



## Juvenile Justice



**With regard to juvenile justice, the Commission received evidence about the importance of Tribes' and Tribal organizations' freedom to flexibly implement their own juvenile justice systems and to track their children and youth who are in other justice systems. Testimony focused on the value in both settings of preventive measures and treatment as opposed to detention in addressing the behavior of Native children and youth.**

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## Redesign Federal programming and funding for Tribal juvenile justice to maximize trauma-informed, community-based care

Native youth who come into contact with Federal, state, local, or Tribal juvenile justice systems or who are at risk of doing so (whether delinquent, runaway, homeless, or truant) shall be placed, to the extent possible, in community care and under community supervision, including in diversion programs and in family-centered, community-based alternatives rather than in secure juvenile detention centers or other secure facilities, which should be utilized as the last resort and not as a general or permanent placement.

To do so:

- Congress and executive branch agencies shall revise statutes, regulations, and policies that prevent Tribes from flexibly using funds currently devoted to detaining juveniles—whether provided by Department of Justice (DOJ), Department of the Interior (DOI), or Department of Health and Human Services (HHS)—for more demonstrably beneficial programs, such as trauma-informed treatment and greater coordination between Tribal child welfare and juvenile justice agencies; new rules shall permit alternative uses for Federally funded secure detention facilities, including their use for prevention, reentry services, treatment, rehabilitation, and shelter care, but with residential placements used always as a last resort to community-based placements.
  - Congress shall appropriate funding for Tribes, Tribal organizations, and Native Hawaiian entities to:
    - » Widely utilize and, if necessary, create Native community-based outpatient care programming that includes culturally relevant trauma-informed care for all affected parties (youth, victims, and their families), so that recovery can occur in the least restrictive setting appropriate to the circumstances of each case
- » Construct and create treatment and rehabilitation facilities that serve American Indian, Alaska Native, and Native Hawaiian children and youth who experience trauma (personal, intergenerational, and/or historical), including but not limited to facilities for service provision, shelter and respite, and constructive youth activities
  - » Construct and establish safe homes, group homes, shelters, day and evening reporting centers, and drop-in centers for Native youth who commit non-violent offenses, who go missing voluntarily for whatever reason, and/or who are habitually absent from school without permission, as alternatives to their placement in secure juvenile detention centers, but only for the shortest possible placement periods.
  - » Construct and create cultural facilities, recreational facilities, theaters, sports centers, and other options that create positive environments for youth and promote resilience
- Federal, State, and local law enforcement and juvenile justice agencies shall coordinate with relevant Tribes, Tribal organizations, or Native community entities to expand programs and to ensure placement of Native youth in appropriate community-based supervision and treatment settings, whether Tribal or nontribal.
  - Status offenses shall not be handled in delinquency court but shall be handled in child welfare court to the extent they are in court at all.
  - Congress shall fund creation of a comprehensive education and training program for Tribal, Federal, state, and local law enforcement officers, judges, court staff, prosecutors, probation officers, and service providers who work with Native youth that addresses the evidence-based preference for community-based supervision and treatment of Native youth who come into contact with the legal system or who are at risk of doing so.

The Commission is committed to reversing the focus on secure detention in favor of rehabilitation and community-centered programs for all Native youth who come into contact with the legal system or who are at risk of doing so. This recommendation recognizes that the behaviors that bring Native juveniles into contact with legal systems are best addressed through culture-based programs that keep youth connected to the community, offer alternatives to drugs and alcohol, and contribute to protective factors such as positive identity formation. It also recognizes that Native communities are ready, willing, and able to implement a wide range of programs beyond secure detention for prevention, intervention, and response, including through treatment and diversion programs.

It is the understanding of the Commission that barriers exist to the greater use of community-based care and supervision.

Limited funding is the most substantial barrier, but prohibitions on Tribes' and Tribal organizations' use of Federal public safety and justice funds (both DOI and DOJ) for mental health and substance abuse treatment also are problematic, as they prevent the highest and best use of existing funds. Congress and the executive branch should remove any such legislative and programmatic barriers so that secure detention becomes a last resort for youth who come into contact with Tribal justice and social services systems and so that facilities can be staffed as sites for positive youth programming rather than for secure detention. Finally, Tribal, Federal, state, and local justice system personnel must understand the benefits of and implement community-based care, which is best achieved through training and education that involves all parties (justice systems, research experts, and Tribes).



**My journey led me from homelessness to group homes and eventually to a juvenile detention facility. Did you know that once a young person is arrested, even for a non-violent crime or a status offense, they are more likely to remain entangled in the juvenile justice system, potentially increasing the chances of involvement in the adult criminal justice system? Native Hawaiians are significantly overrepresented in the juvenile justice system, comprising almost 45% of youth within it. They have historically faced higher rates of arrest, incarceration, and probation compared to other ethnic groups. Reflecting on my experiences as a more healed adult, I now realize that I felt lost and hopeless, yearning for a sense of belonging to people, land, and community.”**



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# CASE STUDY

## KAWAILOA YOUTH & FAMILY WELLNESS CENTER

The transformation of the Hawai'i Youth Correctional Facility (HYCF) into the Kawaiiloa Youth and Family Wellness Center stands as a beacon of hope for juvenile justice reform. Responding to reports of the alarming overrepresentation of Native Hawaiians in the adult correctional system, many with histories of family trauma, the state initially pursued reform in the late 1980s. While the effort met with some success, over-incarceration and disproportionality continued. More active reform efforts occurred in the 2010s: the legislature passed a systems change bill in 2014, redirecting resources to treatment and improved referral options for justice-involved youth. The state also hired a new director for the HYCF who was specifically tasked with reimagining the campus and sustaining and expanding the reform effort. In 2018, the state legislature changed the facility's name to Kawaiiloa Youth and Family Wellness Center and approved development of even more programs for youth and young adults, including an assessment center for victims of sex trafficking, a secured mental health residential program for minors,





“For me, Kawaioloa Youth and Family Wellness Center is what a modern pu'uhonua looks like.”

