

HCR85 Correctional Justice Task Force Minutes

Monday, July 31, 2017

10 a.m.

Hawaii Supreme Court Conference Room

417 South King Street

Honolulu, HI 96813

Members present

Lōpaka Baptiste, Office of Hawaiian Affairs

Dr. Meda Chesney-Lind, Chair and Professor of Women's Studies, University of Hawaii at Mānoa

James Hirano, Warden of Maui Community Correctional Center, Department of Public Safety

Colette Machado, Chair, Office of Hawaiian Affairs

Robert Merce, Vice President, Native Hawaiian Legal Corporation

Sidney Nakamoto, Administrator, Adult Client Services Branch, Judiciary

Kevin Rego, on behalf of

Edmund Fred Hyun, Chair of the Hawaii Paroling Authority, Department of Public Safety

The Honorable Gregg Takayama, Representative, Hawaii State Legislature,

Chair of the House of Representatives Committee on Public Safety

Matthew Taufetee, founder of First L.A.P. (Life After Prison)

The Honorable Michael Wilson, Supreme Court Justice, HCR85 Task Force Chair

Shayne Kukunaokalā Yoshimoto, Holomua Pu'uhonua

Members absent

Keith Kaneshiro, Prosecutor, Department of the Prosecuting Attorney, City and County of Honolulu

The Honorable Clarence Nishihara, Senator, Hawaii State Legislature,

Chair of the Senate Committee on Public Safety, Intergovernmental, and Military Affairs

Other attendees

Kathleen Algire, YWCA O'ahu

Kat Brady, Community Alliance on Prisons

Devin Choy, Legislative Reference Bureau Attorney

Erika Gustin, Law Clerk to Justice Wilson

Alden Kau, Court Clerk to Justice Wilson

Stephen Morse, Blueprint for Change

Kartik Singh, Law Clerk to Justice Wilson

I. Call to order

Justice Wilson called the meeting to order at 10 a.m. and the requirements for public notice were made.

II. Introductions and opening remarks

- a. Justice Wilson thanked all present for attending and gave a reminder about the continuation of the task force pursuant to [HCR 157 HD1](#) (2017). Justice Wilson stressed the task force should adopt a strategic approach to its final report by emphasizing implementation and providing a budget detailing the costs of diversion programs and staffing to the state legislature.

III. Welcome to Chair Machado

- a. Justice Wilson introduced Colette Machado, Chair of the Office of Hawaiian Affairs (OHA), and thanked her for her involvement and attendance. Justice Wilson explained the current efforts by OHA to create a vision statement and a set of guiding principles for the task force to adopt.
- b. Lōpaka Baptiste passed out copies of OHA's draft of the vision statement and guiding principles to the task force members.
- c. Chair Machado spoke to her initial concerns about the perceived lack of inclusion regarding issues affecting Native Hawaiians.
 - i. Chair Machado discussed the letter she sent to the task force expressing the above concerns and Justice Wilson's reply addressing them.
 - ii. Chair Machado explained the efforts of the Native Hawaiian Subcommittee at their meeting on July 24, 2017 in drafting the vision statement and set of guiding principles for the task force.
 - iii. Chair Machado and OHA want the task force to take a transparent approach and ensure good communication between all subcommittees. Chair Machado stated that the vision statement and principles are intended to guide the task force as a whole.
- d. Shayne Kukunaokalā Yoshimoto thanked the attendants of the July 24, 2017 meeting of the Native Hawaiian Subcommittee, and praised their efforts in drafting the vision statement. Yoshimoto reiterated the need for the guiding principles to be followed by the entire task force.
- e. Justice Wilson asked each of the subcommittees to review the proposed vision statement and guiding principles, and then provide their written or oral feedback within two weeks. Justice Wilson will follow up with the subcommittee chairs, and the feedback will be discussed at the next full task force meeting.

IV. Recap of June 27, 2017 Task Force Meeting

- a. Justice Wilson asked if any task force members wanted to offer input on the minutes from the June 27, 2017 meeting of the full task force.
- b. Sidney Nakamoto thanked Justice Wilson for his continued involvement with the task force. Nakamoto introduced a motion to name Robert Merce the Vice Chair of the task force. Chair Machado seconded the motion. Robert Merce accepted the nomination. Justice Wilson called for any discussion and no objection was raised. Motion passed by unanimous vote. Robert Merce will serve as the Vice Chair to the task force.
- c. Nakamoto introduced a motion to accept the minutes of the June 27, 2017 task force meeting. Matthew Taufetee seconded the motion. Motion passed by unanimous vote. The minutes of the June 27, 2017 meeting are adopted.

V. Task Force Vision Statement

- a. Justice Wilson opened the floor for task force members to provide input and recommendations regarding OHA's draft of the vision statement.
 - i. Robert Merce recommended including a mention of increased public safety.
 - ii. Warden James Hirano recommended including the representation of cultural values and the cultural uniqueness of Hawai'i.

VI. Scheduling of Task Force Subcommittee Reports

- a. Justice Wilson asked each subcommittee to hold a meeting before the next meeting of the full task force. Each subcommittee should decide what information will be included in the next report. Each subcommittee will also provide their feedback on the vision statement and guiding principles.
- b. Robert Merce reminded everyone that the task force's final report is due to the Legislative Reference Bureau as early as possible.
 - i. Rep. Takayama agreed to receive updates on the report progress and facilitate communication between the task force and the Legislative Reference Bureau.
- c. Justice Wilson reiterated the need to focus on the practicalities of implementation in the final report. Budget items are needed from the subcommittees for the costs of pu'uhonua residential-type treatment centers,

the corrections academy, staffing, and programming. The final report should detail the potential cost savings from providing cultural and diversionary programs to reduce the prison population.

