



DEPT. COMM. NO. 31

MARK PATTERSON
CHAIR

CHRISTIN M. JOHNSON
OVERSIGHT COORDINATOR

COMMISSIONERS
HON. MICHAEL A. TOWN
(ret.)
HON. RONALD IBARRA
(ret.)
TED SAKAI
MARTHA TORNEY

STATE OF HAWAII
HAWAII CORRECTIONAL SYSTEM OVERSIGHT COMMISSION
235 S. Beretania Street, 16th Floor
HONOLULU, HAWAII 96813
(808) 587-4160

December 31, 2022

The Honorable Ronald D. Kouchi
President and Members of the Senate
Thirsty-First State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

The Honorable Scott K. Saiki
Speaker and Members of the
House of Representatives
Thirty-First State Legislature
State Capitol, Room 431
Honolulu, Hawaii 96813

Dear President Kouchi, Speaker Saiki, and Members of the Legislature:

In accordance with Chapter 353L-6, I am submitting the Hawaii Correctional System Oversight Commission 2022 Annual Report. This report includes a full and complete statement of actions taken by the commission for the preceding years, and recommendations, including any proposed legislation, that the commission deems necessary or desirable. This report may be reviewed electronically at <http://hcsoc.hawaii.gov/reports>. If you have any questions or concerns, please feel free to call me at 808-228-8295.

Thank you,

Mark Patterson
Chair

c: David Ige, Governor
Chief Justice Mark Recktenwald, Hawaii Supreme Court Chief Justice
Carmen Hulu Lindsey, Chairperson of the Board of Trustees of the Office of
Hawaiian Affairs

Enclosure:



ANNUAL REPORT 2022

Hawaii Correctional System Oversight Commission

Email: hcsoc@hawaii.gov
Website: hcsoc.hawaii.gov
Tel: 808-587-4160



HCSOC
235 S Beretania St. 16th Floor
Honolulu, HI 96813

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TO OUR READERS

Mahalo

It is no secret that without community partners, the Hawaii Correctional System Oversight Commission would not have come to fruition. The Commission and Oversight Coordinator would like to thank all community partners who have dedicated so much time, patience, and energy to ensuring accountability exists within the Department of Public Safety. We look forward to continuing to partner with you and appreciate your ongoing support.

Strategic Highlights

The Hawaii Correctional System Oversight Commission is excited to release its 12-month Strategic Plan which encompasses priorities and strategies to achieve the Commission's mandate. The strategic priorities are embedded in this report and the full plan can be found in this report's appendix.

Operating Highlights

With new staff, the Commission has been able to reach further heights in oversight and accountability. Monthly reports highlighting the Commission's operations are included in the appendix of this report.

Looking Ahead

In 2023, the HCSOC will strive to earnestly begin our work in transforming from a punitive model to a more effective therapeutic model for the Department of Public Safety. We will set the parameter of this vision so we can begin taking the first steps to creating movement that will evolve into a longer strategic plan. This journey will not happen overnight as there are multiple state systems involved to create cohesiveness in the holistic treatment of our most marginalized populations. The first step is to realize that change is needed and then believe that change can happen.

Mark Patterson
Chairman
Hawaii Correctional System Oversight Commission

INTRODUCTION

The Hawaii Correctional System Oversight Commission (the Commission, or HCSOC) was created by Act 179, Session Laws of Hawaii 2019, to "ensure transparency, support safe conditions for employees, inmates, and detainees, and provide positive reform towards a rehabilitative and therapeutic correctional system." The establishment of the Commission was a result of recommendations provided by the Task Force on Prison Reform to the Hawaii State Legislature. Part I of Act 179, 2019 (codified in Chapter 353L, Hawaii Revised Statute), not only established the HCSOC, but also consolidated two existing commissions into HCSOC: the Reentry Commission and the Corrections Population Management Commission. The HCSOC's five members are appointed by the Governor, the President of the Senate, the Speaker of the House, the Chief Justice, and the Office of Hawaiian Affairs Board of Trustees Chairperson.



Hawaii Correctional System Oversight Commission, 2020

The Commission's mandate includes four core functions:

1. Oversee the State's correctional system and have jurisdiction over investigating complaints at correctional facilities and facilitating a correctional system transition to a rehabilitative and therapeutic model;
2. Establish maximum inmate population limits for each correctional facility and formulate policies and procedures to prevent the inmate population from exceeding the capacity of each correctional facility;
3. Work with the department of public safety in monitoring and reviewing the comprehensive offender reentry program, including facility educational and treatment programs, rehabilitative services, work furloughs, and the Hawaii paroling authority's oversight of parolees. The commission may make recommendations to the department of public safety, the Hawaii paroling authority, and the legislature regarding reentry and parole services; and

4. Ensure that the comprehensive offender reentry system under chapter 353H is working properly to provide programs and services that result in the timely release of inmates on parole when the maximum terms have been served instead of delaying the release for lack of programs and services.

Meet the Commission

Mark Patterson, Chair

Appointed by the Office of Hawaiian Affairs chair Colette Machado, Chair Patterson is the current Administrator of the Hawaii Youth Correctional Facility and former Warden of the Women's Community Correctional Center. He is known for his work in Trauma Informed Care within a Correctional Environment.

Martha Torney, Commissioner

Appointed by Speaker of the House of Representatives Scott Saiki, Commissioner Torney is the former Executive Director of the Office of Youth Services and the former Deputy Director of Administration of the Department of Public Safety. Commissioner Torney's extensive professional career was focused in the field of juvenile and adult corrections.

Theodore (Ted) Sakai, Commissioner

Appointed by Governor David Ige, Commissioner Sakai has nearly 30 years of experience at the Department of Public Safety, having served as prisons director, deputy director, administrative assistant to the director, and chief of staff. He was also the warden at the Waiawa Correctional Facility. Commissioner Sakai is currently the executive director at Puulu Lapaau, the Hawaii Program for Health Professionals.

Honorable Ronald Ibarra (retired), Commission

Appointed by Chief Justice Mark Recktenwald, Judge Ibarra was appointed as a Circuit Court Judge in 1989. He has been the Third Circuit's Administrative Judge since 1993 and served as its first Chief Judge before retiring in 2017. In addition to presiding over civil and criminal cases, Judge Ibarra served on number judicial and State Bar committees and started two important courts: Veterans Treatment Court (2015) and Big Island Drug Court (2016). Judge Ibarra continues to serve on various judiciary, county, and state commissions and is involved with the Bar Association.

Honorable Michael A. Town (retired), Commissioner

Appointed by Senate President Ronald Kouchi, Judge Michael A. Town was first appointed to the bench in 1979 serving first as District Family Court Judge. He later served as Senior Judge of the Family Court of the First Circuit from October 1994 until retiring in 2010. Judge Town also served on the Parole Board from 2011-2018. Lastly, Judge Town has sat on the Hawaii Judiciary's Restorative Justice Committee and the Committee on Jury Innovations, among others.

Hiring of Staff

Even though the Commission was formed in 2019, funds were not released until 2022, preventing staff hires and greatly impeding progress in achieving the Commission's mandate. Much of the work of the Commission is delegated by Act 179 to the Oversight Coordinator.

Funds appropriated for Fiscal Year 2022 were released, which allowed the Commission to move forward with hiring the Oversight Coordinator. A selection was made in May of 2022 and the Oversight Coordinator, Christin M. Johnson, began on July 11th, 2022. Christin has built her career in corrections and law enforcement reform through her oversight work in state prisons, city jails, and with local police. Born and raised in Michigan, Christin is thrilled to bring her experience and passion to the state of Hawaii where she has leveraged her expert understanding of the corrections system and current policies to impact change at the individual and larger systemic levels.



Mark Patterson, Chair, welcomes the new Oversight Coordinator, Christin Johnson.

The first monthly Oversight Coordinator report was released on August 18th, 2022, which encompasses monthly actions taken by the Commission. The monthly Oversight Coordinator reports from July-December are attached to this report.

Additionally, the Oversight Coordinator prepared a Strategic Plan to set the priorities for the oversight office for the next twelve months. The plan and priorities are not meant to replace or overshadow the important work that government and community stakeholders have already focused on and put substantial work into. Instead, this plan is meant to build off of and encompass that work, including the recommendations from the 2019 House Concurrent Resolution 85 Task Force on Prison Reform report. The plan can be found in the appendix of this report.

ISSUES OF CONCERN FROM THE COMMISSION

The Commission has sent various letters and reports to the Department of Public Safety and other stakeholders pertaining to specific issues the Commission would like to see addressed as soon as possible. Brief descriptions of the letters and reports are included below. In addition, the full letters and reports are posted in the appendix of this report.

HCCC Facility Conditions

Report released on September 2nd, 2022

Since being hired in July of 2022, the Oversight Coordinator has been becoming familiar with each facility run by the Department of Public Safety by touring one of the eight facilities at least weekly. Commissioner Theodore Sakai has accompanied the Coordinator on these initial tours for additional context and support. During the initial tour of HCCC, the Coordinator and Commissioner Sakai were shocked by the current condition of the facility.

A report was released on September 2nd, 2022, highlighting the initial impression of the Thursday, August 25th, 2022, tour. The report, located in the appendix, details conditions specific to:

- Overcrowding
- Severe Safety and Security Concerns
- Lack of Programs and Basic Services
- Suicide/Safety Watch
- Shipping Container/Covid-19 Housing
- Recreation
- Visits
- Potential federal violations

Prior to releasing the report, the Oversight Coordinator shared the federal standards (NCJ 74323 1980 Federal Standards for Prisons and Jails) with the Department of Public Safety so that all staff are aware of what is to be expected in the future. Further, the Oversight Coordinator has continued to work with the Department of Public Safety on recommendations and policy changes to assist with all issues listed within the HCCC report. The Oversight Coordinator committed to:

- 1) Conducting biweekly tours of HCCC until the Hawaii Correctional System Oversight Commission and Oversight Coordinator agree tours can shift to a monthly schedule.
- 2) Publicly reporting on progress made within the facility. These monthly reports will focus on a few key areas:
 - a. Quality control of facility operations and ensuring the Department of Public Safety has a plan to actively fix all issues listed.
 - b. Hygiene

- c. Services and Programs
 - d. Security and Control
 - e. Safety and Sanitation
 - f. Discrimination Prevention
 - g. Recreation
- 3) Adding an agenda item to the monthly Hawaii Correctional System Oversight Commission meetings so the Department of Public Safety has an opportunity to share progress that's been made.
 - 4) Sharing the HCCC report and future reports with the Legislature to support funding to the Department of Public Safety for immediate facility and infrastructure improvements.
 - 5) Requested that the Department of Public Safety initiates and releases a strategic plan for long-term fixes, particularly regarding overcrowding. The Oversight Coordinator can be a part of this plan if the Department finds the partnership conducive. The Oversight Coordinator expects this plan to include legislative action and working with other agencies (courts, prosecution, probation, etc.) who deeply affect the population the Department receives.

To date, the Oversight Coordinator has conducted biweekly tours (*outside of November due to holidays and illness*) of HCCC and has publicly reported on the conditions and improvements of the facility within the monthly Oversight Coordinator Report. Most notably, since the report being released, the following has been noted:

- The occupancy rate decline to 157% (December) from 170% (September).
- Construction is being completed in Punahale to replace cell doors to prevent use of padlocks. Four units have been completed, and one unit is currently in progress.
 - Padlocks have been removed from all cell doors.
- New uniforms have been distributed.
- Designated staff have been trained for grievance processing.
- New recreation schedule has been posted and is being followed to the best of staff's ability. People in custody have reported they are getting outside at least twice weekly.

The Oversight Coordinator continues to monitor the conditions of HCCC, work with community partners, the judicial branch, and the Department of Public Safety to ensure safer conditions that align with federal standards. The Coordinator will continue to report on the conditions of HCCC.

Justice-Involved Homeless Intergovernmental Collaboration

Letter sent to Mayor Roth on October 26th, 2022

Commissioner Patterson, Commissioner Sakai, and Oversight Coordinator Johnson met with Going Home Hawaii leadership on October 12th, 2022, to discuss concerns regarding justice-involved homeless individuals, specifically within the jail and prison system. Since 2004, the Hawai'i Island Going Home Consortium has been leading efforts to provide innovative and

culturally responsive reentry and reintegration services to justice-involved individuals, their families, and communities. The Going Home Consortium consists of more than 50 public and private entities and their representatives with a network of over 300 state and national partners. Going Home Hawai'i is a 501(c)3 nonprofit organization and the governing fiscal body for the Hawai'i Island Going Home Consortium.

During the November 20, 2022, Commission meeting, the Commission agreed to submit a letter of support to Hawaii County Mayor Mitch Roth. The letter requested the formation of an inter-governmental workgroup focused on justice-involved homelessness and potential steps forward to guide these efforts in a meaningful way. Mayor Roth responded and explained that while the County is willing to collaborate in a Justice-Involved Homeless Intergovernmental Collaboration Group, it is his belief that this effort should be spearheaded by a State entity as most of the changes need to happen at a State level.

Going Home Hawaii has taken the initiative to develop a strategy for intergovernmental collaboration meetings leading up to a Reentry Housing Summit in April 2023. The Coordinator and Commission will be an active part in the intergovernmental collaboration and staff will attend the Reentry Housing Summit.

Saguaro Correctional Center Limited Legal Call Schedule

Letter sent to PSD on November 29th, 2022

On November 22nd, the Hawaii Correctional System Oversight Commission received a written complaint from the Hawai'i Innocence Project regarding a limited legal call schedule at the Saguaro Correctional Center. According to the Hawai'i Innocence Project, the current schedule only permits legal calls Tuesday-Thursday from approximately 7:30am-12:00pm Hawaii Standard Time which does not allow for regular and timely communication with their clients.

The Commission sent a letter to the Department of Public Safety requesting that changes be made to the Saguaro policy to allow for legal calls during normal Hawaii Standard Time business hours and, if needed, after hours and weekends.

On December 19th, 2022, the Department of Public Safety notified the Commission that inmate legal call hours were expanded to Monday through Friday 6:00am to 1:00pm hours Hawaii time (9:00am to 4:00pm hours Arizona time) for attorneys to place a legal call to their client. These are the times the unit/case managers are present within the housing units and can facilitate legal calls. Additionally, the Department noted they will make every effort to accommodate after-hour client call requests from attorneys.

Response to Department Regarding Correctional Working Group

Letter sent to PSD on December 14th, 2022

On October 25th, 2022, Max Otani released a response to the Corrections Working Group report. In this letter, Otani delineates his differences with the findings, conclusions and recommendations contained in the Corrections Working Group Report. He also comments on actions or perceived actions of the Commission regarding our position on the development of

the New OCCC. These comments appear to be based on misunderstandings of events that led to the Commission's position. As they are written, they appear to be misstatements that should be clarified. Attached to this report is a letter dated December 15th, 2022, sent to Tommy Johnson, Director of Public Safety that includes Otani's comments and the Commission's concern and response.

Electronic Medical Record (EMR) Down since June 2022

Letter sent to PSD on December 30th, 2022

On August 10th, 2022, the Coordinator learned that the Electronic Medical Record (EMR) had been down since June 2022 causing staff to rely on a paper/pen-based system with no clear indication of when the EMR would be back up for staff utilization. This issue was immediately addressed with the Department of Public Safety with clear urgency. The Coordinator explained that this is a crisis for those in custody because:

1. Patient safety and health is at risk without a functioning EMR.
2. EMRs are necessary to ensure consistency in care across multiple providers.
3. EMRs ensure medications are appropriately administered and documented to lessen risk to patient's health and tracking of medication used, especially when being transferred across facilities.
4. From a cost perspective, EMRs reduce time spent on documentation as there are often templates and order sets to improve efficiency.
5. Additionally, this is a massive liability for the Department.

The Coordinator was assured that the EMR was back up and running by August 24th, 2022, and publicly addressed this matter. However, the Coordinator learned on December 10th, 2022, that the EMR was only working for two weeks before completely failing again. The Department confirmed that they purchased new servers, but they were not successful in fixing the issues as the EMR system is old (purchased in 2008) and outdated. The Coordinator asked if there was any plan for a new EMR, and although the Department is looking into a new system, there is no timeframe of when a new system might be implemented.

The Coordinator respects that the Department has been working diligently on this issue, however, it is unacceptable to have a non-functioning EMR for six months and counting. Medical staff are becoming increasingly burnt out by not having the tools they need to effectively treat patients and give the best care. If the EMR cannot be fixed, the Commission recommends immediate purchase and implementation of a new medical record system. Additionally, the Commission has requested to consistently remain informed and up-to-date with the status of the EMR.

TOURS AND IMPRESSIONS OF FACILITIES

An important part of the Commission's work is consistently touring all correctional facilities to monitor conditions of confinement, and to receive complaints. Below are brief initial impressions gathered from each facility tour. Please note these are only initial impressions, and priority areas in each facility are subject to change. The goal of sharing these impressions is to increase transparency and begin to create strategies and how to best navigate the below systemic concerns and work with the Department of Public Safety on solutions that encompass a rehabilitative mindset. The Commission appreciates the Department of Public Safety's cooperation throughout this process.

Prisons

Prisons are correctional facilities that hold individuals who are sentenced for more than one year. Typically, those sentenced to prison have committed more severe crime. Below are the initial impressions from each prison facility toured.

Halawa Correctional Facility (HCF)

- 1) Highly punitive design which creates concerns of lack of rehabilitative design and functionality.
 - a. Limited out of cell time due to limited staff, and limited accessible recreation yards.
 - b. Mental health patients housed in a punitive setting.

Waiawa Correctional Facility (WCF)

- 1) Evident staffing shortages potentially affecting opportunities for people in custody to work on work lines and become involved in job assignments and programming.
- 2) No cameras at WCF which creates concerns for investigative processes regarding drug use, contraband, PREA concerns, etc.
- 3) Lack of bed utilization in rehabilitative space.

Women's Community Correctional Center (WCCC)

- 1) Extremely old infrastructure
 - a. In-house air conditioner broke down causing high heat in cell areas.
- 2) Lack of working cameras which creates concerns for investigative processes regarding drug use, contraband, PREA concerns, etc.

Kulani Correctional Facility (KCF)

- 1) Rehabilitative environment with cabin-like housing units.
- 2) Lack of bed utilization in rehabilitative space.

- 3) Programming and correctional industry space not being utilized.
 - a. Woodshop
 - b. Sewing
 - c. Laundry

Saguaro Correctional Center - CoreCivic private facility in Eloy, Arizona

- 1) Clearly highlighted the benefits of having a newer facility (built in 2009) which focused on strategic movement and rehabilitation. Clean, organized, and spacious. Fresh paint, many Hawaii-based murals.
- 2) Emphasized reality that people in custody would rather be nearly 3,000 miles from their family, friends, and community versus being housed in the Hawaii facilities.

Jails

Jails are facilities where individuals are sentenced for less than one year and to hold those who are awaiting sentencing. Those awaiting sentencing are currently going through their trial process. Those who are sentenced to less than one year typically have committed less severe crimes. **The pre-sentenced population makes up 78% of all who are in jail.**

Oahu Community Correctional Center (OCCC)

- 1) Evident staffing shortages specifically affecting constant and direct observation of individuals on suicide watch and safety watch.
- 2) Evident Overcrowding
 - a. Individuals have mattresses on floor in dorm settings, or mattresses stored under bunk beds in cell settings.
 - b. Spaces where 4 individuals were housed in a cell designed for 1 or 2 individuals.
- 3) Healthcare Concerns
 - a. Infirmary is stationed in what appeared to be a designated hallway. Lack of privacy, space, and dignity.
 - b. Clinic space in general lacked privacy and was a small space for clinicians and patients potentially affecting HIPAA.

Hawaii Community Correctional Center (HCCC)

- 1) Evident Overcrowding
 - a. Individuals have mattresses on floor in dorm settings, or mattresses stored under bunk beds in cell settings.
 - b. Spaces where 4 individuals were housed in a cell designed for 1 or 2 individuals.
- 2) Severe Safety and Security Concerns
 - a. Padlocks on cell doors
 - b. Dry cells being utilized as housing
- 3) Lack of Programs and Basic Services
 - a. No outdoor recreation

- b. No in-person visits
- c. Lack of cleanliness of uniforms
- d. No toothbrush, toothpaste, etc.
- 4) Inappropriate housing of individuals on Suicide/Safety Watch
- 5) Lack of light and services given to those housed in the Shipping Containers/Covid-19 Housing

Maui Community Correctional Center (MCCC)

- 1) Evident staff shortages and lack of movement within facility.

Kauai Community Correctional Center (KCCC)

- 1) Inappropriate use of Covid Container for permanent housing of women.

Overall Impressions

Based on these initial tours, the Oversight Coordinator reasonably believes the following issues are present at all correctional facilities on island:

- 1) Evident staffing shortages.
 - a. Mandatory overtime for 16- and 24-hour shifts potentially affecting officer safety and safety of incarcerated population.
 - b. Limits out-of-cell time for people in custody (in unit and outdoor recreation).
- 2) Serious overcrowding attributing to inhumane conditions, specifically for jails.
 - a. Prisons are around 93% capacity.
 - b. Jails are 156% capacity.
- 3) Classification Concerns.
 - a. Nearly 80% of people in custody are in secure settings. Average rate across the country is 40-50%.
 - b. Serious lack of movement and out-of-cell time for those in custody.
- 4) Down Electronic Medical Record (EMR).
 - a. The EMR has been out of commission since June 14th causing staff to rely on a paper/pen-based system with no clear indication of when the EMR will be back up for staff utilization.

YWCA O'ahu Fernhurst Residence (PSD contracted reentry program)

On October 11th, 2022, the Commission and Oversight Coordinator toured the YWCA O'ahu Fernhurst Residence. This was an important first step in visiting reentry programs in the state of Hawaii. Fernhurst is a supportive environment entirely mission oriented and dedicated to empowering women successfully transitioning from prison back into the community. Overall, Commissioners were very impressed with the rehabilitative space and would like to see Fernhurst further utilized by the Department of Public Safety.

OTHER ACTIONS TAKEN

National Association of Civilian Oversight of Law Enforcement (NACOLE) 2022 Conference

The National Association for Civilian Oversight of Law Enforcement (NACOLE) is a nonprofit organization that brings together individuals and agencies working to establish or improve oversight of police and corrections in the United States. Since NACOLE's first event in 1995, the organization has worked to put together a comprehensive, informative, and inclusive Annual Conference that addresses both skills training and current and emerging topics. Stretching over four days, the conference provides a forum where the growing community of civilian oversight practitioners, law enforcement officials, journalists, elected officials, students, community members, and others can meet to exchange information and ideas about issues facing civilian oversight of law enforcement.

The 2022 Conference was held in Fort Worth, Texas from September 11th - 15th. The Chair of the Commission, Mark Patterson, attended the conference and participated in many of the panels, particularly the panels specific to corrections oversight including:

- A Gender Responsive Approach to Corrections
- The Fine Line Between Oversight and Operations
- Violence in Jails and Prisons: Strategies for Oversight and Prevention
- The Value of Comparative Prison Oversight Across State Boundaries: Lessons from Illinois, New York, and Pennsylvania
- Starting a New Prison Oversight Body: A Conversation with New Jersey's Correctional Ombudsman

The Chair was also invited to be a part of the panel, "A Gender Responsive Approach to Corrections" to highlight his work with the juvenile girls in the state of Hawaii.

Criminal Law Forum

On Friday October 7, 2022, the Oversight Coordinator participated in the Criminal Law Forum hosted by the Hawaii State Bar Association. The Coordinator presented on the current state of the Hawaii jails and prisons within the Prison Reform panel. This forum was attended by 81 attorneys, 32 judges, and 11 other guests (including court administrators and law clerks). The PowerPoint presentation is in the appendix of this report.

Mana Wahine Ekolu 2022

From November 28th-30th, the Coordinator attended Mana Wahine Ekolu hosted by the Pu'a Foundation. The Pu'a Foundation actively engages, facilitates and serves communities and their efforts to build a resilient society and improve upon their quality of life through healing and reconciliation efforts that address consequences of the 1893 overthrow. Mana Wahine Ekolu is a female empowerment conference for all focusing on trauma, healing, & justice.

STRATEGIC PRIORITIES

The Oversight Coordinator developed and adopted a 12-month strategic plan to guide operations, time, and financial investments. The plan is intended to be a living document as more opportunities to reimagine public safety, and increase transparency and accountability become available. This portion of the report encompasses the Strategic Priorities of the 12-month strategic plan. The full plan can be found in the appendix of this document.

Per the 353L mandate, the Commission has four core functions:

- 1) Oversee the State's correctional system and have jurisdiction over investigating complaints at correctional facilities and facilitating a correctional system transition to a rehabilitative and therapeutic model;
- 2) Establish maximum inmate population limits for each correctional facility and formulate policies and procedures to prevent the inmate population from exceeding the capacity of each correctional facility;
- 3) Work with the department of public safety in monitoring and reviewing the comprehensive offender reentry program, including facility educational and treatment programs, rehabilitative services, work furloughs, and the Hawaii paroling authority's oversight of parolees. The commission may make recommendations to the department of public safety, the Hawaii paroling authority, and the legislature regarding reentry and parole services; and
- 4) Ensure that the comprehensive offender reentry system under chapter 353H is working properly to provide programs and services that result in the timely release of inmates on parole when the maximum terms have been served instead of delaying the release for lack of programs and services.

These four functions will guide all strategic priorities (oversight, rehabilitation, population limits, and reentry) to ensure best practices for an effective correctional system.

Oversight

Oversee the State's correctional system and have jurisdiction over investigating complaints at correctional facilities.

Objective 1: Fully equip the Office of the Hawaii Correctional System Oversight Commission to serve the state of Hawaii.

Strategies:

1. Determine and seek appropriate funding for staff hires, travel for on-site facility monitoring, staff development, and basic office needs.
2. Develop standard training for staff that encompasses the history, organization, and changes within the Department of Public Safety in

addition to the history, culture, and concerns of the communities served by the Department of Public Safety.

3. Develop and adopt rules, office policies, and standard operating procedures to ensure consistency and efficiency.

Objective 2: Create and finalize investigative and monitoring procedures for investigating complaints at correctional facilities.

Strategies:

1. Partner with a pro-bono company to assist in designing an internal (and forward-facing) case management system. Members of the public must be able to access the demographic and high-level data regarding types of complaints we receive, when we receive them, and from which facilities the complaints are reported.
2. Develop training standards aligned with national standards for best practices while touring facilities, speaking to staff, and speaking to those in custody to ensure the utmost professionalism in addition to the development of an investigative manual to ensure consistency, efficiency, and thoroughness in all investigations.
3. Hire a Jail Monitor and a Prison Monitor to complete investigations and monitoring at their respective facilities.

Objective 3: Increase engagement and transparency related to public safety and corrections.

Strategies

1. Promote and maintain a strong digital presence by social media and the HCSOC website to ensure information is easily accessible and understandable.
2. Adjust meeting logistics, including but not limited to, location, virtual capabilities, and structure in order to increase community participation and elevate resident voice.
3. Ensure that public information is released in an easily understandable format, in addition to creating an automatic emailing list for those interested in office updates.

Rehabilitation

Facilitating a correctional system transition to a rehabilitative and therapeutic model.

Objective 1: Evaluate current Department of Public Safety policies, practices, and procedures for increased innovation and focus on rehabilitation.

Strategies:

1. Using key recommendations from the HCR 85 Taskforce report, the Reentry Commission Strategic Plan, and other relevant studies, evaluate which recommendations have been implemented into the Department of Public Safety policies and practices, which are in progress, and which have not been implemented.

2. Regularly evaluate trends in complaints received, the findings of those complaints, the Department's grievance system processes to assess current policies and to submit solid policy recommendations.
3. Regularly tour correctional facilities, announced and unannounced, to monitor conditions, hear from staff, and speak to those in custody, in addition to completing specific tours relevant to data collection or systemic analysis.

Objective 2: Conduct ongoing research studies of the operation and administration of correctional system laws in other jurisdictions and locally.

Strategies:

1. Partner with local colleges and universities to create opportunities for students to be involved in academic research and policy change through an internship program.
2. Partner with local and national nonprofit organizations to assist in conducting research studies of other jurisdictions with the goal of transitioning Hawaii to a more effective and sustainable correctional system that focuses on rehabilitation instead of punishment.
3. Hire a minimum of two researchers to assist with investigative studies, policy, and legislative changes that are vital to creating a more effective correctional system.

Objective 3: Create opportunities to work in partnership with community, government, and nonprofit stakeholders to design and recommend changes that support rehabilitation and safer communities.

Strategies:

1. Reinvest in recommendations that existed prior to Act 179 from community partners that include but are not limited to the HCR 85 Taskforce report, the Reentry Commission Strategic Plan, and other relevant studies.
2. Engage with community organizations, County officials, and other stakeholders who are focused on reentry and rehabilitation efforts.
3. Advocate for federal and state resources to fund community efforts towards reentry and rehabilitation to create safer communities.

Population Limits

Establish maximum inmate population limits for each correctional facility and formulate policies and procedures to prevent the inmate population from exceeding the capacity of each correctional facility.

Objective 1: Support legislative changes that lead to more equity and safer communities while reserving incarceration for those who truly need to be detained.

Strategies:

1. Partner with local agencies to draft and/or publicly support legislation proven to safely lower inmate populations without jeopardizing public safety.
2. Use data and statistical analysis to evaluate public safety practices and publicly release information specific to inmate demographics for better understanding of the population.
3. Meet with various stakeholders and legislators regarding inequities behind cash bail, counterproductivity behind state imprisonment for lower-level crimes, and having state sentences be more proportional to crimes.
4. Partner with local agencies to find solutions in preventing the criminalization of homelessness and individuals experiencing mental health crises, many of whom are incarcerated in the jails specifically.

Objective 2: Establish maximum inmate population limits for each correctional facility.

Strategies:

1. Review the Corrections Population Management Commission's 2001 Annual Report and the Commission's Infectious Disease Emergency Capacities 2020 report to ensure inmate population limits are appropriate, particularly after Covid-19 restrictions begin to ease, by aligning with national standards.
2. Work with the Department of Public Safety to update all measurements of cells, dorms, and spaces used for housing, as many spaces have been changed or converted since 2001.

Objective 3: Formulate policies and procedures to prevent the inmate population from exceeding the capacity of each correctional facility.

Strategies:

1. Work in partnership with the Department of Public Safety and appropriate unions to ensure policies and procedures are written, taught, and exercised to keep the population at appropriate levels in each facility, including reviewing transfer policies.
2. Develop and sustain relationships with the Judiciary, Department of Health, Department of Human Services, Department of Labor, Family Services, and the Taskforce on Homelessness to formulate policies that assist with lessening the inmate population.
3. Ensure the current assessment instruments, classification system, individual program planning, and corresponding reentry programming is properly being utilized to fill pre-transitional beds.

Reentry

Work with the department of public safety in monitoring and reviewing the comprehensive offender reentry program, including facility educational and treatment programs, rehabilitative services, work furloughs, and the Hawaii paroling authority's oversight of parolees. The commission may make recommendations to the department of public safety, the Hawaii paroling authority, and the legislature regarding reentry and parole services; and ensure that the comprehensive offender reentry system under chapter 353H is working properly to provide programs and services that result in the timely release of inmates on parole when the maximum terms have been served instead of delaying the release for lack of programs and services.

Objective 1: Familiarize the public with requirements set in 353H regarding the Offender Reentry System in addition to the Department of Public Safety Reentry Commission Strategic Plan.

Strategies:

1. Prepare and present information specific to the offender reentry process which includes mapping of the state's systems and programming efforts that are a reflection of current reentry practices of the Department of Public Safety.
2. Explain and present the current processes of each separate facility and county to ensure consistency across the state.
3. Host various Listening Sessions to receive feedback from community members, people in custody, families, Department staff, and other stakeholders. These Listening Sessions will be hosted publicly in addition to privately (within the correctional facilities) so the Commission can gather effective feedback.

Objective 2: Monitor and review the comprehensive offender reentry program, including facility educational and treatment programs, rehabilitative services, inter-facility transfer processes, parole preparation programs, work furloughs, and the Hawaii paroling authority's oversight of parolees.

Strategies:

1. Strategize and publicly post an oversight plan to assess and review all programming rehabilitative services, work furloughs, and the Hawaii paroling authority's oversight of parolees.
2. Request specific data sets that encompass all reentry programs in addition to the data and analysis that shows success of each program.
3. Create a set of standards that programming should meet to lessen recidivism and ensure program efficiency and effectiveness.

Objective 3: Ensure the timely release of inmates on parole when the minimum terms have been served instead of delaying the release for lack of programs and services.

Strategies:

1. Host various Listening Sessions to receive feedback from programming staff, people in custody, facility administrators, and other stakeholders. These Listening Sessions will be hosted privately so the Commission can gather feedback within each correctional facility.
2. Use data and analysis to pull each individual's earliest release date and compare those who are considered, "Chair to Set" to find individuals waiting on programming or housing needs before being released.

The implementation of this strategic plan is the initial step to ensure greater accountability and transparency within the Department of Public Safety. This plan will be reviewed on a quarterly basis, at minimum, to ensure the strategic priorities align with Hawaii's needs. Additionally, this plan will be used as a steppingstone towards a larger, five-year strategic plan that will encompass major problems to be addressed and strategies on how to address the problems. The five-year plan will include feedback and collaboration from county and state officials in addition to community, family, staff, and people in custody.

