A photograph of a pond filled with large, vibrant green lotus leaves. The leaves are heart-shaped with prominent veins and are growing out of the water. The background shows more of the pond and some distant trees under a bright sky.

**The Disparate Treatment of Native Hawaiians
in the Criminal Justice System**
EXECUTIVE SUMMARY



Empowering Hawaiians, Strengthening Hawai'i | oha.org

Conceptual Theme for Report

SKY FATHER, WĀKEA mated with Ho'ohōkūkalanī, his daughter with Papahānaumoku. Their first child is born 'alu'alu (still born) and is buried ma ka hikina (east side) of their kauhale (house). Soon thereafter, a new plant with a long stalk and a soft, fluttering leaf sprouts from the earth where their child is buried. They name him Hāloanakalaukapalili, for the long-stemmed plant with its trembling leaves. This is believed to be the first kalo (taro) plant.

Wākea and Ho'ohōkūkalanī soon have a second child, a son, born live. This keiki survives and is nourished by the kalo plant, his kaikua'ana, elder brother. He is named Hāloa in memorial to his elder brother. Hāloa is said to be the first Hawaiian person and progenitor of our Hawaiian race. Thus, the close relationship between the kalo and Hawaiian people stems from this bond of Hāloanakalaukapalili and Hāloa. It is believed that when we take care of the 'āina (maternal progenitor or land) and the kalo, our older sibling, he will always provide our sustenance.

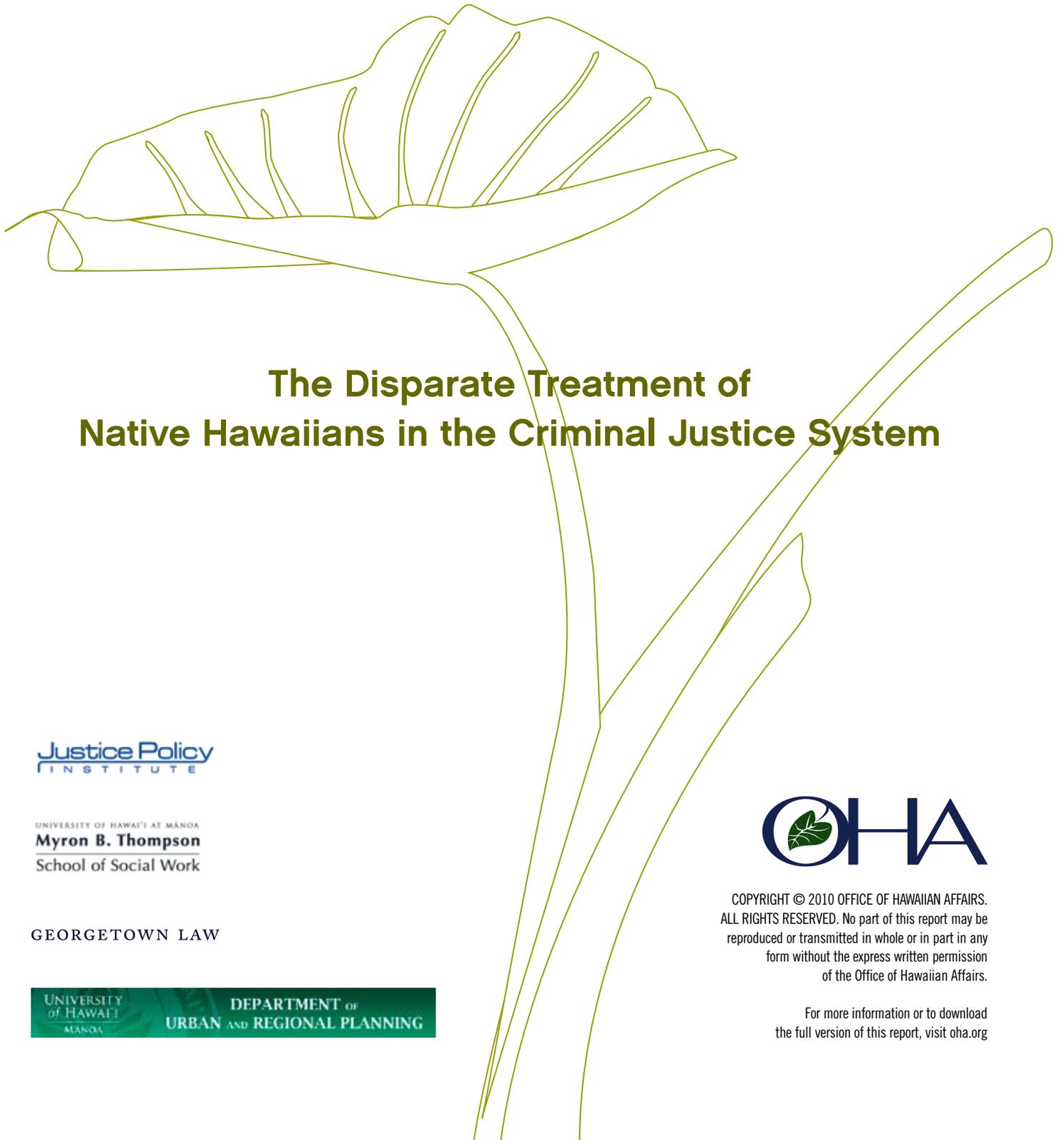
The cultivation of kalo requires much care. Kalo grows in a lo'i (patch) that contains fresh, cool, moving water and is tended and cared for by people. This ensures fresh supply of water to flow freely and generate life in the lo'i.

Thus, it was natural to conceptualize various stages of lo'i kalo (taro patch) in this report.

Kalo grows strong and healthy with the right combinations of the earth's nutrients, abundant water, energy from the sun, and the gentle breezes of the wind. Similarly, to support pa'ahao while imprisoned or re-entering into the community, connection to one's 'āina, 'ohana, and community are needed, not only to grow and develop, but to heal oneself, restore relationships, and bring forth inner resiliency.

The photos in the beginning of the report, show planters placing the huli (stalk) into the muddy waters. The following photos reflect the work of mālama, or to care for, the kalo as it continues to develop, grow, expand and transform. The photos towards the end reflect abundant, vibrant, healthy kalo.

In the same way that planters work together to carefully plant and nurture kalo in the lo'i, we must all work together to address the unfairness placed on Native Hawaiians in the criminal justice system; and mālama pa'ahao, to the best of our ability, to ensure that positive individual transformation occurs that extends to future generations.



The Disparate Treatment of Native Hawaiians in the Criminal Justice System

Justice Policy
INSTITUTE

UNIVERSITY OF HAWAII AT MĀNOA
Myron B. Thompson
School of Social Work

GEORGETOWN LAW

UNIVERSITY
of HAWAII
MĀNOA

DEPARTMENT OF
URBAN AND REGIONAL PLANNING



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E mahalo mua mākou i nā kanaka like 'ole a pau nāna i kōkua a i kākō'o i kēia papahana mai kīnohi ā hiki i ka pau'ana nō ho'i. We would first like to thank the many individuals who have helped and supported this project from its inception to its completion.