**MARK PATTERSON**  
*Native Hawaiian*

**Administrator, Hawai'i Youth  
Correctional Facility & Kawaioloa Youth  
and Family Wellness Center**

Site Visit Host, Hawai'i Regional Hearing,  
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a homeless shelter for 18- to 24-year-olds, and vocational training for 14- to 24-year-olds.

The result has been a remarkable reduction in youth incarceration—falling more than 80% at HYCF/Kawaioloa over the last 15 years—emphasizing the success of community-based alternatives over traditional incarceration and of holistic rehabilitation (including Hawaiian healing modalities) over punitive measures. The paradigm shift has truly created a pu'uhonua, a place of refuge and healing, for both the youth and their families.

Looking ahead, the vision for Kawaioloa extends beyond rehabilitation to economic empowerment through enterprises such as selling locally and sustainably produced beef. The self-sustainability model aligns with the broader goal of transforming Kawaioloa into a center for healing, education, and economic empowerment, ensuring a brighter future for youth and the community. This work is accomplished through collaboration among the state, Federal and philanthropic partners, the community, and the Kawaioloa youth and families, which reflects a shared commitment to creating a nurturing environment that breaks the cycle of trauma and incarceration. In the serene hills of Kawaioloa, the vision of a comprehensive rehabilitation center is taking shape, offering a testament to the potential for transformative change in juvenile justice.



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**Keep track of Native youth in Federal, state, and local juvenile justice systems**

Federal, state, and local juvenile justice systems shall be required to maintain complete records concerning Native youth who have come into contact with those systems, including their American Indian, Alaska Native, or Native Hawaiian affiliations. If Federal, state, and local systems are uncertain whether a juvenile is Native, they shall be required to verify with the relevant Native entity and make a finding as to whether a youth is affiliated with a Tribe, Alaska Native entity, or the Native Hawaiian community.

For those children and youth in these systems who are verified to be affiliated with an American Indian Tribe or Alaska Native entity or with the Native Hawaiian community:

- Federal, state, and local governments shall create mechanisms to report back to juveniles' Native communities and guardians as to their placement, location, and status on a regular basis, but in no case less than annually.
- State courts shall provide notice, as required by the Indian Child Welfare Act, about all status offenses committed by Indian children, with regular reporting back to the Tribe or Tribal organization and guardians, and Tribes or Tribal organizations shall be offered the opportunity to intervene and provide services; furthermore, the same notice and opportunity to intervene and provide services shall

be provided to Native Hawaiian entities, although not required by ICWA.

- In all other state and Federal juvenile cases (i.e., non-status offenses), notice shall be provided, and Tribes, Tribal organizations, and Native Hawaiian entities shall be offered the opportunity to intervene and provide services.
- If Federal court takes jurisdiction over a juvenile case that occurred on Tribal land, the U.S. Attorney must use the same certification process with the Tribe that they use with states as required under 18 U.S.C. §5032, which provides that proceedings cannot be initiated against a juvenile in any court of the United States unless the Attorney General, after investigation, certifies to the appropriate U.S. District Court that (1) the juvenile court or other appropriate court of a State does not have jurisdiction or refuses to assume jurisdiction over the juvenile with respect to the alleged act of juvenile delinquency; or (2) the state does not have available programs and services adequate for the needs of juveniles; or (3) the offense charged is a crime of violence that is a felony or an offense described in section 401 of the Controlled Substances Act (21 U.S.C. 841), or section 1002(a), 1003, 1005, 1009, or 1010(b)(1), (2), or (3) of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 953, 955, 959, 960(b)(1), (2), (3)), section 922(x) or section 924(b), (g), or (h) of this title, and there is a substantial Federal interest in the case or the offense to warrant the exercise of Federal jurisdiction.

While the Commission recognizes that collection and storage of juvenile justice data varies greatly from government to government, it also recognizes the importance of a systematic method that ensures that American Indian, Alaska Native, and Native Hawaiian youth do not get lost in Federal, state, and local justice systems. American Indian, Alaska Native, and Native Hawaiian entities and organizations not only have the right to know where their children and youth are but often are best positioned to assist in assessment, rehabilitation, treatment, and prevention efforts and in identifying alternatives to detention. To ensure that they are afforded

opportunities to intervene and assist, this recommendation requires notice to relevant Native entities when a Native child or youth enters a nontribal justice system and, at very least, annual reporting concerning the placement, location, and status of Native children and youth who remain under Federal, state, and local juvenile justice systems' supervision. Successful implementation of this recommendation will require seamless cooperation and information sharing among the various jurisdictions that have responsibility for each case and for each child or youth.