The next steps to implementing this plan include:

- Recruiting talented and passionate staff to execute the mission of HCSOC (*Current*)
- Designing and implementing procedures to operationalize strategies detailed in this plan (*Spring, 2023*)
- Updating the HCSOC website to ensure access to data and complaint tools are accessible (*Summer, 2023*)
- Reporting on the progress of this plan on a quarterly basis (*Spring, 2023*)
- Work in partnership with the community, families, people in custody, staff, Department of Public Safety, and other stakeholders to ensure open-mindedness and collaboration from those affected the most. (*Continuous*)

LEGISLATIVE PRIORITIES

Position on OCCC Replacement Facility

(Section pulled from HCSOC 2021 Annual Report as this is an ongoing issue)

In December 2020, the Commission recommended that the planning for the new OCCC be paused and that the Department of Public Safety appoint a Community Advisory Committee to help explore programs, services and processes that can provide alternatives to detention, lessen the time from arrest to case disposition; and help facilitate the safe and effective release of convicted offenders into the community at large. The Department declined to appoint the recommended Committee and opted instead to proceed with the planning and development of the new OCCC.

In December 2021, the Commission affirmed its position that any planning and development of the new OCCC should be paused. This position was based on three factors:

- 1) A report by the Department's own consultant that the size of the facility could be reduced;
- 2) The Commission's concerns that the department's reentry program needs to be more closely examined to determine how many pre-release beds will be required; and
- 3) The projected high cost of the facility.

Reducing the Size of the Facility: In June 2021, the Department released a report entitled "Oahu Community Correctional Center Population Forecast Pre-Final Report" (Forecast). The Forecast projected that there will be a slow decline in the OCCC population by 2032. Moreover, the Forecast projected that the population could be further reduced by 235 with appropriate diversion opportunities. The report concluded, there "would naturally result in a lower bed need."

Need for Pre-Release Beds: The Department's plan included 388 new beds for the prerelease sentenced felon population. This would be in addition to the 96 pre-release beds already available at the Laumaka Work Release Center. The Commission was concerned that already available minimum-security beds at the Waiawa Correctional Facility and the Kulani Correctional Facility were significantly under-utilized. These facilities serve as natural feeders to the pre-release program. As such, a closer assessment of the efficacy of the Department's reentry program should be conducted before a commitment should be made to such a large expansion of pre-release beds.

High Cost: The proposed new OCCC was projected to cost in excess of \$500,000,000. The Department planned that it would be privately financing, and perhaps leased back to the State. The lease would be paid with operating funds, which would have to be appropriated by future Legislatures.

During our December 2021 meeting, local attorney Robert K. Merce, former vice-chair of the House Concurrent Resolution 85 Task Force on Prison Reform, presented a monograph he authored, entitled *Getting It Right: Better Ideas for a New Jail*, in which he argues the new jail

planning process was flawed from the beginning. The Commission agreed with his findings and submitted notes and comments along with a copy of the report to the House Committee on Finance asking the Hawaii State Legislature to consider our shared concerns about the planning of the new facility. The Merce report is attached in addition to a new report submitted entitled *Getting It Right: Recommendations and Action Plan for a New Jail*.

Position On Bail Reform

(Section pulled from HCSOC 2021 Annual Report as this is an ongoing issue)

In the 2021 legislative session, SB 1260 Relating to Criminal Pretrial Reform was introduced. The bill is substantially similar to the bill suggested in the HCSOC 2020 Annual Report. This bill "Eliminates the use of monetary bail and requires defendants to be released on their own recognizance for traffic offenses, violations, and non-violent petty misdemeanors and misdemeanor offenses, with certain exceptions. Creates rebuttable presumptions regarding release and detention for certain offenses and specific circumstances in which these presumptions apply."

This bill was heard in the Senate Committee on Judiciary. The HCSOC submitted testimony dated March 1, 2021, supporting SB 1260 Relating to Criminal Pretrial Reform (see testimony in appendix). The bill passed with revision and was referred to the House Committee on Judiciary and Hawaiian Affairs as SB 1260 SD1 Relating to Criminal Pretrial Reform. The HCSOC submitted testimony dated (March 16, 2021), strongly supporting the bill. (See testimony in appendix) The bill was then revised and referred to the House Committee on Finance as SB1260 SD1 HD1. Although SB1260 was revised twice, it still retained the gist of SB 1260 relating to eliminating the requirement of monetary bail in certain low-level, non-violent offenses with certain exceptions. The HCSOC again submitted testimony (dated March 31, 2021), strongly supporting SB1260 SD1 HD1 Relating to Criminal Pretrial Reform. Although there were numerous supports of the bill in committee hearings, unfortunately the bill did not pass.

Act 179 (2019) Session Laws of Hawaii 2019 charged the Commission to, "Establish maximum inmate population limits for each correctional facility and formulate policies and procedures to prevent the inmate population from exceeding the capacity of each correctional facility." Unfortunately, notwithstanding the Commission's support of legislation and educating the public, jail overcrowding remains. Defendants accused of low-level, non-violent crimes who do not have the money to post bail pending trial remain in jail. This contributes to overpopulation. Other consequences include loss of jobs, housing, education, and family conflicts.

The HCSOC is hopeful that the 2023 Legislative session will bring meaningful bail reform. The Hawaii Correctional System Oversight Commission intends to continue its strong support of the proposed bills focusing on bail reform as it would alleviate jail overcrowding.

PROPOSED LEGISLATION

Revisions to Chapter 353L: Hawaii Correctional System Oversight

Commission

Chapter 353L is the mandate that created and empowers the Hawaii Correctional Oversight Commission. The Commission has found three areas of the law that should be amended to further support the Commission's mission and duties. This potential legislation includes edits to the Oversight Coordinator's term limit (changing from two years to six years) and adds two additions specific to confidentiality within the Commission.

The Commission found that the Oversight Coordinator should have a longer term as two years is an extremely limited timeframe to supervise and administer the operation of the commission in accordance with 353L. Additionally, two-year terms coincide with the Governor's four-year terms. In order to remain independent, it is vital that the Coordinator's terms are staggered from the Governor's terms. Additionally, a six-year term would allow the Coordinator to have the same term length as the Hawaii's Ombudsman.

[§353L-2] Oversight coordinator; appointment; term.

"(a) The governor shall appoint an oversight coordinator from a list of three nominees submitted by the commission. The oversight coordinator shall be a person qualified by training and experience to administer the Hawaii correctional system oversight commission and shall be well-versed in criminal justice reform and maintain a firm commitment to the correctional system's transition to a rehabilitative and therapeutic model. **The oversight coordinator shall serve a [two-year] six-year term."**

The next edit is specific to confidentiality. The Commission found it important to specify that Commissioners must maintain confidentiality in respect to all matters and the identities of the complainants or witnesses pursuant to an investigation by the Oversight Coordinator. This will protect any complainants or witnesses from potential retaliation and hopefully encourage individuals to speak with the Commission or Oversight Coordinator openly.

§353L-3 Hawaii correctional system oversight commission; powers and duties.

"(b) The commission shall:

- (1) Oversee the State's correctional system and have jurisdiction over investigating complaints at correctional facilities and facilitating a correctional system transition to a rehabilitative and therapeutic model;
- (2) Establish maximum inmate population limits for each correctional facility and formulate policies and procedures

to prevent the inmate population from exceeding the capacity of each correctional facility;

- (3) Work with the department of public safety in monitoring and reviewing the comprehensive offender reentry program, including facility educational and treatment programs, rehabilitative services, work furloughs, and the Hawaii paroling authority's oversight of parolees. The commission may make recommendations to the department of public safety, the Hawaii paroling authority, and the legislature regarding reentry and parole services; and
- (4) Ensure that the comprehensive offender reentry system under chapter 353H is working properly to provide programs and services that result in the timely release of inmates on parole when the maximum terms have been served instead of delaying the release for lack of programs and services.
- (5) Maintain confidentiality in respect to all matters and the identities of the complainants or witnesses pursuant to an investigation by the oversight coordinator."

The last edit ensures that the Oversight Coordinator can enter facilities, unannounced, as the Coordinator sees fit. The Department of Public Safety has interpreted the current language to mean that the Coordinator can complete an unannounced tour only if it's during an investigation. However, nationally recognized best oversight practices must encompass unfettered access to facilities at all times.

[\$353L-7] Studies and investigations; procedures.

"(c) [In an investigation, the] The oversight coordinator may make inquiries and obtain information as the oversight coordinator thinks fit, enter without notice to inspect the premises of an agency or correctional facility, and in an investigation hold private hearings in accordance with chapter.

SUMMARY

Now that the Commission has an Oversight Coordinator, the important work of the Commission can begin in earnest. The Commission looks forward to expanding the office and ensuring all areas of the Commission's mandate can be met.

The Commission is dedicated to educating the public, elected officials and state administrators about the correctional system reforms designed to reduce recidivism and strengthen public safety. The Commission believes an informed public will support the Commission's efforts.

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Appendix 1

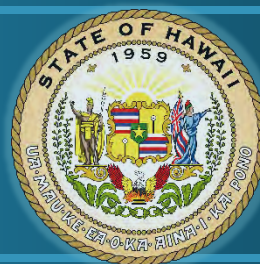
2022-2023 Strategic Plan

2023 - 2024 Strategic Plan



Correctional System Oversight Commission
January 1st, 2023

Christin M. Johnson, Oversight Coordinator



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Letter from the Chair

Aloha Mai Kakou,

This January 2023 Legislative session marks three years since the Hawaii Correctional System Oversight Commission became a functioning body. In January 2020, new Commissioners met for the very first time: Theodore Sakai (Governor), Martha Torney (House of Representatives), Judge Michael A. Town Ret. (Senate), Judge Ronal Ibarra Ret. (Judiciary) and myself (Office of Hawaiian Affairs). Before we could review and begin our mandate from Act 179, COVID-19 hit and we were thrust into the unknown of correctional oversight during a worldwide pandemic. The Commission managed the next two years through thick and thin as we attempted to provide oversight on correctional emergency population control during the pandemic. The community that created us was the same community that sustained us during the pandemic as we had no staff.

The year 2022 will definitely mark the year we began to realize our full potential as a commission. Testimony provided by the Commission was given in support of Women's Prison Program Reform, delaying the building of the proposed new jail while supporting pre-trial reform and other bills supporting family re-unification. Most significantly in 2022 was the hiring of our first Oversight Coordinator, Christin Johnson. Ms. Johnson comes to Hawaii with a wealth of knowledge and passion for correctional oversight. The Commission finally has eyes and ears to physically go into each of the correctional facilities and provide an assessment of the current status of the correctional environment.

In 2023, the HCSOC will strive to earnestly begin our work in transforming from a punitive model to a more effective therapeutic model with the Department of Public Safety. We will set the parameter of this vision so we can begin taking the first steps to creating movement that will evolve into a longer strategic plan. This journey will take time as there are multiple state systems involved to create cohesiveness in the holistic treatment of our most marginalized populations. The first step is to realize that change is needed and then believe that change can happen.

*Mai nana 'inoino na hewa o kanaka aka E huikala a ma'ema'e no
Behold not with Malevolence the sins of man but forgive and cleanse*

Queen Lydia Kamaka'eha Lili'uokalani

Sincerely,

Mark Patterson

Letter from the Oversight Coordinator

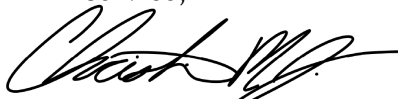
Aloha kākou!

Let me begin by expressing what an honor and privilege it is to serve as the first Oversight Coordinator for the State of Hawaii. I understand that oversight is new to the state, and I am thrilled to be a part of this historic moment of opening and setting the foundation for the new oversight office. Throughout my career, I have seen the injustices that occur within our corrections system, and those experiences have further fueled my passion for effective oversight. I promise you that I will always be honest, transparent, and responsive in this role. Not only to those in custody, but to families, friends, officers, stakeholders, and staff.

We are so lucky to have such a committed and experienced Commission who has shaped the vision for this office. This strategic plan is aligned with topic areas that the Commission cares deeply about in addition to the priorities set in our mandate (Hawaii Revised Statute 353L). This plan incorporates priorities, objectives, and strategies and I hope it gives a clear roadmap to what we expect to accomplish in the next twelve months.

This is an important opportunity to ensure transparency, accountability, support safe conditions for staff and those in custody in the jails and prisons, and implement positive reform and rehabilitative efforts. Since starting in July, I have had the opportunity to become familiar with all eight correctional facilities on-island in addition to visiting the private facility in Arizona, meet with staff and people in custody, and connect with community partners. I deeply appreciate those who have welcomed me with open arms, and I am looking forward to working together to find solutions to systemic problems we will be facing in 2023 and beyond.

In service,



Christin M. Johnson

INTRODUCTION

The Hawaii Correctional System Oversight Commission (HCSOC, or the Commission) was created by Act 179, Session Laws of Hawaii 2019, “to ensure transparency, support safe conditions for employees, inmates, and detainees, and provide positive reform towards a rehabilitative and therapeutic correctional system.” This Commission’s first Oversight Coordinator was hired in July of 2022 and this strategic plan sets the priorities for the oversight office for the next twelve months. The plan and priorities are not meant to replace or overshadow the important work that government and community stakeholders have already focused on and put substantial work into. Instead, this plan is meant to build on and encompass that work, including the recommendations from the 2019 House Concurrent Resolution 85 Task Force on Prison Reform report.

This strategic plan is one of the first priorities set by the Oversight Coordinator to explain what oversight is, why it is beneficial, and to highlight future plans for the oversight office.

BACKGROUND

In 2016, a House Concurrent Resolution was passed requesting the establishment of a task force to study effective incarceration policies to improve Hawaii’s correctional system. The task force was successfully created and published a report in December of 2018. The HRC 85 Taskforce report, *Creating Better Outcomes, Safer Communities*, found that, “Hawaii’s correctional system is not producing acceptable, cost-effective, or sustainable outcomes and needs immediate and profound change.” The primary recommendation from the task force was for Hawaii to immediately begin to transition from a punitive to a rehabilitative correctional system. Among many additional recommendations, the task force also recommended that an oversight commission be created to immediately address prison suicides, sexual assaults, and other unacceptable and unlawful conditions in our prison system.

In 2019, through the passage of House Bill 1552, Act 179, the legislature found that independent oversight of the State’s correctional system will ensure transparency, supports safe conditions for employees, inmates, and detainees, and provides positive reform towards a rehabilitative and therapeutic correctional system. Act 179 successfully 1) established the Hawaii Correctional System Oversight Commission, 2) created a position for an Oversight Coordinator for the Commission, 3) extended the sunset date of the Reentry Commission to 1/1/2020, 4) Repealed the Reentry Commission and Corrections Population Management

Commission on 1/1/2020, and 5) transferred all rights, powers, functions, and duties of those commissions to the Hawaii Correctional System Oversight Commission.

Today, the Hawaii Correctional System Oversight Commission's mandate is Chapter 353L of the Hawaii Revised Statute. The Commission consists of five members who must be residents of Hawaii and appointed as follows:

- 1) One member shall be appointed by the Governor (*Commissioner Ted Sakai*);
- 2) One member shall be appointed by the President of the Senate (*Commissioner Honorable Mike Town*);
- 3) One member shall be appointed by the Speaker of the House of Representatives (*Commissioner Martha Torney*);
- 4) One member shall be appointed by the Chief Justice (*Commissioner Honorable Ron Ibarra*); and
- 5) One member shall be appointed by the Chairperson of the Board of Trustees of the Office of Hawaiian Affairs (*Commissioner and Chair Mark Patterson*).

The Commissioners possess knowledge in criminal justice, correctional systems, Native Hawaiian culture-based practices with an emphasis on healing and reducing recidivism, best practices for effective correctional systems, and crime victim specialization. The Commission began meeting publicly on a monthly basis in January of 2020. However, fiscal biennium 2019-2021 funds that were appropriated to the Commission were not released from the Department of Budget and Finance due to Covid-19, putting a hold on hiring staff. The funds were released in 2022, and the Commission's first Oversight Coordinator started in July of 2022.

WHAT IS OVERSIGHT?

Oversight can be described as an independent body that reviews, investigates, audits, and makes policy recommendations to a separate agency (or agencies) it oversees. Effective oversight agencies are run and staffed by civilians, meaning they are individuals who are not law enforcement officers or correction officers. There are various types of oversight and best practices for successful oversight as described by the National Association for Civilian Oversight of Law Enforcement (NACOLE). NACOLE is a non-profit organization that works to create a community of support for independent, civilian oversight entities that seek to make their local law enforcement agencies, jails, and prisons more transparent, accountable, and responsive to the communities they serve.

According to NACOLE, there are thirteen general principles that are considered key components of successful civilian oversight:



Additionally, NACOLE has identified four models of oversight. The most common models of oversight are 1) Review-Focused, 2) Monitor/Auditor-Focused, 3) Investigation-Focused and 4) Hybrid models.

Review	Monitor/Auditor	Investigation	Hybrid
<ul style="list-style-type: none"> Receives complaints and forwards them to the law enforcement agency for investigation. They can then review the findings and either remand the case back for further investigation, or recommend case disposition. 	<ul style="list-style-type: none"> Focuses on a wider range of policies, practices and procedures by ensuring complaint investigations comply with established policies and procedures. Can involve themselves in ongoing investigations by observing interviews, asking questions, and overseeing the overall direction of the department's investigation. 	<ul style="list-style-type: none"> Employs professionally trained investigative staff to conduct investigations of allegations of misconduct independently of the department's internal affair unit. Investigators will conduct interviews, gather evidence, prepare investigative reports, and Make recommendations or findings as to whether the evidence supports the allegations in the complaint. 	<ul style="list-style-type: none"> Contains elements from one or more of the three models.

The Review model receives complaints and forwards them to the law enforcement agency for investigation. They can then review the findings and either remand the case back for further investigation or recommend case disposition. The Auditor/Monitor model focuses on a wider range of policies, practices and procedures by ensuring complaint investigations comply with established policies and procedures. Auditor/Monitors can be involved in ongoing investigations by observing interviews, asking questions, and overseeing the overall direction of the Department's investigation.

The Investigation model employs professionally trained investigative staff to conduct investigations of allegations of misconduct independently of the department's internal affair unit. Investigators will conduct interviews, gather evidence, prepare investigative reports, and make recommendations or findings as to whether the evidence supports the allegations in the complaint. The Hybrid model contains elements from one of more of the three models previously listed. The Hybrid model is becoming increasingly more utilized by oversight agencies and is the model the HCSOC will be adopting into practice.

The Hawaii Correctional System Oversight Commission is proud to be a member of NACOLE and use their guiding practices in addition to the guidance from national oversight leaders in the creation of this oversight office. As highlighted by Michele Deitch, a senior lecturer at the University of Texas and Director of the Jail and Prison Innovation Lab, there are various benefits to civilian oversight including, but not limited to:

- **Benefits to Incarcerated People**

Regular monitoring also allows for the early detection of problems, which may save people in custody from experiencing mistreatment in the first place, and improves their quality of care, programming options, and interactions with facility staff.

- **Benefits to Correctional Administrators**

Oversight enables administrators to begin a public dialogue about what their institutions can reasonably accomplish and what they need in terms of training, funding, and technical assistance for those purposes.

- **Benefits to Judges, Prosecutors, Defense Lawyers, and Policymakers**

Monitoring and inspections could potentially allow a judge to know if it is safe to sentence someone to a term of incarceration. Accurate information and data about programming outcomes, living conditions, and rehabilitative efforts could also allow other justice leaders, including prosecutors and defense attorneys, to make better arguments and decisions about each defendant's future.

- **Benefits to the Media and the General Public**

Transparency is one of the pillars of a democratic society, and external oversight creates the opportunity to honor this value and engage the public in an important dialogue about correctional practices

It is important to note that there is a fine line between oversight and operations. Oversight is not meant to complete the Department of Public Safety’s job for them. Instead, oversight is to ensure that the Department has the resources and tools it needs to be successful, in addition to ensuring those tools are utilized effectively and appropriately. A good example of this would be the grievance system. The grievance system is in place in all facilities to ensure people in custody have a means for addressing problems they have within the facility. Instead of HCSOC addressing the complaint at hand, we will be ensuring the grievance system is working effectively so the Department can resolve initial complaints before approaching the Commission. This is another way in which HCSOC is focused on systemic change throughout the Department.

VISION. MISSION. VALUES.

An organization’s vision is an aspirational statement which expresses the plan or “vision” for the future and intended impact on the world. Our vision is:

**HCSOC will be the leader in corrections oversight
and will set the standard for best practices nationwide.**

An organization’s mission is an action-based statement that declares the purpose of an organization and how they serve their community. Our mission is:

**Through targeted change, accountability, transparency, and engagement, HCSOC
will produce progressive and sustainable outcomes to better public safety
in the state of Hawaii and facilitate a correctional system transition to a
rehabilitative and therapeutic model.**

An organization’s values are the set of guiding principles and fundamental beliefs that help a group of people function together as a team and work toward a common business goal. Our values are:

- **‘Alohilohi**
- **Kuleana**
- **Pono**
- **Aloha**
- **Ha’aha’a**



'Alohilohi
(*Transparency*)

Being upfront and honest about our work.



Kuleana
(*Accountability*)

Always following through and following up to accomplish what we said we would do.



Pono
(*Integrity*)

Being honest and having strong moral principles.



Aloha
(*Compassion*)

Being genuinely concerned about other people and people's needs.



Ha'aha'a
(*Humility*)

Intentionally looking for ways to lift others to higher levels of confidence and experiences.

USING THE PLAN

The Office of the Hawaii Correctional System Oversight Commission will use this strategic plan to guide our operations, time, and financial investments. This plan is intended to be a living breathing document. We will be learning throughout the implementation of this plan and recognize and acknowledge that updates will need to be made. As we continue to work more collaboratively internally and externally, we will uncover more opportunities to reimagine public safety, and increase transparency and accountability.

We commit to being transparent about our learnings and forthcoming updates.

STRATEGIC PRIORITIES

Per the 353L mandate, the Commission has four core functions:

- 1) Oversee the State's correctional system and have jurisdiction over investigating complaints at correctional facilities and facilitating a correctional system transition to a rehabilitative and therapeutic model;
- 2) Establish maximum inmate population limits for each correctional facility and formulate policies and procedures to prevent the inmate population from exceeding the capacity of each correctional facility;
- 3) Work with the department of public safety in monitoring and reviewing the comprehensive offender reentry program, including facility educational and treatment

programs, rehabilitative services, work furloughs, and the Hawaii paroling authority's oversight of parolees. The commission may make recommendations to the department of public safety, the Hawaii paroling authority, and the legislature regarding reentry and parole services; and

- 4) Ensure that the comprehensive offender reentry system under chapter 353H is working properly to provide programs and services that result in the timely release of inmates on parole when the maximum terms have been served instead of delaying the release for lack of programs and services.

These four functions will guide all strategic priorities (oversight, rehabilitation, population limits, and reentry) to ensure best practices for an effective correctional system.

OVERSIGHT

Oversee the State's correctional system and have jurisdiction over investigating complaints at correctional facilities.

Objective 1: Fully equip the Office of the Hawaii Correctional System Oversight Commission to serve the state of Hawaii.

Strategies:

1. Determine and seek appropriate funding for staff hires, travel for on-site facility monitoring, staff development, and basic office needs.
2. Develop standard training for staff that encompasses the history, organization, and changes within the Department of Public Safety in addition to the history, culture, and concerns of the communities served by the Department of Public Safety.
3. Develop and adopt rules, office policies, and standard operating procedures to ensure consistency and efficiency.

Objective 2: Create and finalize investigative and monitoring procedures for investigating complaints at correctional facilities.

Strategies:

1. Partner with a pro-bono company to assist in designing an internal (and forward-facing) case management system. Members of the public must be able to access the demographic and high-level data regarding types of complaints we receive, when we receive them, and from which facilities the complaints are reported.

2. Develop training standards aligned with national standards for best practices while touring facilities, speaking to staff, and speaking to those in custody to ensure the utmost professionalism in addition to the development of an investigative manual to ensure consistency, efficiency, and thoroughness in all investigations.
3. Hire a Jail Monitor and a Prison Monitor to complete investigations and monitoring at their respective facilities.

Objective 3: Increase engagement and transparency related to public safety and corrections.

Strategies

1. Promote and maintain a strong digital presence by social media and the HCSOC website to ensure information is easily accessible and understandable.
2. Adjust meeting logistics, including but not limited to, location, virtual capabilities, and structure in order to increase community participation and elevate resident voice.
3. Ensure that public information is released in an easily understandable format, in addition to creating an automatic emailing list for those interested in office updates.

REHABILITATION

Facilitating a correctional system transition to a rehabilitative and therapeutic model.

Objective 1: Evaluate current Department of Public Safety policies, practices, and procedures for increased innovation and focus on rehabilitation.

Strategies:

1. Using key recommendations from the HCR 85 Taskforce report, the Reentry Commission Strategic Plan, and other relevant studies, evaluate which recommendations have been implemented into the Department of Public Safety policies and practices, which are in progress, and which have not been implemented.
2. Regularly evaluate trends in complaints received, the findings of those complaints, the Department's grievance system processes to assess current policies and to submit solid policy recommendations.
3. Regularly tour correctional facilities, announced and unannounced, to monitor conditions, hear from staff, and speak to

those in custody, in addition to completing specific tours relevant to data collection or systemic analysis.

Objective 2: Conduct ongoing research studies of the operation and administration of correctional system laws in other jurisdictions and locally.

Strategies:

1. Partner with local colleges and universities to create opportunities for students to be involved in academic research and policy change through an internship program.
2. Partner with local and national nonprofit organizations to assist in conducting research studies of other jurisdictions with the goal of transitioning Hawaii to a more effective and sustainable correctional system that focuses on rehabilitation instead of punishment.
3. Hire a minimum of two researchers to assist with investigative studies, policy, and legislative changes that are vital to creating a more effective correctional system.

Objective 3: Create opportunities to work in partnership with community, government, and nonprofit stakeholders to design and recommend changes that support rehabilitation and safer communities.

Strategies:

1. Reinvest in recommendations that existed prior to Act 179 from community partners that include but are not limited to the HCR 85 Taskforce report, the Reentry Commission Strategic Plan, and other relevant studies.
2. Engage with community organizations, County officials, and other stakeholders who are focused on reentry and rehabilitation efforts.
3. Advocate for federal and state resources to fund community efforts towards reentry and rehabilitation to create safer communities.

POPULATION LIMITS

Establish maximum inmate population limits for each correctional facility and formulate policies and procedures to prevent the inmate population from exceeding the capacity of each correctional facility.

Objective 1: Support legislative changes that lead to more equity and safer communities while reserving incarceration for those who truly need to be detained.

Strategies:

1. Partner with local agencies to draft and/or publicly support legislation proven to safely lower inmate populations without jeopardizing public safety.
2. Use data and statistical analysis to evaluate public safety practices and publicly release information specific to inmate demographics for better understanding of the population.
3. Meet with various stakeholders and legislators regarding inequities behind cash bail, counterproductivity behind state imprisonment for lower-level crimes, and having state sentences be more proportional to crimes.
4. Partner with local agencies to find solutions in preventing the criminalization of homelessness and individuals experiencing mental health crises, many of whom are incarcerated in the jails specifically.

Objective 2: Establish maximum inmate population limits for each correctional facility.

Strategies:

1. Review the Corrections Population Management Commission's 2001 Annual Report and the Commission's Infectious Disease Emergency Capacities 2020 report to ensure inmate population limits are appropriate, particularly after Covid-19 restrictions begin to ease, by aligning with national standards.
2. Work with the Department of Public Safety to update all measurements of cells, dorms, and spaces used for housing, as many spaces have been changed or converted since 2001.

Objective 3: Formulate policies and procedures to prevent the inmate population from exceeding the capacity of each correctional facility.

Strategies:

1. Work in partnership with the Department of Public Safety and appropriate unions to ensure policies and procedures are written, taught, and exercised to keep the population at appropriate levels in each facility, including reviewing transfer policies.
2. Develop and sustain relationships with the Judiciary, Department of Health, Department of Human Services, Department of Labor, Family Services, and the Taskforce on Homelessness to formulate policies that assist with lessening the inmate population.

3. Ensure the current assessment instruments, classification system, individual program planning, and corresponding reentry programming is properly being utilized to fill pre-transitional beds.

REENTRY

Work with the department of public safety in monitoring and reviewing the comprehensive offender reentry program, including facility educational and treatment programs, rehabilitative services, work furloughs, and the Hawaii paroling authority's oversight of parolees. The commission may make recommendations to the department of public safety, the Hawaii paroling authority, and the legislature regarding reentry and parole services; and ensure that the comprehensive offender reentry system under chapter 353H is working properly to provide programs and services that result in the timely release of inmates on parole when the maximum terms have been served instead of delaying the release for lack of programs and services.

Objective 1: Familiarize the public with requirements set in 353H regarding the Offender Reentry System in addition to the Department of Public Safety Reentry Commission Strategic Plan.

Strategies:

1. Prepare and present information specific to the offender reentry process which includes mapping of the state's systems and programming efforts that are a reflection of current reentry practices of the Department of Public Safety.
2. Explain and present the current processes of each separate facility and county to ensure consistency across the state.
3. Host various Listening Sessions to receive feedback from community members, people in custody, families, Department staff, and other stakeholders. These Listening Sessions will be hosted publicly in addition to privately (within the correctional facilities) so the Commission can gather effective feedback.

Objective 2: Monitor and review the comprehensive offender reentry program, including facility educational and treatment programs, rehabilitative services, inter-facility transfer processes, parole preparation programs, work furloughs, and the Hawaii paroling authority's oversight of parolees.

Strategies:

1. Strategize and publicly post an oversight plan to assess and review all programming rehabilitative services, work furloughs, and the Hawaii paroling authority's oversight of parolees.

2. Request specific data sets that encompass all reentry programs in addition to the data and analysis that shows success of each program.
3. Create a set of standards that programming should meet to lessen recidivism and ensure program efficiency and effectiveness.

Objective 3: Ensure the timely release of inmates on parole when the minimum terms have been served instead of delaying the release for lack of programs and services.

Strategies:

1. Host various Listening Sessions to receive feedback from programming staff, people in custody, facility administrators, and other stakeholders. These Listening Sessions will be hosted privately so the Commission can gather feedback within each correctional facility.
2. Use data and analysis to pull each individual's earliest release date and compare those who are considered, "Chair to Set" to find individuals waiting on programing or housing needs before being released.

IMPLEMENTATION

The implementation of this strategic plan is the initial step to ensure greater accountability and transparency within the Department of Public Safety. This plan will be reviewed on a quarterly basis, at minimum, to ensure the strategic priorities align with Hawaii's needs. Additionally, this plan will be used as a steppingstone towards a larger, five-year strategic plan that will encompass major problems to be addressed and strategies on how to address the problems. The five-year plan will include feedback and collaboration from county and state officials in addition to community, family, staff, and people in custody.

The next steps to implementing this plan include:

- Recruiting talented and passionate staff to execute the mission of HCSOC (*Current*)
- Designing and implementing procedures to operationalize strategies detailed in this plan (*Spring, 2023*)
- Updating the HCSOC website to ensure access to data and complaint tools are accessible (*Summer, 2023*)
- Reporting on the progress of this plan on a quarterly basis (*Spring, 2023*)

- Work in partnership with the community, families, people in custody, staff, Department of Public Safety, and other stakeholders to ensure open-mindedness and collaboration from those affected the most. (*Continuous*)

ORGANIZATIONAL CHART



COMMUNITY PARTNERSHIPS

It is no secret that without community partners, the Hawaii Correctional System Oversight Commission never would have come to fruition. The Commission and Oversight Coordinator would like to thank all community partners who have dedicated so much time, patience, and energy to ensuring accountability exists within the Department of Public Safety. We look forward to continuing to partner with you and thank you for your ongoing support. We do not take it for granted.

Mahalo!

Appendix 2
2022 Monthly Oversight Coordinator
Reports

State of Hawaii
Hawaii Correctional System Oversight Commission
Oversight Coordinator Monthly Report
Date of Report: August 18th, 2022

Commission Chair
Mark Patterson

Commission Members
Hon. Ronald Ibarra (ret.) Martha Torney
Hon. Michael Town (ret.) Theodore Sakai

Oversight Coordinator
Christin Johnson

In accordance with House Bill 1552, Act 179 of 2019, the Oversight Coordinator shall submit a monthly report to the commission, the Governor, and the Legislature. The monthly report shall include actions taken by the commission and expenses for the preceding month. In addition to the mandated parties this report must be shared with, the Oversight Coordinator will publicly post the monthly report to increase transparency and accountability. This report will also be shared with each individual who has the responsibility of appointing members of the Commission. This includes:

- 1) Governor of Hawaii
- 2) President of the Hawaii Senate
- 3) Speaker of the Hawaii House of Representatives
- 4) Hawaii Supreme Court Chief Justice
- 5) Chairperson of the Board of Trustees of the Office of Hawaiian Affairs

Actions Taken

Annual Budgeting

- Finalized and submitted expenditure plan to the Commission for FY 2022. Approved by the Commission on July 21st, 2022.
- Drafted and submitted biennium expenditure plan for FY 23-25. Review and approval by Commission is taking place on August 18th (date of report).

Facility Tours

Initiated and planned weekly facility tours:

- Oahu Community Correctional Center (OCCC) – July 25th
- Halawa Correctional Facility (HCF) – August 2nd
- Waiawa Correctional Facility (WCF) – July 10th
- Women’s Community Correctional Center (WCCC) – August 16th
- Kulani Correctional Facility (KCF) – August 25th (upcoming)
- Hawaii Community Correctional Center (HCCC) – August 25th (upcoming)
- Saguaro Correctional Center – CoreCivic private facility in Eloy, Arizona – September 8th and September 9th (upcoming)

The Oversight Coordinator wishes to extend special thanks to Max Otani, Department of Public Safety Director and Tommy Johnson, Deputy Director for Corrections for assisting in facilitating all orientations and facility tours. In addition, the Coordinator extends special thanks to all facility staff for their cooperation, expertise, and professionalism.