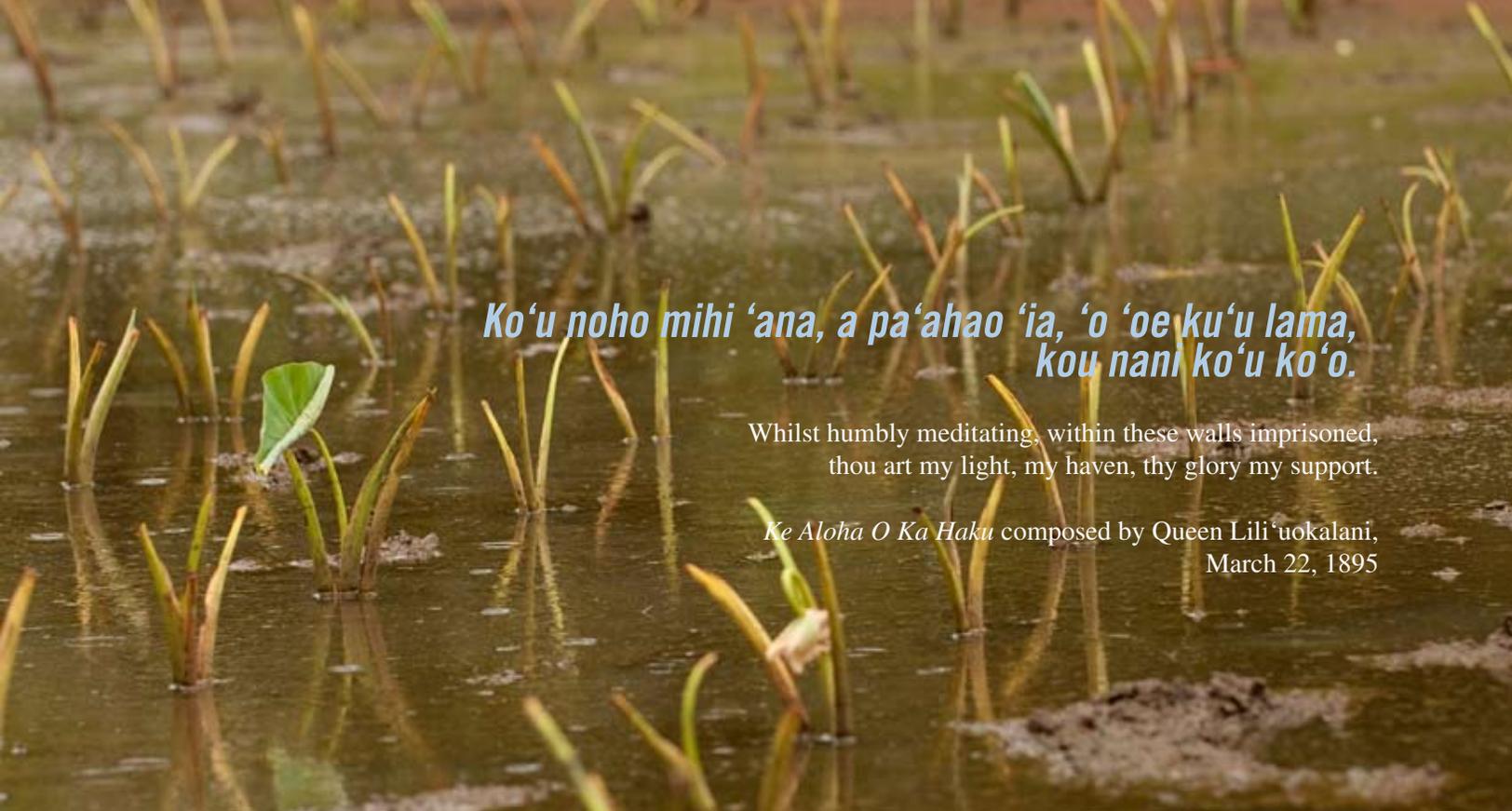
The foundation of the research study project was based on untiring commitment, ceaseless dedication and rigorous collaboration of individuals, community organizations and government agencies. The study is a culmination of nearly three years of data collection, analysis, and remarkable partnerships that forged together in completing the project successfully.

The Office of Hawaiian Affairs (OHA) would like to extend our warmest mahalo and aloha to Amanda Petteruti of the Justice Policy Institute, Lana Sue Ka'opua of the Myron B. Thompson School of Social Work at the University of Hawai'i at Mānoa, James Spencer of the Department of Urban and Regional Planning at the University of Hawai'i at Mānoa, Kristin Henning of Georgetown University Law School, Justin Levinson and Virginia Hench of the William S. Richardson School of Law at the University of Hawai'i at Mānoa for their expertise in various subject matter and research skill in completing this report.

OHA would like to mahalo Md. Saiful Momen, Margaret E. Ward, Emmitt Ford, Jr., Laura Sook, Kasey Mordecai, and the staff at the Georgetown University Law Library who made significant contributions to this project.

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OHA would like to extend its sincerest and utmost mahalo to all participants who shared their life experiences with the criminal justice system for this project. Their leo (voice) and mana'o (thoughts) are critical to understanding the human and social impact of the criminal justice system. No words or phrase in English nor Hawaiian can convey the unsurpassed appreciation and deep gratitude for those participants courageously sharing the depths of their lives with us and others.



*Ko‘u noho mihi ‘ana, a pa‘ahao ‘ia, ‘o ‘oe ku‘u lama,
kou nani ko‘u ko‘o.*

Whilst humbly meditating, within these walls imprisoned,
thou art my light, my haven, thy glory my support.

Ke Aloha O Ka Haku composed by Queen Lili‘uokalani,
March 22, 1895

OHA greatly appreciates the Advisory Council members who unhesitantly provided guidance, support, and direction throughout the project. These members include Noreen Mokuau of the Myron B. Thompson School of Social Work at the University of Hawai‘i at Mānoa, Kat Brady of the Community Alliance on Prisons, Aunty Nalani Olds, pa‘ahao advocate and service provider, David Kamiyama of Alu Like, Inc. and Dennis Kauahi of Queen Lili‘uokalani Children’s Center.

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OHA also appreciates Clyde W. Nāmu‘o for the vision and initiation of this study, and recognizes Nalani Takushi for coordinating and managing the project. OHA research staff who supported this study includes Kamana‘opono Crabbe, John Alamodin, Ke‘ala Hook, Keola Chan, Malia Ka‘aihue, and Hau‘oli Akaka. OHA recognizes the multi-disciplinary efforts coordinated through the final stage of the report to include Communications and Media Relations, Demography, Information Coordinator, Public Policy and Resource Management. Lastly, the creative and beautiful design of this report would not have been possible without the talents of John Matsuzaki, Arna Johnson, Charlie Reppun, Paul Reppun and the Matsuzaki Family.

OHA would like to acknowledge and honor Queen Lili‘uokalani through the above song and verse of the Queen’s classic composition entitled, *Ke Aloha O Ka Haku* which she composed during her imprisonment.



E HO'OKANAKA.

BE A PERSON OF WORTH.

These were the very last words of Kamehameha, the unifier of the Hawaiian islands, upon his deathbed. To his beloved attendants, the King uttered the famous, “E ‘oni wale nō ‘oukou i ku‘u pono (‘a‘ole i pau).” With these words, he instructed his attendants, “Continue to do what I have done.” Then, turning to his grieving young son Liholiho, the dying King spoke these words, “E ho‘okanaka.” These words continue to be spoken today as an encouragement to be brave and courageous as well as to assert one’s Hawaiian identity.

E ho‘okanaka. Be a person of worth.

Aloha mai kākou,

Over the years there have been a number of studies conducted concerning the disparate treatment of African Americans in America's criminal justice system. Though some individuals in our community believe that Native Hawaiians experience similar treatment in the Hawai'i criminal justice system, no comprehensive study has been conducted to determine or deny that such treatment exists. The genesis for this study came from a desire to know, once and for all, whether Hawaiians are or are not discriminated against in Hawai'i's criminal justice system.

Currently, there are an overwhelming number of Native Hawaiian men and women incarcerated in prison in Hawai'i and on the continent. Incarceration affects not only an individual person, but everything and everyone connected to them. Families are torn apart, children are left without their parents, and whole communities are dismantled.

The magnitude and complexity of this problem caused considerable attention that led to a collaborative research study that began three years ago. In this ground-breaking study, OHA asked: "Is there disparate treatment of Native Hawaiians in the criminal justice system? If so, how and why?"

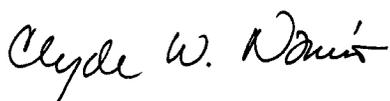
A collaborative research effort began with the University of Hawai'i at Mānoa, Justice Policy Institute and Georgetown University to employ both quantitative and qualitative research methods to gather valuable information to better understand and address the concerns of our indigenous people. The results and recommendations of this study are needed to initiate policy reform and systemic change for Hawai'i. When we advocate and focus on Native Hawaiians, we are, in short, advocating for the rest of humanity and thus, it is our hope that this report will further reach to other indigenous people on the continent and the world.

It is clear that when a Native Hawaiian person enters the criminal justice system, they serve more time in prison and more time on probation than other racial or ethnic groups. Native Hawaiians are also likely to have their parole revoked and be returned to prison compared to other racial or ethnic groups. Coupled with the experiences of pa'ahao included in the pages of this report, it is clear that Native Hawaiians are caught in a cycle of imprisonment that is perpetuated across generations.

Although the study is completed, our work at OHA has begun. In the past, OHA has supported community programs to reduce recidivism rates and promote wellness, vocational training and substance abuse treatment. These agencies and organizations include: TJ Mahoney Ka Hale Ho'āla Hou No Nā Wāhine, Maui Economic Opportunity, Inc., Alu Like, Inc., Ho'omau Ke Ola and many more. We anticipate in moving and working with systems of law enforcement, and program development at the Women's Community Correctional Center.

Native Hawaiians are the indigenous people of Hawai'i, whether you are Native Hawaiian or non-Hawaiian, moving beyond Native political status, race or ethnicity, Hawai'i needs to implement effective and purposeful policies to address incarceration at its root core to building a vibrant, healthy nation.

