

2019 Hawaii Access to Justice Conference
“Expanding Access to Civil Justice”
June 7, 2019

Workshop Summary¹

“Expanding Civil Access to Justice in Prisons and Jails”

Panel Presenters:

Mateo Caballero, Legal Director, American Civil Liberties Union of Hawai‘i, facilitator; **Robert Merce**, board member of the Native Hawaiian Legal Corporation and member of the Hawaii Reentry Commission; **Kat Brady**, Coordinator of Community Alliance on Prisons; **Deja Ostrowski**, staff attorney, Medical-Legal Partnership Hawai‘i.

Caballero opened the session highlighting main questions for the panel to address:

- (1) What are the civil legal needs of the currently incarcerated population?
- (2) What are the barriers meeting such needs?
- (3) What are the consequences of the lack of access to justice for people involved in the system?
- (4) What are the systemic changes to consider?

In response to question one, panelists touched on issues such as legal family matters (child support and divorce), consumer matters (debt collection), post-incarceration issues (the difficulty of obtaining vital documents for identification purposes, employment discrimination, access to public benefits and housing, disability appeals, expungement and motions to seal the public records).

In response to questions two and three, one of the largest barriers to meeting such needs is the lack of access in prison facilities to services that look holistically at the people rather than solely at the offense. Moderator Caballero commented that of ACLU Hawaii’s 500 to 600 intakes they receive a year, about half the inquiries relate to prisoner’s rights in some manner, i.e., access to religion, sanitation, safety, access to medical care, and retaliation by enforcement. These issues are caused by overcrowding, lack of funding and the inherent bias/racism permeating the attitudes of facility management and enforcement. Current statistics paint a bleak picture – only 5% of civil litigants in the prison population have an attorney to represent their cases. As Robert Merce put it, “access to justice is a part of rehabilitation.” Without proper services and programs focused on rehabilitation, recidivism rates do not decrease and the adverse effects on the prisoner’s family compound exponentially.

Panelists and the audience at large turned to brainstorm possible solutions and address Question Four. The housing crisis, welfare failures, the lack of mental health resources were some commonly identified systemic failures particular to Hawaii, and the general consensus in the seminar was that the prison system ultimately dealt with the butt end of it all.

The main goals expressed by panelists were to decrease the prison population and bring back the 1,400 prisoners relocated to the mainland (Arizona), and to decrease recidivism rates. Kat Brady suggested that Richardson Law start a justice clinic to increase access. Deja Ostrowski advocated to fund more permanent housing and repeal statutes that criminalize poverty and those living on the streets. Robert Merce emphasized that real prison reform was needed, such as create discharge planning to set-up medical coverage, vital documents, housing, a medical network, continuing education plans and opening up lines of communication with families and minor children.

Merce was part of the State's HRC 85 task force who traveled to Norway with a delegation from North Dakota to observe and learn about how Norway reformed their correctional system. Norway's recidivism rate is a low 20%.

Brady referred to a Prisoner's Assistance Clinic in Maine where the Windham Correctional Center partnered with a local law school to receive a full range of civil legal help in the areas of family, probate, tort, and other miscellaneous individual rights.

Merce suggested that the state commission a work study and critical think group on prison reform focused on bail reform and diversion, revise the penal code, decrease the prison population, decrease recidivism rates, and practice more preventative law.

¹ A draft was prepared by Jasmine Jin, Legal Aid Society of Hawai'i, and reviewed by the presenters.