Initial Impressions of Facilities

Below are brief initial impressions gathered from each facility tour. Please note these are only *initial* impressions, and priority areas in each facility are subject to change. The goal of sharing these impressions is to increase transparency and begin to create strategies and how to best navigate the below systemic concerns and work with the Department of Public Safety on solutions that encompass a rehabilitative mindset. We appreciate the Department of Public Safety's cooperation throughout this process.

Oahu Community Correctional Center (OCCC)

- 1) Evident staffing shortages specifically affecting constant and direct observation of individuals on suicide watch and safety watch.
- 2) Evident Overcrowding
 - a. Individuals have mattresses on floor in dorm settings, or mattresses stored under bunk beds in cell settings.
 - b. Spaces where 4 individuals were housed in a cell designed for 1 or 2 individuals.
- 3) Healthcare Concerns
 - a. Infirmary is stationed in what appeared to be a designated hallway. Lack of privacy, space, and dignity.
 - b. Clinic space in general lacked privacy and was a small space for clinicians and patients potentially affecting HIPAA.

Halawa Correctional Facility (HCF)

- 1) Highly punitive design which creates concerns of lack of rehabilitative design and functionality.
 - a. Limited out of cell time due to limited staff, and limited accessible recreation yards.
 - b. Mental health patients housed in a punitive setting.

Waiawa Correctional Facility (WCF)

- 1) Evident staffing shortages potentially affecting opportunities for people in custody to work on work lines and become involved in job assignments and programming.
- 2) No cameras at WCF which creates concerns for investigative processes regarding drug use, contraband, PREA concerns, etc.
- 3) Lack of bed utilization in rehabilitative space.

Women’s Community Correctional Center (WCCC)

- 1) Extremely old infrastructure
 - a. In-house air conditioner broke down causing high heat in cell areas.
- 2) Lack of working cameras which creates concerns for investigative processes regarding drug use, contraband, PREA concerns, etc.

Based on these initial tours, the Oversight Coordinator reasonably believes the following issues are present at all correctional facilities on island:

- 1) Evident staffing shortages
 - a. Mandatory overtime for 16- and 24-hour shifts potentially affecting officer safety and safety of incarcerated population.
 - b. Limits out-of-cell time for people in custody (in unit and outdoor recreation).
- 2) Down Electronic Medical Record (EMR)
 - a. The EMR has been out of commission since June 14th causing staff to rely on a paper/pen-based system with no clear indication of when the EMR will be back up for staff utilization.

Hiring Processes

The position for the Clerical Assistant was publicly posted on August 15th 2022. Interviews will be on a rolling basis until the position is filled. The position can be found here: <https://www.governmentjobs.com/careers/hawaii/jobs/3681974/clerical-assistant>

Expenses for Preceding Month

				Total	Note
Inter-Island Correctional Facility Travel				\$250.43	
August Big Island Airfare	\$71	2.00	\$141		
August Big Island Car Rental	\$69	1.00	\$69		
August Big Island Daily Per Diem	\$20	2.00	\$40		
Lodging			\$0		
Airport Parking			\$0		
Mainland (AZ) Correctional Facility Travel				\$3,930	
September Trip Airfare	\$849	2.00	\$1,698	Airfare (CJ and MP) \$1,697.98 (\$848.99 ea). Airfare also encompasses NACOLE 2022 conference.	
September Trip Daily Per Diem	\$145	8.00	\$1,160	4 days, 2 people	
September Trip Lodging	\$440	2.00	\$880	2 people. (3 nights @ approx. \$146.60)	
September Trip Car Rental	\$192	1.00	\$192		
Memberships + Conferences				\$7,716.84	
National Association of Civilian Oversight of Law Enforcement (NACOLE) Annual Dues	\$500	1.00	\$500		
NACOLE Annual Conference	\$656	2.00	\$1,313		
Airfare	\$849	2.00	\$1,698	Airfare (CJ and MP) \$1,697.98 (\$848.99 ea). Airfare added into Mainland AZ visit as price encompasses both trips.	
Daily Per Diem	\$145	12.00	\$1,740	6 days, 2 people	
Lodging	\$1,233	2.00	\$2,466	2 people. (6 nights @ approx. \$205.50)	

State of Hawaii
Hawaii Correctional System Oversight Commission
Date of Report: September 2nd, 2022

Commission Chair
Mark Patterson

Commission Members
Hon. Ronald Ibarra (ret.) Martha Torney
Hon. Michael Town (ret.) Theodore Sakai

Oversight Coordinator
Christin M. Johnson

In July of 2022, the first Oversight Coordinator for the Hawaii Correctional System Oversight Commission was hired. Since that time, the Oversight Coordinator has been becoming familiar with each facility run by the Department of Public Safety by touring one of the eight facilities at least weekly. A Commission member, Theodore (Ted) Sakai, has accompanied the Coordinator on these initial tours for additional context and support. To date of this report, the Coordinator and Commissioner Sakai have toured:

- Oahu Community Correctional Center (OCCC)
- Halawa Correctional Facility (HCF)
- Waiawa Correctional Facility (WCF)
- Women’s Community Correctional Center (WCCC)
- Kulani Correctional Facility (KCF)
- Hawaii Community Correctional Center (HCCC)
- Maui Community Correctional Center (MCCC)

It has been the Coordinator’s plan and intention to share initial impressions of each facility tour within the Coordinator’s monthly report shared at the monthly Commission meeting. However, this report is being released outside of the Commission meeting due to serious and immediate concern involving the safety of those who work and live at Hawaii Community Correctional Center (HCCC).

Below are initial observations and impressions from the August 25th tour of HCCC. The impressions are shared by the Oversight Coordinator, Christin Johnson and by Commissioner Ted Sakai. Please note these are only *initial* impressions, and although serious, are not exhaustive. Additionally, the vast majority of impressions will highlight conditions in one particular unit (Punahele), but this does not mean conditions throughout the rest of the facility are acceptable.

Lastly, the Coordinator would like to highlight that the below issues are a system-failure. These issues were not caused by, and cannot be solved by, the Warden or staff at the facility alone. Additionally, many of the below issues took months or years for the conditions to reach their current state. It was the Coordinator’s impression that the Warden is doing the most he can for his staff and the people housed under his supervision. It is clear the Warden

tours the facility often and has respect from staff and people in custody alike. Although the Warden did specify that he has been working with the courts on solutions to the overcrowding, overcrowding and shortage of staff is not a solution he can solve on his own. Therefore, it is the hope of the Oversight Coordinator and the Hawaii Correctional System Oversight Commission that the heads of the Department of Public Safety take this report extremely seriously and take action immediately. It is understood that some of the following concerns will take an extended period of time to address, however, it is expected that the Department will form specific strategies and immediate plans to address the following issues.

In blue, the Oversight Coordinator has noted a selection of the Federal Performance Based Detention Standards. This highlights the importance of having a set plan to fix these issues immediately as these are not only local issues, but issues of potential federal concern. Attached to this report are the Federal Detention Standards from May 2022.

Hawaii Correctional System Oversight Commission
Hawaii Community Correctional Center (HCCC) Initial Tour
Oversight Coordinator, Christin Johnson
Commissioner Ted Sakai
Thursday, August 25th 2022
Approximately 3pm-5pm

Overcrowding

On August 25th, three buildings at HCCC (Punahale, Komohana and Waianuenue) had a head count of 259 while the facility has a design capacity of 152. This puts the facility at a 170% occupancy rate. Nearly every cell, each originally designed for one person, had three or four individuals housed. The back area of Punahale had approximately 15 men housed with mattresses on the floor.

According to Commissioner Sakai, the official capacity of Punahale is 22. This is because the cells are smaller than standard, at about 60 square feet per cell. With six cells out of commission, the capacity is 16. On August 25th, **83** people in custody were housed in the building. The count in Komohana was **92**. Komohana consists of 32 cells, designed to hold two people each. Its operational capacity is 64. Waianuenue consists of two sections, each with five open bays, intended to house four inmates each. Its operational capacity is 40. It held **78** inmates, almost double its capacity.

Severe Safety and Security Concerns

During the tour, the Oversight Coordinator looked into approximately four cells that were being used to house the women in the facility. These cells appeared to be in a hallway of the facility, potentially used as intake or short-term housing. One cell in particular was a dry-cell, meaning it had no toilet or access to water. This cell had at least five women housed inside with mattresses on the floor. The Oversight Coordinator asked the women how long they had been in that cell – one woman said a month and the others had said two

weeks. Dry cells are meant to be used for a few hours while proper placement is found. Dry cells are designed for temporary holding, never to be used as housing.

Another cell had one woman in it who appeared to be on suicide watch, or safety watch. There was no bed or mattress in the dry cell. The last two cells could not be viewed due to the glass being blocked by either a dried liquid or paper from the inside of the cell. It was unclear how long the glass had been blocked. Since the area was a hallway and not been setup as a housing area, it was also difficult to tell how much supervision the women had, or who was designated to allow the five women in the dry-cell opportunities to use the restroom.

From the hallway, the tour moved into a housing unit called Punahale. This space was a large open area (multipurpose room 1) with an officer desk, some tables and chairs, and a TV. In the back was a large glass room (multipurpose room 2), which appeared to be a dayroom or program room at one point in time. To the right and left were doors that led to cells. In the multipurpose room 2, there were approximately 15 men who had mattresses on the floor. This appeared to be their housing unit even though they had no access to running water or toilets. This is comparable to a dry-cell.

Through each of the doors, there were four or more cells. One unit of cells (G-Unit) did not have any bunkbeds or bedframes at all – only mattresses on the floor. Another unit of cells, which had 10 cells in an L-shape were in horrendous condition. It was impossible to have a clear view inside the cells as nearly every glass panel was shattered and badly damaged. Additionally, many (if not all) of the doors had padlocks on them.

Padlocks on cell doors add significant delay in reaching people in custody if there is an emergency (assault, fight, medical emergency, fire, etc.). A combination of staffing shortages, lack of visibility, and padlocks on the cell doors is of grave concern for how often individuals are being checked on and monitored. Additionally, it is unreasonable to expect one floor officer to conduct 40-minute (or random) tours and to do their due diligence of physically seeing every person in custody when visibility is near impossible, and padlocks are being used to secure the doors. Lastly, it is not possible for the officer to see or hear what is happening in any of the cells from the officer desk, or in the large open area in general. This also creates an extremely unsafe condition for staff who are forced to open the doors in order to check on individuals who undoubtedly are experiencing high-tensions due to the inhumane living conditions they are faced with.

Lack of Programs and Basic Services

The Oversight Coordinator spoke to the men in the Multipurpose Room 2 of Punahale who confirmed they had been living there for a long period of time. Additionally, they had concerns regarding visits, lack of basic services and hygiene products, and clothing. The Oversight Coordinator asked if they had used the grievance system, and they claimed they try to but never receive responses. Some of these concerns are detailed below:

- No in-person visits due to ongoing construction (*confirmed*)
- No outdoor recreation (*confirmed*)
- No soap or hygiene products (*did not witness any products out or near mattresses*)

- When laundry is sent out and returned, most items are still wet or soggy. (*witnessed clothing hanging on the wall*)
- Access to one uniform and no undergarments. Most uniforms were mismatched and torn. (*witnessed serious lack of uniforms*)
- Mail is taking over two weeks (*unconfirmed*)

Suicide/Safety Watch

During the tour, the Oversight Coordinator witnessed two individuals on suicide-watch (*assumption due to individuals wearing suicide smocks*) who were being held outside near the shipping container/covid pod (see below). It was unclear where they were being housed.

Commissioner Sakai noticed that two males in suicide watch were standing in the corridor next to the door to the dayroom. A female Adult Correction Officer (ACO) was with them throughout. Apparently, they were going to the bathroom in the corridor. Each went separately. When they were in the bathroom, the door was closed and there was no way they could be observed.

Note: During a second tour of HCCC on August 31, 2022, the Oversight Coordinator found two individuals on Safety Watch who were housed behind a door in Punahale, on the floor, in front of four cells in G Unit. This is of serious concern due to 1) lack of access to water and toilets, 2) lack of visibility from officer desk, 3) lack of privacy from 12+ people in custody within the cells, 4) no bedframe, 5) no area to store their property, and 6) a complete lack of humane treatment and decency as a whole towards individuals with potentially self-harming ideations and/or actions. This is of particular concern given the recent string of successful suicides within the Hawaii correction system.

Shipping Container/Covid-Housing

The Department of Public Safety used funding to acquire housing for those who are exposed to covid, or who have had a positive covid test. The housing is a shipping container that has four cells and, based on the cell size appeared to be made for two people in custody. However, each cell had a three-tiered bunk bed and a minimum of three to four people inside (where present, the fourth individual had a mattress on the floor). The cells had little circulation, no food slot, and a small window with low visibility for officers to see.

Note: During a second tour of HCCC on August 31, 2022, the Oversight Coordinator noticed two of the lights were not working in the first and fourth cell. Due to a lack of windows and lack of natural light, the cells were completely pitch black. An officer had expressed that they must use their flashlight to shine in the cells and see. These cells present a lack of space and sunlight in addition to concerns for officer safety since they must open the cell doors to give people their meals.

Recreation

The shipping container/covid-housing was placed where the recreation yard used to be. This yard was behind Punahale. During the tour, the Oversight Coordinator did not witness anyone throughout the facility outside for recreation. There was one small recreation yard that was near the back of the facility. It is unreasonable to believe that the facility has

enough staff to escort people in custody to and from the one recreation yard and allow everyone housed at HCCC the opportunity for one hour outside each day. Further, many of the people in custody cannot mix and cannot be escorted at the same time of others being escorted to law library, medical, and other services.

During the tour of Punahale, four or five men were in the large open space watching TV. They were cuffed at their feet and had belly chains. The men told the Oversight Coordinator and Commissioner Sakai that they were out of their cells for recreation. The Oversight Coordinator asked if they were given the option to go outside and the men responded no. Access to a dayroom does not suffice as recreation.

Visits

Staff confirmed that individuals housed in Punahale do not have access to any visits due to ongoing construction. It is unclear if others throughout the facility have access to in-person visits. Video visits do not suffice as a visiting option due to the cost alone. It is 25 cents per minute to have a video visit, which many people in custody and their families cannot afford.

Potential Federal Violations

Potential federal violations are presented in blue below and underlined for emphasis. The Oversight Coordinator chose to include these to highlight the necessity for immediate intervention of conditions at HCCC. This list is based on the *initial* impressions of the facility and are not exhaustive. This list corresponds to the Federal Performance Based Detention Standards Rev 11 May 2022. Although the detention standards are typically used to establish the performance level required by the Government to meet the detention contract requirements, the Coordinator finds it to be a reasonable tool for oversight standards. The Federal Performance Based Detention Standards have been shared with the Department of Public Safety and are attached to this report.

Quality Control

A.2.1 An internal quality control plan requires an annual review of the facility operations to ensure compliance with facility policies and procedures. Corrective measures are identified and completed.

Prisoner Hygiene

F.4.1 Prisoners have access to toilets and washbasins with temperature controlled hot and cold running water 24 hours per day and are able to use toilet facilities without staff assistance when they are confined in their cells/sleeping areas.

Services and Programs

G.1.2 The classification process ensures prisoners are housed in the least restrictive setting necessary to ensure their own safety, as well as the safety of staff, other prisoners, other prisoners, and the public. DOJ - Restrictive Housing Report

G.7.1 The facility has a prisoner visitation program to facilitate the maintaining of family and community ties. Sufficient space is provided for:

- G.7.2.a Prisoner visiting;
- G.7.2.b Screening and searching of prisoners and visitors; and
- G.7.2.c Storage of visitor's coats, handbags, and other personal items not allowed into the visiting area.

Security and Control

C.1.3 Correctional officer posts are located in the immediate prisoner living areas to permit officers to see, hear, and respond promptly to emergency situations.

C.1.4 Prisoners classified as medium or maximum security risks are personally observed by an officer at least every 40 minutes on an irregular schedule. Prisoners classified as minimum or low security risks are personally observed by an officer at least every 60 minutes on an irregular schedule.

C.1.11 A qualified person conducts at least weekly inspections of all security devices, identifying those needing repair or maintenance. Results of the weekly security inspections are reported in writing.

Safety and Sanitation

F.1.12 Use of padlocks and/or chains on cell doors and areas of assembly are prohibited.

F.2.1 The facility is kept clean and in good repair. A housekeeping and maintenance plan addresses all facility areas and provides for daily housekeeping and regular maintenance by assigning specific duties and responsibilities to staff and prisoners.

F.2.11 The number of prisoners does not exceed the facility's rated bed capacity.

F.2.11 Prisoner sleeping surfaces and mattresses are at a minimum 12 inches off the floor.

F.3.1 Facility clothing is properly fitted, climatically suitable, durable, and presentable.

F.3.2 Prisoners are issued clean well-maintained clothing items in a sufficient quantity of each item, or provided an opportunity to exchange or have laundered, each item on a weekly equivalent basis:

F.3.2.a Two outer garments (two shirts & pants, or two jumpsuits).

F.3.2.b Seven pairs of underwear (seven undershirts, seven drawers in accordance with gender needs).

F.3.2.c Seven pairs of socks.

F.3.3 Prisoners are issued one pair of facility footwear.

F.3.4 Prisoners are issued clean linens and towels in the following quantities and are provided the opportunity to exchange, or have laundered, these items each week:

F.3.4.a Two sheets.

F.3.4.b One pillowcase.

F.3.4.c One towel.

F.3.5 Prisoners are issued clean blankets in sufficient quantity to provide comfort under existing temperature controls.

F.3.5.a Prisoners blankets or dust covers are exchanged bi-weekly.

Prisoners are issued one mattress, with cushion thickness of four inches.

F.4.4 A variety of articles for maintaining proper personal hygiene are available to all prisoners.

Discrimination Prevention

A.8.2 When both males and females are housed in the same facility, all available services and programs are comparable. Neither gender is denied opportunities on the basis of its smaller number in the population.

Recreation

G.6.1 Prisoners have access to exercise opportunities and equipment, including at least one-hour daily of physical exercise outside the cell and outdoors, when weather permits. (Access to the housing unit's dayroom does not satisfy the standard's requirement.)

G.6.2 Prisoners have opportunities to participate in leisure-time activities outside their respective cell or living room on a daily basis. 4-ALDF-5C-02

Initial Steps Taken

On Monday August 29th, Commissioner Sakai shared initial observations and impressions with the Oversight Coordinator, the Correctional System Oversight Commission, and Director of Public Safety, Max Otani. The observations and impressions are attached to this report. On Tuesday, August 30th, Commissioner Sakai and Director Otani met in person to discuss the findings in detail. On Wednesday, August 31st the Oversight Coordinator conducted a second tour of HCCC with Tommy Johnson, Deputy Director for Corrections, Michael Hoffman, Institutions Division Administrator, and Warden Cramer Mahoe. After the tour, the four strategized on what steps could be take immediately and what plans could be initiated for future repairs and resolutions.

The following are the initial steps taken after the August 31st tour:

1. Tommy Johnson, Director for Corrections, immediately went to the courts on the Big Island and contacted Probation to ensure the following:

- a. All Sentenced Felony Probations, who have been returned to custody and have an incarceration sanction of more than 90 days, and providing they are not pending early release to a program and/or have new pending charges, will be temporarily transferred to HCF (Male) or WCCC (Female).
 - b. The list of Sentenced Felony Probationers shall be reviewed and verified by multiple parties (Probation and Corrections) to ensure the information in “a” above prior to any transfers taking place.
 - c. Once the list has been reviewed and finalized, the inmates will be on the scheduled flight a little later his month, or if there are enough, an additional flight(s) will be scheduled as needed to get the transfers done sooner than later.
2. Further plans are being developed for transferring sentenced misdemeanants to KCF, provided they are not pending new charges and have a yet to be determined period remaining prior to release.
 3. The Department will work with other Wardens to request volunteer maintenance staff from other facilities to assist HCCC in immediate critical safety repairs, including, but not limited cell windows that are broken, cracked, etc., and other repairs as determined by Warden Mahoe and/or his facility maintenance supervisor. In order this to occur, HCCC agrees to ensure the following:
 - a. All work assignments, tools, and materials, etc., will be ready for the maintenance staff from other facilities upon their arrivals.
 - b. HCCC agrees to allow the maintenance staff from other facilities to utilize facility maintenance vehicles as needed.
 - c. HCCC agrees to pick up and drop off the maintenance staff at the airport and meal issues will be worked out with the staff.
 4. Bunks removed from inmates’ cells that were flooding will be returned.
 5. Lights in the portable isolation modular units will be repaired.
 6. HCCC will make every effort to ensure inmates housed in the portable isolation modular units and other housing areas are let out for recreation in the area immediately behind the modular units or other suitable secure area providing adequate staffing are present, even if recreation time has run into 3rd shift from 2nd shift.
 7. The Oversight Coordinator has shared federal standards with the Department of Public Safety to ensure all staff are aware the standards exist and must be adhered to.

8. The Department has agreed to a follow up plan with the Oversight Coordinator. This will encompass weekly updates, biweekly facility tours of HCCC from the Oversight Coordinator, and monthly updates from the Department of Public Safety to the Hawaii Correctional Oversight Commission during the monthly meetings.

Longer Term Oversight Plan

It is not the goal or intention of the Oversight Coordinator to set the Department of Public Safety up for failure. Therefore, there is no immediate plan to conduct a formal audit or survey of conditions within the facility. Instead, the Oversight Coordinator has shared the federal standards (NCJ 74323 1980 *Federal Standards for Prisons and Jails*) with the Department of Public Safety so that all staff are aware of what is to be expected in the future. Further, the Oversight Coordinator will continue to work with the Department of Public Safety on recommendations and policy changes to assist with all issues listed within this report. The Oversight Coordinator commits to:

- 1) Conducting biweekly tours of HCCC until the Hawaii Correctional System Oversight Commission and Oversight Coordinator agree tours can shift to a monthly schedule.
- 2) Publicly reporting on progress made within the facility. These monthly reports will focus on a few key areas:
 - a. Quality control of facility operations and ensuring the Department of Public Safety has a plan to actively fix all issues listed.
 - b. Hygiene
 - c. Services and Programs
 - d. Security and Control
 - e. Safety and Sanitation
 - f. Discrimination Prevention
 - g. Recreation
- 3) Adding an agenda item to the monthly Hawaii Correctional System Oversight Commission meetings so the Department of Public Safety has an opportunity to share progress that's been made.
- 4) Sharing this report and future reports with the Legislature to support funding to the Department of Public Safety for immediate facility and infrastructure improvements.
- 5) Requesting the Department of Public Safety initiates and releases a strategic plan for long-term fixes, particularly regarding overcrowding. The Oversight Coordinator can be a part of this plan if the Department finds the partnership conducive. The Oversight Coordinator expects this plan to include legislative action and working with other agencies (courts, prosecution, probation, etc.) who deeply affect the population the Department receives.

Initial Observations and Impressions

Based on Tour of the Hawaii Community Correctional Center on Thursday, August 25, 2022

Ted Sakai, Member, Hawaii Correctional System Oversight Commission

August 28, 2022

On Thursday, August 25, 2022, I accompanied Oversight Coordinator Christin Johnson on an orientation tour of the Kulani Correctional Facility (KCF) and the Hawaii Community Correctional Facility. We visited the KCF first, and left for HCCC at about 1:30 p.m. We met HCCC Warden Cramer Mahoe at Hale Nani. After a quick tour of Hale Nani, we went directly to the main HCCC facility, arriving at about 3:00. We visited every housing unit of the facility, and left for the airport at about 5:30 p.m. Warden Mahoe accompanied us throughout the tour.

The following focuses on the main HCCC Complex, which consists of three permanent buildings in which inmates are housed: Punahale, Komohana and Waianuenue. In addition, a temporary housing unit has been established in a container purchased with CARES Act funding, for COVID related housing. This container consists of four cells.

Observations:

- Every building at the main facility is egregiously overcrowded. In particular, crowding at Punahale is an unacceptable levels.
- Inmates are housed, perhaps for extended times, in units with no plumbing and no source of natural light.
- Many security locks on doors to cells in Punahale have failed. The facility is in the process of replacing the doors to these cells. Currently six cells are out of commission because of this project. Meanwhile, the cells with failed locks are secured by padlocks.
- The windows on virtually all the doors to the cells in the L-shaped corridor are badly damaged, impeding observation by staff into the cells. We were informed that each of the ten cells in this area house three or four inmates, although the cells should hold only one inmate. It is extremely difficult for staff to make effective security checks of these cells.
- About 15 inmates were housed in “the fishbowl”, a room originally designed for program purposes. There is no plumbing in this room.
- Five women inmates are housed in an observation room between the health care corridor and the control station. This room was designed for short-term observation of newly admitted inmates. There is no plumbing or natural light in this room. Not all of the five inmates were readily visible through the observation window.
- Several other rooms along the health care corridor also housed women inmates. These rooms have no plumbing and were designed for short-term holding of inmates newly admitted or being processed for release.
- The COVID container has been placed in the small outdoor recreation yard. At least one of the four cells held four inmates. My observation is that it should hold two inmates. An ACO was posted directly outside of the container.
-

Initial Observations and Impressions: HCCC
Ted Sakai, Member HCSOC
August 28, 2022.

- Because of the placement of the container, the only outside recreation area for the main facility has been decommissioned. As a result, Punahale inmates take “recreation” in the Punahale dayroom. This seriously limits access of out-of-cell time for inmates who are locked in their cells for most of their waking hours. For example, at one point in our tour, two inmates in leg irons were in the large dayroom, watching television. Because of their security status (max custody or segregation) there could be no other movement through the dayroom.
- I noticed that two male inmates in suicide watch were standing in the corridor next to the door to the dayroom. A female ACO was with them throughout. Apparently, they were going to the bathroom in the corridor. Each went separately. When they were in the bathroom, the door was closed and there was no way they could be observed.
- We later saw the same two inmates sitting in a narrow corridor next to the container. We are not certain where they were housed, even though they were on suicide watch. Inmates on suicide watch must be housed in suitable cells.
- The count in Komohana was 92. Komohana consists of 32 cells, designed to hold two inmates each. Its operational capacity is 64.
- Waianuenue consists of two sections, each with five open bays, intended to house four inmates each. Its operational capacity is 40. It held 78 inmates, almost double its capacity.

Impressions:

- The use of padlocks on cell doors is of serious concern, as the inmates in these cells cannot be readily evacuated in an emergency.
- The official capacity of Punahale is 22. This is because the cells are smaller than standard, at about 60 square feet per cell. With six cells out of commission, the capacity is 16. On August 25, 83 inmates were housed in the building.
- The inability for inmates to access the dayroom in Punahale is of serious concern, and it fosters high levels idleness among inmates who are cramped in severely overcrowded cells. Professional standards and the Commission’s official capacities assume that half the inmates assigned to a housing unit can access the dayroom at any given time during normal waking hours. We do not believe this is occurring.
- Professional Standards and the Commission’s official capacities require that inmates have access to toilets and hand-washing facilities 24 hours per day and are able to use toilet facilities without staff assistance when they are confined in sleeping areas. Most of the inmates housed in Punahale do not have such access.
- Professional standards and perhaps case law require that inmates have the opportunity for large motor exercise at least one hour per day. The facility is unable to provide this.

State of Hawaii
Hawaii Correctional System Oversight Commission
Oversight Coordinator Monthly Report
Date of Report: September 22, 2022

Commission Chair
Mark Patterson

Commission Members
Hon. Ronald Ibarra (ret.) Martha Torney
Hon. Michael Town (ret.) Theodore Sakai

Oversight Coordinator
Christin M. Johnson

In accordance with House Bill 1552, Act 179 of 2019, the Oversight Coordinator shall submit a monthly report to the Commission, the Governor, and the Legislature. The monthly report shall include actions taken by the Commission and expenses for the preceding month. In addition to the mandated parties this report must be shared with, the Oversight Coordinator will publicly post the monthly report to increase transparency and accountability. This report will also be shared with each individual who has the responsibility of appointing members of the Commission. This includes:

- 1) Governor of Hawaii
- 2) President of the Hawaii Senate
- 3) Speaker of the Hawaii House of Representatives
- 4) Hawaii Supreme Court Chief Justice
- 5) Chairperson of the Board of Trustees of the Office of Hawaiian Affairs

Actions Taken

Budgeting

- Finalized and submitted biennium expenditure plan for FY 23-25. Approved by the Commission on August 18th and submitted to AG's office on September 1st.

Facility Tours

Completed initial facility tours:

- Kulani Correctional Facility (KCF) – August 25th
- Hawaii Community Correctional Center (HCCC) – August 25th
- Maui Community Correctional Center (MCCC) – August 29th
- Kauai Community Correctional Center (KCCC) – September 6th
- Saguaro Correctional Center – CoreCivic private facility in Eloy, Arizona – September 8th and September 9th

Completed additional facility tours:

- Hawaii Community Correctional Center (HCCC) – August 31st
- Hawaii Community Correctional Center (HCCC) – September 21st

The Oversight Coordinator wishes to extend special thanks to Max Otani, Department of Public Safety Director and Tommy Johnson, Deputy Director for Corrections for assisting in facilitating all orientations and initial facility tours. In addition, the Coordinator extends special thanks to all facility staff for their cooperation, expertise, and professionalism.

Initial Impressions of Facilities

Below are brief initial impressions gathered from each facility tour. Please note these are only *initial* impressions, and priority areas in each facility are subject to change. The goal of sharing these impressions is to increase transparency and begin to create strategies and how to best navigate the below systemic concerns and work with the Department of Public Safety on solutions that encompass a rehabilitative mindset. We appreciate the Department of Public Safety's cooperation throughout this process.

The initial impressions of Oahu Community Correctional Center (OCCC), Halawa Correctional Facility (HCF), Waiawa Correctional Facility (WCF), and the Women's Community Correctional Center (WCCC) are outlined in the August Oversight Coordinator Report.

Kulani Correctional Facility (KCF)

- 1) Rehabilitative environment with cabin-like housing units.
- 2) Lack of bed utilization in rehabilitative space.
- 3) Programming and correctional industry space not being utilized.
 - a. Woodshop
 - b. Sewing
 - c. Laundry

Hawaii Community Correctional Center (HCCC)

See attached report regarding conditions at HCCC.

Maui Community Correctional Center (MCCC)

- 1) Evident staff shortages and lack of movement within facility.

Kaui Community Correctional Center (KCCC)

- 1) Inappropriate use of Covid Container for permanent housing of women.

Saguaro Correctional Center – CoreCivic private facility in Eloy, Arizona

- 1) Clearly highlighted the benefits of having a newer facility (built in 2009) which focused on strategic movement and rehabilitation. Clean, organized, and spacious. Fresh paint, many Hawaii-based murals.
- 2) Emphasized reality that people in custody would rather be nearly 3,000 miles from their family, friends, and community versus being housed in the Hawaii facilities.

The Oversight Coordinator has now visited all Hawaii and contracted facilities. Based on the initial tours, the Oversight Coordinator reasonably believes the following issues are present at all correctional facilities on island:

- 1) Evident staffing shortages
 - a. Mandatory overtime for 16- and 24-hour shifts potentially affecting officer safety and safety of incarcerated population.
 - b. Limits out-of-cell time for people in custody (in unit and outdoor recreation).
- 2) Serious overcrowding attributing to inhumane conditions
- 3) Classification Concerns
 - a. Nearly 80% of people in custody are in secure settings. Average rate across the country is 40-50%.
 - b. Serious lack of movement and out-of-cell time for those in custody.

Department of Public Safety Response

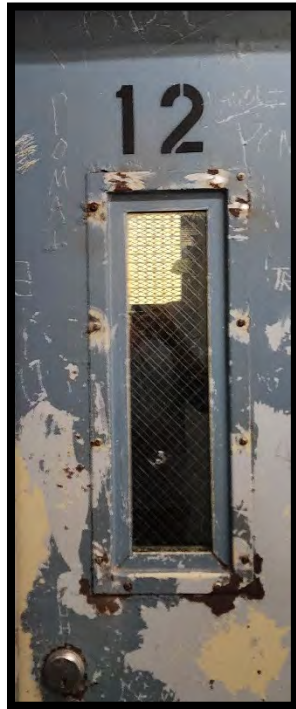
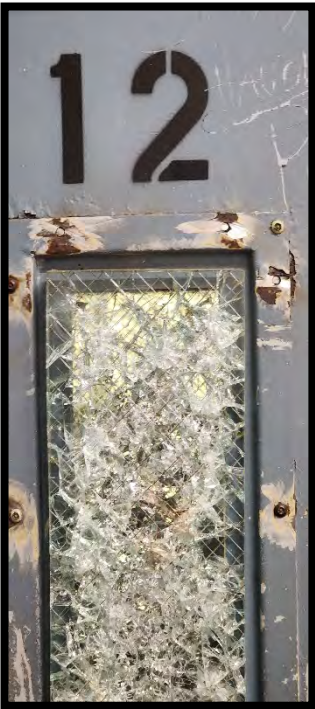
The Department of Public Safety is aware of all the above concerns and has been responsive to the Oversight Coordinator. Regarding staffing shortages, for example, PSD has stated that they are conducting day and evening classes for new recruits, have hired dozens of emergency hires, and approved some retirees to temporarily return as emergency hires. Regarding the aging facilities, PSD has stated that they continuously request Construction Improvement Projects (CIP) but have only received 10% of what has been requested which severely limits facility upgrades.