Me ka 'oia'i'o,



Clyde Nāmu'o
Chief Executive Officer
Office of Hawaiian Affairs



EXECUTIVE SUMMARY

THIS PROJECT, WHICH BEGAN AS A RESEARCH IDEA AT THE OFFICE OF HAWAIIAN AFFAIRS, grew to a collaborative research project supported by the State of Hawai‘i, House Concurrent Resolution 27, passed by the 25th Legislature on May 6, 2009. The resolution closely examines the impact of the criminal justice system on Native Hawaiians with the purpose of effecting policy change at the legislative and administrative levels, educating the media, and serving as a tool for communities to advocate for change within the criminal justice system.

As the U.S. Congress considers a bill which provides a process for Native Hawaiian self determination, there is an opportunity to create a new vision for the state of Hawai‘i that takes into consideration current social challenges for Native Hawaiians. One such consideration is the enormous increase of incarceration in Hawai‘i. This report includes ground-breaking, current, research and analysis, including the voices of Native Hawaiians, about the criminal justice system and the effect it has on their lives. It is with hope that decision makers will use the information to inform and develop policy and practice that will influence in building a new nation.

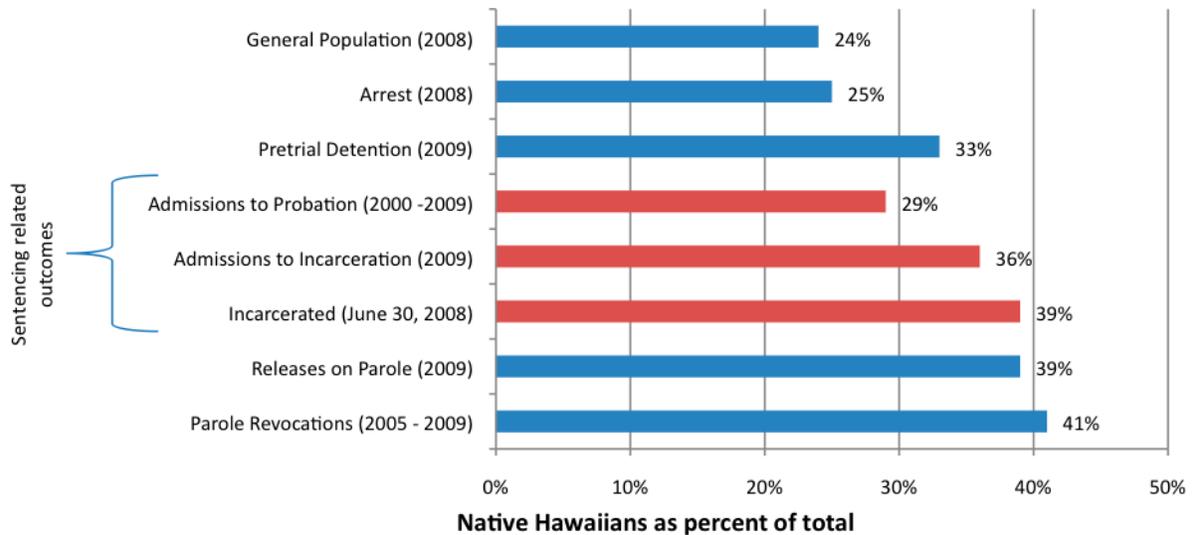
For the last two centuries, the criminal justice system has negatively impacted Native Hawaiians in ways no other ethnic group has experienced. The findings in this report are concerning as it tells the story of how an institution, fueled by tax payers’ dollars, disparately affects a unique indigenous group of people, making them even more vulnerable than ever to the loss of land, culture, and community. These racial disparities begin with the initial contact of a punitive system that creates over-powering barriers in changing the course of their lives and are exponentially increased as a person moves through the system.

To reduce the harmful effects of the criminal justice system on Native Hawaiians and all people, Hawai‘i must take action, and seek alternative solutions to prison. Assistance and training is needed in law enforcement, holistic interventions need to be implemented and evaluated, and a cultural shift in the way we imprison a person must change. If not, we will exacerbate prison over-crowding, and continue to foster the incarceration of generations to come.

Key Findings

- ***Since 1977, the number of people incarcerated in Hawai‘i has increased more than 900 percent,*** from 398 people in prison in that year to 4,304 people sentenced to one year or more in prison in 2008.¹ The incarceration rate increased 709 percent from 41 per 100,000 in 1980 to 332 per 100,000 in 2008.² Comparatively, the U.S. incarceration rate increased 262 percent in the last three decades, from 139 people in prison per 100,000 in the country in 1980 to 504 per 100,000 in 2008.³ In total, more than 2.4 million men, women and children are incarcerated in the U.S.: about one in every 100 adults.⁴
- ***The disproportionate impact of the criminal justice system on Native Hawaiians accumulates at each stage.*** Native Hawaiians make up 24 percent of the general population of Hawai‘i, but 27 percent of all arrests, 33 percent of people in pretrial detention, 29 percent of people sentenced to probation, 36 percent admitted to prison in 2009, 39 percent of the incarcerated population, 39 percent of releases on parole, and 41 percent of parole revocations.
- ***Given a determination of guilt, Native Hawaiians are more likely to get a prison sentence than all other groups.*** An analysis of data from the Hawai‘i Criminal Justice Data Center, controlling for age, gender, and type of charge, found that for any given determination of guilt, Native Hawaiians are much more likely to get a prison sentence than almost all other groups, except for Native Americans. Importantly, the other major group of defendants after Native Hawaiians, Whites, are only about 67 percent (0.674), or two-thirds, as likely as Native Hawaiians to be incarcerated if judged guilty.⁵

The disproportionate impact of the criminal justice system on Native Hawaiians accumulates at each stage. Native Hawaiians are also more likely to receive a sentence of incarceration over probation.



Sources: Hawai'i State Department of Health, Office of Health Status Monitoring, special tabulation from the Hawai'i Health Survey, January 22, 2010. <http://hawaii.gov/dbedt/info/economic/databook/2008-individual/01/>; Hawai'i Criminal Justice Data Center; Lydia Seumanu Fuatagavi and Paul Perrone, *Crime in Hawai'i: A Review of Uniform Crime Reports* (Honolulu, HI: Attorney General, State of Hawai'i, 2009). http://hawaii.gov/ag/cpja/main/rs/Folder.2005-12-05.2910/copy_of_cih2007/Crime%20in%20Hawaii%202007.pdf ; Hawai'i Department of Public Safety, *2008 Annual Report* (Honolulu, Hawai'i, Department of Public Safety, 2008). <http://hawaii.gov/psd/administration/publications/annual-reports/departement-of-public-safety/PSD-AnnualReport2008.pdf>

Note: Admissions to incarceration or probation are the result of sentencing. Admissions to probation do not include instances where a period of incarceration is a condition of probation.

- ***Native Hawaiians receive longer prison sentences than most other racial or ethnic groups.*** Controlling for severity of charge, age at arrest and gender of the person charged, Native Hawaiians are sentenced to 119 days more in prison than Tongans, 73 more days than Native Americans, 68 days more than Hispanics, and 11 days more than Whites.
- ***Native Hawaiians are sentenced to longer probation terms than most other racial or ethnic groups.*** A multivariate analysis controlling for severity of the charge, age, gender and race shows that Native Hawaiians also serve more time on probation than other racial and ethnic groups, except for Hispanics. On average, a Japanese person is sentenced to 14 fewer days of probation than a Native Hawaiian person, and Whites are sentenced to nearly 21 fewer days of probation than Native Hawaiians.⁶
- ***Native Hawaiians make up the highest percentage of people incarcerated in out-of-state facilities.*** In 2005, of the 6,092 people who were under the custody of the Department of Public Safety, which includes people in jails, 29 percent (1,780) were in facilities operated by other states or private companies on behalf of states. Of the people in out-of-state facilities, 41 percent are Native Hawaiians.⁷
- ***Hawai'i has the largest proportion of its population of women in prison,⁸ with Native Hawaiian women comprising a disproportionate number of women in the prison.*** Native Hawaiian men and women are both disproportionately represented in Hawai'i's criminal justice system; however, the disparity is greater for women. Forty-four percent of the women incarcerated under the jurisdiction of the state of Hawai'i are Native Hawaiian. Comparatively, 19.8 percent of the general population of women in Hawai'i identify as Native Hawaiian or part Native Hawaiian.⁹

- ***Parole revocations contribute to the number of Native Hawaiians in prison in Hawai‘i.*** Although Hawai‘i released 644 people from prison to parole in 2009, 249 people were also returned to prison by revoking parole. Native Hawaiians had one of the lowest ratios of release to revocations. For every five Native Hawaiians released, two Native Hawaiians had their parole revoked (2.5:1 ratio). Japanese people have a slightly lower ratio (2.4:1) and Chinese people having the highest, with eight people being released for every one person returning to prison on a parole revocation.¹⁰
- ***Native Hawaiians do not use drugs at drastically different rates from other races or ethnicities, but go to prison for drug offenses more often than people of other races or ethnicities.*** According to the 2004 Hawai‘i State Treatment Needs Assessment Program dataset, *Native Hawaiians do not use drugs at widely dissimilar rates to other races or ethnicities*, although there is some variation. Irrespective of the variation in drug use rates, the percent of Native Hawaiians that report drug use does not match the proportion of the total number of people admitted to prison or jail for drug offenses.