VII. Purpose of Next Interim Report

- a. Justice Wilson reiterated the need to move forward strategically with the task force's report to the state legislature.
- b. Robert Merce advised that the legislature will soon be soliciting recommendations about the costs and construction of a new jail with 1000 to 1200 beds from the Department of Public Safety and its consultants.
 - i. Merce stressed that these recommendations would be based on the current state of the jail and prisons, but that the task force should urge the legislature to instead plan based on the assumption that the task force's recommendations will be accepted and implemented.
 - ii. Merce suggested providing the legislature with concrete cost-savings examples, including the potential savings from reform of the cash-bail system and diversion for the mentally ill. The jail should only be for those who are dangerous or a flight risk.
 - iii. Merce further discussed how population reductions could result in the need for a new jail with only 300 to 400 beds. Reducing the jail population will also result in reducing the prison population. Merce recommends looking to reform policies implemented by the state of New York, and modeling the task force's recommendations on some of their designs and procedures.
- c. Justice Wilson explained that Senator Nishihara and Rep. Takayama will help the task force emphasize the specifics that are most important.
- d. Robert Merce suggested including the vision statement and guiding principles.
- e. Justice Wilson suggested providing detail about the diversionary programs the state should implement or expand. Justice Wilson discussed his meeting with Justice Rom A. Trader, who is in charge of the new bail reform task force. Justices Wilson and Trader believe the two task forces should devise a coordinated strategy for their recommendations to the legislature.
 - i. Rep. Takayama concurred that the task force should work with Justice Trader and provided a reminder that the two task forces are on separate time tables. Rep. Takayama advised that the bail reform task force has

not yet developed its recommendations, and explained that part of their mission will be to look at the bail practices of other states.

- f. Dr. Meda Chesney-Lind stated that the task force will need to be laser-focused in its recommendations and should prepare for pushback on its recommendation to build a smaller jail. The task force's recommendations cannot be implemented if the budget money is used to build the jail as originally proposed.
- g. Sidney Nakamoto recommended including the cost of mental health and drug treatment programs as well as the current and future costs to the state's probation vendors.
 - i. Nakamoto suggested exploring the idea of a private and public hybridized system for correctional satellite centers. Dr. Meda Chesney-Lind supported further research into this option.
- h. Sidney Nakamoto, Dr. Meda Chesney-Lind, and Justice Wilson discussed and agreed that the interim report should list established, successful programs and their accomplishments, including the YWCA, the Ho'omau Ke Ola substance abuse treatment program, and the Law Enforcement Assisted Diversion (LEAD) pre-arrest diversion program. The report should also discuss how these programs would be expanded and what returns the state can expect to see from that expansion.
- i. Sidney Nakamoto suggested including the recommendations for cultural treatment programs detailed in the 2012 report of the Native Hawaiian Justice Task Force. Nakamoto also recommended these cultural programs be available to all people.
- j. Warden Hirano suggested researching satellite referral centers in other states to see what existing methods could be adopted here in Hawai'i. Hirano stated that the report should acknowledge and discuss the need for more probation and parole officers. These officers would be necessary to coordinate the increase in post-release services available to people on probation and parole. In order to accelerate probation, screening at intake would need to be done with higher scrutiny, and this would require more inter-agency collaboration. The task force should propose a tentative timeline for adopting these new programs in its report.
- k. Shayne Kukunaokalā Yoshimoto added that the task force should dig deeper into the successes and failures of existing programs. The report should detail how existing programs function with their current budgets, and how their expansion will contribute to reduced jail and prison populations.

VIII. Next Task Force Meeting

- a. Full task force meeting tentatively scheduled for four weeks from July 31, 2017.

IX. Public Testimony

Kat Brady, Community Alliance on Prisons

Ms. Brady expressed concern about involving the United Public Workers union at this stage in the task force's planning. Ms. Brady cited statistics that typically 51% of the population of O'ahu Community Correctional Center is in the pretrial stage of their cases; however, data from June 2017 shows this has increased to 66%. Ms. Brady cautioned that the issues surrounding pretrial procedures must be addressed to rectify the problem. Justice Wilson clarified that UPW should be consulted to gain its support on the task force's recommendations. Dr. Chesney-Lind agreed that the task force should seek buy-in from the union and involve them in the discussion. Ms. Brady concluded by recommending that the task force invite UPW to attend a public meeting of the task force.

Stephen Morse, Blueprint for Change

Mr. Morse thanked Mr. Nakamoto for recommending the task force include the 2012 findings of the Native Hawaiian Justice Task Force in its report. Mr. Morse suggested that the task force also review OHA's 2010 report on the disparate incarceration rates of Native Hawaiians, and recommended fleshing out an implementation plan for the pu'uhonua centers. Mr. Morse then went on to address concerns about breaking the intergenerational cycle of criminal behavior. Pursuant to Act 16 passed in 2015, the state is supposed to collect data on the number of minors affected by the arrest of a parent or guardian. Mr. Morse explained that these data are often unreliable and cannot be used for extrapolation because the questions asked are not sufficiently uniform. This data collection needs to be standardized so the number of affected minors can be accurately determined and effective aid can be provided.

X. Adjourn

Justice Wilson adjourned the meeting at 11:30 a.m.