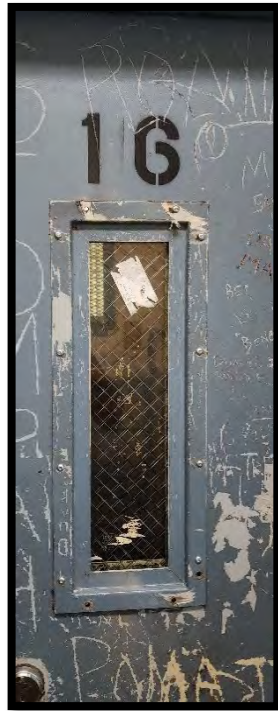
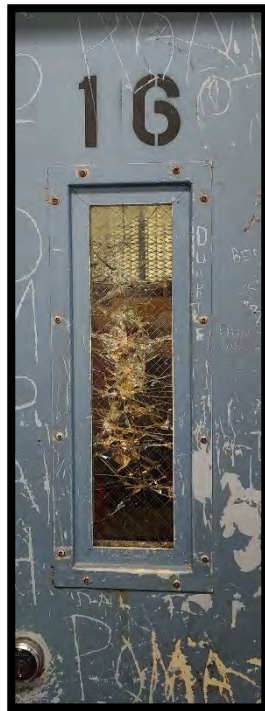
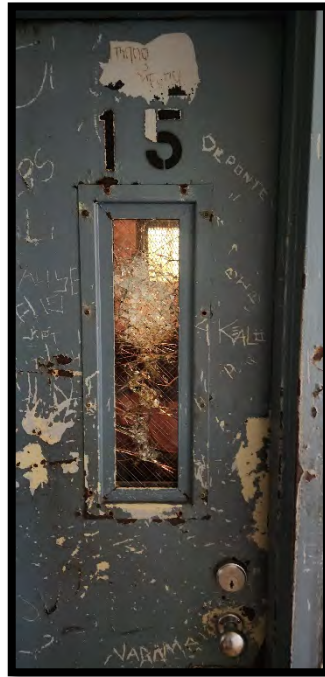
It's important to note that the above concerns have taken years to manifest and will take time to fix. The Oversight Coordinator and Correctional System Oversight Commission looks forward to continuing to work with the Department of Public Safety to find solutions regarding systemic issues found throughout the facilities.

HCCC Conditions Update

Attached to this report is a report from September 2nd, 2022, highlighting serious issues and concerns regarding inhumane conditions at HCCC. In the report, attention is brought to the smashed and broken cell windows which prevented officers from seeing into the cells to complete their rounds effectively. The Department of Public Safety submitted the below before and after photos of the cell windows on September 13th, 2022. The Coordinator wishes to thank Tommy Johnson, Deputy Director for Corrections, Michael Hoffman Institutions Division Administrator, and HCCC facility staff for taking these concerns seriously and replacing the cell windows shortly after the initial HCCC tour. It is important to note that the facility is currently undergoing construction to completely replace each of the cell doors in Punahale. Two units have been completed, two units are currently in progress, and one unit is pending construction after the other units are complete. The last unit to be constructed on is where the below photos are from.

The following photos are before and after pictures highlighting the previous and current condition of the cell windows in the L-shape corridor in Punahale. The after pictures show important progress for officers to be able to effectively complete their tours.





National Association of Civilian Oversight of Law Enforcement (NACOLE) 2022 Conference

The National Association for Civilian Oversight of Law Enforcement (NACOLE) is a non-profit organization that brings together individuals and agencies working to establish or improve oversight of police and corrections in the United States. Since NACOLE's first event in 1995, the organization has worked to put together a comprehensive, informative, and inclusive Annual Conference that addresses both skills training and current and emerging topics. Stretching over four days, the conference provides a forum where the growing community of civilian oversight practitioners, law enforcement officials, journalists, elected officials, students, community members, and others can meet to exchange information and ideas about issues facing civilian oversight of law enforcement.

The 2022 Conference was held in Fort Worth, Texas from September 11th – 15th. The Chair of the Commission, Mark Patterson, attended the conference and participated in many of the panels, particularly the panels specific to corrections oversight including:

- A Gender Responsive Approach to Corrections
- The Fine Line Between Oversight and Operations
- Violence in Jails and Prisons: Strategies for Oversight and Prevention
- The Value of Comparative Prison Oversight Across State Boundaries: Lessons from Illinois, New York, and Pennsylvania
- Starting a New Prison Oversight Body: A Conversation with New Jersey's Correctional Ombudsman

The Chair was also invited to be a part of the panel, "A Gender Responsive Approach to Corrections" to highlight his work with the juvenile girls in the state of Hawaii.

General Office Updates

The office of the HCSOC has an official mailing address, website, email, and social media. The website is still in draft mode but will officially be posted within the next two weeks to make the Commission's work more widely available to the public.

Mailing Address: Hawaii Correctional System Oversight Commission
235 S. Berentania Street
Honolulu, HI 96813

Website: www.hcsoc.hawaii.gov (launching soon!)

Email: hcsoc@hawaii.gov

Social Media: Youtube
LinkedIn
Facebook
Instagram

Hiring Processes

The position for the Clerical Assistant was publicly posted on August 15th 2022. Interviews will be on a rolling basis until the position is filled. The position can be found here: <https://www.governmentjobs.com/careers/hawaii/jobs/3681974/clerical-assistant>

Expenses for the Preceding Month

Below is a breakdown of August and September expenses. Most September expenses have not been applied to the HCSOC's appropriation yet but will include numerous inter-island correctional facility trips.

				Total	Note
Inter-Island Correctional Facility Travel				\$250.43	
August Big Island Airfare	\$71	2.00	\$141		
August Big Island Car Rental	\$69	1.00	\$69		
August Big Island Daily Per Diem	\$20	2.00	\$40		
Lodging			\$0		
Airport Parking			\$0		
Mainland (AZ) Correctional Facility Travel				\$3,930	
September Trip Airfare	\$849	2.00	\$1,698	Airfare (CJ and MP) \$1,697.98 (\$848.99 ea). Airfare also encompasses NACOLE 2022 conference.	
September Trip Daily Per Diem	\$145	8.00	\$1,160	4 days, 2 people	
September Trip Lodging	\$440	2.00	\$880	2 people. (3 nights @ approx. \$146.60)	
September Trip Car Rental	\$192	1.00	\$192		
Memberships + Conferences				\$7,716.84	
National Association of Civilian Oversight of Law Enforcement (NACOLE) Annual Dues	\$500	1.00	\$500		
NACOLE Annual Conference	\$656	2.00	\$1,313		
Airfare	\$849	2.00	\$1,698	Airfare (CJ and MP) \$1,697.98 (\$848.99 ea). Airfare added into Mainland AZ visit as price encompasses both trips.	
Daily Per Diem	\$145	12.00	\$1,740	6 days, 2 people	
Lodging	\$1,233	2.00	\$2,466	2 people. (6 nights @ approx. \$205.50)	

Hawaii Correctional System Oversight Commission Monthly Meetings

This report will be discussed at the monthly Hawaii Correctional System Oversight Commission meeting held on September 22, 2022. The next monthly meeting is scheduled to occur on October 20, 2022, at 9am. Meetings are held in person at the Department of Labor and Industrial Relations (DLIR) 830 Punchbowl Street, Room 313 Honolulu, HI 96813, or online via Microsoft Teams. More information can be found on the Commission's webpage here <https://ag.hawaii.gov/hawaii-correctional-system-oversight-commission/>, soon to be www.hcsoc.hawaii.gov. Please continue to check back for updates.



STATE OF HAWAII
HAWAII CORRECTIONAL SYSTEM OVERSIGHT COMMISSION
 235 S. Beretania Street, 16th Floor
 HONOLULU, HAWAII 96813
 (808) 207-4597

Hawaii Correctional System Oversight Commission
Oversight Coordinator Monthly Report
Date of Report: October 20, 2022

Commission Chair
 Mark Patterson

Commission Members
 Hon. Ronald Ibarra (ret.) Martha Torney
 Hon. Michael Town (ret.) Theodore Sakai

Oversight Coordinator
 Christin M. Johnson

In accordance with Chapter §353L-6, the Oversight Coordinator shall submit a monthly report to the Commission, the Governor, and the Legislature. The monthly report shall include actions taken by the Commission and expenses for the preceding month. In addition to the mandated parties this report must be shared with, the Oversight Coordinator will publicly post the monthly report to increase transparency and accountability. This report will also be shared with each individual who has the responsibility of appointing members of the Commission. This includes:

- 1) Governor of Hawaii
- 2) President of the Hawaii Senate
- 3) Speaker of the Hawaii House of Representatives
- 4) Hawaii Supreme Court Chief Justice
- 5) Chairperson of the Board of Trustees of the Office of Hawaiian Affairs

In-Custody Death

On Monday, October 17, at 10:30 p.m., Maui Community Correctional Center (MCCC) staff responded to a medical backup call. A person in custody, female, between 40-50 years old, was found unresponsive in her cell. Medical and security staff immediately began administering aid and called 911 Emergency Medical Services (EMS). Staff performed CPR until EMS arrived to take over lifesaving procedures. EMS pronounced the woman deceased at 10:57 p.m. Official cause of death is pending determination by the Medical Examiner's Office. Maui Police were notified and an internal investigation as well as a law enforcement investigation are pending.

Actions Taken

Facility Tours

Facilities Toured:

- Hawaii Community Correctional Center (HCCC) – October 6th
- YWCA O’ahu Fernhurst Residence (PSD contracted reentry program) – October 11th
- Hawaii Community Correctional Center (HCCC) (unannounced) – October 15th
- Maui Community Correctional Center (MCCC) – October 18th

The Oversight Coordinator extends special thanks to all facility staff for their cooperation, expertise, and professionalism.

Criminal Law Forum

On Friday October 7, 2022, the Oversight Coordinator participated in the Criminal Law Forum hosted by the Hawaii State Bar Association. The Coordinator presented on the current state of the Hawaii jails and prisons within the Prison Reform panel. This forum was attended by 81 attorneys, 32 judges, and 11 other guests (including court administrators and law clerks). The PowerPoint presentation from the forum is attached to this report.

Justice-Involved Homeless Intergovernmental Collaboration

Commissioner Patterson, Commissioner Sakai, and Oversight Coordinator Johnson met with Going Home Hawaii leadership on October 12th to discuss concerns regarding justice-involved homeless individuals, specifically within the jail and prison system. Since 2004, the Hawai'i Island Going Home Consortium has been leading efforts to provide innovative and culturally responsive reentry and reintegration services to justice-involved individuals, their families, and communities. The Going Home Consortium consists of more than 50 public and private entities and their representatives with a network of over 300 state and national partners. Going Home Hawai'i is a 501(c)3 nonprofit organization and the governing fiscal body for the Hawai'i Island Going Home Consortium.

The collaborative meeting aligns with lessening the overcrowding in HCCC by supporting efforts from various local, community, and state stakeholders in a consortium to find solutions for justice-involved homeless community.

HCCC Conditions Update

This section is following a report from September 2nd, 2022, highlighting serious issues and concerns regarding inhumane conditions at HCCC. The Coordinator has continued to make biweekly trips to HCCC.

Overcrowding

On October 20th, three buildings at HCCC (Punahale, Komohana and Waianuenue) in addition to covid-housing had a head count of 240 while the facility has a design capacity of 152. This puts the facility at a **158%** occupancy rate.

The Oversight Coordinator has been working diligently to speak with judges, prosecutors, and attorneys to ensure they are aware of the conditions of HCCC before sending individuals there. A massive portion of HCCC are pretrial detainees which means they have not been sentenced for a crime. Much of this population is homeless and/or have a mental health diagnosis. It is this reason that Commissioner Patterson, Commissioner Sakai, and Oversight Coordinator Johnson met with Going Home Hawaii leadership on October 12th to discuss concerns regarding justice-involved homeless individuals to find solutions outside of incarceration. This is an ongoing effort and will continue to be reported on.

Severe Safety and Security Concerns

The facility is currently undergoing construction to completely replace each of the cell doors in Punahale to prevent the use of padlocks on the cell doors. Two units have been completed, two units are currently in progress, and one unit is pending construction after the other units are complete. The construction is 5-6 weeks ahead of its original schedule. Once construction is finished, this will ease the usage of the Multipurpose Room 1. During the most recent visit on October 15th (unannounced), there were either men housed in the Multipurpose Room 1.

Lack of Programs and Basic Services

People in custody have reported that they have received new uniforms in addition to soap and hygiene products. Due to the construction, the visit room is currently out of commission. People in custody have reported that they have had more access to outdoor recreation.

Suicide/Safety Watch

Individuals have been removed from the, “dayroom” space behind a door in Punahale in front of four cells. During the most recent tour on October 15th (unannounced) the Coordinator did not find anyone living in these spaces. Additionally, the Coordinator did not see anyone on Suicide Watch in Punahale.

Shipping Container/Covid-Housing

During the most recent tour on October 15th (unannounced), the shipping container housed 18 individuals. Five people in the first and second cells, and four people in the third and fourth cells. These cells have a triple bunk bed in each cell meaning one to two individuals had a mattress on the floor. The first and fourth cells did not have working lights. Due to a lack of windows and lack of natural light, the cells were completely pitch black. An officer must use their flashlight to shine in the cells and see.

It is important to note that these cells are used as isolation cells to ensure newly admitted individuals do not have covid. All of the individuals mentioned they had been in the cells for less than five days. Once the five-day isolation period is met, individuals can be housed accordingly.

Recreation

Individuals have reported that they are being allowed outside for recreation. The facility has set a new recreation schedule to equitably allow as many individuals outside for recreation as possible. Due to overcrowding and understaffing, the facility is not meeting federal standards for daily outdoor recreation. However, individuals in custody have reported that there is improvement.

Visits

Due to the construction, the visit room is currently out of commission and the facility is not offering in-person visits.

The Oversight Coordinator continues to monitor the conditions of HCCC, work with community partners, the judicial branch, and the Department of Public Safety to ensure safer conditions that align with federal standards. The Coordinator will continue to report on the conditions of HCCC.

General Office Updates

The office of the HCSOC has an official mailing address, website, email, and social media. As of October 10th, all mail to and from the Commission is considered privileged mail. All facility staff have been notified.

Mailing Address: Hawaii Correctional System Oversight Commission
235 S. Berentania Street
Honolulu, HI 96813

Website: hcsoc.hawaii.gov

Email: hcsoc@hawaii.gov

Social Media: [Youtube](#)
[LinkedIn](#)
[Facebook](#)
[Instagram](#)

Case Management System

The HCSOC has secured a partnership with Thoughtworks who is designing and creating the Case Management System for the office. This is a pro-bono project and the Case Management System is projected to be completed by October 2023, if not sooner. This system will allow staff to effectively store all information regarding investigations and monitoring processes.

Hiring Processes

Clerical Assistant – The HCSOC welcomes their newest staff member, George Choe! George has immense clerical and leadership experience from his previous roles working in the Attorney General’s office as the Assistant to the Special Assistant to the Attorney General, and as a District Manager for many years at Hertz. George has a newfound passion for law and will be furthering his education in the legal system while working

with the Commission. His title is Special Assistant to the Oversight Coordinator and he's very excited to get started.

Reentry and Diversion Oversight Specialist – The HCSOC is looking to hire a Reentry and Diversion Oversight Specialist. This position will be posted within the next couple weeks and will be posted on the Commission's website. Please check the website for the posting. For further questions, please contact the Oversight Coordinator at christin.m.johnson@hawaii.gov.

Expenses for the Preceding Month

Below is a breakdown of August and September expenses. Most September and all October expenses have not been applied to the HCSOC's appropriation yet but will include numerous inter-island correctional facility trips.

	Price per Item	Quantity	Total	Note
Office Equipment and Supplies			\$7,113	
General Office Supplies			\$0	
Desktop			\$0	
Laptop	\$1,644	3.00	\$4,932	Lenovo 21CES2F900
Laptop Bag	\$14	3.00	\$42	Lenovo 15.6 laptop casual top loader (GX40Q17231)
Tablet			\$0	
Tablet Case			\$0	
Docking Station	\$179	3.00	\$537	40B50090US
Keyboard + Mouse Combo	\$40	3.00	\$120	GX31D10707
Widescreen Monitor	\$391	3.00	\$1,173	61F3GAR1US
Webcam	\$55	3.00	\$165	GXC1D66064
Computer Speakers	\$25	3.00	\$75	0A36190
Staff and Commission Badges			\$0	
Staff and Commission Badge Holders			\$0	
Cell Phone			\$0	
Cell Phone Monthly Plan	\$69	1.00	\$69	August & September
Inter-Island Correctional Facility Travel			\$1,563.66	
August Big Island Airfare	\$71	2.00	\$141	
August Big Island Car Rental	\$69	1.00	\$69	
August Big Island Daily Per Diem	\$20	2.00	\$40	
August Lodging			\$0	
August Airport Parking				
October Airfare	\$662	1.00	\$662	
October Car Rental	\$288	1.00	\$288	
October Daily Per Diem	\$80	1.00	\$80	
October Lodging	\$235	1.00	\$235	
October Ground Transportation	\$48	1.00	\$48	
October Airport Parking				
Mainland (AZ) Correctional Facility Travel			\$3,930	
September Trip Airfare	\$849	2.00	\$1,698	Airfare (CJ and MP) \$1,697.98 (\$848.99 ea). Airfare also encompasses NACOLE 2022 conference.
September Trip Daily Per Diem	\$145	8.00	\$1,160	4 days, 2 people
September Trip Lodging	\$440	2.00	\$880	2 people. (3 nights @ approx. \$146.60)
September Trip Car Rental	\$192	1.00	\$192	
Memberships + Conferences			\$8,952.02	
National Association of Civilian Oversight of Law Enforcement (NACOLE) Annual Dues	\$500	1.00	\$500	
NACOLE Annual Conference	\$656	2.00	\$1,313	
Airfare	\$849	2.00	\$1,698	Airfare (CJ and MP) \$1,697.98 (\$848.99 ea). Airfare added into Mainland AZ visit as price encompasses both trips.
Daily Per Diem	\$145	12.00	\$1,740	6 days, 2 people
Lodging	\$1,233	2.00	\$2,466	2 people. (6 nights @ approx. \$205.50)
Ground Transportation				
Mana Wahine Ekolu 2022 Conference Registration	\$459	1.00	\$459	11/28/2022 - 11/30/2022
Lodging+Tax	\$776	1.00	\$776	1 person (2 nights)

Hawaii Correctional System Oversight Commission Monthly Meetings

This report will be discussed at the monthly Hawaii Correctional System Oversight Commission meeting held on October 20, 2022. The next monthly meeting is scheduled

to occur on November 17, 2022, at 9am. Meetings are held in person at the Department of Labor and Industrial Relations (DLIR) 830 Punchbowl Street, Room 313 Honolulu, HI 96813, or online via Microsoft Teams. More information can be found on the Commission's webpage here <https://hcsoc.hawaii.gov/>.



STATE OF HAWAII
HAWAII CORRECTIONAL SYSTEM OVERSIGHT COMMISSION
235 S. Beretania Street, 16th Floor
HONOLULU, HAWAII 96813
(808) 207-4597

Hawaii Correctional System Oversight Commission
Oversight Coordinator Monthly Report
Date of Report: November 17, 2022

Commission Chair
Mark Patterson

Commission Members
Hon. Ronald Ibarra (ret.) Martha Torney
Hon. Michael Town (ret.) Theodore Sakai

Oversight Coordinator
Christin M. Johnson

In accordance with Chapter §353L-6, the Oversight Coordinator shall submit a monthly report to the Commission, the Governor, and the Legislature. The monthly report shall include actions taken by the Commission and expenses for the preceding month. In addition to the mandated parties this report must be shared with, the Oversight Coordinator will publicly post the monthly report to increase transparency and accountability. This report will also be shared with each individual who has the responsibility of appointing members of the Commission. This includes:

- 1) Governor of Hawaii
- 2) President of the Hawaii Senate
- 3) Speaker of the Hawaii House of Representatives
- 4) Hawaii Supreme Court Chief Justice
- 5) Chairperson of the Board of Trustees of the Office of Hawaiian Affairs

In-Custody Deaths

On Thursday, October 27, 2022, at 1:30am, a registered nurse (R.N.) at Halawa Correctional Facility (HCF) found a person in custody, male, between 70-80 years old unresponsive in his cell within the infirmary. Medical staff called 911 Emergency Medical Services (EMS). The on-call doctor pronounced the man deceased at 2:08am.

On Thursday, November 3, at 7:30am, Oahu Community Correctional Center (OCCC) staff responded to a medical backup call. A person in custody, male, between 50-60 years old was found unresponsive in his cell. Medical and security staff began administering aid and called 911 Emergency Medical Services (EMS). Staff performed CPR until EMS arrived to take over lifesaving procedures. EMS pronounced the man deceased at 8:02am. Official cause of death is pending determination by the Medical Examiner's Office. Honolulu Police were notified.

Actions Taken

Facility Tours

Facilities Toured:

- Hawaii Community Correctional Center (HCCC) – October 28th
- Oahu Community Correctional Center (OCCC) – November 3rd
- Oahu Community Correctional Center (OCCC) – November 14th
- Hawaii Community Correctional Center (HCCC) – November 15th

The Oversight Coordinator extends special thanks to all facility staff for their cooperation, expertise, and professionalism.

Commissioner Ibarra and the Oversight Coordinator were scheduled to tour all Going Home Hawaii programs in Kona and Hilo on November 9th, however the tours needed to be cancelled. The tours will be rescheduled in the near future.

Justice-Involved Homeless Intergovernmental Collaboration

Commissioner Patterson, Commissioner Sakai, and Oversight Coordinator Johnson met with Going Home Hawaii leadership on October 12th to discuss concerns regarding justice-involved homeless individuals, specifically within the jail and prison system. Since 2004, the Hawai'i Island Going Home Consortium has been leading efforts to provide innovative and culturally responsive reentry and reintegration services to justice-involved individuals, their families, and communities. The Going Home Consortium consists of more than 50 public and private entities and their representatives with a network of over 300 state and national partners. Going Home Hawai'i is a 501(c)3 nonprofit organization and the governing fiscal body for the Hawai'i Island Going Home Consortium.

During the November 20, 2022 Commission meeting, the Commission agreed to submit a letter of support to Hawaii County Mayor Mitch Roth. The letter requested the formation of an inter-governmental workgroup focused on justice-involved homelessness and potential steps forward to guide these efforts in a meaningful way. Mayor Roth responded and explained that while the County is willing to collaborate in a Justice-Involved Homeless Intergovernmental Collaboration Group, it is his belief that this effort should be spearheaded by a State entity as most of the changes need to happen at a State level. The Commission will decide the next steps moving forward to support efforts from various local, community, and state stakeholders in a consortium to find solutions for justice-involved homeless community.

HCCC Conditions Update

This section is following a report from September 2nd, 2022, highlighting serious issues and concerns regarding inhumane conditions at HCCC. The Coordinator has continued to make biweekly trips to HCCC.

Overcrowding

On November 15th, three buildings at HCCC (Punahale, Komohana and Waianuenue) in addition to covid-housing had a head count of 224 while the facility has a design capacity of 152. This puts the facility at a 147% occupancy rate. This occupancy rate has been decreasing since the September 2nd visit when the rate was 170%.

The Oversight Coordinator has been working diligently to speak with judges, prosecutors, and attorneys to ensure they are aware of the conditions of HCCC before sending individuals there. A massive portion of HCCC are pretrial detainees which means they have not been sentenced for a crime. Much of this population is homeless and/or have a mental health diagnosis. It is this reason that Commissioner Patterson, Commissioner Sakai, and Oversight Coordinator Johnson met with Going Home Hawaii leadership on October 12th to discuss concerns regarding justice-involved homeless individuals to find solutions outside of incarceration. This is an ongoing effort and will continue to be reported on.

Safety and Security Concerns

The facility is currently undergoing construction to completely replace each of the cell doors in Punahale to prevent the use of padlocks on the cell doors. Four units have been completed, and one unit is currently in progress. Once construction is finished, this will ease the usage of the Multipurpose Room 1. During the most recent visit on November 15th, there were sixteen men housed in the Multipurpose Room 1.

Lack of Programs and Basic Services

People in custody within Punahale have reported that they have received new uniforms in addition to soap and hygiene products. However, people in custody in Waianuenue reported that they have not received any new uniforms and their uniforms were visibly ripped and in terrible shape. Additionally, the individuals reported that they do not receive any responses when they file grievances.

Suicide/Safety Watch

The “dayroom” space behind a door in Punahale in front of four cells is still being utilized on and off for those on suicide or safety watch. During the most recent tour on November 15th, there was one individual behind the door of G Unit in Punahale. This is of serious concern due to 1) lack of access to water and toilets, 2) lack of visibility from officer desk, 3) lack of privacy from 12+ people in custody within the cells, 4) no bedframe, 5) no area to store their property, and 6) a complete lack of humane treatment and decency as a whole towards individuals with potentially self-harming ideations and/or actions.

Shipping Container/Covid-Housing

During the most recent tour on November 16th, the shipping container housed 14 individuals. Four people in the first, second, and third cells, and two people in the fourth cell. These cells have a triple bunk bed in each cell meaning one to two individuals had a mattress on the floor. The third and fourth cells did not have working lights. Due to a lack of windows and lack of natural light, the cells were completely pitch black. An officer must use their flashlight to shine in the cells and see. After asking an officer how long the lights had been out, they reported over a month. They did specify a work-order has been placed, however, no progress has been made.

It is important to note that these cells are used as isolation cells to ensure newly admitted individuals do not have covid. Once the five-day isolation period is met, individuals can be housed accordingly.

Recreation

Individuals have reported that they are being allowed outside for recreation. The facility has set a new recreation schedule to equitably allow as many individuals outside for recreation as possible. Due to overcrowding and understaffing, the facility is not meeting federal standards for daily outdoor recreation. However, individuals in custody have reported that there is improvement.

Visits

Due to the construction, the visit room is currently out of commission and the facility is not offering in-person visits. The Oversight Coordinator stopped in the visit room on November 15th and saw wooden construction in progress to create permanent non-contact visit spaces. The Coordinator is deeply concerned about this new construction given how important and impactful in-person contact visits are for rehabilitation.

The Oversight Coordinator continues to monitor the conditions of HCCC, work with community partners, the judicial branch, and the Department of Public Safety to ensure safer conditions that align with federal standards. The Coordinator will continue to report on the conditions of HCCC.

General Office Updates

The office of the HCSOC has an official mailing address, website, email, and social media. As of October 10th, all mail to and from the Commission is considered privileged mail. All facility staff have been notified.

Mailing Address: Hawaii Correctional System Oversight Commission
235 S. Berentania Street, 16th floor
Honolulu, HI 96813

Website: hcsoc.hawaii.gov

Email: hcsoc@hawaii.gov

Social Media: [Youtube](#)
[LinkedIn](#)
[Facebook](#)
[Instagram](#)

Hiring Processes

Clerical Assistant – The HCSOC welcomes their newest staff member, George Choe! George has immense clerical and leadership experience from his previous roles working in the Attorney General’s office as the Assistant to the Special Assistant to the Attorney General, and as a District Manager for many years at Hertz. George has a newfound passion for law and will be furthering his education in the legal system while working with the Commission. His title is Special Assistant to the Oversight Coordinator and he’s very excited to get started.

Reentry and Diversion Oversight Specialist – The HCSOC is looking to hire a [Reentry and Diversion Oversight Specialist](#). This position was posted on the Commission’s website on November 1st. Please check the website for the posting at <https://hcsoc.hawaii.gov/job-opportunities/>. For further questions, please contact the Oversight Coordinator at christin.m.johnson@hawaii.gov.

Expenses for the Preceding Month

Below is a breakdown of October expenses.

	Price per Item	Quantity	Total	Note
Office Equipment and Supplies			\$7,113	
General Office Supplies			\$0	
Desktop			\$0	
Laptop	\$1,644	3.00	\$4,932	Lenovo 21CES2F900
Laptop Bag	\$14	3.00	\$42	Lenovo 15.6 laptop casual top loader (GX40Q17231)
Tablet			\$0	
Tablet Case			\$0	
Docking Station	\$179	3.00	\$537	40B50090US
Keyboard + Mouse Combo	\$40	3.00	\$120	GX31D10707
Widescreen Monitor	\$391	3.00	\$1,173	61F3GAR1US
Webcam	\$55	3.00	\$165	GXC1D66064
Computer Speakers	\$25	3.00	\$75	0A36190
Staff and Commission Badges			\$0	
Staff and Commission Badge Holders			\$0	
Cell Phone			\$0	
Cell Phone Monthly Plan	\$69	1.00	\$69	August & September
Inter-Island Correctional Facility Travel			\$1,563.66	
August Big Island Airfare	\$71	2.00	\$141	
August Big Island Car Rental	\$69	1.00	\$69	
August Big Island Daily Per Diem	\$20	2.00	\$40	
August Lodging			\$0	
August Airport Parking				
October Airfare	\$662	1.00	\$662	
October Car Rental	\$288	1.00	\$288	
October Daily Per Diem	\$80	1.00	\$80	
October Lodging	\$235	1.00	\$235	
October Ground Transportation	\$48	1.00	\$48	
October Airport Parking				
Mainland (AZ) Correctional Facility Travel			\$3,930	
September Trip Airfare	\$849	2.00	\$1,698	Airfare (CJ and MP) \$1,697.98 (\$848.99 ea). Airfare also encompasses NACOLE 2022 conference.
September Trip Daily Per Diem	\$145	8.00	\$1,160	4 days, 2 people
September Trip Lodging	\$440	2.00	\$880	2 people. (3 nights @ approx. \$146.60)
September Trip Car Rental	\$192	1.00	\$192	
Memberships + Conferences			\$8,952.02	
National Association of Civilian Oversight of Law Enforcement (NACOLE) Annual Dues	\$500	1.00	\$500	
NACOLE Annual Conference	\$656	2.00	\$1,313	
Airfare	\$849	2.00	\$1,698	Airfare (CJ and MP) \$1,697.98 (\$848.99 ea). Airfare added into Mainland AZ visit as price encompasses both trips.
Daily Per Diem	\$145	12.00	\$1,740	6 days, 2 people
Lodging	\$1,233	2.00	\$2,466	2 people. (6 nights @ approx. \$205.50)
Ground Transportation				
Mana Wahine Ekolu 2022 Conference Registration	\$459	1.00	\$459	11/28/2022 - 11/30/2022
Lodging+Tax	\$776	1.00	\$776	1 person (2 nights)

Hawaii Correctional System Oversight Commission Monthly Meetings

This report will be discussed at the monthly Hawaii Correctional System Oversight Commission meeting held on November 16, 2022. The next monthly meeting is scheduled to occur on December 15, 2022, at 9am. Meetings are held in person at the Department of Labor and Industrial Relations (DLIR) 830 Punchbowl Street, Room 313 Honolulu, HI 96813, or online via Zoom. More information can be found on the Commission’s webpage here <https://hcsoc.hawaii.gov/meetings/>.



STATE OF HAWAII
HAWAII CORRECTIONAL SYSTEM OVERSIGHT COMMISSION
235 S. Beretania Street, 16th Floor
HONOLULU, HAWAII 96813
(808) 587-4160

Hawaii Correctional System Oversight Commission
Oversight Coordinator Monthly Report
Date of Report: December 15, 2022

Commission Chair
Mark Patterson

Commission Members

Hon. Ronald Ibarra (ret.) Martha Torney
Hon. Michael Town (ret.) Theodore Sakai

Oversight Coordinator
Christin M. Johnson

In accordance with Chapter §353L-6, the Oversight Coordinator shall submit a monthly report to the Commission, the Governor, and the Legislature. The monthly report shall include actions taken by the Commission and expenses for the preceding month. In addition to the mandated parties this report must be shared with, the Oversight Coordinator will publicly post the monthly report to increase transparency and accountability. This report will also be shared with each individual who has the responsibility of appointing members of the Commission. This includes:

- 1) Governor of Hawaii
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- 3) Speaker of the Hawaii House of Representatives
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- 5) Chairperson of the Board of Trustees of the Office of Hawaiian Affairs

New Department Leadership

On December 1st, 2022, Governor Josh Green announced that Tommy Johnson is the new Director of the Department of Public Safety. On December 12th, 2022, Tommy Johnson announced the temporary assignment of Mick Hoffman as the Deputy Director for Corrections. The Coordinator wishes to send a warm congratulations to both in their new roles and looks forward to working together.

In-Custody Death

On Friday, December 9, 2022, at 11:15pm, a registered nurse (R.N.) at Halawa Correctional Facility (HCF) found a person in custody, male, 73 years old, unresponsive

with no pulse, in his cell within the infirmary. This individual had a Do Not Resuscitate (DNR). Medical staff called 911 Emergency Medical Services (EMS).

Electronic Medical Record (EMR) Down since June 2022

On August 10th, 2022, the Coordinator learned that the Electronic Medical Record (EMR) had been down since June 2022 causing staff to rely on a paper/pen-based system with no clear indication of when the EMR would be back up for staff utilization. This issue was immediately addressed with the Department of Public Safety with clear urgency. The Coordinator explained that this is a crisis for those in custody because:

- 1) Patient safety and health is at risk without a functioning EMR.
- 2) EMRs are necessary to ensure consistency in care across multiple providers.
- 3) EMRs ensure medications are appropriately administered and documented to lessen risk to patient's health and tracking of medication used, especially when being transferred across facilities.
- 4) From a cost perspective, EMRs reduce time spent on documentation as there are often templates and order sets to improve efficiency.
- 5) Additionally, this is massive liability for the department.