Punitive responses to drug use disproportionately impact Native Hawaiians

Although the “war on drugs” is part of the larger criminal justice picture, the effect it has on Native Hawaiian communities is worthy of discussion in this report.

- ***Native Hawaiians bear a disproportionate burden of punitive responses to drug use.*** Hawai‘i’s criminal justice approach to drug use was a significant contributor to the total number of people admitted to prison or jail in 2009 (762 or about 13 percent), but has even greater significance for Native Hawaiians. Native Hawaiians made up the largest portion (32 percent) of the people admitted to prison for drug offenses in 2009.¹¹

The weird thing is that they [parole board] fluctuate. It’s the luck of the draw. The State has some of the worst laws. You don’t want to go into a parole hearing after the guy who went before you, pissed off the board. One guy goes in and he just makes the board lose it. You next. You stay walking in, you stay pumped up already because they ready to smash you.

(Former Pa‘ahao, Kāne)

- ***Native Hawaiians are charged with the majority of offenses related to methamphetamine, but report using this drug at only slightly higher rates than people of other races or ethnicities.*** The use of methamphetamine in Hawai‘i, particularly by Native Hawaiians, is a growing concern. Methamphetamine accounts for the most charges of all drug offenses. Although Native Hawaiians do report lifetime use and current use of methamphetamine at slightly higher rates than other groups, Native Hawaiians are still charged with the majority of offenses related to methamphetamine, by a wide margin. Data from the Hawai‘i Criminal Justice Data Center shows that Native Hawaiians make up between 16 and 38 percent of charges for all categories of drugs, but account for the largest proportion of charges for methamphetamine (38 percent).

What are the factors that contribute to disparate treatment in the criminal justice system?

In many respects, racial disparities among Hawai‘i’s prison population are the products of actions that occur at different stages in the justice system, beginning with the decision to make the initial arrest. Research suggests that the effects of race may be direct or indirect and may accumulate as an individual continues through the system itself.¹²

- ***The discretionary nature of minimum sentence setting and release determinations outside the court are concerning for formerly incarcerated Native Hawaiians.*** The real determination of sentence appears to be not set by a judge, but by the Hawai‘i Paroling Authority which people that come into contact with the system see as arbitrary criteria. Given the cumulative impact of the criminal justice system on Native Hawaiians and the evidence that

Native Hawaiians cycle through the system more than people of other racial and ethnic groups, sentence-setting and discretionary parole based on offense history will likely contribute to the disproportionate number of Native Hawaiians in the prison system in Hawai'i.

- ***Incarceration is particularly traumatic for Native Hawaiians, especially when imprisonment is on the continent.*** For Native Hawaiians, the impact of trauma is particularly salient because of strong connections to family, the land and community. Imprisoning people from Hawai'i contributes to the growing prison population and exacerbates the disproportionate impact of the system on Native Hawaiians because they are cut off from supportive communities and families that give them a reason to exit prison as soon as possible. Even the absence of familiar surroundings and changes in the weather are traumatizing.
- ***A lack of programs and services in prison to prepare a person for returning to their community contribute to the number of people in prison.*** Often, people in prison are required to participate in specific programs and services in order to be eligible for release. Without the completion of those programs, a person can be denied parole. However, programs and services frequently fill up, leaving no available spots for everyone who needs to participate. Not only are people in prison prevented from earning the earliest release possible, they could also potentially get to the end of their sentence and be released without the services that might facilitate re-entry and prevent return to prison. Complicating a successful re-entry process is that some people are returning from prison after serving their time on the continental United States.
- ***Culturally inappropriate or unavailable re-entry services are not as effective for helping Native Hawaiians achieve successful life outcomes and stay out of prison.*** Research shows that culturally relevant and appropriate interventions and services are the most effective for helping Native Hawaiians participate fully in the community.¹³ For example, traditional social work modalities typically rely on self-determination, which is individualistic and is Northern European or North American in orientation. Pacific cultures, including Native Hawaiians, tend

It's hard to fathom in your mind what it's like to be doing stagnant time, sitting on your bed for 24 hours, only standing to do head count. Unless they wear my shoes, they can't really comprehend what it's like, how it feels, then have an ACO degrade me, that's not encouraging me to better myself, especially if I come from a very severe traumatic background in life. Then you feel like a dollar symbol with a revolving door back to prison

(Former Pa'ahao, Wahine)

to see themselves as part of a collective group or community.¹⁴ In order to effectively provide services for re-entry or some other wellness promotion initiative, a provider must be aware of the totality of community context, interdependence, and, also, the role that oppression by other groups has played.¹⁵ The application of Western values to a culture that does not share them makes it difficult to ensure successful implementation of initiatives or services.

When we go out, we're labeled as ex-convicts. We are not labeled as regular people in society. We are labeled as people coming from jail... there's a lot of roadblocks for us.

(Former Pa'ahao, Kāne)

- *In Hawai‘i, methamphetamine is the only drug that carries mandatory sentences and Native Hawaiians are more likely to be charged with a methamphetamine-related offense.*¹⁶ This mandatory sentencing structure contributes to the disproportionate representation of Native Hawaiians in the prison system.
- *A person convicted of a drug offense (which includes alcohol) will lose his or her licenses for a minimum of six months and up to three years,* depending on the number of previous offenses and level of intoxication.²¹ This loss often has tremendous ripple effect for individuals and families– including the ability to get to and from work, to search for employment or housing, visit relatives, obtain child care and to keep appointments with parole or probation officers as a term of community supervision. The loss of a driver’s license is even more problematic on islands or in jurisdictions with no public transportation.

Collateral Consequences, Criminal Justice Involvement and Native Hawaiians

Imprisonment and conviction carries with it a set of collateral consequences that extend well beyond the sentence imposed by the court. Many Hawaiians coming out of the criminal justice system are denied the opportunity to finish school; they lose or cannot obtain a driver’s license; they cannot find stable employment; and they are simply unable to support their families. These collateral consequences push the limits of “punishment to fit the crime” and effectively deprive a person convicted of an offense of any second chance at effectively living in, and contributing to, a community. Among the potential collateral consequences of involvement in the criminal justice system are the following:

- *Incarcerated parents who lose their children may never get them back and for many women in Hawai‘i prisons, this is a common occurrence.* Hawai‘i state law allows family courts to terminate parental rights when a child has been removed from a parent.¹⁷ In addition, persons with a criminal history are barred from becoming foster or adoptive parents, and simply living with, or being married to, a person convicted of a crime limits the individual family rights.⁸
- *While Hawai‘i has laws designed to prevent discrimination in the hiring of people convicted of offenses there is little done to enforce the laws and protect those who have been released from prison to the community.* Despite these laws, employers frequently screen applicants based on criminal history, through legal or illegal means and discriminate, citing other reasons not to hire.¹⁹ In addition, the state may refuse or revoke any license to practice some type of employment, permit, registration or certificate of a person convicted of a felony if the conviction is directly related to the trade for which the license is held.²⁰
- *Surveys of incarcerated people have consistently shown that people in prisons and jails have less educational attainment than the general population in the United States.* Although Native Hawaiians in Hawai‘i had completed high school at similar rates to all other people in Hawai‘i in 2008, Native Hawaiians are less likely to have earned a Bachelor’s degree.²² The higher the level of educational attainment, the more access a person has to higher paid jobs and less likely they will be incarcerated.
- *People in prison generally also made less money prior to their incarceration than the general population.* For any number of reasons that are beyond the scope of this report, Native Hawaiian families have the lowest mean income of all ethnic groups in the state.²³ Additionally, Native Hawaiians in Hawai‘i had the highest percentage of people living below the poverty line in 2000.²⁴ Specifically, Native Hawaiians have a poverty rate of 12.2 percent, while non-Natives have a poverty rate of 8.6 percent.²⁵

Social well-being and the criminal justice system

Involvement in the criminal justice system is a symptom of the barriers and challenges of Native Hawaiians in other social institutions and through a historical context. Although educational attainment, employment status, economic status, involvement in the juvenile justice, and the impact of a family member’s incarceration are not hard and fast indicators of involvement in the criminal justice system, there is research that that these social factors are related to incarceration.

