percent of the prison population. Data shows that Native Hawaiians are arrested less than Caucasians, and yet, they are sentenced more than Caucasians, and other ethnic groups.

Why are Native Hawaiians over-represented in prison? Hawaii State policies may be racially biased as it imprisons large numbers of Native Hawaiians. On the United States continent, African Americans and Latinos are also over-represented in prisons. Claims of racial disparities can be found in the Justice Policy Institute, *The Vortex*, and Barack Obama and Joe Biden, *Strengthening Our Civil Rights and Criminal Justice Laws*. These publications urge for national and state policy reform to an overwhelming, over-crowded, prejudice criminal justice system.

The proposed study will help uncover the root cause of over-imprisonment. A study is imperative to gather necessary data to accurately assess the criminal justice system. The study is also vital to identify improvements needed for programming services, developing alternative rehabilitation programs, reducing recidivism rates, and effective cost-savings policy reform. With accountable data, the study can produce clear recommendations for mandatory minimums, the three strikes law, drug laws, and community re-entry programming. This information is greatly needed for legislation, law makers, and advocates.

When a Hawaiian person is jailed or imprisoned, the impact of incarceration extends far into families and communities. *Keiki* are left without their natural caregivers, *kupuna* must now care for their grandchildren, and the community loses its vitality of productive citizenship. In short, Hawaii's culture begins to deteriorate as its people become displaced, hidden, and removed from its environment.

Similar to SB 560, OHA introduced HCR 27 to conduct a study of the disparate treatment in Hawaii's criminal justice system. We would prefer the language of HCR 27 to be considered. First, allow OHA to use its discretion to allow appropriate agencies and organizations not listed to participate in the study. Second, request that all agencies involved in Hawaii's criminal justice

system, provide full cooperation and relevant data to OHA, and its consultants for the planning and implementation of the study.

OHA would like to support SB 560 with amendments. Mahalo nui loa for allowing us to provide testimony.

TESTIMONY

SB 560

(END)