The Coordinator was assured that the EMR was back up and running by August 24th, 2022, and publicly addressed this matter. However, the Coordinator learned on December 10th, 2022, that the EMR was only working for two weeks before completely failing again. The Department confirmed that they purchased new servers, but they were not successful in fixing the issues as the EMR system is old (purchased in 2008) and outdated. The Coordinator asked if there was any plan for a new EMR, and although the Department is looking into a new system, there is no timeframe of when a new system might be implemented.

The Coordinator respects that the Department has been working diligently on this issue, however, it is unacceptable to have a non-functioning EMR for six+ months. Medical staff are becoming increasingly burnt out by not having the tools they need to effectively treat patients and give the best care. If the EMR cannot be fixed, the Coordinator recommends immediate purchase and implementation of a new medical record system.

Actions Taken

Facility Tours

Facilities Toured:

- Hawaii Community Correctional Center (HCCC) – December 12th

The Oversight Coordinator extends special thanks to all facility staff for their cooperation, expertise, and professionalism. Please note a lack of tours have taken place since the November meeting due to holiday travel and illness. The Coordinator fully intends to conduct more consistent tours.

Justice-Involved Homeless Intergovernmental Collaboration

Commissioner Patterson, Commissioner Sakai, and Oversight Coordinator Johnson met with Going Home Hawaii leadership on October 12th to discuss concerns regarding justice-involved homeless individuals, specifically within the jail and prison system. Since 2004, the Hawai'i Island Going Home Consortium has been leading efforts to provide innovative and culturally responsive reentry and reintegration services to justice-involved individuals, their families, and communities. The Going Home Consortium consists of more than 50 public and private entities and their representatives with a network of over 300 state and national partners. Going Home Hawai'i is a 501(c)3 nonprofit organization and the governing fiscal body for the Hawai'i Island Going Home Consortium.

Going Home Hawaii has taken the initiative to develop a strategy for intergovernmental collaboration meetings leading up to a Reentry Housing Summit in April 2023. The Coordinator and Commission will be an active part in the intergovernmental collaboration and staff will attend the Reentry Housing Summit.

Mana Wahine Ekolu 2022

From November 28th-30th, the Coordinator attended Mana Wahine Ekolu hosted by the Pu'a Foundation. The Pu'a Foundation actively engages, facilitates and serves communities and their efforts to build a resilient society and improve upon their quality of life through healing and reconciliation efforts that address consequences of the 1893 overthrow. Mana Wahine Ekolu is a female empowerment conference for all focusing on trauma, healing, & justice. The Mana Wahine Gathering has a unique dual approach in that we seek to strengthen the capacity of those who support community members impacted by system-involvement, all the while enhancing the wellness of each participant.

The Coordinator wishes to thank the Pu'a Foundation for the invitation and the opportunity to learn more about Hawaiian history, culture, and to connect with community members.

Saguaro Correctional Center Limited Legal Call Schedule

On November 22nd, the Hawaii Correctional System Oversight Commission (the Commission) received a written complaint from the Hawai'i Innocence Project regarding a limited legal call schedule at the Saguaro Correctional Center. According to the Hawai'i Innocence Project, the current schedule only permits legal calls Tuesday-Thursday from approximately 7:30am-12:00pm Hawaii Standard Time which does not allow for regular and timely communication with their clients.

The Commission sent a letter to the Department of Public Safety requesting that changes be made to the Saguaro policy to allow for legal calls during normal Hawaii Standard Time business hours and, if needed, after hours and weekends. As of this report, the Department has informed the Commission that they are working with the Mainland Branch to see if adjustments can be made. The Commission will continue to follow up to receive a final response. The November 29th 2022 letter is attached to this report.

Response to Department Regarding Correctional Working Group

On October 25th, 2022, Max Otani released a response to the Corrections Working Group report. In this letter, Otani delineates his differences with the findings, conclusions and recommendations contained in the Corrections Working Group Report. He also comments on actions or perceived actions of the Commission regarding our position on the development of the New OCCC. These comments appear to be based on misunderstandings of events that led to the Commission's position. As they are written, they appear to be misstatements that should be clarified. Attached to this report is a letter dated December 15th 2022 sent to Tommy Johnson, Director of Public Safety that includes Otani's comments and the Commission's concern and response.

Department of Public Safety Positive Highlights

The Coordinator asked the Department of Public Safety to send information on positive accomplishments. Below are a few highlights from November and December.

Employee and Team Awards:

- 2022 Team of the Year – HCCC Mental Health Unit
- 2022 Manager of the Year – Russell Dela Cueva – Institution Food Service Manager 2
- 2022 Employee of the Year – Hal Alejandro – Capital Improvements Coordinator

Swift and Efficient Facility-wide COVID-19 Pandemic Response

Since the beginning of the pandemic, the facilities have had to deal with COVID-19 outbreaks due to the transient nature of the populations they serve. Every holiday season (Nov-Dec) since 2020 there is an increase in COVID in the community which translates to unavoidable outbreaks inside the correctional facilities. With so many variants spreading around the nation and the state, it is unavoidable. However, the facilities anticipate this and through their pandemic planning they quickly isolate and quarantine their facilities, increase testing and decrease spread to the most vulnerable in the population. The decreased movement also assures less physical or close contact between staff and inmates which decreases the transmission to staff. As a result of their quick and efficient response, the outbreak period is substantially shorter, with no major illnesses reported.

Chaminade's Associate Degree Program at Halawa

In 2021 the Department of Public Safety partnered with Chaminade University to give Halawa Correctional Facility inmates an opportunity to earn a college degree through the Second Chance Pell Grant Program. This was the first time this was offered in the State of Hawaii. Courses like Accounting and Introduction to Business are offered to inmates. In addition, they are offered general education courses like History, Poetry and Drama, Criminal Justice and Communications.

There are currently 8 inmates working towards their associate degree in Business Administration. They will finish at the end of the Spring 2023 semester.

WCCC GED and Culinary Program Graduations

A graduation ceremony is being held this month at WCCC for four women who completed the GED program and received their diplomas. Within this past year, there have been 16 GED graduates.

There was also a culinary graduation for three women who graduated from the Kapiolani Community College Culinary Arts Program. They are taught to create 5-star quality cuisine by working their way through beginner, intermediate and advance level classes to make it to graduation day. They receive a culinary program completion certificate from the KCC and also earned 14 credits that appear on their University of Hawaii transcripts. The program is expanding to the Waiawa Correctional Facility in 2023.

Heroes and Helpers (Formerly called Shop with a Cop)

Sheriffs and Corrections Officers participated in this year's annual Heroes and Helpers. They attended Saturday events throughout December at Walmart and Target. This year they were in Mililani, Salt Lake, Kunia and Hilo. The Sheriffs and ACOs are paired up with children to shop for whatever they want using a \$50 gift card from the store. Many of the kids end up wanting to buy things for their family. There were actually more volunteers than kids this year, so they had to double up the volunteers (2 ACOs or LEOs with 1 kid).

HCCC Conditions Update

This section is following a report from September 2nd, 2022, highlighting serious issues and concerns regarding inhumane conditions at HCCC. The Coordinator has continued to make biweekly trips to HCCC, however, the biweekly commitment was not followed during November due to holiday travel and illness. The most recent tour was on December 12th, 2022.

Overcrowding

On December 12th, 2022, three buildings at HCCC (Punahale, Komohana and Waianuenue) in addition to covid-housing had a head count of 238 while the facility has a design capacity of 152. This puts the facility at a 157% occupancy rate. Although this occupancy rate has been decreasing since the September 2nd visit when the rate was 170%, it is 10% higher than November's numbers when the headcount was 224 (147% occupancy rate).

A massive portion of HCCC are pretrial detainees which means they have not been sentenced for a crime. Much of this population is homeless and/or have a mental health diagnosis. This is an ongoing effort to address the overcrowding concerns with the judiciary, and this will continue to be reported on.

Safety and Security Concerns

The facility is currently undergoing construction to improve housing conditions by completely replacing each of the cell doors in Punahale to prevent the use of padlocks on the cell doors. Four units have been completed, and one unit is currently in progress. Once construction is finished, this will ease the usage of the Multipurpose Room 1. During the most recent visit on December 12th, there were sixteen men housed in the Multipurpose Room 1. This indicates little change from the November report.

Lack of Programs and Basic Services

No update since November report - People in custody within Punahale have reported that they have received new uniforms in addition to soap and hygiene products. However, people in custody in Waianuenue reported that they have not received any new uniforms and their uniforms were visibly ripped and in terrible shape. Additionally, the individuals reported that they do not receive any responses when they file grievances.

Department's Response: Waianuenue received all new uniforms in March of 2022. It was the first housing unit we exchanged. Uniforms for Waianuenue are available on a daily basis. New uniforms are issued as originally planned. The concern has been, when these uniforms were issued our old supply of uniforms, T-shirts, and shorts were not taken away. Inmates are using old issued clothing that were cut and torn either by the inmate and/or wear and tear. Jump suits are available and are being issued daily. Staff has indicated that when the air conditioning is not always operating to its capacity and the housing unit is hot. Therefore, inmates are using old damaged issued supplies.

Inmate grievances are being designated and answered in a timely manner. Designated staff has been identified for upcoming training period on December 21, 2022, this may assist staff with the issuing of grievances and routing to Honolulu staff for review. The grievances will then be processed and mailed back to HCCC for remedies, further review and written response. Investigations are assigned if warranted.

Suicide/Safety Watch

The "dayroom" space behind a door in Punahale in front of four cells is still being utilized on and off for those on suicide or safety watch. During the tour on November 15th, there was one individual behind the door of G Unit in Punahale. This is of serious concern due to 1) lack of access to water and toilets, 2) lack of visibility from officer desk, 3) lack of privacy from 12+ people in custody within the cells, 4) no bedframe, 5) no area to store their property, and 6) a complete lack of humane treatment and decency as a whole towards individuals with potentially self-harming ideations and/or actions. During the December 12th tour, there were no individuals on suicide or safety watch.

The Commission recognizes the Department's hardship due to extreme physical limitations of the aging facility, and lack of appropriate space given the immense overcrowding. The Commission will continue to work with the Department to submit appropriate recommendations in addition to working with the legislative and judicial branches of government to highlight the desperate changes needed to be made.

Shipping Container/Covid-Housing

During the most recent tour on December 12th, the shipping container housed 19 individuals. Five people in the first, four in second, five in the third cells, and five people in the fourth cell. These cells have a triple bunk bed in each cell meaning one to two individuals had a mattress on the floor. The first cell did not have working lights. Due to a lack of windows and natural light, the cells were completely pitch black. An officer must use their flashlight to shine in the cells and see. Unfortunately, people in custody continue

to break the light fixtures and it takes time for the facility to continue to address the broken lights.

It is important to note that these cells are used as isolation cells to ensure newly admitted individuals do not have covid. Once the 10-day isolation period is met, individuals can be housed accordingly. There were no individuals in the isolation cells for more than 10 days.

Recreation

Same update as November report - Individuals have reported that they are being allowed outside for recreation. The facility has set a new recreation schedule to equitably allow as many individuals outside for recreation as possible. Due to overcrowding and understaffing, the facility is not meeting federal standards for daily outdoor recreation. However, individuals in custody have reported that there is improvement.

Visits

Due to the construction, the visit room is currently out of commission and the facility is not offering in-person visits. The Oversight Coordinator stopped in the visit room on November 15th and saw wooden construction in progress to create permanent non-contact visit spaces. The Coordinator is deeply concerned about this new construction given how important and impactful in-person contact visits are for rehabilitation. As of December 12th, the construction was still not completed, though the facility believes construction will be finished this week. The Coordinator was told that the facility is waiting on phones for the non-contact booths. It is unclear when in-person visits can occur.

The Oversight Coordinator continues to monitor the conditions of HCCC, work with community partners, the judicial branch, and the Department of Public Safety to ensure safer conditions that align with federal standards. The Coordinator will continue to report on the conditions of HCCC.

General Office Updates

Below is the office of HCSOC's mailing address, website, email, and social media. As of October 10th, all mail to and from the Commission is considered privileged mail.

Mailing Address: Hawaii Correctional System Oversight Commission
235 S. Berentania Street, 16th floor
Honolulu, HI 96813

Website: hcsoc.hawaii.gov

Submit Testimony: <https://hcsoc.hawaii.gov/submit-testimony/>
(New and allows anonymous submissions!)

Email: hcsoc@hawaii.gov

Social Media: [Youtube](#)
[LinkedIn](#)

[Facebook](#)
[Instagram](#)

Hiring Processes

Reentry and Diversion Oversight Specialist – The HCSOC is looking to hire a [Reentry and Diversion Oversight Specialist](#). This position was posted on the Commission’s website on November 1st. Please check the website for the posting at <https://hcsoc.hawaii.gov/job-opportunities/>. For further questions, please contact the Oversight Coordinator at christin.m.johnson@hawaii.gov.

Expenses for the Preceding Month

Below is a breakdown of November expenses.

	Price/ Item	Quantity	Total	Notes
Office Equipment and Supplies			\$1,496	
General Office Supplies			\$0	
Staff and Commission Badges	\$120	11.00	\$1,320	
Staff and Commission Badge Holders	\$16	11.00	\$176	
Cell Phone			\$0	
Cell Phone Monthly Plan			\$0	
Wifi Hotspot	\$350	1.00	\$350	NETGEAR Nighthawk M6 Pro - 1GB
Inter-Island Correctional Facility Travel			\$264.62	
Airfare	\$155	1.00	\$155	Travel for 11/15 & 12/15
Car Rental	\$72	1.00	\$72	11/15
Daily Per Diem	\$20	1.00	\$20	
Lodging+Tax			\$0	
Ground Transportation			\$0	
Airport Parking	\$18	1.00	\$18	
Mainland Correctional Facility Travel			\$0.00	
Airfare			\$0	
Car Rental			\$0	
Daily Per Diem			\$0	
Lodging+Tax			\$0	
Ground Transportation			\$0	
Airport Parking			\$0	
Memberships + Conferences			\$0.00	
Lodging+Tax			\$0	
Ground Transportation			\$0	

Hawaii Correctional System Oversight Commission Monthly Meetings

This report will be discussed at the monthly Hawaii Correctional System Oversight Commission meeting held on December 15, 2022. The next monthly meeting is scheduled to occur on January 19, 2022, at 9am. Meetings are held in person at the Department of Labor and Industrial Relations (DLIR) 830 Punchbowl Street, Room 313 Honolulu, HI 96813, or online via Zoom. More information can be found on the Commission’s webpage here <https://hcsoc.hawaii.gov/meetings/>.

Appendix 3

2022 Letters from the Commission

Mark Patterson
Commission Chair



Hon. Ronald Ibarra (ret.)
Commissioner

Hon. Michael Town (ret.)
Commissioner

Christin M. Johnson
Oversight Coordinator

STATE OF HAWAII
HAWAII CORRECTIONAL SYSTEM OVERSIGHT COMMISSION

235 S. Beretania Street, 16th Floor
HONOLULU, HAWAII 96813
(808) 207-4597

Martha Torney
Commissioner

Theodore Sakai
Commissioner

October 26, 2022

The Honorable Mitch D. Roth
Mayor, County of Hawaii
25 Aupuni Street
Hilo, Hawaii 96720

Dear Mayor Roth,

The Hawaii Correctional System Oversight Commission recently submitted a report highlighting severe overcrowding and inhumane conditions found in the Hawaii Community Correctional Center (HCCC) in Hilo. The Commission has found that the vast majority of those housed in HCCC are pre-trial detainees who often have mental health concerns and who are experiencing homelessness. According to 2017 report, *Touchpoints of Homelessness*, nearly 30% of people in custody were homeless immediately prior to entry. Additionally, incarceration and homelessness are mutual risk factors for each other, meaning that homelessness may increase the likelihood of incarceration, and incarceration may increase the likelihood of homelessness.

The issue of justice-involved homelessness is not something the Department of Public Safety or the Commission can solve on its own. It will take a collaborative effort from key stake holders from the legislative, judiciary, and executive branches of government and the community.

For these reasons, the Commission recommends the creation of a Justice-Involved Homeless Intergovernmental Collaboration Group which would be comprised of county, state, and community stakeholders. The Commission believes that you and your administration are best positioned to form to guide these efforts given the direct effect it will have on the Big Island. The Commission wholeheartedly supports these efforts and would be happy to provide a list of suggested participants if requested.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark Patterson".

Mark Patterson, Chair

Enclosure
cc: HCSOC members

Mark Patterson
Commission Chair



Hon. Ronald Ibarra (ret.)
Commissioner

Hon. Michael Town (ret.)
Commissioner

Christin M. Johnson
Oversight Coordinator

STATE OF HAWAII
HAWAII CORRECTIONAL SYSTEM OVERSIGHT COMMISSION

235 S. Beretania Street, 16th Floor
HONOLULU, HAWAII 96813
(808) 587-4160

Martha Torney
Commissioner

Theodore Sakai
Commissioner

November 29, 2022

Mr. Max N. Otani
Director
Department of Public Safety
Keoni Ana Building
1177 Alakea Street
Honolulu, HI 96813

Re: Saguaro Correctional Center Limited Legal Call Schedule

Dear Director Otani:

On November 22nd, the Hawaii Correctional System Oversight Commission (the Commission) received a written complaint from the Hawai'i Innocence Project regarding a limited legal call schedule at the Saguaro Correctional Center. According to the Hawai'i Innocence Project, the current schedule only permits legal calls Tuesday-Thursday from approximately 7:30am-12:00pm Hawaii Standard Time which does not allow for regular and timely communication with their clients.

Additionally, the Hawai'i Innocence Project requested a legal call for Friday December 2nd, after an important meeting specific to their client's case. However, their request was denied because the Saguaro Correctional Center are only permitted to allow legal calls Tuesday-Thursday.

Given the distance between Saguaro Correctional Center and the state of Hawai'i, legal calls have a particular importance as visiting in person is not practical. Additionally, legal attorneys have a duty to communicate regularly with their clients to relay important and timely information and the Department of Public Safety has a duty to ensure legal access.

Therefore, with the information provided to the Commission, the Commission is requesting that the Department of Public Safety commit to the following:

- 1) Provide an accommodation for the Hawai'i Innocence Project to have a legal call with their client on Friday, December 2nd and,
- 2) Change the Saguaro policy to allow for legal calls during normal Hawaii Standard Time business hours and, if needed, after hours and weekends.

Mr. Max. N. Otani
Director
Department of Public Safety
November 29, 2022
Page 2

The Commission appreciates the Department of Public Safety's attention to this matter and looks forward to your response.

Respectfully,



Mark Patterson
Chair

JOSH GREEN M.D.
GOVERNOR



STATE OF HAWAII | KA MOKU'ĀINA O HAWAII
DEPARTMENT OF PUBLIC SAFETY
KA 'OIHANA HO'OPALEKANA LEHULEHU
MAINLAND/FDC BRANCH
1177 Alakea Street
Honolulu, Hawaii 96813

TOMMY JOHNSON
DIRECTOR

Teresita V. Fernandez
Acting Deputy Director
Administration

Michael Hoffman
Acting Deputy Director
Corrections

William Oku
Acting Deputy Director
Law Enforcement

No. 2022-3350

December 19, 2022

Mr. Mark Patterson, Chairperson
Hawaii Correctional System Oversight Commission
235 S. Beratania Street, 16th Floor
Honolulu, Hawaii 96813

RE: Saguaro Correctional Center Limited Legal Call Schedule

Dear Mr. Patterson:

This is in response to your letter dated November 29, 2022, requesting the modification of the attorney legal call hours at the CoreCivic Saguaro Correctional Center in Arizona and to provide an accommodation for the Hawaii Innocence Project for a call outside of the previous legal call parameters.

Please be advised, based on the Commission Coordinator's initial inquiry regarding this same issue, inmate legal call hours were expanded to Monday thru Friday 0600 to 1300 hours Hawaii time (0900 to 1600 hours Arizona time) for attorneys to place a legal call to their client. These are the times the unit/case managers are present within the housing units and can facilitate legal calls.

If situations arise where the attorneys need to contact their client(s) after the hours stated above and/or on weekends, we will make every effort to accommodate such requests. With respect to the Hawaii Innocence Project's (HIIP) denial of their request for a call on December 2, 2022, as previously stated to the Commission's Coordinator, HIIP later contacted the Mainland Branch & the FDC Branch which accommodated and rescheduled the call to another day.

Sincerely,


Tommy Johnson
Director

Mark Patterson
Commission Chair



Hon. Ronald Ibarra (ret.)
Commissioner

Hon. Michael Town (ret.)
Commissioner

Christin M. Johnson
Oversight Coordinator

STATE OF HAWAII
HAWAII CORRECTIONAL SYSTEM OVERSIGHT COMMISSION
235 S. Beretania Street, 16th Floor
HONOLULU, HAWAII 96813
(808) 587-4160

Martha Torney
Commissioner

Theodore Sakai
Commissioner

Mr. Tommy Johnson
Director
Department of Public Safety
Keoni Ana Building
1177 Alakea Street
Honolulu, HI 96813

December 15, 2022

Re: Response to letter from Max Otani, dated October 25, 2022, regarding the recently issued Corrections Working Group Report

Dear Director Johnson:

On October 25th, 2022, Max Otani released a response to the Corrections Working Group report. In this letter, Otani delineates his differences with the findings, conclusions and recommendations contained in the Working Group Report. He also comments on actions or perceived actions of the Commission regarding our position on the development of the New OCCC. These comments appear to be based on misunderstandings of events that led to the Commission's position. As they are written, they appear to be misstatements that should be clarified. Below are Otani's comments and the Commission's concern and response.

PSD Comment: *The HCR 85 Task Force, in part, established the HCSOC, to oversee and work with the Department on facilities' population control and improving offender reentry programs. It must have been difficult for the Commission, until recently, to operate without a budget or staff, as rules and operating procedures have yet to be adopted. This has also placed a hardship on the Department, not having the benefit of thoughtful input from the Oversight Commission on these important areas of concern as mandated in statute. It calls into question the wisdom of the Commission's apparent leap of support for the report's proposal to revamp the OCCC redevelopment project that has been so thoughtfully and meticulously*

researched and consulted, using the nation's foremost correctional experts.
(Emphasis added.) (Pages 3-4)

Concern: This comment undermines the credibility of our Commission by implying that our unput was less than thoughtful until the Oversight Coordinator was hired; and by characterizing our position as a “leap of support”. It disregards the level of expertise of the members of the Commission and of the Commission as a whole. Moreover, The Department seems to have missed the point of our concern. We never addressed the specifications of the project. Our concern has been with how they arrived at these specifications.

Commission Response: We acknowledge that it was difficult to operate without a budget or staff. Yet, we persisted in fulfilling our responsibility to the fullest extent possible and have never hesitated to provide input to the Department. Please understand that although the Commissioners are volunteers, each is a seasoned criminal justice practitioner with decades of experience in different aspects of Hawaii’s criminal justice system. Moreover, members of the Commission have sound experience in program and capital planning, including the development of correctional program services and facilities, and in the State’s capital improvement process.

Chair Patterson is the current Administrator of the Hawaii Youth Correctional Facility and former Warden of the Women’s Community Correctional Center known for his work in Trauma Informed Care within a Correctional Environment. Commissioner Martha Torney is the former Executive Director of the Office of Youth Services and the former Deputy Director of Administration of the Department of Public Safety. Commissioner Ted Sakai has nearly 30 years of experience at the Department of Public Safety, having served as prisons director, deputy director, administrative assistant to the director, and chief of staff. Commissioner Ronald Ibarra was appointed as a Circuit Court Judge in 1989 and was the Third Circuit’s Administrative Judge since 1993 and served as its Chief Judge before retiring in 2017. Commission Mike Town was first appointed the bench in 1979 serving first as District Family Court Judge. He later served as Senior Judge of the Family Court of the First Circuit and served two terms on Hawaii’s Parole Board.

Our concern has never been with the legitimacy of your experts and their ability to “thoughtfully and meticulously” research the jail you have chosen to build. Our concern has been with the process by which you decided that this is the jail that our community needs. Specifically, we do not believe that the department has given enough consideration to several significant factors. These include:

- the impact that community-located health, social services, employment and housing programs can have on the population of the proposed facility, should the State and community decide to invest in such programs.
- the specific proposals developed by the HCR 85 Task Force deserve full consideration. We noted that your own consultant asserted that such reforms can impact the size of the proposed facility. “Unless population reduction (such as the diversion estimates that we

have detailed) can be implemented through policy and legal reforms, the new OCCC will still be a large facility with a large detention and pre-release population.” (See OCCC Forecast, p. 40-41.)

- We do not believe that the Department has provided avenues for participation by community interest groups, including program providers.
- We do not believe that the Department has properly examined its own internal program processes to determine if the Department itself can better manage its population. For example, for at least two years, we have raised the issue of the significant underutilization of your two minimum security facilities which should be playing a significant role in community transition. We have expressed concern with whether inmates are properly prepared for parole release. We need a review of programs and processes that effectively facilitate an inmate’s movement to lower security facilities and then to community programs. Such a review is needed before we commit to an additional 400 beds for this purpose.

Our decision to question the planning for the project was thoughtfully considered. The Commissioners are fully capable of reviewing the plans for the project even if the Coordinator had not been hired. There has been no “apparent leap of support for the report’s proposal to revamp the OCCC redevelopment project. . . .” Our position on the proposed new OCCC was first expressed in December 2020, renewed in December 2021, and has remained unchanged.

PSD Comment: *The Department has stated in several public forums that the current plan is scalable and can be revised to meet the future bed space and program needs if bail reform initiatives and other front-end diversion plans further reduce the projected inmate population. (Page 5)*

Concern: The Department’s stated intent was to issue a design-build-finance RFP. It would see that there should be a high degree of certainty as to what they intend to build.

Commission Response: This assertion was made during a Commission meeting during the discussion related to the proposed community advisory group. The Department’s response was that the community would have the opportunity to provide input during the RFP process. Our concern was that major decisions will have to be made before the RFP can be issued. These decisions would include the number of beds to be developed. We don’t believe that community input can be meaningful at this point. We are skeptical the Department can issue an RFP for which such factors as the number of beds remains undetermined until the community is consulted.

PSD Comment: *PSD has not listened to the recommendations of the Oversight Commission. (Report, page 13)*

This is false. PSD has worked diligently with the Commission to provide requested information and implement recommendations wherever possible. Project Population Forecast Reports (a key area of the Act 179 mandates) and offers to return for follow-up discussion were never followed up on. The team also invited the Commission to attend the OCCC workshop planning sessions, but they declined to attend. (5)

Concern: We appear to be talking about two different phases of the planning process.

Commission Response: We very much appreciate the Department's responsiveness to the requests of the Commission. However, we wish to clarify your point regarding the invitation to participate OCCC workshop planning sessions. Our understanding was that these sessions were more akin to charettes, in which architectural planners met with intended users to identify potential problems and solutions to proposed architectural spaces. We appreciated the invitation but did not feel that it was appropriate for us to participate.

PSD Comment: *Report contends that the Commission's demand, to "immediately pause the planning for the new jail and create an Advisory Committee to review, and if necessary revise, the planning that has been done to date, and to actively participate in the planning process going forward" in 2020 was rejected by DPS (PSD).*

In fact, the Department of Public Safety did not reject the Commission's 2020 recommendations. The Department stated in several oversight meetings that it fully supports the recommendation to create an advisory committee but also made clear that as a State agency bound by laws and strict procurement rules, PSD must avoid the public perception of bias and cannot be the agency that convenes a committee tasked with reviewing its own OCCC redevelopment plan. The Department instead suggested that such a committee would need to be created by an impartial/neutral party such as the Oversight Commission, with a PSD representative appointed to participate on the committee. The Department would undoubtedly face public scrutiny and grievances if it were to create an advisory committee working to revise the OCCC plan.

The one request made by the PSD Director was for the committee to be made up of people in favor of building the jail, since the common goal was to review the plan and determine how best to build adequate space for the current and future populations. In fact, the report even states that the Oversight Commission should convene an Advisory Committee (page 33), and the conclusion, starting on page 34, recommends the Oversight Commission work with an Advisory Committee to develop a "scope of work" ... indicating the report writers' agreement with the Director's comments made at previous Commission meetings. (5)

Concern: The purpose of the advisory committee would be to provide further input. It is not to review the OCCC redevelopment plan. I do not understand how the formation of such a committee would subject the Department to public scrutiny and grievances.

Commission Response: This was discussed in a meeting of the Commission. We do not understand your point that the formation of an advisory committee would create a “public perception of bias”, and that it would subject the Department to “public scrutiny and grievances”. The purpose of the proposed committee is to provide further input that may not have been considered by the Department, not to conduct a critical review of the plans for the new OCCC. In our view, a broad-based advisory committee would dampen any perception of bias. In fact, your planning process has become subject of public scrutiny because of the perception that some segments of the community have been excluded.

Conclusion: Our position is clear. We believe that the community input is in order. This input should be made directly to the Department as you are responsible for planning the new facility. Your proposal would add an unnecessary step. Moreover, we simply do not have the resources to convene such a committee. At this point, our willingness to work with the Working Group is based on their proposal for Legislation to effect any statutory changes to enable the Commission to oversee planning of correctional facilities and for an appropriation to provide us with the resources needed for such a responsibility. We will thoroughly review such legislation before we take a position.

We hope this clarifies our position on the New OCCC proposal.

Respectfully,



Mark Patterson
Chair

Mark Patterson
Commission Chair



Hon. Ronald Ibarra (ret.)
Commissioner

Hon. Michael Town (ret.)
Commissioner

Christin M. Johnson
Oversight Coordinator

STATE OF HAWAII
HAWAII CORRECTIONAL SYSTEM OVERSIGHT COMMISSION
235 S. Beretania Street, 16th Floor
HONOLULU, HAWAII 96813
(808) 587-4160

Martha Torney
Commissioner

Theodore Sakai
Commissioner

December 30th, 2022

Mr. Tommy Johnson
Director
Department of Public Safety
Keoni Ana Building
1177 Alakea Street
Honolulu, HI 96813

Re: Electronic Medical Record System

Dear Director Johnson,

On August 10th, 2022, the Oversight Coordinator learned that the Electronic Medical Record (EMR) had been down since June 14, 2022, causing staff to rely on a paper/pen-based system with no clear indication of when the EMR would be back up for staff utilization. This issue was immediately addressed with you and the former Director of Public Safety, Max Otani, with clear urgency. The Coordinator explained that this is a crisis for those in custody because:

1. Patient safety and health is at risk without a functioning EMR.
2. EMRs are necessary to ensure consistency in care across multiple providers.
3. EMRs ensure medications are appropriately administered and documented to lessen risk to patient's health and tracking of medication used, especially when being transferred across facilities.
4. From a cost perspective, EMRs reduce time spent on documentation as there are often templates and order sets to improve efficiency.
5. Additionally, this is massive liability for the department.

The Coordinator was assured that the EMR was back up and running by August 24th, 2022, and publicly addressed this matter. However, the Coordinator learned on December 10th, 2022, that the EMR was only working for two weeks before completely failing again. The Department confirmed that they purchased new servers, but they were not successful in fixing the issues as the EMR system is old (purchased in 2008) and outdated. The Coordinator asked if there was any plan for a new EMR, and although the Department is looking into a new system, there is no timeframe of when a new system might be implemented.

The Commission and Coordinator respects that the Department has been working diligently on this issue, however, it is unacceptable to have a non-functioning EMR for six+ months. Medical staff are becoming increasingly burnt out by not having the tools they need to effectively treat patients and give the best care.

If the EMR cannot be fixed, the Commission recommends **immediate** purchase and implementation of a new medical record system. Additionally, the Commission is requesting to be kept up to date and informed on all matters related to the EMR including specific plans and timelines for this issue to be resolved.

Respectfully,



Mark Patterson
Chair
Hawaii Correctional System Oversight Commission

Appendix 4
2022 Criminal Law Forum PowerPoint
Presentation



Hawaii Correctional System Oversight Commission

October 7th 2022
Criminal Law Forum
Prison Reform

HCSOC Slide 1

Agenda

- History of the Commission
- Roles and Duties of the Commission
- National Standards of Confinement
- Jails vs Prisons
- Current Inmate Population
- Current Conditions in Hawaii
- Corrections Departmental Related Costs
- Recidivism Rates
- Commission Actions
- Resources

HCSOC Slide 2

History of the Commission

Hawaii Correctional System Oversight Commission Timeline

Norway Trip	Legislative Taskforce	HCR85 Taskforce Report	Act 179	Commission Convenes	First Oversight Coordinator hired
2015	2015	2018	2019	2020	2022
Justice Michael Wilson, Robert Merce, Gregg Takayama (then chair of the House Committee on Corrections, Military & Veterans), Bert Matsumoto (then chair of the Hawaii Paroling Authority), and James Hirano (then Warden of MCCC) visited Norwegian correctional facilities and met with correctional experts from Norway, Sweden, Ireland, and England.	After the trip to Norway, the group created a taskforce. The taskforce found that Hawaii's correctional system is not producing acceptable, cost-effective, or sustainable outcomes and needs immediate and profound change.	Creating a Correctional Oversight Commission was one of the key recommendations of the HCR 85 Task Force's final report to the 2019 Legislature.	HB 1552 (2019) incorporated the Task Force's oversight recommendations and became law in 2019 as Act 179.	The Commissioners Mark Patterson (Chair), Ted Sakai, Martha Torney, Judge Ronald Ibarra, and Judge Michael Town began meeting monthly and continued to meet virtually throughout the pandemic.	In July 2022, the first staff for the Commission was hired (Oversight Coordinator).