- ***The effects of imprisonment on children and families are far reaching and can have lasting negative consequences on families and communities.*** For example, children whose parents are in prison are also more likely to develop anti-social behaviors, be involved in gangs, delinquent behaviors, or drug use than youth whose parents are not in prison. Research done by National Council on Crime and Delinquency found that children of parents in prison are five to six times more likely to become incarcerated than their peers.²⁶ Given that Native Hawaiians make up the largest percentage of the state prison population, the impact on families is widespread and affects many generations.
- ***Research shows that Native Hawaiian youth are disproportionately represented in the juvenile justice system in Hawai‘i.*** A study of 805 juvenile cases in Hawai‘i between 1995 and 1999 found that approximately 50.5 percent of the youth in juvenile facilities in Hawai‘i are Native Hawaiian.²⁷ In 2003, Native Hawaiian youth were the most frequently arrested in all offense categories.²⁸

Recommendations

Through interviews with Native Hawaiians, pa‘ahao (formerly incarcerated or currently incarcerated people), advocates, treatment providers, and corrections officials, the following recommendations have been developed. Additional recommendations from the work of experts in the field of intentionally reducing racial disparities are also included.

The resiliency of Native Hawaiians and the strength of culture, are the foundation for keeping Native Hawaiians out of the criminal justice system.

- Building on cultural pride and positive identity construction may assist and support Native Hawaiians return to communities. For example, the pu‘uhonua, or city of refuge or sanctuary, could be applicable to the criminal justice system. When a

person is ready for community reintegration, they are forgiven and return to the community without the continued burden of the criminal justice system. This idea is particularly important as it pertains to the restrictions placed on formerly incarcerated people regarding jobs, education and housing.

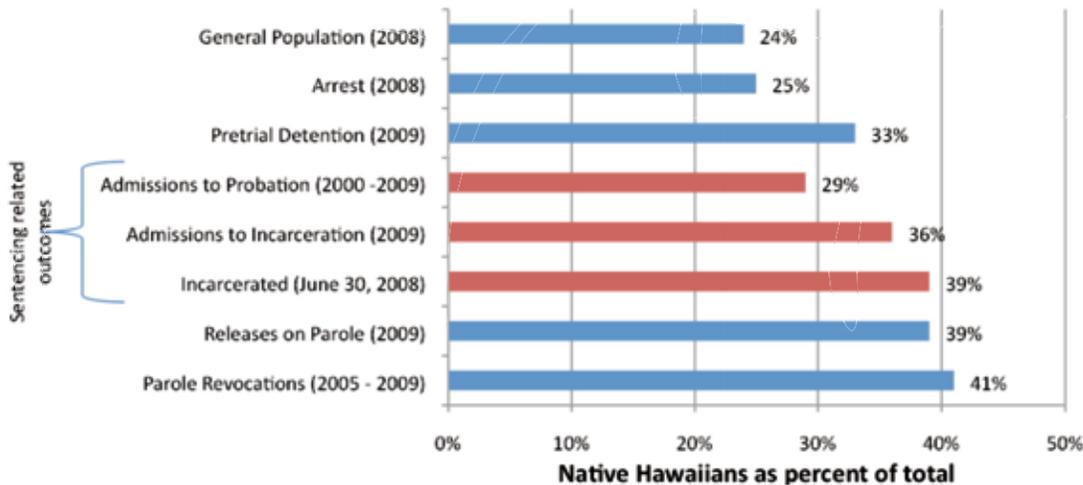
- The cultural value of kuleana, or responsibility to the greater good, is another cultural strength that is central to the process of helping Native Hawaiians stay out of the criminal justice system and reintegrating to communities after prison.
- Native Hawaiian culture draws strength from community and family building, as well as communication. For example, the process of ho‘oponopono, which is a spiritual process of “setting to right; to make right; to restore and maintain good relationships among family and family-and-supernatural powers,” was once practiced daily. The values associated with ho‘oponopono are love and affection (aloha); unity, agreement and harmony (lōkahi); and family and community (‘ohana).²⁹ It is a sacred, culturally valuable process that draws on family and community for support and healing.

Racial disparities must be targeted intentionally in order to reduce them. First steps include gaining stakeholder support, making administrative or governmental resolutions to address the problem, setting goals, and collecting accurate and current data at various points in the criminal justice system to determine where racial disparities occur and to what degree.

At the same time, an overall reduction in the number of people in prison will support efforts to reduce racial disparities. Strategies may include: investing in alternatives to incarceration such as, shifting resources to furlough programs and re-entry strategies that reduce recidivism to incarceration, investing in holistic treatment programming in communities on all islands, and refraining from placing people in prison on the continent.

THE IMPACT OF THE CRIMINAL JUSTICE SYSTEM ON NATIVE HAWAIIANS

The disproportionate impact of the criminal justice system on Native Hawaiians accumulates at each stage. Native Hawaiians are also more likely to receive a sentence of incarceration over probation.



Sources: Hawai'i State Department of Health, Office of Health Status Monitoring, special tabulation from the Hawai'i Health Survey, January 22, 2010. <http://hawaii.gov/dbedt/info/economic/databook/2008-individual/01/>; Hawai'i Criminal Justice Data Center, Office of Hawaiian Affairs, "Databook 2006: Public Safety," March 2006. www.oaha.org/pdf/databook/2006/DataBook2006PublicSafety.pdf; Hawai'i Department of Public Safety, *2008 Annual Report* (Honolulu, HI: Department of Public Safety, 2008). <http://hawaii.gov/psd/administration/publications/annual-reports/departement-of-public-safety/PSD-AnnualReport2008.pdf>

Note: Admissions to incarceration or probation are the result of sentencing.

The disparate impact of the criminal justice system on Native Hawaiians is apparent at every stage of the criminal justice system, starting from arrest and continuing through parole. The impact is cumulative, starting with a relatively small disproportionality at arrest, but revealing itself to be more distinct at sentencing and incarceration. Disproportionate representation at entry into the system is exacerbated by pretrial detention, which has been found to relate to an increased likelihood of incarceration; subsequently, time spent away from community and family while in prison can make transition back to the community difficult, potentially increasing the likelihood of returning to prison. The cycle repeats itself and notably, negative cyclical effects are concentrated on Native Hawaiian communities.

Given a determination of guilt, Native Hawaiians are more likely to get a prison sentence than all other groups

An analysis of data from the Hawai'i Criminal Justice Data Center, controlling for age, gender, and type of charge, found that for any given determination of guilt, Native Hawaiians are much more likely to get a prison sentence than almost all other groups, except for Native Americans. Importantly, the other major group of defendants after Native Hawaiians, Whites, are only about 67 percent, or two-thirds, as likely as Native Hawaiians to be incarcerated if judged guilty.¹

Native Hawaiians receive longer prison sentences than most other racial or ethnic groups.

Controlling for severity of charge, age at arrest and gender of the person charged, Native Hawaiians are sentenced to 119 days more in prison than Tongans, 73 more days than Native Americans, 68 days more than Hispanics, and 11 days more than Whites.

Native Hawaiians are sentenced to longer probation terms than most other racial or ethnic groups.

A multivariate analysis controlling for severity of the charge, age, gender and race shows that Native Hawaiians also serve more time on probation than other racial and ethnic groups, except for Hispanics. On average, a Japanese person is sentenced to 14 fewer days of probation than a Native Hawaiian person, and Whites are sentenced to nearly 21 fewer days of probation than Native Hawaiians.²

Native Hawaiians make up the highest percentage of people incarcerated in out-of-state facilities.

In 2005, of the 6,092 people who were under the custody of the Public Safety Department, which includes people in jails, 29 percent (1,780) were in facilities operated by other states or private companies on behalf of states. Of the people in out-of-state facilities, 41 percent are Native Hawaiians.³

Hawai'i has the largest proportion of its population of women in prison,⁴ with Native Hawaiian women comprising a disproportionate number of women in the prison.

While Native Hawaiian men and women are both disproportionately represented in Hawai'i's criminal justice system, the disparity is greater for women. Forty-four percent of the women incarcerated under the jurisdiction of the state of Hawai'i are Native Hawaiian. Comparatively, 19.8 percent of the general population of women in Hawai'i identify as Native Hawaiian or part Native Hawaiian.⁵

Parole revocations contribute to the number of Native Hawaiians in prison in Hawai'i.