HCSOC Slide 3

Powers and Duties of the Commission

Chapter 353L -3

Investigation	Set Population Limits	Reentry	Monitor
<ul style="list-style-type: none"> Oversee the State's correctional system and have jurisdiction over investigating complaints at correctional facilities and facilitating a correctional system transition to a rehabilitative and therapeutic model 	<ul style="list-style-type: none"> Establish maximum inmate population limits for each correctional facility and formulate policies and procedures to prevent the inmate population from exceeding the capacity of each correctional facility. 	<ul style="list-style-type: none"> Work with the department of public safety in monitoring and reviewing the comprehensive offender reentry program, including facility educational and treatment programs, rehabilitative services, work furloughs, and the Hawaii paroling authority's oversight of parolees. The commission may make recommendations to the department of public safety, the Hawaii paroling authority, and the legislature regarding reentry and parole services. 	<ul style="list-style-type: none"> Ensure that the comprehensive offender reentry system under chapter 353H is working properly to provide programs and services that result in the timely release of inmates on parole when the maximum terms have been served instead of delaying the release for lack of programs and services.

HCSOC Slide 4

National Standards of Confinement

There are numerous organizations who have created minimal mandated standards. The most notable are:



Department of Justice created "Federal Standards for Prisons in Jails" in 1980. The standards are intended to provide guidance to the litigating divisions of the Department of Justice when they are engaged in cases involving Federal, State, or local correctional systems.



American Bar Association created "Treatment for Prisoners" in 1981, and the ABA House of Delegates approved the "Legal Status of Prisoner Standards" which were published with commentary in 1983.



American Correctional Association created an accreditation process in 1978. The most recent standards were updated in 2016. The ACA adds and adjusts standards based on lawsuits across the country.

HCSOC Slide 5

Jail Vs. Prison

Jail

- Sentenced to less than 1 year OR awaiting sentencing.
- Those sentenced have less severe crimes.
- Typically run by local government.

Prison

- Sentenced to more than 1 year.
- More severe crimes.
- Typically run by state government.



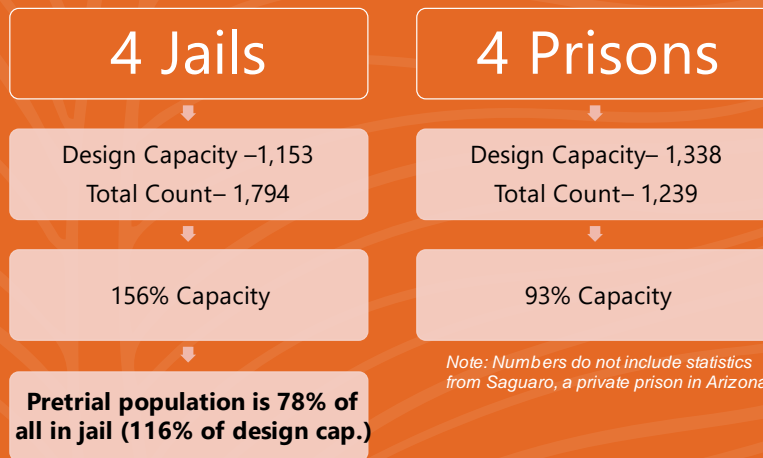
MCCC photo from Honolulu Civil Beat



HCF photo from Honolulu Civil Beat

HCSOC Slide 6

Current Inmate Population



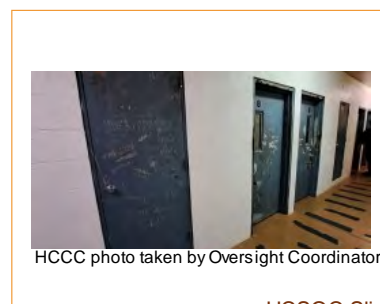
HCSOC Slide 7

Current Conditions

- Severe overcrowding in jails
- Severe staffing shortage
- Extremely old facilities (newest facility is Halawa built in 1987. OCCC, MCCC, KCCC, and HCCC were built in the 1970's).
- Dry-cells are used as permanent housing (overcrowding)
- Padlocks on cell doors (age of facility)
- Lack of access to outof-cell activities like the dayroom, recreation, law library, etc. (lack of staffing and overcrowding)



HCCC photo taken by Oversight Coordinator



HCCC photo taken by Oversight Coordinator

HCSOC Slide 8

Corrections Departmental Related Costs

Total FY23 Corrections Budget: \$274,079,501
Cost Per In-State Inmate: \$247/day

Note: These are average cost estimates and include programs, healthcare, and administrative services.

Name	FY23 Corrections Budget		
	Payroll	Operating	Total
HCF	26,417,054	6,069,358	32,486,412
KCF	4,909,742	1,442,392	6,352,134
WCF	6,786,461	1,204,773	7,991,234
HCCC	10,998,798	1,773,235	12,772,033
MCCC	11,900,631	2,277,138	14,177,769
MCCC	92,101	117,620	209,721
OCCC	32,637,195	5,776,495	38,413,690
KCCC	4,982,994	1,038,588	6,021,582
WCCC	13,533,568	2,788,006	16,321,574
ISC	4,256,621	742,217	4,998,838
CPS	9,069,943	15,221,620	24,291,563
CPS	-	1,045,989	1,045,989
HCD	19,143,876	14,127,148	33,271,024
HCI	2,971,264	7,470,532	10,441,796
NSF	587,618	45,664,291	46,251,909
ADM	10,328,952	7,349,715	17,678,667
ADM	413,350	865,151	1,278,501
ADM	-	75,065	75,065

HCSOC Slide 9

Recidivism is defined as any new arrest, or the revocation of probation or parole, within three years of the start of supervision, released to parole, or prison release date.

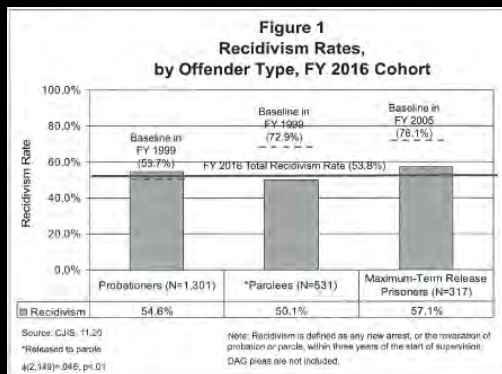


Figure 1 depicts probationer, parolee, and maximum-term released prisoner recidivism rates.

- 54.6% recidivism rate for probationers
- 50.1% recidivism rate for parolees
- 57.1% recidivism rate for maximum-term released prisoners.
- The overall recidivism rate for the entire FY 2016 study cohort is 53.8%.

HCSOC Slide 10

Commission Actions

MEETINGS

The Commission meets on the third Thursday of every month at 9am in a hybrid meeting (in person and virtual).

These meetings address:

- Conditions of Confinement
- Updates on Covid-19 statistics
- Plans for building new OCCC
- Mental health programs
- Restrictive housing procedures
- Proposed actions from the Commission
- Other topic areas as necessary

REPORTS

The Oversight Coordinator posts monthly reports covering:

- actions taken by the commission
- expenses for the preceding month

The Commission posts annual reports which includes:

- Full and complete statement of actions taken by the commission for the preceding year
- Recommendations
- Proposed legislation



HCSOC Slide 11

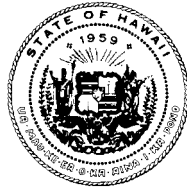


Resources

- Department of Public Safety
 - dps.hawaii.gov
- Hawaii Correctional System Oversight Commission
 - hcsoc.hawaii.gov

HCSOC Slide 12

Appendix 5
2022 Legislative Testimony from
Commission



**STATE OF HAWAII
HAWAII CORRECTIONAL SYSTEM OVERSIGHT COMMISSION**

February 1, 2022

TO: The Honorable Representative Takashi Ohno, Chair
Committee on Corrections, Military, & Veterans

FROM: Mark Patterson, Chair, Hawaii Correctional System Oversight
Commission

SUBJECT: **HB1650 Relating to offender Reentry**

POSITION: Support

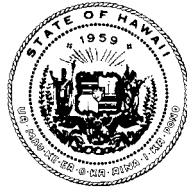
Chair Ohno, Vice Chair Ganaden and Members of the Committee

The Hawaii Corrections System Oversight Commission was created by Act 179, SLH 2019, to provide independent oversight over our correctional system. The Commission's statutory responsibilities include monitoring and reviewing the comprehensive offender reentry program of the Department of Public Safety and ensuring that the comprehensive offender reentry system under chapter 353H is working properly to provide programs and services that result in the timely release of inmates on parole. [See Hawaii Revised Statutes 353L-3(b).]

Nationally an estimated 25 to 50 percent of people experiencing homelessness also have a history of incarceration. This overlap poses challenges for communities' efforts to engage and assist people experiencing homelessness and to end homelessness. In addition to being costly, criminalization can impede communities' attempts to prevent and end homelessness. Arresting a person for actions associated with homelessness rather than providing them with necessary health care and other services can exacerbate health and behavioral health problems. Further, criminal records result in barriers to housing and other services upon release, making it harder for people to become stable members of our communities.

We support the bill as it is aligned with our mandate for population control, monitoring and supporting a comprehensive re-entry program within the Department of Public Safety.

Offenders stand a better success rate of recidivism should they be afforded housing opportunities prior to release. This would lead to better transitional planning and economic stability.



**STATE OF HAWAII
HAWAII CORRECTIONAL SYSTEM OVERSIGHT COMMISSION**

February 1, 2022

TO: The Honorable Senator Clarence Nishihara, Chair
Senate Committee on Public Safety, Intergovernmental and Military
Affairs

FROM: Mark Patterson, Chair Hawaii Correctional System Oversight
Commission.

SUBJECT: **SB 2305, Relating to the Comprehensive Offender Reentry System**

POSITION: STRONG SUPPORT

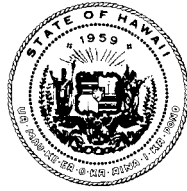
Chair Nishihara, Vice Chair DeCoite and Members of the Committee

The Hawaii Corrections System Oversight Commission was created by Act 179, SLH 2019, to provide independent oversight over our correctional system. We strongly support this bill, which seeks a simple but critical change in the statute that created the Commission. We believe the inclusion of the word "maximum" instead of "minimum" in the statute was a simple mistake that can have enormous consequences.

Our sentencing laws provide that the courts are responsible for setting maximum terms of imprisonment in accordance with the statutes. The Hawaii Paroling Authority establishes the minimum terms, as which point the inmate becomes eligible for release into the community on parole. Our laws further promote community safety by requiring the Department of Public Safety to develop and implement comprehensive reentry plans to help each inmate. Such plans prepare inmates, upon parole eligibility, to make the difficult transition from the highly structured prison setting to life in the free community. This is a critical point. Offenders released on parole are subject to supervision and are much more likely to succeed. When offenders are held until their maximum terms expire they have more difficult adjustment and are not subject to parole supervision.

This is a very important bill. We urge its passage.

Mark Patterson
Chair
Hawaii Correctional System Oversight Commission



**STATE OF HAWAII
HAWAII CORRECTIONAL SYSTEM OVERSIGHT COMMISSION**

February 1, 2022

TO: The Honorable Senator Clarence Nishihara, Chair
Senate Committee on Public Safety, Intergovernmental and Military
Affairs

FROM: Ted Sakai, Member, Hawaii Correctional System Oversight
Commission

SUBJECT: **SB 2532, Relating to Prisons**

POSITION: Support

Chair Nishihara, Vice Chair DeCoite and Members of the Committee

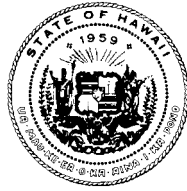
The Hawaii Corrections System Oversight Commission was created by Act 179, SLH 2019, to provide independent oversight over our correctional system. The Commission's statutory responsibilities include monitoring and reviewing the comprehensive offender reentry program of the Department of Public Safety and ensuring that the comprehensive offender reentry system under chapter 353H is working properly to provide programs and services that result in the timely release of inmates on parole. [See Hawaii Revised Statutes 353L-3(b).]

We support the bill due to its intent and implementation will add in the creation of a more effective comprehensive offender re-entry program

Offenders stand a better success rate of recidivism should they be educated before release on the management of personal finances and business opportunities. This would lead to better transitional planning and economic stability. Financial literacy prior to release can be factored with unification with family for better outcomes and support as well.

The transition from the highly structured life in prison to independent life is hard enough. Teaching financial literacy will provide the offender upon release a stabilized foundation of financial management for the success of their transition and their families.

Mark Patterson
Chair
Hawaii Correctional System Oversight Commission.



**STATE OF HAWAII
HAWAII CORRECTIONAL SYSTEM OVERSIGHT COMMISSION**

February 1, 2022

TO: Honorable Senator Clarence Nishihara
Senate Committee on Public Safety, Intergovernmental, and Military
Affairs

FROM: Mark Patterson, Chair, Hawaii Correctional System Oversight
Commission

SUBJECT: **SB 2637, RELATING TO PUBLIC SAFETY**

POSITION: STRONG SUPPORT

Chair Nishihara, Vice Chair DeCoite and Members of the Committee:

The Hawaii Corrections System Oversight Commission was created by Act 179, SLH 2019, to provide independent oversight over our correctional system. The Commission's statutory responsibilities include monitoring and reviewing the comprehensive offender reentry program of the Department of Public Safety and ensuring that the comprehensive offender reentry system under chapter 353H is working properly to provide programs and services that result in the timely release of inmates on parole. [See Hawaii Revised Statutes 353L-3(b).]

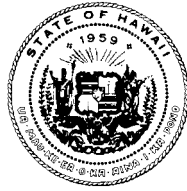
The Commission strongly supports SB 2637, which would require community-based work furlough programs for incarcerated women in Hawaii. This mandate would be consistent with the requirement in HRS 353H-3 that the Department of Public Safety develop a "comprehensive network of transitional programs to address the needs of individuals exiting the correctional system." Such a network promotes community safety by facilitating the adjustment from the highly structured prison setting to independent living. These transitional services work best when located in the communities into which the inmates will return. In these settings programs can provide navigational supports as the inmate adjusts to the demands of life in the community; and much needed emotional support.

Very frequently, such services are best provided by non-profit agencies whose focus is on assisting inmates within their communities. Hawaii has a rich history of such services. They include the Fernhurst YWCA in Honolulu; the Maui Best program on Maui, and the Going Home Consortium on Hawaii Island. These agencies have been a critical part of the correctional system "infrastructure" for years. For example, the

Fernhurst program and its predecessors have provided services since the 1970s. They have struggled, and often they are underutilized. But they remain resilient because they are dedicated to their mission and many in the communities recognize their value.

SB 2637 will be an important step toward ensuring that this network of community-based services can not only survive, but perhaps thrive. They will play a central role as Hawaii moves to a rehabilitative and therapeutic model of corrections. We urge you to pass this bill.

Mark Patterson
Chair
Hawaii Correctional System Oversight Commission



**STATE OF HAWAII
HAWAII CORRECTIONAL SYSTEM OVERSIGHT COMMISSION**

February 1, 2022

TO: The Honorable Senator Clarence Nishihara, Chair
Senate Committee on Public Safety, Intergovernmental and Military
Affairs

FROM: Mark Patterson, Chair, Hawaii Correctional System Oversight
Commission

SUBJECT: **SB 2639, Relating to the Comprehensive Offender Reentry System**

POSITION: STRONGLY SUPPORT

Chair Nishihara, Vice Chair DeCoite and Members of the Committee

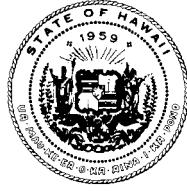
The Hawaii Correctional Systems Oversight Commission supports Senate Bill 2639, Relating to the Comprehensive Offender Reentry System, which amends Section 353H-2.5, HRS, to require a risk/needs assessment specifically intended to assess the needs of female offenders returning to the community.

Criminal justice policies, practices and programs have traditionally been designed for men and applied to women without regard to the unique needs of women. Gender responsive risk/needs assessment tools better identify interventions which connect women to programs and treatment to address their needs and reduce the incidence of recidivism.

It has long been established that women's pathways to crime differ significantly from those of men, too often beginning in childhood physical and sexual abuse. Women are far more likely than men to commit crimes related to poverty (prostitution, credit card fraud) and substance abuse (drug-related offenses). Dysfunctional relationships lead to a lack of self-worth and any sense of control over their own lives, and contribute to the high rates of depression among women offenders. As women are the primary caretakers of children, parental issues present unique challenges for impoverished women. Gender responses programs and treatments best address the needs of women.

We urge you to pass this measure to ensure proper interventions are identified and designed to assist the successful

Mark Patterson
Chair
Hawaii Correctional System Oversight Commission



STATE OF HAWAII'
HAWAII' CORRECTIONAL SYSTEM OVERSIGHT COMMISSION

February 1, 2022

TO: The Honorable Senator Clarence Nishihara, Chair
Senate Committee on Public Safety, Intergovernmental and Military
Affairs

FROM: Mark Patterson, Chair, Hawaii Correctional System Oversight
Commission

SUBJECT: **SB 2771, RELATING TO RISK AND NEDDS ASSESSMENT FOR FEMALE
OFFENDERS.**

POSITION: STRONGLY SUPPORT

Chair Nishihara, Vice Chair DeCoite and Members of the Committee

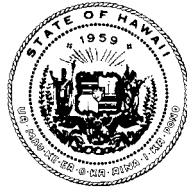
The Hawaii Correctional Systems Oversight Commission supports Senate Bill 2771, Relating to Risk and Needs Assessment for Female Offenders, which amends Section 353-10, HRS, to require a risk/needs assessment specifically intended to assess the risk reoffend and treatment needs of pre-trial female offenders.

Few pre-trial assessment tools have been normed to the gender-specific risk and needs of pre-trial women. There certainly are many gender-neutral risk factors, such as history of criminal convictions and failure to appear, that apply to both men and women, but without consideration of gender-specific risk factors we miss the opportunity to achieve more successful outcomes for justice involved women.

Studies have shown that women are far less likely than men to incur pretrial failures and less likely to incur new arrests in the six months following arrest. Through gender-specific risk/needs assessments, coupled with proper referral to community-based resources, these tools can support the effectiveness of pre-trial diversion for women.

We support the need for gender-specific tools to evaluate the risk and needs of pretrial women offenders. Thank you for the opportunity to testify.

Mark Patterson
Chair
Hawaii Correctional System Oversight Commission



**STATE OF HAWAII
HAWAII CORRECTIONAL SYSTEM OVERSIGHT COMMISSION**

February 1, 2022

TO: The Honorable Senator Clarence Nishihara, Chair
Senate Committee on Public Safety, Intergovernmental and Military
Affairs

FROM: Mark Patterson, Chair, Hawaii Correctional System Oversight
Commission

SUBJECT: **SB 3137, Relating to the Comprehensive Offender Reentry System**

POSITION: SUPPORT in Part; OPPOSE in Part

Chair Nishihara, Vice Chair DeCoite and Members of the Committee

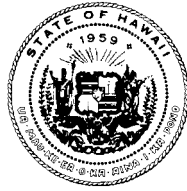
The Hawaii Corrections System Oversight Commission was created by Act 179, SLH 2019, to provide independent oversight over our correctional system. The Commission's statutory responsibilities include monitoring and reviewing the comprehensive offender reentry program of the Department of Public Safety and ensuring that the comprehensive offender reentry system under chapter 353H is working properly to provide programs and services that result in the timely release of inmates on parole. [See Hawaii Revised Statutes 353L-3(b).]

We support the portion of the bill that clarifies the responsibilities of the various agencies. However, we oppose proposed amendment to HRS 353H-32.c, as it would place the onus on the inmate to request assistance in obtaining the documents.

When it passed legislation to require that the Department assist inmates to obtain identification documents, the Legislature in its wisdom has acknowledged that these documents are essential for navigating life in the digital age. Obtaining proper civil identification documents can be challenging, even for people in the free community. Imagine if you've been in prison – perhaps thousands of miles away from home – for years, with very limited contact with your home community and virtually no means to telephone or access the websites of the relevant agencies? The process of obtaining proper documents is complex enough that after years of diligent efforts by PSD, the issue has not yet been resolved.

The transition from the highly structured life in prison to independent life is hard enough. PSD, which by law is responsible for care and custody, should assure that every inmate leave prison with proper identification documents whether they ask for them or not.

Mark Patterson
Chair
Hawaii Correctional System Oversight Commission



**STATE OF HAWAII
HAWAII CORRECTIONAL SYSTEM OVERSIGHT COMMISSION**

February 2, 2022

TO: The Honorable Representative Takashi Ohno, Chair
House Committee on Corrections, Military, and Veterans

FROM: Mark Patterson, Chair, Hawaii Correctional System Oversight
Commission

SUBJECT: **HB 2169, Relating to the Comprehensive Offender Reentry System**

POSITION: SUPPORT in Part; OPPOSE in Part

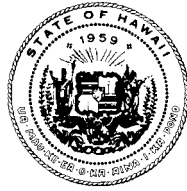
Chair Ohno, Vice Chair Ganaden and Members of the Committee

The Hawaii Corrections System Oversight Commission was created by Act 179, SLH 2019, to provide independent oversight over our correctional system. The Commission's statutory responsibilities include monitoring and reviewing the comprehensive offender reentry program of the Department of Public Safety and ensuring that the comprehensive offender reentry system under chapter 353H is working properly to provide programs and services that result in the timely release of inmates on parole. [See Hawaii Revised Statutes 353L-3(b).]

We support the portion of the bill that clarifies the responsibilities of the various agencies. However, we oppose proposed amendment to HRS 353H-32.c, as it would place the onus on the inmate to request assistance in obtaining the documents.

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**STATE OF HAWAII
HAWAII CORRECTIONAL SYSTEM OVERSIGHT COMMISSION**

February 2, 2022

TO: The Honorable Representative Takashi Ohno, Chair
Senate Committee on Corrections, Military and Veterans

FROM: Mark Patterson, Chair Hawaii Correctional System Oversight
Commission.

SUBJECT: **HB 1739, Relating to Public Safety**

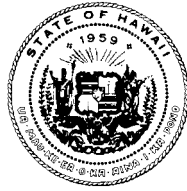
POSITION: STRONG SUPPORT

Chair Ohno, Vice Chair Ganaden and Members of the Committee

The Hawaii Corrections System Oversight Commission was created by Act 179, SLH 2019, to provide independent oversight over our correctional system. We strongly support this bill, which seeks a simple but critical change in the statute that created the Commission. We believe the inclusion of the word "maximum" instead of "minimum" in the statute was a simple mistake that can have enormous consequences.

Our sentencing laws provide that the courts are responsible for setting maximum terms of imprisonment in accordance with the statutes. The Hawaii Paroling Authority establishes the minimum terms, as which point the inmate becomes eligible for release into the community on parole. Our laws further promote community safety by requiring the Department of Public Safety to develop and implement comprehensive reentry plans to help each inmate. Such plans prepare inmates, upon parole eligibility, to make the difficult transition from the highly structured prison setting to life in the free community. This is a critical point. Offenders released on parole are subject to supervision and are much more likely to succeed. When offenders are held until their maximum terms expire they have more difficult adjustment and are not subject to parole supervision.

This is a very important bill. We urge its passage.



**STATE OF HAWAII
HAWAII CORRECTIONAL SYSTEM OVERSIGHT COMMISSION**

February 3, 2022

TO: The Honorable Senator Maile Shimabukuro Chair
Senate Committee on Hawaiian Affairs

FROM: Mark Patterson, Chair Hawaii Correctional System Oversight
Commission.

SUBJECT: **SB 2770 Related to Native Hawaiian Rehabilitation Programs**

POSITION: STRONG SUPPORT

Chair Shimabukuro, Vice Chair Keohokalohe and Members of the Committee

The Hawaii Corrections System Oversight Commission was created by Act 179, SLH 2019, to provide independent oversight over our correctional system. The Commission's statutory responsibilities include monitoring and reviewing the comprehensive offender reentry program of the Department of Public Safety and ensuring that the comprehensive offender reentry system under chapter 353H is working properly to provide programs and services that result in the timely release of inmates on parole. [See Hawaii Revised Statutes 353L-3(b).]

National movements regarding indigenous programing within a correctional setting advocate that for successful reintegration is to occur the following must be addressed.

- their participation in and access to spiritual and cultural activities
- culturally responsive programs, preferably delivered by Indigenous people
- the support they receive from family and community

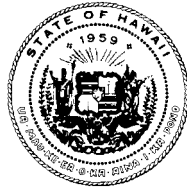
In the Office of Hawaiian Affairs report on the Disparate Treatment of Native Hawaiians in the Criminal Justice System 2011 recommendations were offered that spoke on:

- Honoring the Sacred Forgiveness, and Successful Entry Back
- Kuleana (Responsibility within the context of the collective)
- Pili, Close Relations, and Feeding with learning

In the commissions responsibility of oversight of the Department of Public Safety in regards to population control and a Comprehensive re-entry program we strongly support SB2770 to

encourage collaboration between the department of Public Safety and the Office of Hawaiian Affairs in the creation of an Native Hawaiian indigenous model of healing to manage culturally relevant programming for its entire incarcerated population.

Mark Patterson
Chair
Hawaii Correctional System Oversight Commission



**STATE OF HAWAII
HAWAII CORRECTIONAL SYSTEM OVERSIGHT COMMISSION**

February 3, 2022

TO: Honorable Senator Clarence Nishihara
Senate Committee on Public Safety, Intergovernmental, and Military
Affairs

FROM: Mark Patterson, Chair Hawaii Correctional System Oversight
Commission.

SUBJECT: **SB2514 Related to Probation**

POSITION: STRONG SUPPORT

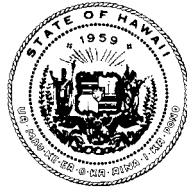
Chair Nishihara, Vice Chair DeCoite and Members of the Committee

The Hawaii Corrections System Oversight Commission was created by Act 179, SLH 2019, to provide independent oversight over our correctional system. The Commission's statutory responsibilities include monitoring and reviewing the comprehensive offender reentry program of the Department of Public Safety and ensuring that the comprehensive offender reentry system under chapter 353H is working properly to provide programs and services that result in the timely release of inmates on parole. [See Hawaii Revised Statutes 353L-3(b).]

This bill's purpose would come under our commission's purview " ...formulate policies and procedures to prevent the inmate population from exceeding the capacity of each correctional facility:"

Probation works by allowing defendants to retain many of their freedoms, if they meet strict conditions mandated by the court. Probation involves court-ordered formal supervision, with stringent terms, for a given length of time. Violating the terms of probation can result in additional charges and penalties.

There is a need for probationers to achieve success and maintain stability of family and employment without having to beholden to technical violations and the potential for reduction time can add to a more successful transition. A return to jail for technical violation can cause strain on family financial income and total wellbeing.



**STATE OF HAWAII
HAWAII CORRECTIONAL SYSTEM OVERSIGHT COMMISSION**

February 3, 2022

TO: Honorable Senator Clarence Nishihara
Senate Committee on Public Safety, Intergovernmental, and Military
Affairs

FROM: Mark Patterson, Chair Hawaii Correctional System Oversight
Commission.

SUBJECT: **SB2515 Related to Parole**

POSITION: STRONG SUPPORT

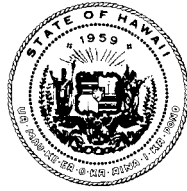
Chair Nishihara, Vice Chair DeCoite and Members of the Committee

The Hawaii Corrections System Oversight Commission was created by Act 179, SLH 2019, to provide independent oversight over our correctional system. The Commission's statutory responsibilities include monitoring and reviewing the comprehensive offender reentry program of the Department of Public Safety and ensuring that the comprehensive offender reentry system under chapter 353H is working properly to provide programs and services that result in the timely release of inmates on parole. [See Hawaii Revised Statutes 353L-3(b).]

This bill's purpose would come under our commission's purview " ...formulate policies and procedures to prevent the inmate population from exceeding the capacity of each correctional facility and comprehensive offender reentry system under chapter 353H is working properly to provide programs and services that result in the timely release of inmates on parole. [See Hawaii Revised Statutes 353L-3(b).]

Parole works by allowing defendants to retain many of their freedoms, if they meet strict conditions mandated by the Parole Board. Violating the terms of parole can result in additional charges and penalties.

There is a need for parole to achieve success and maintain stability of family and employment without having to beholden to technical violations and the potential for reduction time can add to a more successful transition. A return to prison for technical violation can cause strain on family financial income and total wellbeing.



**STATE OF HAWAII
HAWAII CORRECTIONAL SYSTEM OVERSIGHT COMMISSION**

February 4, 2022

TO: Honorable Representative Takashi Ohno, Chair
House Committee on Corrections, Military, and Veterans

FROM: Mark Patterson, Chair, Hawaii Correctional System Oversight
Commission

SUBJECT: **HB 1741, RELATING TO CHILDREN AND FAMILY OF INCARCERATED
INDIVIDUALS**

POSITION: STRONG SUPPORT

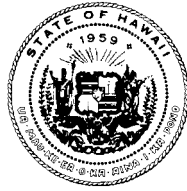
Chair Ohno, Vice Chair Ganaden and Members of the Committee:

The Hawaii Corrections System Oversight Commission was created by Act 179, SLH 2019, to provide independent oversight over our correctional system. The Commission's statutory responsibilities include monitoring and reviewing the comprehensive offender reentry program of the Department of Public Safety and ensuring that the comprehensive offender reentry system under chapter 353H is working properly to provide programs and services that result in the timely release of inmates on parole. [See Hawaii Revised Statutes 353L-3(b).]

The Commission strongly supports HB 1741, which would require community-based work furlough programs for incarcerated women in Hawaii. This mandate would be consistent with the requirement in HRS 353H-3 that the Department of Public Safety develop a "comprehensive network of transitional programs to address the needs of individuals exiting the correctional system." Such a network promotes community safety by facilitating the adjustment from the highly structured prison setting to independent living.

Families play a crucial role in the rehabilitation of inmates. As such any network of transitional services must include meaningful reconnection with families, particularly if the inmate has children. Moreover, the challenges facing children of the incarcerated are well-documented. A visitation and resource center would help children deal with the trauma caused by parental incarceration.

We urge you your favorable consideration of this bill.



**STATE OF HAWAII
HAWAII CORRECTIONAL SYSTEM OVERSIGHT COMMISSION**

February 4, 2022

TO: Honorable Representative Takashi Ohno, Chair
House Committee on Corrections, Military, and Veterans

FROM: Mark Patterson, Chair, Hawaii Correctional System Oversight
Commission

SUBJECT: **HB 1776, RELATING TO PUBLIC SAFETY**

POSITION: STRONG SUPPORT

Chair Ohno, Vice Chair Ganaden and Members of the Committee:

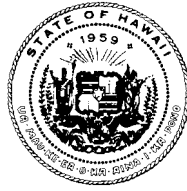
The Hawaii Corrections System Oversight Commission was created by Act 179, SLH 2019, to provide independent oversight over our correctional system. The Commission's statutory responsibilities include monitoring and reviewing the comprehensive offender reentry program of the Department of Public Safety and ensuring that the comprehensive offender reentry system under chapter 353H is working properly to provide programs and services that result in the timely release of inmates on parole. [See Hawaii Revised Statutes 353L-3(b).]

The Commission strongly supports HB 1776, which would require community-based work furlough programs for incarcerated women in Hawaii. This mandate would be consistent with the requirement in HRS 353H-3 that the Department of Public Safety develop a "comprehensive network of transitional programs to address the needs of individuals exiting the correctional system." Such a network promotes community safety by facilitating the adjustment from the highly structured prison setting to independent living. These transitional services work best when located in the communities into which the inmates will return. In these settings programs can provide navigational supports as the inmate adjusts to the demands of life in the community; and much needed emotional support.

Very frequently, such services are best provided by non-profit agencies whose focus is on assisting inmates within their communities. Hawaii has a rich history of such services. They include the Fernhurst YWCA in Honolulu; the Maui Best program on Maui, and the Going Home Consortium on Hawaii Island. These agencies have been a critical part of the correctional system "infrastructure" for years. For example, the Fernhurst program and its predecessors have provided services since the 1970s. They

have struggled, and often they are underutilized. But they remain resilient because they are dedicated to their mission and many in the communities recognize their value.

HB 1776 will be an important step toward ensuring that this network of community-based services can not only survive, but perhaps thrive. They will play a central role as Hawaii moves to a rehabilitative and therapeutic model of corrections. We urge you to pass this bill.



**STATE OF HAWAII
HAWAII CORRECTIONAL SYSTEM OVERSIGHT COMMISSION**

February 4, 2022

TO: Honorable Representative Takashi Ohno, Chair
House Committee on Corrections, Military, and Veterans

FROM: Mark Patterson, Chair, Hawaii Correctional System Oversight
Commission

SUBJECT: **HB 2257, RELATING TO REENTRY PLANNING CIRCLES**

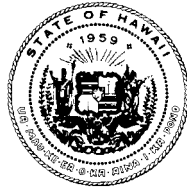
POSITION: STRONG SUPPORT

Chair Ohno, Vice Chair Ganaden and Members of the Committee:

The Hawaii Corrections System Oversight Commission was created by Act 179, SLH 2019, to provide independent oversight over our correctional system. The Commission's statutory responsibilities include monitoring and reviewing the comprehensive offender reentry program of the Department of Public Safety and ensuring that the comprehensive offender reentry system under chapter 353H is working properly to provide programs and services that result in the timely release of inmates on parole. [See Hawaii Revised Statutes 353L-3(b).]