Although Hawai'i released 644 people from prison to parole in 2009, 249 people were also returned to prison by revoking parole. Native Hawaiians had one of the lowest ratios of release to revocations. For every five Native Hawaiians released, two Native Hawaiians had their parole revoked (2.5:1 ratio). Japanese people have a slightly lower ratio (2.4:1) and Chinese people having the highest, with eight people being released for every one person returning to prison on a parole revocation.⁶

1 Hawai'i Criminal Justice Data Center, 2000-2008.

2 Hawai'i Criminal Justice Data Center, 2000-2008.

3 Office of Hawaiian Affairs, "Databook 2006: Public Safety," March 2006. www.oaha.org/pdf/databook/2006/DataBook2006PublicSafety.pdf.

4 Heather C. West, William J. Sabol, and Matthew Cooper, *Prisoners in 2008* (Washington, DC: Bureau of Justice Statistics, December 2009).

5 U.S. Census Bureau, "Hawai'i, S0201. Selected Population Profile, Native Hawaiian alone or in any combination, 2006-2008 American Community Survey," December 31, 2009.

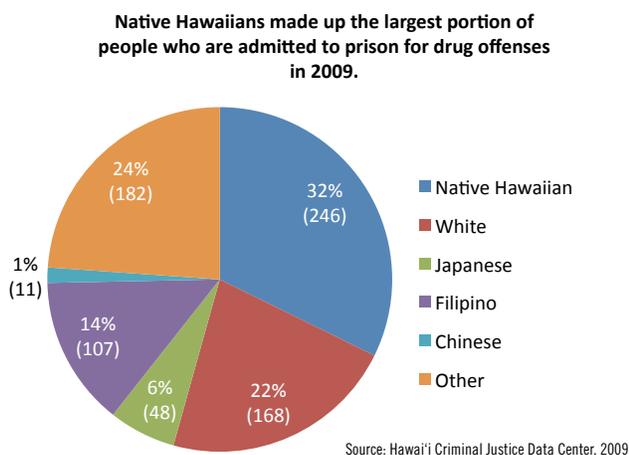
6 Hawai'i Criminal Justice Data Center, 2009.

PUNITIVE RESPONSES TO DRUG USE AND NATIVE HAWAIIANS

The issue of substance use and abuse is important for the Native Hawaiian community because of its correlation to cultural trauma (the result of a history of systematic marginalization by some dominant group). Research indicates that one symptom of cultural trauma is substance use and abuse.¹ Native Hawaiians also report personal trauma more than other racial or ethnic groups in Hawai'i² which can also contribute to self-medication through substance use.

Native Hawaiians bear a disproportionate burden of the punitive response to drug use.

Hawai'i's criminal justice approach to drug use was a significant contributor to the total number of people admitted to prison or jail in 2009 (762 or about 13 percent), but has even greater significance for Native Hawaiians. As seen in the pie chart, Native Hawaiians made up the largest portion (32 percent) of the people admitted to prison for drug offenses in 2009.³



This concentrated impact of incarceration for Native Hawaiians is most evident when considering that approximately 80,000 people in Hawai'i over the age of 12 reported using illicit drugs in the previous month. Compared to numbers of people that report using drugs, a relatively small number are arrested and then sent to prison or jail; about 2,000 were arrested for drug offenses in 2009 and 726 were admitted to prison or jail, 32 percent of whom were Native Hawaiian.⁴

Native Hawaiians do not use drugs at drastically different rates from other races or ethnicities, but go to prison for drug offenses more often than people of other races or ethnicities.

According to the 2004 Hawai'i State Treatment Needs Assessment Program dataset, *Native Hawaiians do not use drugs at widely dissimilar rates to other races or ethnicities*, although there is some variation. Irrespective of the variation in drug use rates, the percent of Native Hawaiians that report drug use does not match the proportion of the total number of people admitted to prison or jail for drug offenses.

Native Hawaiians are charged with the majority of offenses related to methamphetamine, but report using this drug at only slightly higher rates than people of other races or ethnicities.

The use of methamphetamine in Hawai'i, particularly by Native Hawaiians, is a growing concern. Methamphetamine accounts for the most charges of all drug offenses. Although Native Hawaiians do report lifetime use and current use of methamphetamine at slightly higher rates than other groups, Native Hawaiians are still charged with the majority of offenses related to methamphetamine, by

a wide margin. Data from the Hawai'i Criminal Justice Data Center shows that Native Hawaiians make up between 16 and 38 percent of charges for all categories of drugs, but account for the largest proportion of charges for methamphetamine (38 percent).

Policing, sentencing structures and the availability of treatment contribute to disproportionality.

The reasons for the disproportionate impact of the criminal justice system on Native Hawaiians related to drug offenses are varied, but include a variety of social factors unique to indigenous people, as well as the way the criminal justice system works to react toward drug use and abuse.

- Drug arrests are often considered to be the result of proactive policing, as drug offenses are not generally reported to the police.⁵ Thus, police may have more discretion concerning whom they arrest for drug offenses than for property or violent offenses, for example. One study out of New York City found that police would return to the same neighborhoods, often neighborhoods of color, to make marijuana arrests.⁶
- Hawai'i has a mandatory sentence for possession/sale/trafficking of methamphetamines of at least 10 years.⁷ Because Native Hawaiians make up the largest proportion of people charged with methamphetamine-related offenses,⁸ they are more likely to receive one of these mandatory sentences, which will extend the term they spend in prison compared to other drug offenses.
- Differences in the availability of drug treatment for some groups of people compared to others can be an important factor in the disparate impact of the criminal justice system on communities. Native Hawaiian admissions to treatment do vary widely across data sets and geographic regions. The Hawaiian Department of Health reports that in 2006, Native Hawaiians represented between 29 percent of treatment admissions to 91 percent depending on geographic region.⁹

A public health response to drug use, rather than a criminal justice response would improve life outcomes, support communities and save Hawai'i money.

A shift to treatment outside the criminal justice system would succeed in reducing the number of people going to prison or jail for drug use, reduce the number of Native Hawaiians entering the system for drug offenses, promote public safety and save Hawai'i money that could be reallocated to other social institutions. For example, a Washington State Institute for Public Policy study found that spending one dollar on drug treatment in prison yields nearly six dollars in benefits in terms of increased public safety and monetary benefits. In contrast, an investment of one dollar in community-based drug treatment yields over \$18 in benefits. Funding programs in the community yields a higher return on the investment.¹⁰

1 Aboriginal Healing Foundation, *Historic Trauma and Aboriginal Healing* (Ottawa, Ontario: Aboriginal Healing Foundation, 2004), cited in Kai Dupont and others, *The Hawai'i: A Training Program for Working with Native Hawaiians* (Honolulu, HI: University of Hawai'i, 2009).
2 State of Hawai'i Department of Human Services, *A Statistical Report on Child Abuse and Neglect in Hawai'i in 2008* (Honolulu, HI: Department of Human Services, 2008). www.hawaii.gov/dhs/protection/social_services/child_welfare/ChildAbuse
3 Hawai'i Criminal Justice Data Center, 2009
4 Substance Abuse and Mental Health Services Administration, "Appendix C: Tables of Change between the 2005-2006 and the 2006-2007 Model-Based Estimates (50 States and the District of Columbia), by Measure," February 11, 2010. www.oas.samhsa.gov/2k7/State/AppC.htm#TabC-1; Federal Bureau of Investigation, "Uniform Crime Report," Crime in the United States, Table 69 Arrests by State, www.fbi.gov/ucr/ucr.htm; Hawai'i Criminal Justice Data Center, 2008.
5 Philip Beatty, Amanda Petteuti, and Jason Ziedenberg, *The Vortex: The Concentrated Racial Impact of Drug Imprisonment and the Characteristics of Punitive Counties* (Washington, DC: Justice Policy Institute, 2007).
6 Harry G. Levine and Deborah Peterson Small, *Marijuana Arrest Crusade: Racial Bias and Police Policy in New York City 1997-2007* (New York, NY: New York Civil Liberties Union, 2008). www.nyclu.org/files/MARIJUANA-ARREST-CRUSADE_Final.pdf
7 Haw. Rev. Stat. § 712-1240.7 (2009) & Haw. Rev. Stat. § 712-1240.8 (2009)
8 Hawai'i Criminal Justice Data Center, 2009
9 Department of Health, Fiscal year 2006 admissions to treatment, Personal communication.
10 Steve Aos, Marna Miller, and Elizabeth Drake, *Evidence-Based Public Policy Options to Reduce Future Prison Construction, Criminal Justice Costs, and Crime Rates* (Olympia, WA: Washington State Institute for Public Policy, 2006). www.wsipp.wa.gov

WHAT ARE THE FACTORS THAT CONTRIBUTE TO DISPARATE TREATMENT IN THE CRIMINAL JUSTICE SYSTEM?