The Commission strongly supports HB 2257, which would fund for reentry planning circles for incarcerated women in Hawaii. This mandate would be consistent with the requirement in HRS 353H-3 that the Department of Public Safety develop a "comprehensive network of transitional programs to address the needs of individuals exiting the correctional system." Such a network promotes community safety by facilitating the adjustment from the highly structured prison setting to independent living. These transitional services work best when they link inmates in prison with the communities to which they return.

Reentry planning circles effectively help inmates re-connect with their families and other loved ones. Family connection is a crucial element in successful reentry. Our only concern with this bill is that it is limited only to women inmates. It is a good start, nevertheless, and we urge your favorable consideration.



**STATE OF HAWAII
HAWAII CORRECTIONAL SYSTEM OVERSIGHT COMMISSION**

February 4, 2022

TO: Honorable Representative Takashi Ohno, Chair
House Committee on Corrections, Military, and Veterans

FROM: Mark Patterson, Chair, Hawaii Correctional System Oversight
Commission

SUBJECT: **HB 2258, RELATING CORRECTIONS**

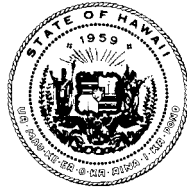
POSITION: COMMENTS

Chair Ohno, Vice Chair Ganaden and Members of the Committee:

The Hawaii Corrections System Oversight Commission was created by Act 179, SLH 2019, to provide independent oversight over our correctional system. The Commission's statutory responsibilities include all of the duties and responsibilities that would be assigned to the Women's Correctional Implementation Commission that would be if HB 2258 were enacted.

Our Commission takes its responsibilities seriously. We have met in public monthly – sometimes more often – for two years. Our five volunteer members are all experienced criminal justice professionals who are interested and concerned about our correctional system. However we have been unable to obtain the staff support that was provided by Act 179. We have made two unsuccessful attempts to hire the staff we need. Our latest request has been pending since early December.

If the Legislature chooses to enact this bill, you may be assured that we will fully cooperate with the new Commission.



**STATE OF HAWAII
HAWAII CORRECTIONAL SYSTEM OVERSIGHT COMMISSION**

February 10, 2022

TO: Honorable Representative Takashi Ohno, Chair
House Committee on Corrections, Military, and Veterans

FROM: Mark Patterson, Chair, Hawaii Correctional System Oversight
Commission

SUBJECT: **HB 2516, RELATING TO CORRECTIONAL FACILITIES**

POSITION: STRONG SUPPORT

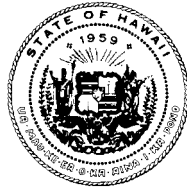
Chair Ohno, Vice Chair Ganaden and Members of the Committee:

The Hawaii Corrections System Oversight Commission was created by Act 179, SLH 2019, to provide independent oversight over our correctional system. Our specific statutory responsibilities include establishing maximum inmate population limits for each correctional facility and working with the Department of Public Safety in monitoring and reviewing the comprehensive offender reentry system.

The Commission strongly supports HB 2516, which would effect a pause on any planning of the proposed new Oahu Community Correctional Center (OCCC). Our reasons are described in detail in a position paper we sent to the Chair of this Committee in January 2022. We fully realize that the current OCCC is old and has been badly overcrowded for decades. However, the construction of any correctional facility is very costly, in terms of initial development, long term operating costs and potential impact on people's lives. Any such investment by a public entity must be done only after careful planning. We believe that the plan for the new OCCC needs to be reconsidered.

HB 2516 also would require that the Commission form a Criminal Justice Reform Committee that would participate as a full partner in the development of the new OCCC. We agree with the notion of including different voices in this endeavor and would willing to take on this challenge. However, this will require additional resources for the Commission. We note that although the Legislature has appropriated resources for us, we are still awaiting the appointment of a Coordinator who can provide the essential staff work for us.

We urge you your favorable consideration of this bill.



**STATE OF HAWAII
HAWAII CORRECTIONAL SYSTEM OVERSIGHT COMMISSION**

February 10, 2022

TO: Honorable Senator Clarence Nishihara, Chair
Senate Committee on Public Safety, Intergovernmental and Military
Affairs

Honorable Senator Joy San Buenaventura, Chair
Senate Committee on Human Service

FROM: Mark Patterson, Chair, Hawaii Correctional System Oversight
Commission

SUBJECT: **SB 2306, RELATING TO CHILDREN AND FAMILY OF INCARCERATED
INDIVIDUALS**

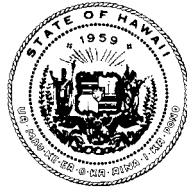
POSITION: STRONG SUPPORT

Chairs Nishihara and San Buenaventura, Vice Chairs DeCoite and Ihara, and Members of the Committee:

The Hawaii Corrections System Oversight Commission was created by Act 179, SLH 2019, to provide independent oversight over our correctional system. The Commission's statutory responsibilities include monitoring and reviewing the comprehensive offender reentry program of the Department of Public Safety and ensuring that the comprehensive offender reentry system under chapter 353H is working properly to provide programs and services that result in the timely release of inmates on parole. [See Hawaii Revised Statutes 353L-3(b).]

The Commission strongly supports SB 2306, which would create a pilot visitation and family resource center at the Waiawa Correctional Facility. Families play a crucial role in the rehabilitation of inmates. As such any network of transitional services must include meaningful reconnection with families, particularly if the inmate has children. Moreover, the challenges facing children of the incarcerated are well-documented. A visitation and resource center would help children deal with the trauma caused by parental incarceration.

We urge you your favorable consideration of this bill.



**STATE OF HAWAII
HAWAII CORRECTIONAL SYSTEM OVERSIGHT COMMISSION**

February 10, 2022

TO: Honorable Senator Donovan M. Dela Cruz, Chair
Senate Way and Means Committee

Honorable Senator Karl Rhoads, Chair
Senate Committee on Judiciary

FROM: Mark Patterson, Chair, Hawaii Correctional System Oversight
Commission

SUBJECT: **SB 2433, RELATING TO OFFENDER REENTRY PLANNING PROGRAMS**

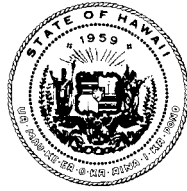
POSITION: STRONG SUPPORT

Chairs Delacruz and Rhoads, and Members of the Ways and Means and Judiciary Committees:

The Hawaii Corrections System Oversight Commission was created by Act 179, SLH 2019, to provide independent oversight over our correctional system. The Commission's statutory responsibilities include monitoring and reviewing the comprehensive offender reentry program of the Department of Public Safety and ensuring that the comprehensive offender reentry system under chapter 353H is working properly to provide programs and services that result in the timely release of inmates on parole. [See Hawaii Revised Statutes 353L-3(b).]

The Commission strongly supports SB 2433, which would fund educational and vocational programs for reentry opportunities for offenders being released from our correctional facilities. This mandate would be consistent with the requirement in HRS 353H-3 that the Department of Public Safety develop a "comprehensive network of transitional programs to address the needs of individuals exiting the correctional system." Such a network promotes community safety by facilitating the adjustment from the highly structured prison setting to independent living. These transitional services work best when the link inmates in prison with the communities to which they inmates.

It is a good start, nevertheless, and we urge your favorable consideration.



**STATE OF HAWAII
HAWAII CORRECTIONAL SYSTEM OVERSIGHT COMMISSION**

February 10, 2022

TO: Honorable Senator Clarence Nishihara, Chair
Senate Committee on Public Safety, Intergovernmental and Military
Affairs

Honorable Joy San Buenaventura, Chair
Senate Committee on Human Services

FROM: Mark Patterson, Chair, Hawaii Correctional System Oversight
Commission

SUBJECT: **SB 3294, RELATING TO REENTRY PLANNING CIRCLES**

POSITION: STRONG SUPPORT

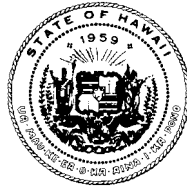
Chairs Nishihara and San Buenaventura, Vice Chairs DeCoite and Ihara, and Members of the Committee:

The Hawaii Corrections System Oversight Commission was created by Act 179, SLH 2019, to provide independent oversight over our correctional system. The Commission's statutory responsibilities include monitoring and reviewing the comprehensive offender reentry program of the Department of Public Safety and ensuring that the comprehensive offender reentry system under chapter 353H is working properly to provide programs and services that result in the timely release of inmates on parole. [See Hawaii Revised Statutes 353L-3(b).]

The Commission strongly supports SB 3294, which would fund for reentry planning circles for incarcerated women in Hawaii. This mandate would be consistent with the requirement in HRS 353H-3 that the Department of Public Safety develop a "comprehensive network of transitional programs to address the needs of individuals exiting the correctional system." Such a network promotes community safety by facilitating the adjustment from the highly structured prison setting to independent living. These transitional services work best when they link inmates in prison with the communities to which they return.

Reentry planning circles effectively help inmates re-connect with their families and other loved ones. Family connection is a crucial element in successful reentry. Our only

concern with this bill is that it is limited only to women inmates. It is a good start, nevertheless, and we urge your favorable consideration.



**STATE OF HAWAII
HAWAII CORRECTIONAL SYSTEM OVERSIGHT COMMISSION**

February 10, 2022

TO: Honorable Senator Clarence Nishihara, Chair
Senate Committee on Public Safety, Intergovernmental and Military
Affairs

Honorable Joy San Buenaventura, Chair
Senate Committee on Human Services

FROM: Mark Patterson, Chair, Hawaii Correctional System Oversight
Commission

SUBJECT: **SB 3295, RELATING CORRECTIONS**

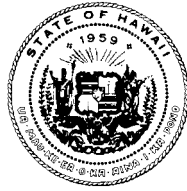
POSITION: COMMENTS

Chairs Nishihara and San Buenaventura, Vice Chairs DeCoite and Ihara and Members of the Committees:

The Hawaii Corrections System Oversight Commission was created by Act 179, SLH 2019, to provide independent oversight over our correctional system. The Commission's statutory responsibilities include all of the duties and responsibilities that would be assigned to the Women's Correctional Implementation Commission that would be if SB 3295 were enacted.

Our Commission takes its responsibilities seriously. We have met in public monthly – sometimes more often – for two years. Our five volunteer members are all experienced criminal justice professionals who are interested and concerned about our correctional system. However we have been unable to obtain the staff support that was provided by Act 179. We have made two unsuccessful attempts to hire the staff we need. Our latest request has been pending since early December.

If the Legislature chooses to enact this bill, you may be assured that we will fully cooperate with the new Commission.



**STATE OF HAWAII
HAWAII CORRECTIONAL SYSTEM OVERSIGHT COMMISSION**

February 14, 2022

TO: Honorable Senator Jarrett Keohokaloha, Chair
Senate Committee on Health

Honorable Senator Rosalyn H. Baker, Vice Chair
Senate Committee on Health

FROM: Mark Patterson, Chair Hawaii Correctional System Oversight
Commission.

SUBJECT: **SB2482 RELATING TO WELLNESS**

POSITION: STRONG SUPPORT

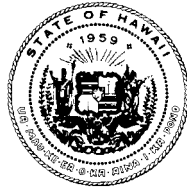
Chair Keohokaloha, Vice Chair Baker and Members of the Committee

The Hawaii Corrections System Oversight Commission was created by Act 179, SLH 2019, to provide independent oversight over our correctional system. The Commission's statutory responsibilities include Oversee the State's correctional system and have jurisdiction over investigating complaints at correctional facilities and facilitating a corrections system transition to a rehabilitative and therapeutic model. [See Hawaii Revised Statutes 353L-3(b).]

We strongly support the efforts for establishing a temporary office of wellness and resilience within the office of the governor. An executive branch management of developing a trauma informed care approach within the states system based on recommendations by the Trauma-Informed Care Task Force can assure reform efforts can be implemented for systemic change.

Rates of posttraumatic stress disorder and exposure to violence among incarcerated males and females in the US are exponentially higher than rates among the general population; yet abrupt detoxification from substances, the pervasive authoritative presence and sensory and environmental trauma triggers can pose a threat to individual and institutional stability during incarceration.

Trauma-informed care demonstrates promise in increasing offender responsivity to evidence-based cognitive behavioral programming that reduces criminal risk factors and in supporting integrated programming for offenders with substance abuse and co-occurring disorders.



**STATE OF HAWAII
HAWAII CORRECTIONAL SYSTEM OVERSIGHT COMMISSION**

February 17, 2022

TO: The Honorable Representative Mark M. Nakashima, Chair
House Committee on Judiciary & Hawaiian Affairs

The Honorable Representative Scot Z. Matayoshi, Vice-Chair
House Committee on Judiciary & Hawaiian Affairs

FROM: Mark Patterson, Chair, Hawaii Correctional System Oversight
Commission

SUBJECT: **HB1778, Relating to the Comprehensive Offender Reentry System**

POSITION: STRONGLY SUPPORT

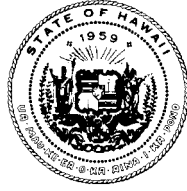
Chair Nakashima, Vice Chair Matayoshi and Members of the Committee

The Hawaii Correctional Systems Oversight Commission supports Senate Bill 2639, Relating to the Comprehensive Offender Reentry System, which amends Section 353H-2.5, HRS, to require a risk/needs assessment specifically intended to assess the needs of female offenders returning to the community.

Criminal justice policies, practices and programs have traditionally been designed for men and applied to women without regard to the unique needs of women. Gender responsive risk/needs assessment tools better identify interventions which connect women to programs and treatment to address their needs and reduce the incidence of recidivism. It has long been established that women's pathways to crime differ significantly from those of men, too often beginning in childhood physical and sexual abuse. Women are far more likely than men to commit crimes related to poverty (prostitution, credit card fraud) and substance abuse (drug-related offenses). Dysfunctional relationships lead to a lack of self-worth and any sense of control over their own lives, and contribute to the high rates of depression among women offenders. As women are the primary caretakers of children, parental issues present unique challenges for impoverished women. Gender responses programs and treatments best address the needs of women.

We urge you to pass this measure to ensure proper interventions are identified and designed to assist the successful

Mark Patterson
Chair
Hawaii Correctional System Oversight Commission



**STATE OF HAWAII'
HAWAII' CORRECTIONAL SYSTEM OVERSIGHT COMMISSION**

February 17, 2022

TO: The Honorable Representative Mark. M. Nakashima, Chair
Committee of Judiciary & Hawaiian Affairs

The Honorable Representative Scot Z. Matayoshi, Vice Chair
Committee of Judiciary & Hawaiian Affairs

FROM: Mark Patterson, Chair, Hawaii Correctional System Oversight
Commission

SUBJECT: **HB 2313, RELATING TO RISK AND NEDDS ASSESSMENT FOR FEMALE
OFFENDERS.**

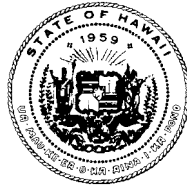
POSITION: STRONGLY SUPPORT

Chair Nakashima, Vice Chair Matayoshi and Members of the Committee

The Hawaii Correctional Systems Oversight Commission supports Senate Bill 2771, Relating to Risk and Needs Assessment for Female Offenders, which amends Section 353-10, HRS, to require a risk/needs assessment specifically intended to assess the risk reoffend and treatment needs of pre-trial female offenders.

Few pre-trial assessment tools have been normed to the gender-specific risk and needs of pre-trial women. There certainly are many gender-neutral risk factors, such as history of criminal convictions and failure to appear, that apply to both men and women, but without consideration of gender-specific risk factors we miss the opportunity to achieve more successful outcomes for justice involved women. Studies have shown that women are far less likely than men to incur pretrial failures and less likely to incur new arrests in the six months following arrest. Through gender-specific risk/needs assessments, coupled with proper referral to community-based resources, these tools can support the effectiveness of pre-trial diversion for women. We support the need for gender-specific tools to evaluate the risk and needs of pretrial women offenders. Thank you for the opportunity to testify.

Mark Patterson
Chair
Hawaii Correctional System Oversight Commission



**STATE OF HAWAII
HAWAII CORRECTIONAL SYSTEM OVERSIGHT COMMISSION**

February 24, 2022

TO: Honorable Representative Sylvia Luke, Chair
House Finance Committee

FROM: Mark Patterson, Chair, Hawaii Correctional System Oversight Commission.

SUBJECT: HB 1567 RELATING TO CRIMINAL PRETRIAL REFORM

POSITION: The Hawaii Correctional System Oversight Commission (HCSOC) Strongly supports HB 1567

PURPOSE: Eliminates the use of monetary bail and requires defendants to be released on their own recognizance for nonviolent traffic offenses, violations, non-violent petty misdemeanor, non-violent misdemeanor, and felony c offenses, with certain exceptions. Requires PSD to take steps to provide video conferencing to a defendant who chooses to participate in a bail report via teleconference.

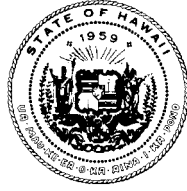
The Hawaii Correctional System Oversight Commission (HCSOC) urges the legislature to revisit pretrial reform efforts, as presented in HB1567 to help realize the important goals of the HCR134 Task Force on Pretrial Reform to reduce unnecessary costly incarceration of non-violent defendants who are awaiting trial.

A similar bill was proposed by the HCSOC, in its 2020 report to the Legislature. Its intent is to incorporate two additional recommendations of the HCR 134 Task Force on Pretrial Reform that were not implemented in Act 179 (2019). HB 1567 represents a prudent and balanced approach, with a narrower focus than the bill originally suggested. This measure will help Hawaii realize a more complete pretrial reform vision of the HCR134 Task Force and help reduce costly and unnecessary jail overcrowding of defendants not convicted. Ensuring the safety of those in state custody, the general public, as well as envisioning potential change for the future depends on responsible population reduction and fair and reasonable bail reform.

Therefore, the Hawaii Correctional System Oversight Commission strongly supports HB1567. Mahalo Nui Loa for the opportunity to testify on this measure.

Sincerely,

Mark K. Patterson, Chair
Correctional System Oversight Commission



STATE OF HAWAII
HAWAII CORRECTIONAL SYSTEM OVERSIGHT COMMISSION

March 16, 2022

TO: The Honorable Representative Takashi Ohno, Chair
Committee on Corrections, Military, & Affairs

FROM: Mark Patterson, Chair, Hawaii Correctional System Oversight
Commission

SUBJECT: **SB 2771, RELATING TO RISK AND NEDDS ASSESSMENT FOR FEMALE
OFFENDERS.**

POSITION: STRONGLY SUPPORT

Chair Ohno, Vice Chair Ganaden and Members of the Committee

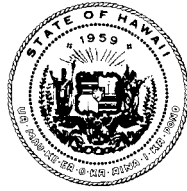
The Hawaii Correctional Systems Oversight Commission supports Senate Bill 2771, Relating to Risk and Needs Assessment for Female Offenders, which amends Section 353-10, HRS, to require a risk/needs assessment specifically intended to assess the risk reoffend and treatment needs of pre-trial female offenders.

Few pre-trial assessment tools have been normed to the gender-specific risk and needs of pre-trial women. There certainly are many gender-neutral risk factors, such as history of criminal convictions and failure to appear, that apply to both men and women, but without consideration of gender-specific risk factors we miss the opportunity to achieve more successful outcomes for justice involved women.

Studies have shown that women are far less likely than men to incur pretrial failures and less likely to incur new arrests in the six months following arrest. Through gender-specific risk/needs assessments, coupled with proper referral to community-based resources, these tools can support the effectiveness of pre-trial diversion for women.

We support the need for gender-specific tools to evaluate the risk and needs of pretrial women offenders. Thank you for the opportunity to testify.

Mark Patterson
Chair
Hawaii Correctional System Oversight Commission



**STATE OF HAWAII
HAWAII CORRECTIONAL SYSTEM OVERSIGHT COMMISSION**

March 16, 2022

TO: The Honorable Representative Takashi Ohno, Chair
Committee on Corrections, Military, & Affairs

FROM: Mark Patterson, Chair, Hawaii Correctional System Oversight
Commission

SUBJECT: **SB3294, SD2 Relating to Reentry Planning Circles**

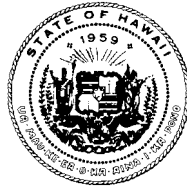
POSITION: **STRONGLY SUPPORT**

Chair Ohno, Vice Chair Ganaden and Members of the Committee

The Hawaii Corrections System Oversight Commission was created by Act 179, SLH 2019, to provide independent oversight over our correctional system. The Commission's statutory responsibilities include monitoring and reviewing the comprehensive offender reentry program of the Department of Public Safety and ensuring that the comprehensive offender reentry system under chapter 353H is working properly to provide programs and services that result in the timely release of inmates on parole. [See Hawaii Revised Statutes 353L-3(b).]

The Commission strongly supports SB 3294, which would be funding for reentry planning circles for incarcerated women in Hawaii. This mandate would be consistent with the requirement in HRS 353H-3 that the Department of Public Safety develop a "comprehensive network of transitional programs to address the needs of individuals exiting the correctional system." Such a network promotes community safety by facilitating the adjustment from the highly structured prison setting to independent living. These transitional services work best when the link inmates in prison with the communities to which they inmates.

Reentry planning circles effectively help inmates re-connect with their families and other loved ones. Family connection is a crucial element in successful reentry. Our only concern with this bill is that it is limited only to women inmates. It is a good start, nevertheless, and we urge your favorable consideration.



**STATE OF HAWAII
HAWAII CORRECTIONAL SYSTEM OVERSIGHT COMMISSION**

March 16, 2022

TO: The Honorable Representative Takashi Ohno, Chair
Committee on Corrections, Military, & Affairs

FROM: Mark Patterson, Chair, Hawaii Correctional System Oversight
Commission

SUBJECT: **SB 3295, Relating to Corrections**

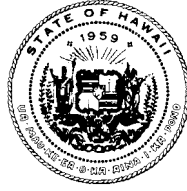
POSITION: STRONGLY SUPPORT

Chair Ohno, Vice Chair Ganaden and Members of the Committee

The Hawaii Corrections System Oversight Commission was created by Act 179, SLH 2019, to provide independent oversight over our correctional system. The Commission's statutory responsibilities include all of the duties and responsibilities that would be assigned to the Women's Correctional Implementation Commission that would be if SB 3295 were enacted.

Our Commission takes its responsibilities seriously. We have met in public monthly – sometimes more often – for two years. Our five volunteer members are all experienced criminal justice professionals who are interested and concerned about our correctional system. However, we have been unable to obtain the staff support that was provided by Act 179. We have made two unsuccessful attempts to hire the staff we need. Our latest request has been pending since early December.

If the Legislature chooses to enact this bill, you may be assured that we will fully cooperate with the new Commission.



**STATE OF HAWAII
HAWAII CORRECTIONAL SYSTEM OVERSIGHT COMMISSION**

March 17, 2022

TO: The Honorable Senator Clarence Nishihara, Chair
Senate Committee on Public Safety, Intergovernmental and Military
Affairs

FROM: Mark Patterson, Chair, Hawaii Correctional System Oversight
Commission

SUBJECT: **HB 2169 HD2, Relating to the Comprehensive Offender Reentry System**

POSITION: **OPPOSE**

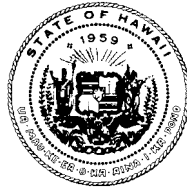
Chair Nishihara, Vice Chair DeCoite and Members of the Committee

The Hawaii Corrections System Oversight Commission was created by Act 179, SLH 2019, to provide independent oversight over our correctional system. The Commission's statutory responsibilities include monitoring and reviewing the comprehensive offender reentry program of the Department of Public Safety and ensuring that the comprehensive offender reentry system under chapter 353H is working properly to provide programs and services that result in the timely release of inmates on parole. [See Hawaii Revised Statutes 353L-3(b).]

We understand the need to clarify the responsibilities of the various agencies. However, we oppose the proposed amendment to HRS 353H-32.c, as it would place the onus on the inmate to request assistance in obtaining the documents.

When it passed legislation to require that the Department assist inmates to obtain identification documents, the Legislature in its wisdom has acknowledged that these documents are essential for navigating life in the digital age. Obtaining proper civil identification documents can be challenging, even for people in the free community. Imagine if you've been in prison – perhaps thousands of miles away from home – for years, with very limited contact with your home community and virtually no means to telephone or access the websites of the relevant agencies? The transition from the highly structured life in prison to independent life is hard enough. PSD, which by law is responsible for care and custody, should assure that every inmate leave prison with proper identification documents whether they ask for them or not.

Therefore, we ask that the proposed new language in lines 9-11 on page 2 of this bill be deleted.



**STATE OF HAWAII
HAWAII CORRECTIONAL SYSTEM OVERSIGHT COMMISSION**

March 17, 2022

TO: The Honorable Senator Clarence Nishihara, Chair
Senate Committee on Public Safety, Intergovernmental and Military
Affairs

FROM: Mark Patterson, Chair, Hawaii Correctional System Oversight
Commission

SUBJECT: **HB 2309 HD2, Relating to Incarceration**

POSITION: **Support**

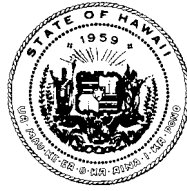
Chair Nishihara, Vice Chair DeCoite and Members of the Committee

The Hawaii Corrections System Oversight Commission was created by Act 179, SLH 2019, to provide independent oversight over our correctional system. The Commission's statutory responsibilities include monitoring and reviewing the comprehensive offender reentry program of the Department of Public Safety and ensuring that the comprehensive offender reentry system under chapter 353H is working properly to provide programs and services that result in the timely release of inmates on parole. [See Hawaii Revised Statutes 353L-3(b).]

The commission supports the intent of this bill as important for the Department of Public Safety to continue to manage, sustain and expand its comprehensive offender re-entry program. This bill can begin a foundation of reform of PSD current reentry practices that can begin to move the correctional system from punitive to therapeutic.

It is important to note that many non-profits or service providers that service offenders may not be under Department of Public Safety, but under the Departments of Health and Human Services. The three systems are interchangeable and often have crossover clientele, be it offenders and/or their families.

The passing of this bill is a great first step.



**STATE OF HAWAII
HAWAII CORRECTIONAL SYSTEM OVERSIGHT COMMISSION**

March 17, 2022

TO: The Honorable Senator Clarence Nishihara, Chair
Senate Committee on Public Safety, Intergovernmental and Military
Affairs

FROM: Mark Patterson, Chair Hawaii Correctional System Oversight
Commission.

SUBJECT: **HB 1739, HD1 Relating to Public Safety**

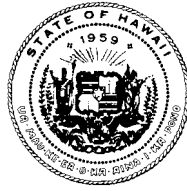
POSITION: STRONG SUPPORT

Chair Nishihara, Vice Chair DeCoite and Members of the Committee

The Hawaii Corrections System Oversight Commission was created by Act 179, SLH 2019, to provide independent oversight over our correctional system. We strongly support this bill, which seeks a simple but critical change in the statute that created the Commission. We believe the inclusion of the word "maximum" instead of "minimum" in the statute was a simple mistake that can have enormous consequences.

Our sentencing laws provide that the courts are responsible for setting maximum terms of imprisonment in accordance with the statutes. The Hawaii Paroling Authority establishes the minimum terms, as which point the inmate becomes eligible for release into the community on parole. Our laws further promote community safety by requiring the Department of Public Safety to develop and implement comprehensive reentry plans to help each inmate. Such plans prepare inmates, upon parole eligibility, to make the difficult transition from the highly structured prison setting to life in the free community. This is a critical point. Offenders released on parole are subject to supervision and are much more likely to succeed. When offenders are held until their maximum terms expire, they have been more difficult adjustment and are not subject to parole supervision.

This is a very important bill. We urge its passage.



**STATE OF HAWAII
HAWAII CORRECTIONAL SYSTEM OVERSIGHT COMMISSION**

March 19 , 2022

TO: Honorable Representative Sylvia Luke
House Committee on Finance

FROM: Mark Patterson, Chair, Hawaii Correctional System Oversight
Commission.

SUBJECT: **SB 1600, – RELATING TO THE STATE BUDGET**

POSITION: Comments of the request of the Department of Public Safety for additional planning funds for the redevelopment of the Oahu Community Correctional Center. (ref: p 526 of the Executive Budget)

OUR RESPONSIBILITIES: As you are aware, the Hawaii Corrections System Oversight Commission was created by Act 179 SLH 2019 as a means of providing “independent oversight of the State’s correctional system.” The Commission is specifically empowered by Act 179 to:

- (1) Oversee the State’s correctional system and have jurisdiction over investigating complaints at correctional facilities and facilitating a correctional system transition to a rehabilitative and therapeutic model;
- (2) Establish maximum inmate population limits for each correctional facility and formulate policies and procedures to prevent the inmate population from exceeding the capacity of each correctional facility;
- (3) Work with the Department of Public Safety in monitoring and reviewing the comprehensive offender reentry system;
- (4) Ensure that the comprehensive offender reentry system under Chapter 353H is working properly to provide programs and services that result in the timely release of inmates on parole

NEED TO PAUSE THE PLANNING OF THE NEW OCCC: The Commission believes that the current OCCC needs to be replaced. Nevertheless, in December 2020, the Commission recommended that the planning for the redevelopment of the OCCC be paused, and that the Department of Public Safety convene a broad-based group of members of the community to review practices, services and programs that could be developed or improved

to safely reduce the population of the proposed new facility. We noted at that time that prior to the onset of the COVID pandemic, the new facility was projected to cost more than \$500,000,000.

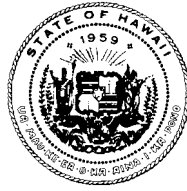
In December 2021, the Commission reiterated its position. This position was communicated to the Committee on Finance prior to the opening of this Legislative session. We noted, among other things:

- An updated population forecast commission by the Department indicated that the projected population of OCCC could be reduced if certain reforms were implemented.
- The plans call for 400 additional transitional beds at the new OCCC. However, the Department's two minimum security facilities – the Waiawa Correctional Facility and the Kulani Correctional Facility – are significantly underutilized.
- The Department had opted not to convene a community advisory group that could help with identifying programs, services and practices that could reduce the capacity of the new facility.

WHY SOUND PLANNING IS CRITICAL: Currently a new residential building is being constructed at the Women's Community Correctional Center. This addition of 176 beds will allow PSD to move women inmates from OCCC to WCCC. The current capacity of WCCC is 260 beds. When the new building is opened, WCCC will have a total capacity of 436. On March 7, 2022, There were 202 women held in WCCC and 101 at OCCC, or a total of 303. It is highly likely that there will be significant excess capacity at WCCC.

However, PSD is requesting over 100 new permanent positions to operate the WCCC when it opens. (See Executive Budget, pages 957-959.) These new positions will cost millions of dollars annually, although the facility is likely to have excess capacity. In addition, the Commission has been closely following the package of bills supported by the Women's Prison Project. If passed, these bills will probably lower the population of women inmates even more.

The Commission does not have a position on the request for additional resources to operate the expanded WCCC. We do believe, however, that it presents an important illustration of the cost of incomplete planning of correctional facilities.



**STATE OF HAWAII
HAWAII CORRECTIONAL SYSTEM OVERSIGHT COMMISSION**

March 22, 2022

TO: Honorable Senator Joy San Buenventura, Chair
Senate Committee on Human Services

Honorable Senator Clarence Nishihara, Chair
Senate Committee on Public Safety, Military, and Governmental Affairs

FROM: Mark Patterson, Chair, Hawaii Correctional System Oversight
Commission

SUBJECT: **HB 1741, HD1, RELATING TO CHILDREN AND FAMILY OF INCARCERATED
INDIVIDUALS**

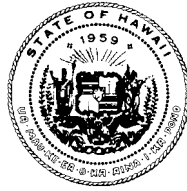
POSITION: STRONG SUPPORT

Chairs San Buenaventura and Nishihara, Vice Chairs Ihara and DeCoite and Members of the Committee:

The Hawaii Corrections System Oversight Commission was created by Act 179, SLH 2019, to provide independent oversight over our correctional system. The Commission's statutory responsibilities include monitoring and reviewing the comprehensive offender reentry program of the Department of Public Safety and ensuring that the comprehensive offender reentry system under chapter 353H is working properly to provide programs and services that result in the timely release of inmates on parole. [See Hawaii Revised Statutes 353L-3(b).]

The Commission strongly supports HB 1741, HD1, which would establish fund a pilot visitation and family resource center at the Waiawa Correctional Facility. Families play a crucial role in the rehabilitation of inmates. As such any network of transitional services must include meaningful reconnection with families, particularly if the inmate has children. Moreover, the challenges facing children of the incarcerated are well-documented. A visitation and resource center would help children deal with the trauma caused by parental incarceration.

We urge you your favorable consideration of this bill.



**STATE OF HAWAII
HAWAII CORRECTIONAL SYSTEM OVERSIGHT COMMISSION**

March 22, 2022

TO: Honorable Representative Mark Nakashima, Chair
House Committee on Judiciary and Hawaiian Affairs

FROM: Mark Patterson, Chair, Hawaii Correctional System Oversight
Commission

SUBJECT: **SB 3294, SD2, HD1, RELATING TO REENTRY PLANNING CIRCLES**

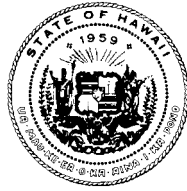
POSITION: STRONG SUPPORT

Chair Nakashima, Vice Chair Matayoshi and Members of the Committee:

The Hawaii Corrections System Oversight Commission was created by Act 179, SLH 2019, to provide independent oversight over our correctional system. The Commission's statutory responsibilities include monitoring and reviewing the comprehensive offender reentry program of the Department of Public Safety and ensuring that the comprehensive offender reentry system under chapter 353H is working properly to provide programs and services that result in the timely release of inmates on parole. [See Hawaii Revised Statutes 353L-3(b).]