In many respects, racial disparities among Hawai'i's prison population are the products of actions that occur at different stages in the justice system, beginning with the decision to make the initial arrest. Research suggests that the effects of race may be direct or indirect and may accumulate as an individual continues through the system itself.¹

The experiences of Native Hawaiians, correctional officers, treatment providers and advocates explain the processes that result in a disproportionate representation of Native Hawaiians in the criminal justice system. Differences in the way that Native Hawaiians experience the system are often the result of the way the criminal justice system operates, but other experiences seem to be the result of a long history of stereotypes and cultural and personal trauma.

This factsheet includes a general overview of the potential factors that contribute to the disparate treatment to Native Hawaiians. When there are specific examples from Hawai'i or related to Native Hawaiians, they are included.

DISPARATE TREATMENT BEFORE THE COURTS: Although there is no specific study of the court system in Hawai'i and the effect it might have on sentencing, national studies have found that appearing before the court with private counsel is associated with a lower likelihood of conviction than using a court-appointed public defender.² Youth of color are more likely to rely on the indigent defense system, which often includes public defenders that are overburdened and under-resourced with higher caseloads than private attorneys. Nationally, white youth are twice as likely as African American youth to retain private counsel.³

DISCRETIONARY PAROLING PRACTICES: GOOD TIME DOES NOT EQUAL LESS TIME: The discretionary nature of minimum sentence setting and release determinations outside the court are concerning for formerly incarcerated Native Hawaiians. The real determination of sentence appears to be not set by a judge, but by the Hawai'i Paroling Authority, which people that come into contact with the system see as using arbitrary criteria.

Given the cumulative impact of the criminal justice system on Native Hawaiians and the evidence that Native Hawaiians cycle through the system more than people of other racial and ethnic groups, sentence-setting and discretionary parole based on offense history will likely contribute to the disproportionate number of Native Hawaiians in the prison system in Hawai'i.

INTERACTIONS WITH CORRECTIONAL STAFF: BAD TIME EQUALS MORE TIME: Interactions between people in prison and guards can contribute to the amount of time that a person ultimately spends in prison. Infractions within the prison walls, sometimes subjectively determined by correctional officers and not always serious in nature, can lead to changes in custody that will then impact the chances that a person can participate in certain programs or services that make a person eligible for release. Some correctional officers view their position of power as one that does not require interpersonal problem-solving, which could contribute to perceptions about behaviors.

TRAUMA OF INCARCERATION: Incarceration is traumatic for all people. It devastates families, destabilizes communities and cuts people off from jobs and education that improve life outcomes and help keep people out of prison once they are released. Incarceration also re-traumatizes people that have already experienced trauma in their lives. For Native Hawaiians, the impact of trauma is particularly salient because of strong connections to family, the land and community.

Imprisoning people from Hawai'i on the continent seems to be the most damaging to Native Hawaiians. It contributes to the growing prison population and exacerbates the disproportionate impact of the system on Native Hawaiians because they are cut off from supportive communities and families that give them a reason to exit prison as soon as possible. Even the absence of familiar surroundings and changes in weather is traumatizing.

LACK OF PROGRAMS AND SERVICES IN PRISON TO PREPARE A PERSON FOR RETURNING TO THEIR COMMUNITY: Often, people in prison are required to participate in specific programs and services in order to be eligible for release. Without the completion of those programs, a person can be denied parole. However, programs and services frequently fill up, leaving no available spots for everyone who needs to participate. Not only are people in prison prevented from earning the earliest release possible, they could also potentially get to the end of their sentence and be released without the services that might facilitate reentry and prevent return to prison. Complicating a successful re-entry process is that some people are returning from prison after serving their time on the continental United States because they are placed directly into the community without adequate resources to sustain themselves.

CULTURALLY INAPPROPRIATE OR UNAVAILABLE REENTRY SERVICES: Research shows that culturally relevant and appropriate interventions and services are the most effective for helping Native Hawaiians participate fully in the community.⁴ For example, traditional social work modalities typically rely on self-determination, which is individualistic and is Northern European or North American in orientation. Pacific cultures, including Native Hawaiians, tend to see themselves as part of a collective group or community.⁵ In order to effectively provide services for reentry or some other wellness promotion initiative, a provider must be aware of the totality of community context, interdependence, and, also, the role that oppression by other groups has played.⁶ The application of Western values to a culture that does not share them makes it difficult to ensure successful implementation of initiatives or services.

MANDATORY SENTENCES AND SENTENCING ENHANCEMENTS: In Hawai'i, methamphetamine is the only drug that carries a mandatory sentence. According to data from the Hawai'i Criminal Justice Data Center, Native Hawaiians are more likely than any other racial or ethnic group to be charged with a methamphetamine-related offense,⁷ contributing to the disproportionate representation of Native Hawaiians in the prison system.

1 Carl E. Pope and William Feyerherm. Minorities and the Juvenile Justice System: Research Summary (Washington, DC: Office of Juvenile Justice and Delinquency Probation, U.S. Department of Justice, 1995).

2 Patti Puritz, A Call for Justice: An Assessment of Access to Counsel and Quality of Representation in Delinquency Proceedings (Washington, DC: National Juvenile Defender Center, 1995).

3 E. H. Hoytt, V. Schiraldi, V., B.V. Smith, and J. Zidenberg, Pathways to Juvenile Detention Reform: Reducing Racial Disparities in Juvenile Detention. (Baltimore, MD: Annie E. Casey Foundation, 2002).

4 Noreen Mokuau, "Culturally-based solutions to preserve the health of Native Hawaiians," in Benjamin Young (ed.) Health and Hawaiian Culture (Honolulu, HI: University of Hawai'i Press, 2005).

5 George Kanahale Ku kanaka: Stand tall (Honolulu, HI: University of Hawai'i Press and Waiaha Foundation, 1986) cited in Noreen Mokuau, "Culturally-based solutions to preserve the health of Native Hawaiians," in Benjamin Young (ed.) Health and Hawaiian Culture (Honolulu, HI: University of Hawai'i Press, 2005).

6 Patricia L. Ewalt and Noreen Mokuau, "Self-Determination from a Pacific Perspective," Social Work 4, 1995.

7 Hawai'i Criminal Justice Data Center, 2008.



COLLATERAL CONSEQUENCES, CRIMINAL JUSTICE INVOLVEMENT AND NATIVE HAWAIIANS

Imprisonment and conviction carries with it a set of collateral consequences that extend well beyond the sentence imposed by the court. Many Hawaiians coming out of the criminal justice system are denied the opportunity to finish school; they lose or cannot obtain a driver's license; they are deprived of the right to vote; they cannot find stable employment; and they are simply unable to support their families. These collateral consequences push the limits of "punishment to fit the crime" and effectively deprive a person convicted of an offense of any second chance at effectively living in, and contributing to, a community. The consequences of criminal justice involvement include the following:

BREAKING UP THE FAMILY - Not only are Hawaiians separated from their families during incarceration, but many will be permanently separated. Hawai'i state law allows family courts to terminate parental rights when a child has been removed from a parent.¹ Incarcerated parents who lose their children may never get them back and for many women in Hawaiian prisons, this is a common occurrence. In addition, persons with a criminal history are barred from becoming foster or adoptive parents, and simply living with, or being married to, a person convicted of a crime limits the individual family rights.²

LOSS OF THE FAMILY HOME - The Housing Opportunity Program Extension Act of 1996 imposed a mandatory three-year ban from public housing on anyone who was evicted due to drug-related illegal activity.³ Although successful completion or compliance with a rehabilitation program can reinstate eligibility, the Act grants state public housing authorities broad discretion to make their own standards about who qualifies for public housing. Housing is the foundation for maintaining all other aspects of successful participation in society. Laws that regulate where a person, and ultimately his or her family, lives can have severe negative effects on individuals and on communities.

LIMITED EMPLOYMENT AND VOCATIONAL OPPORTUNITIES - While Hawai'i has laws designed to prevent discrimination in the hiring of people convicted of offenses there is little done to enforce the laws and protect those who have been released from prison to the community. Despite these laws, employers frequently screen applicants based on criminal history, through legal or illegal means and discriminate, citing other reasons not to hire.⁴ In addition, the State may refuse or revoke any license to practice some type of employment, permit, registration or certificate of a person convicted of a felony if the conviction is directly related to the trade for which the license is held.⁵

EXCESSIVE FINES - The inability of a person with a criminal record to find employment is often compounded by large fines imposed by the criminal court. Theoretically, the courts are strictly bound not to issue fines if the person cannot pay; however, the statutory language does not provide the court with criteria to assess their financial ability, so the matter is largely in the court's discretion.⁶

LOSS OF DRIVER'S LICENSE - A person convicted of a drug offense (which includes alcohol) will lose his or her licenses for a minimum of six months and up to three years, depending on the number of previous offenses and level of intoxication.⁷ This loss often has tremendous ripple effect for individuals and families— including the ability to get to and from work, to search for employment or housing, visit relatives, obtain child care and to keep appointments with parole or probation officers as a term of community supervision. The loss of a driver's license is even more problematic on islands or in jurisdictions with no public transportation.

DIMINISHED EDUCATIONAL OPPORTUNITIES - Arguably one of the most effective means of reintegrating into society and building a productive future after incarceration is through education – especially post-secondary education. However, federal law disqualifies students convicted of drug-related offenses from receiving financial aid.⁸ The waiting time to become re-eligible ranges from one year to life, depending on the number of previous offenses.⁹

EXCLUSION FROM CIVIC AND POLITICAL PARTICIPATION - In many states, people convicted of certain offenses are denied civic participation, including the right to vote or sit on a jury. Voting and jury service are the primary ways that most citizens participate in the political process. Voting, in particular, allows people of Hawai'i to have a say in shaping the policies that affect their lives. People convicted of felonies in Hawai'i are not permitted to vote until their sentence is discharged.¹⁰ Although the right to vote is automatically restored once a person is released from prison, the correction agencies' system of data sharing does not always submit a person's re-eligibility to his or her county, so a released individual may have difficulty exercising the right to vote. Since Native Hawaiians are disproportionately more likely to receive a criminal conviction, they are more likely to have their voting rights taken away, leaving a large section of some communities disenfranchised and unable to help make decisions to change and better their own communities.

1 Hawai'i. Rev. Stat. § 571-61.

2 Hawai'i. Rev. Stat. § 346-19.7.

3 42 U.S.C.A § 1437.

4 Lau, *supra* note 22.

5 Hawai'i. Rev. Stat. § 831-3.1 (c).

6 Hawai'i. Rev. Stat. § 706-641(3)(a).

7 Hawai'i. Rev. Stat. § 291E-41(b)(6).

8 Debbie A. Mukanel & Paul N. Samuels, *Statutory Limits on Civil Rights of People with Criminal Records*, 30 *Fordham Urb. L. J.* 1501, 1508 (2003); 20 U.S.C. § 1901 (r)(1).

9 Debbie A. Mukanel & Paul N. Samuels, 2003; 20 U.S.C. § 1901 (r)(1).

10 Hawai'i. Rev. Stat. § 831-2.

NATIVE HAWAIIAN RESILIENCY, CULTURAL STRENGTHS AND REDUCING INCARCERATION

When considering recommendations for reducing the impact of the criminal justice system on Native Hawaiians, it is necessary and most effective to access the protective nature and strength of Native Hawaiian culture for Native Hawaiians. This is important because a one-size-fits-all approach to reducing racial disparities is not likely to work, and research shows that Native Hawaiian cultural values and traditions are supportive and healing and promote resiliency for Native Hawaiian people.¹ In addition, the participation of Native Hawaiians in the development of recommendations is critical to their success. This factsheet includes the experiences and perspectives of Native Hawaiians who participated in the project.

Resilience, generally, refers to the ability of people to cope, recover, and even, transcend psychosocial, physical and spiritual challenges. Cultural resilience refers to the capacity of a cultural group to maintain and develop values, knowledge and skills crucial to proactively engaging challenges associated with cultural, historic and other types of trauma.² Resiliency is a central feature of not only ensuring that Native Hawaiians do not come into contact with the criminal justice system, but that if they do, that they are able to leave the system and never return.

Native Hawaiian cultural practices have a healing, restorative quality for Native Hawaiians, generally, but particular, supportive, strengthening facets include:

HONORING THE SACRED, FORGIVENESS AND SUCCESSFUL ENTRY BACK:

Making Native Hawaiian culture central to the reentry process is important to Native Hawaiians coming out of prison. Building on cultural pride and positive identity construction could help Native Hawaiians return to communities. Research by A. Aukahi Austin regarding ethnic pride and resiliency as related to substance use and violent behavior shows that ethnic pride serves as a protective or even preventative factor against violence and encourages resiliency after a violent experience.³

People participating in this project explain that the principle of the pu'uhonua, a city of refuge or sanctuary, could be applied to the criminal justice system. When a person emerges from the system, they are forgiven and they can return to the community without the continued burden of the criminal justice system. This idea is particularly important as it pertains to the restrictions placed on formerly incarcerated people regarding jobs, education and housing.

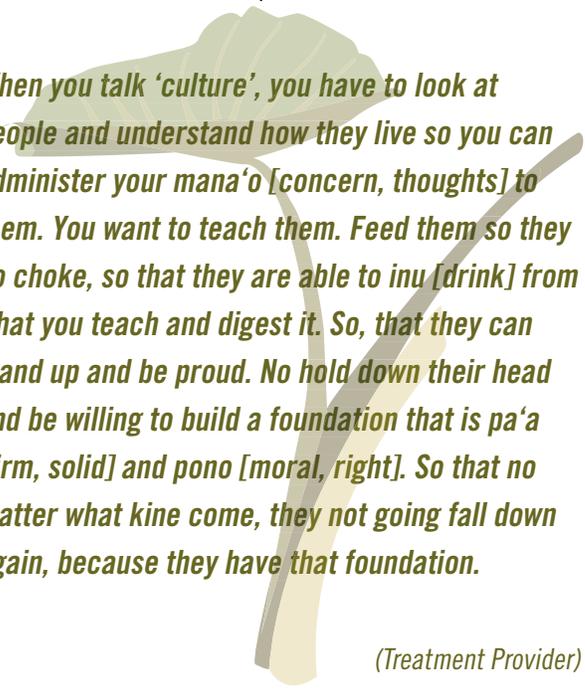
KULEANA (RESPONSIBILITY WITHIN THE CONTEXT OF THE COLLECTIVE):

Kuleana, or responsibility to the greater good, is another cultural strength that is central to the process of helping Native Hawaiians either stay out of the criminal justice system or return to communities after prison. According to survey research from Kamehameha Schools and a Hawai'i Community Survey, Native Hawaiians have strong ties to their communities and are involved in community service. Fifty-one percent of Native Hawaiians participate in community organizations, with 48.7

percent taking leadership roles when they are involved in the community.⁴ Participants in this project confirmed the importance of kuleana, as well.

PILI, CLOSE RELATIONS AND FEEDING WITH LEARNING: Native Hawaiian culture draws strength from community and family building, as well as communication. For example, the process of ho'oponopono, which is a ritualized process of "setting to right; to make right; to restore and maintain good relationships among family and family-and-supernatural powers," was once practiced daily. Ho'oponopono involved prayer with family and a discussion of problems and resolutions. The values associated with ho'oponopono are love and affection (aloha); unity, agreement and harmony (lōkahi); and family and community ('ohana).⁵ It is a sacred, culturally valuable process that draws on family and community for support and healing.

Some of the participants in this project recommend courses that teach language and history to convey culture prior to leaving prison. Learning in prison, especially if it is done as a partnership, could help people transition and move forward after prison.



When you talk 'culture', you have to look at people and understand how they live so you can administer your mana'o [concern, thoughts] to them. You want to teach them. Feed them so they no choke, so that they are able to inu [drink] from what you teach and digest it. So, that they can stand up and be proud. No hold down their head and be willing to build a foundation that is pa'a [firm, solid] and pono [moral, right]. So that no matter what kine come, they not going fall down again, because they have that foundation.

(Treatment Provider)

- 1 Noreen Mokuau, "Culturally-Based Solutions to Preserve the Health of Native Hawaiians, in B. Young (ed.) Health and Hawaiian Culture (Honolulu, HI: University of Hawai'i Press, 2005)
- 2 Marlyn A. McCubbin, "Typologies of resilient families: Emerging roles of social class and ethnicity," Family Relations 37(3), 1988, 247-54
- 3 A. Aukahi Austin, "Alcohol, Tobacco, Other Drug Use, and Violent Behavior Among Native Hawaiians: Ethnic Pride and Resilience," Substance Use and Misuse 39 (5), pp. 721-746, 2004
- 4 S.K. Kana'iaupuni, N. Malone, and K. Ishibashi, Ka huaka'i: 2005 Native Hawaiian Educational Assessment (Honolulu, HI: Kamehameha Schools, Pauahi Publications, 2005).
- 5 Noreen Mokuau, "A Family-Centered Approach in Native Hawaiian Culture," Families in Society: The Journal of Contemporary Human Services 71 (1990)





Pū'ali kalo i ka wai 'ole

Taro grows misshapen with the lack of water

Without proper care and attention one may become ill and deformed