The Commission strongly supports SB 3294, SD2, HD1, which would funding for reentry planning circles for incarcerated women in Hawaii. This mandate would be consistent with the requirement in HRS 353H-3 that the Department of Public Safety develop a "comprehensive network of transitional programs to address the needs of individuals exiting the correctional system." Such a network promotes community safety by facilitating the adjustment from the highly structured prison setting to independent living. These transitional services work best when the link inmates in prison with the communities to which they inmates.

Reentry planning circles effectively help inmates re-connect with their families and other loved ones. Family connection is a crucial element in successful reentry. Our only concern with this bill is that it is limited only to women inmates. It is a good start, nevertheless, and we urge your favorable consideration.



**STATE OF HAWAII
HAWAII CORRECTIONAL SYSTEM OVERSIGHT COMMISSION**

April 1, 2022

TO: Honorable Representative Sylvia Luke, Chair
House Committee on Finance

Honorable Representative Kyle T. Yamashita, Vice Chair
House Committee on Finance

FROM: Mark Patterson, Chair Hawaii Correctional System Oversight
Commission.

SUBJECT: **SB2482, SD1, HD1 RELATING TO WELLNESS**

POSITION: STRONG SUPPORT

Chair Luke, Vice Chair Yamashita and Members of the Committee

The Hawaii Corrections System Oversight Commission was created by Act 179, SLH 2019, to provide independent oversight over our correctional system. The Commission's statutory responsibilities include Oversee the State's correctional system and have jurisdiction over investigating complaints at correctional facilities and facilitating a corrections system transition to a rehabilitative and therapeutic model. [See Hawaii Revised Statutes 353L-3(b).]

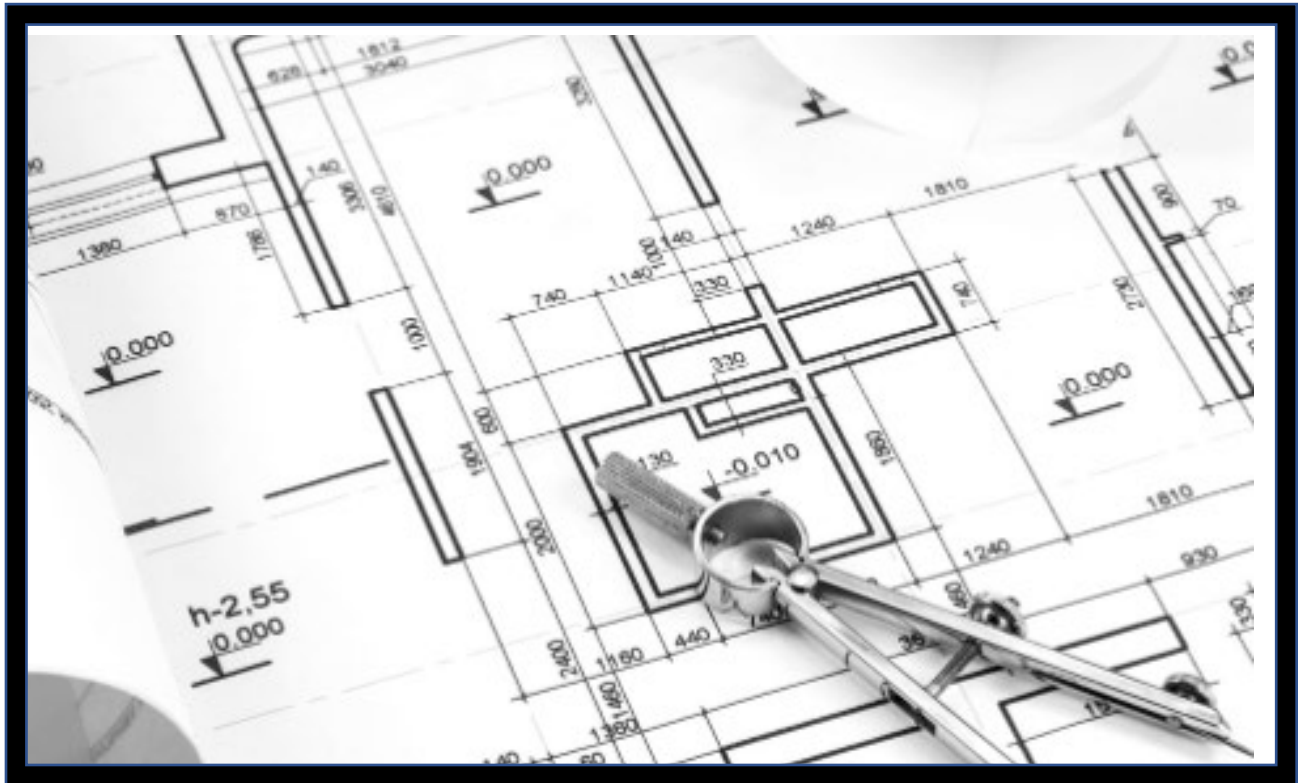
We strongly support the efforts for establishing a temporary office of wellness and resilience within the office of the governor. An executive branch management of developing a trauma informed care approach within the states system based on recommendations by the Trauma-Informed Care Task Force can assure reform efforts can be implemented for systemic change.

Rates of posttraumatic stress disorder and exposure to violence among incarcerated males and females in the US are exponentially higher than rates among the general population; yet abrupt detoxification from substances, the pervasive authoritative presence and sensory and environmental trauma triggers can pose a threat to individual and institutional stability during incarceration.

Trauma-informed care demonstrates promise in increasing offender responsivity to evidence-based cognitive behavioral programming that reduces criminal risk factors and in supporting integrated programming for offenders with substance abuse and co-occurring disorders.

Appendix 6

Getting it Right: Recommendations and Action Plan for a New Jail



GETTING IT RIGHT:

Recommendations and Action Plan for a Better Jail

by

The Correctional Reform Working Group

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APPENDIX: *Getting it Right: Better Ideas for a New Jail*

GETTING IT RIGHT:

Recommendations and Action Plan for a Better Jail

In exercising their power on behalf of the people and in fulfillment of their responsibilities, obligations and service to the people, the legislature, governor, lieutenant governor, executive officers of each department, the chief justice, associate justices, and judges of the appellate, circuit, and district courts may contemplate and reside with the life force and give consideration to the “Aloha Spirit”.

Hawai‘i Revised Statutes § 5-7.5(b)

I. INTRODUCTION

A Window of Opportunity. The O‘ahu Community Correctional Center (“OCCC”) is old, dilapidated, and by any standard an unfit environment for both inmates and staff. It outlived its usefulness decades ago and there is widespread agreement that it must be replaced.

Planning for the replacement of OCCC, *if we do it right*, provides a unique opportunity to rethink important elements of the correctional system in ways that will make our community safer, and save taxpayers hundreds of millions of dollars. Hawai‘i must seize this once in a lifetime opportunity and replace OCCC with a smart, efficient, and cost-effective 21st century jail. If properly planned, designed, and staffed, the new jail can reduce recidivism, improve public safety, and have a positive impact on some of O‘ahu’s most intractable problems – homelessness, addiction, and mental illness – thus improving public health as well as public safety.

Unfortunately, the jail the State has been planning for the past six years will not reduce Hawai‘i’s unacceptably high recidivism rate or otherwise make O‘ahu safer; it will simply do what the old jail has done for decades – warehouse inmates and release them to the street in as bad or worse condition than when they entered the jail. The new jail has been planned without meaningful public input, and without regard to best planning and design practices as established by the National Institute of Corrections (“NIC”). The planning that has been done to date calls for a large, expensive, and punitive jail that is completely at odds with contemporary correctional standards as well as a robust framework of Hawai‘i statutes, rules and regulations which *mandate that the State transition from a punitive to a rehabilitative correctional system.*

Thankfully, the 2022 Legislature, relying in part on recommendations of the Hawai‘i Correctional Oversight Commission, effectively paused the jail planning process, providing a brief window of opportunity to revisit plans for this generationally important project.¹

The Recommendations of the Oversight Commission. The Hawai‘i Correctional System Oversight Commission (“Oversight Commission”) was created in 2019 by Act 179 (2019 Haw. Sess. L., Act 179) with a broad mandate to improve Hawai‘i’s correctional system by facilitating the transition from a punitive to a rehabilitative and therapeutic model.² The five current members of the Commission collectively have more than 100 years of experience with Hawai‘i’s criminal justice system and have closely followed the planning for the new jail. As planning progressed, the Commissioners became increasingly concerned by what they saw, and in their December, 2020 report to the Legislature they called on the Department of Public Safety (“DPS”) to “immediately pause the planning for the new jail and create an Advisory Committee to review, *and if necessary revise*, the planning that has been done to date, and to actively participate in the planning process going forward.” (emphasis in original).³

DPS and the Department of Accounting and General Services (“DAGS”), which are jointly planning the new jail, rejected the Commission’s 2020 recommendation and continued to move ahead without an advisory committee or any other means of engaging the community in the planning process in a meaningful way.

In its 2021 Annual Report, the Oversight Commission reaffirmed its position, once again calling for a pause of the planning process because: (1) DPS and DAGS failed to act on research *provided by its own consultants* showing how the jail population could be safely reduced; (2) the Waiawa and Kulani correctional facilities both have minimum security beds available for inmates preparing to reenter the community, which militates against the need for 388 reentry-beds at the new jail; and (3) the new jail is too expensive, particularly if it is built with a “public-private partnership” which would require the Legislature to appropriate a huge amount of money for lease rent as part of DPS’s operating budget.⁴

At the Commission’s December, 2021 meeting, attorney Robert Merce, the former vice-chair of the House Concurrent Resolution 85 Task Force on Prison Reform, presented a paper he authored – *Getting it Right: Better Ideas for a New Jail* – which showed that DPS and DAGS had not followed best practices in planning the new jail; that the projected \$1 billion cost of the new jail was not sustainable; that it was essential to create “off ramps” or alternatives to jail, particularly for low-level, non-violent offenders; that a public-private partnership (“P3”) is not appropriate for the new jail; and that Hawai‘i’s jails should have a “problem solving” function that aligns them with the judiciary’s problem solving courts (drug, mental health, and veterans courts) *to create a continuum of care that will reduce recidivism and improve public health as well as public safety.*⁵

The Commission accepted Mr. Merce’s analysis and recommendations, and on January 3, 2021, sent an electronic version of his paper to the Chair and Vice Chair of the House Finance and Senate Ways and Means committees, along with a letter expressing that the Commission “continue[s] to be concerned about the planning and development of a new Oahu Community Correctional Center [.]”⁶ In the letter, the Commissioners explained in greater detail why DPS and DAGS were on the wrong track with respect to the planning, size, and philosophy of the new jail. The Commissioners’ letter also described why a P3 was a bad idea:

Generally, construction in Hawaii is funded through GO [General Obligation] bonds. Bonds issued by entities like State governments (assuming a good bond rating) attract more attractive interest rates than privately issued bonds. We may have to pay a premium if we opt for private financing through a P3 contract. The real issue, however, is that we will have to pay for the lease rent through the Department [of Public Safety’s] operating funds. We don’t know how much this will be, though we know it will be expensive, and we don’t know for how long. Will it be twenty years? Thirty? What’s the impact on the Department during this period?⁷

The Commission’s 2021 Annual Report to the Legislature and its January 3 letter were measured in tone, but nevertheless made it perfectly clear that as presently planned, the new jail will be “*a financial disaster and produce bad outcomes for decades . . .*” (quoting *Getting it Right*).⁸

The Purpose of this Paper. *Getting It Right: Recommendations and Action Plan for a Better Jail* redefines the function of the jail. Instead of an environment that warehouses people in punitive conditions, it calls for an environment where prisoners’ medical, social, and economic needs are identified and addressed, and where they receive comprehensive discharge planning and reentry support as part of a concerted effort to reduce recidivism and improve public health and safety.

The purpose of this second iteration of *Getting It Right* is to outline the steps that we believe the State should take to build a transformative jail that will improve public safety and public health, address the inequities of our criminal justice system, save lives, save money and State resources, and meet the ever-evolving needs of our community.

We start at the beginning, and attempt to build support for an evidence-based planning process, consistent with nationally recognized best practices, that will maximize the potential to get the planning and design of the new jail *right*. This is critically important because the consequences of getting it *wrong* will be many more decades of a correctional system that does not make us safe, does little to address public health issues, causes more trauma than it prevents, and costs far more than is necessary.

Getting it *right* will not just benefit inmates and society as a whole, it will also improve the lives and working conditions for the dedicated correctional staff on whom we rely to operate and manage our State’s correctional facilities. The process that we are proposing will facilitate a better work environment and increased training and pay for correctional officers.

We stress that without addressing the issues discussed in this paper, the current planning process will result in a jail that is poorly planned, too big, too expensive, and tethered to old ideas that will produce bad outcomes and undermine efforts to make badly needed systemic correctional reforms. Without timely efforts to change course, we foresee *massive financial and programmatic failure ahead for the new jail*.

II. FUNDAMENTAL CHANGE IS NECESSARY AND LONG OVERDUE

A. A Brief Overview of Hawai‘i’s Correctional System

Hawai‘i’s prison population was relatively stable from Statehood in 1959 until the late 1970s, when the number of prisoners began to increase dramatically due to passage of new “tough on crime” laws.⁹ The State’s prison population doubled in just four years, from 1980 to 1984, and throughout the 1980s the average annual increase in Hawai‘i’s prison population was the second highest in the nation.¹⁰ By the mid-1990s, Hawai‘i’s prisons had become so overcrowded that the State began sending prisoners to privately-operated for-profit prisons on the continent.¹¹ Hawai‘i currently has 1,075 prisoners at the Saguaro Correctional Center in Eloy, Arizona, operated by CoreCivic, a publicly traded corporation headquartered in Brentwood, Tennessee (CXW on the New York Stock Exchange). We are one of only five states to house more than 20% of our prisoners in for-profit prisons.¹²

In the past 44 years, Hawai‘i’s prison population increased 479% while the general population increased 55%.¹³ Hawai‘i’s incarceration rate – i.e. the number of prisoners per 100,000 population – is 292, which is higher than 85% of the countries in the world, including every Western European country.¹⁴ Hawai‘i has more prisoners than Norway, even though Norway has more than four times the population of Hawai‘i.¹⁵ If Hawai‘i was a country rather than a state, it would rank among the top 35 highest incarcerators in the world.¹⁶

The rapid increase in the prison population over the last five decades has led to skyrocketing costs. DPS’s Corrections Budget for FY 2022-2023 is \$236.5 million.¹⁷ It now costs \$87,000 a year to incarcerate a person in Hawai‘i; available data shows that Hawai‘i’s cost per inmate is more than double the national average, and is close to the highest, if not the highest, in the country.¹⁸ Pretrial detainees – many of whom are charged with low-level offenses and are held in jail for no reason other than that they cannot afford bail – make up around 62% of the OCCC population and collectively cost the State \$167,000 a day (\$61 million a year).¹⁹ Statewide pretrial detainees cost the State \$266,000 a day or around \$97 million per year.²⁰ The new jail is

expected to cost approximately \$1 billion, or approximately \$725,000 per bed.²¹ Meanwhile, the State is spending \$40 million to expand the Women’s Community Correctional Center (“WCCC”) in Kailua,²² and DPS is planning to build a patchwork of medium security housing units at the prisons on Maui, Kaua‘i, and Hawai‘i Island.²³

Despite spending hundreds of millions of dollars on corrections, Hawai‘i has an unacceptably high recidivism rate that is substantially in excess of 50%. In other words, more than half of the prisoners who are released from Hawai‘i’s prisons will be rearrested, have their parole revoked, or be found in criminal contempt of court within 36 months of release. Hawai‘i’s Interagency Council on Intermediate Sanctions’ most recent “Dashboard Report” shows that from 2014 through 2018 five key recidivism indicators increased significantly, with 2018 figures demonstrating a very troubling trend in the wrong direction:

- The total recidivism rate increased 10.0 percentage points in FY 2018 (from 53.5% in 2017 to 63.5% in 2018).
- The recidivism rate for new law violations for probationers, parolees, and maximum term release (“maxed-out”) offenders increased by 8.0 percentage points in FY 2018.
- Criminal contempt of court recidivism rates for probationers, parolees, and maxed-out offenders increased 4.0 percentage points in FY 2018.
- Probation and parole revocation rates increased 3.7 percentage points in FY 2018.
- In FY 2018, the average length of time that elapsed prior to recidivism significantly decreased to 10.2 months, or 3.3 fewer months than were reported for FY 2017.²⁴

Hawai‘i currently has 29,427 individuals under some kind of correctional supervision, including 4,294 in jail or prison,²⁵ 22,609 on probation,²⁶ and 1,524 on parole.²⁷ The high number of probationers is due in part to the fact that *Hawai‘i keeps people on probation longer than any other state (58.9 months on average)*.²⁸ That is six times higher than the average term of Kansas (9.3 months).²⁹

In 2010, the Office of Hawaiian Affairs (“OHA”) published a three-year collaborative study which showed that Native Hawaiians are overrepresented at every stage of Hawai‘i’s criminal justice system.³⁰ The disproportionality begins with arrest and accumulates at each stage in the system. Native Hawaiians make up approximately 18% of the adult general population, but 37% of the incarcerated population.³¹ They receive longer prison sentences than most other racial or

ethnic groups, they are more likely to go to prison if they are found guilty of a crime, and they are disproportionately represented in the out-of-state prison population.³² They serve more time on probation than any other ethnic group except Hispanics, and they make up the largest percentage of people who return to prison for parole violations.³³

Addressing the systemic problems associated with Hawai‘i’s criminal justice system is not just an issue of public safety, public health, and financial responsibility, it is an issue of equity and racial justice. Fortunately, there are numerous organizations and groups, including OHA, that have collected extensive data on these issues and are at the forefront of developing solutions to address the racial disparities within our criminal justice system. Unfortunately, DPS and DAGS have not engaged subject matter experts, like OHA, in the planning process. OHA, and other entities that have been working on criminal justice issues for years, *must be included in the collaborative design process contemplated by this paper.*

All of Hawai‘i’s jails and prisons are old, rundown, and understaffed, and three of them – OCCC, the Maui Community Correctional Center (“MCCC”), and the Hawai‘i Community Correctional Center (“HCCC”) – are severely overcrowded.³⁴ Overcrowding and understaffing have been cited as a primary cause of riots at OCCC in 2016,³⁵ MCCC in 2019,³⁶ and HCCC in 2021.³⁷

OVERCROWDED CORRECTIONAL FACILITIES AS OF JUNE 21, 2022

Facility	Design Capacity	Operational Capacity	Population (Head Count)	% Above Design Capacity	% Above Operational Capacity
HCCC	206	226	298	145	132
MCCC	209	301	319	153	106
OCCC	628	954	1094	174	115

Source: Department of Public Safety End Of Month Population Report July 31, 2022

Many of the deficiencies and problems with Hawai‘i’s correctional system were laid bare by the COVID-19 pandemic. In 2021, a federal judge found that DPS failed to take reasonable steps to protect Hawai‘i’s prisoners from the COVID-19 virus, and that its response to the pandemic was so inadequate that it amounted to “deliberate indifference” to the welfare of Hawai‘i’s prisoners.³⁸ The judge ordered DPS to follow its COVID-19 Response Plan and awarded more than \$250,000 in attorneys’ fees to the lawyers who brought the case.³⁹ There were at least nine deaths attributed to COVID-19 at Hawai‘i correctional facilities as of February, 2022; but the tragic response to the pandemic is not the only symptom of the ongoing dysfunction within the State’s criminal justice system. As shown in the following section, the problems plaguing DPS are systemic and require a systemic response.

B. The Harsh Reality of a Broken Correctional System

Jails and prisons are closed institutions, and consequently the public knows very little about what goes on behind their walls and fences.⁴⁰ Supreme Court Justice Anthony Kennedy said that prisoners live “in a hidden world.”⁴¹ Justice William Brennan called it “a shadow world . . . that few of us can imagine.”⁴²

One of the main functions of the Hawai‘i Oversight Commission is to bring transparency to the correctional system – and that is exactly what it been doing in the past two months.⁴³ It has shone a bright light into a dark system that has been ignored for decades – and what it has found is shocking.

1. The Oversight Coordinator’s Report on the Hawai‘i Community Correctional Center (HCCC)

On August 25, 2022, Oversight Coordinator Christen Johnson and Commissioner Ted Sakai toured the Hawai‘i Community Correctional Center (“HCCC”) in Hilo. They found that the entire facility was “egregiously overcrowded.”⁴⁴ Nearly every cell designed for one person had three or four occupants. The Punahale building, which has a capacity of 16, housed 83 prisoners, *more than five times its capacity*. The Waiuanue building, which has an operational capacity of 40, housed 78 inmates, *almost double its capacity*.

The four cells used to house women appeared to be designed for intake or short-term housing. They have *no toilets and no access to water*, yet five women were crammed into one of the cells. They slept on mattresses on the floor. One of the women had been housed in the “dry cell” (the term for no toilet or water) for a month, the others for several weeks.

Another cell held a woman who appeared to be on suicide watch or safety watch. Her cell did not have water, a toilet or a mattress. The remaining cells housing women prisoners “could not be viewed due to the glass being blocked by either a dried liquid or paper from the inside of the cell. It was unclear how long the glass had been blocked. Since the area had not been set up as a housing area, “it was also difficult to tell how much supervision the women had, or who was designated to allow the five women in the dry-cell opportunities to use the restroom.”

In the severely crowded Punahale building, 15 men were “housed” on mattresses placed on the floor of a dayroom that had *no running water or toilets*. Some of cells had broken locks and were secured with padlocks, a dangerous practice because it creates delay in reaching inmates if there is an emergency such as assault, fight, or fire.



HCCC Punahale Building. Capacity 16, Occupancy 83
(Photo: Honolulu Civil Beat)

During the pandemic, DPS purchased a shipping container to house HCCC inmates who were exposed to COVID or who had a positive COVID test. The shipping container cells appeared to be made for two people but housed three or sometimes four men (when present, the fourth person had to sleep on a mattress on the floor). The shipping containers had “*little circulation, no food slot, and a small window with low visibility for officers to see inside.*” Ms.



A shipping container with four cells, similar to the one at HCCC

Johnson noticed that the lights were not working in two of the cells. Due to a lack of windows and natural light, *these cells were completely pitch black*. An officer said that the staff used their flashlight to check on the inmates.

There was a lack of programs and basic services. In-person visits were not allowed due to ongoing construction. There was *no outdoor recreation*. The prisoners did not appear to have soap or hygiene products, uniforms were mismatched and torn, there was no access to underwear, laundry was returned to inmates in wet or soggy condition, prisoners said that it took several weeks to receive their mail, and grievances filed by inmates were ignored by staff.

Suicide was a serious concern. During the tour, the Oversight Coordinator witnessed two individuals she believed to be on suicide watch (because they were wearing suicide smocks), who were being held “outside near the shipping container/covid pod. It was unclear where they were being housed.” Commissioner Sakai noticed that two males on suicide watch were standing in the corridor next to the door to the dayroom. A female Adult Correction Officer (ACO) was with them throughout. Apparently, they were going to the bathroom. Each went separately.

When they were in the bathroom, the door was closed and there was no way they could be observed.

During a second tour of HCCC on August 31, 2022, the Oversight Coordinator found:

[T]wo individuals on Safety Watch who were housed behind a door in Punahale, on the floor, in front of four cells in G Unit. This is of serious concern due to 1) lack of access to water and toilets, 2) lack of visibility from officer desk, 3) lack of privacy from 12+ people in custody within the cells, 4) no bedframe, 5) no area to store their property, and 6) *a complete lack of humane treatment and decency as a whole towards individuals with potentially self-harming ideations and/or actions*. This is of particular concern given the recent string of successful suicides within the Hawaii correction system.

Coordinator Johnson characterized the conditions at HCCC as “horrendous” and representative of a “system failure” that took months or years to reach its present state. That means that DPS administrators knew, or had reason to know, of the conditions for a long time and did nothing about them. Further, as reporter Kevin Dayton points out in Honolulu Civil Beat, several of the problems that are discussed in the oversight report were cited by Judge Jill Otake in her July 13, 2021 Order in *Chatman v. Otani*,⁴⁵ the case in which she found that the State was not adequately protecting inmates from the COVID-19 virus.

2. The Oversight Coordinator’s August 18, 2022 Report

On August 18, 2022, Coordinator Johnson, issued a report on a recent tour of the four correctional facilities on O‘ahu. The findings of the report include:

- **OCCC:** There was inadequate staff to provide direct observation of individuals on suicide and safety watch; 4 individuals were assigned to cells designed for 1 or 2 people; the infirmary was stationed in what appeared to be a hallway where there was a lack of space, privacy, and dignity; and clinic space was so small that it potentially affected patients’ privacy rights under HIPAA.
- **Halawa Community Correctional Center:** The highly punitive design was an obstacle to rehabilitation; there was limited out-of-cell time due to limited staff; there was limited access to the recreation yards; and mental health patients were housed in a punitive setting.
- **Waiawa Correctional Facility:** Staff shortages potentially affected opportunities for people in custody to work on work lines and become involved in job assignments and programming; there were no cameras at the facility, which creates concerns for investigative processes regarding drug use, contraband, and Prison Rape Elimination Act (“PREA”) investigations; and there was a lack of bed utilization in rehabilitative spaces.

- **Women’s Community Correctional Center:** The infrastructure was “extremely old”; an in-house air conditioner was out of service causing high heat in the cell area; and there was a lack of working cameras.
- **System wide:** The Department of Public Safety’s Electronic Medical Record (“EMR”) system had been out of commission for two months, “causing staff to rely on a paper/pen-based system with no clear indication of when the EMR will be back up for staff utilization.”⁴⁶

3. Significant Events in the Past Eight Months

In addition to the foregoing, a brief chronology of some of the things that have occurred in the past eight months provides a telling glimpse into the problem-plagued DPS:

- **February 23.** The State agreed to pay \$550,000 in damages to the family of 26-year-old Daisy Kasitati who hanged herself in her cell at MCCC *after her request to be put on suicide watch was refused.*⁴⁷
- **March 29.** A circuit court judge awarded \$1.375 million to the family of 28-year-old Joseph (Joey) O’Malley, who hanged himself in his cell at the Halawa Community Correctional Center *while on safety watch.*⁴⁸
- **April 7.** The head of training at DPS, was arrested for falsifying information about her qualifications for the job she held.⁴⁹
- **June 8.** A 29-year-old pre-trial detainee hanged himself in his cell at MCCC, *the fifth suicide at that facility in the past five years.*⁵⁰
- **June 13.** Twenty-one-year-old Diamond Simeona-Agoo, who had a history of mental illness, hanged herself in her cell at OCCC shortly after being taken off suicide watch and placed in solitary confinement as punishment for previous misconduct.⁵¹
- **June 29.** Attorneys in a federal class action lawsuit alleging that DPS consistently failed to provide timely or sufficient mental health services to seriously mentally ill inmates filed a motion for a preliminary injunction requesting that the court appoint a special master to oversee the provision of mental health services at all state prisons.⁵²
- **July 8.** Three correctional officers at MCCC were convicted in federal court of brutally beating an inmate and then conspiring to cover it up.⁵³
- **July 26.** A class action lawsuit was filed in state court seeking damages for inmates who became infected or died from COVID-19 due to the failure of DPS to take reasonable measures to protect inmates.⁵⁴

It is abundantly clear that DPS is operating without a coherent vision, master plan, or strategy. It is not following best practices, and it is not making evidenced-based decisions. We recognize that this is not the fault of any single individual or entity, but rather is the result of a chronic failure to dedicate the time, energy, and resources necessary to develop a responsive and effective correctional system with systemic accountability. These problems will not be solved by throwing money at a new jail – that will only perpetuate the issues described in this paper and lead to a massive waste of resources. However, by working through a collaborative, evidence-based design process and drawing from best practices around the world, the new jail can serve as a model for reimagining our criminal justice system in a way that benefits everyone.

Failure to use this opportunity to address the systemic problems plaguing our correctional system will lead to immeasurable costs down the road. In addition to the high costs to our society from an unacceptably high rate of recidivism – including everything from public safety to human suffering to dollars spent – Hawai‘i is spending millions of dollars every year defending lawsuits and paying settlements and judgments related to claims arising from outdated correctional policies, improper staff practices, and unconstitutional conditions of confinement. Without addressing the underlying problems that have led to these legal challenges, a new jail will do little to prevent these legal costs from continuing to increase in the future.

We submit that conditions at correctional facilities throughout the State today are as bad, or worse, than they were 40 years ago when OCCC and WCCC were under federal consent decrees or federally monitored settlement agreements. Unless the State acts now to improve conditions in its jails and prisons, *it stands to lose control of all or most of its correctional system to federal judges and federally appointed special masters or monitors*, in which case correctional reforms will be dictated and enforced by federal authorities, at great cost to the State.

The bottom line is that DPS is in crisis. Its problems are deep, broad, systemic, and enormously costly. They cannot be papered over or dismissed with more empty promises of reform. We cannot keep doing the same thing – or worse, spend huge sums of money in a public private partnership to perpetuate the same practices that got us into this situation in the first place – and expect different results. We need an immediate, smart, collaborative, and sustained planning process at the highest level to re-engineer the correctional system and align it with the broader criminal justice system in ways that will enhance the effectiveness of both systems and make our community safer. This planning process must begin now, with the planning and design of the new jail.

III. THE PLANNING FOR A NEW JAIL HAS NOT FOLLOWED BEST PRACTICES

As explained in *Getting It Right*, the existing plans for the new OCCC essentially perpetuate – or worse, escalate – Hawai‘i’s dysfunctional, punitive correctional system. It is beyond the scope of this document to describe in detail all of the problems associated with the existing plans and planning process. Here, however, are some of the obvious flaws in the jail design as reflected in the existing Master Plan, along with a brief comment on each problem:

◆ **Problem:** The jail planning process appears to have ignored both the *HCR 134 Task Force Report on Pretrial Reform* and the *Final Report of the HCR 85 Task Force on Prison Reform*.

Comment: The HCR 134 Task Force, which included the prosecuting attorneys and police chiefs of each county, and judges from each judicial circuit, made an in-depth study of pretrial practices that would *increase public safety* while maximizing pretrial release of those who do not pose a danger to society or a flight risk. Many of the factors driving O‘ahu’s jail population were *clearly identified* by the Task Force, which recommended a series of reforms that would *significantly reduce the jail population*.^{*} The *HCR 134 Task Force Report on Pretrial Reform* should have been a foundational document for planning the new jail, but it is not even mentioned in the Master Plan or any of the planning documents that that we have seen. It appears that it was not considered at all.

The *Final Report of the HCR 85 Task Force on Prison Reform* should also be a foundational document for planning and designing a rehabilitative jail and transitioning to a rehabilitative correctional system. The HCR 85 Task Force spent two years studying

* The recommendations of the *HCR 134 Task Force on Pretrial Reform* included:

- (1) Encourage police officers to use their discretion to issue citations in lieu of arrest for low level offenses, including non-violent class C felonies;
- (2) Expand diversion initiatives to prevent the arrest of low-risk defendants;
- (3) Ensure meaningful opportunity for lawyers to address bail at initial appearance;
- (4) When bail reports are received after the defendant’s initial appearance, courts should automatically address pretrial detention or release;
- (5) Establish a court hearing reminder system for all pretrial defendants released from custody;
- (6) Implement and expand alternatives to pretrial detention;
- (7) Regularly review the jail population to identify pretrial defendants who may be appropriate for pretrial release or supervision;
- (8) Conduct risk-assessments and prepare bail reports within two working days of the defendant’s admission to a county correctional center;
- (9) Inquire and report on the defendant’s financial circumstances so that bail can be set in an amount the defendant can afford;
- (10) Permit monetary bail to be posted with the police or county correctional center at any time;
- (11) Require prompt bail hearings;
- (12) Eliminate the use of money bail for low level, non-violent misdemeanor offenses;
- (13) Create rebuttable presumptions regarding both release and detention;
- (14) Require release under the least restrictive conditions to assure the defendant’s appearance and protection of the public.

Hawai'i's correctional system, and five of the thirteen members traveled to Norway to study the highly successful Norwegian correctional system. Much of the *Final Report* is devoted to recommendations for the new jail; but like the *HCR 134 Report*, it is not mentioned in any of the State's planning documents.

Resources/Authority: *HCR 134 Task Force Report on Pretrial Reform; Final Report of the HCR 85 Task Force on Prison Reform.*

- ◆ **Problem:** There is no Mission Statement for the new jail.

Comment: A Mission Statement ensures that the people who plan the jail are in agreement on the goals and objectives for the facility and that each element of the design furthers those goals and objectives. It embodies the architectural adage “define before you design” and helps keep the design process moving in the right direction.

Resources/Authority: The National Institute of Corrections' *Jail Design Guide* (Third Edition, March 2011) recommends that one of the first steps in planning a new jail is to have a “Mission Statement” that defines the philosophy of the jail, who will be incarcerated and why, and the goals of the jail with respect to programming, rehabilitation, and reintegration into the community.

- ◆ **Problem:** The State did not use a “systems approach” to determine the number of beds that will be needed in the new jail.

Comment: A critical part of the jail planning process is to determine the number of beds that will be needed in the new facility. In 2009, the National Institute of Corrections published the *Jail Capacity Planning Guide: A Systems Approach*, to assist jurisdictions with that process. The “systems approach” is based on a body of research that challenges the notion that locking people up is the only way, or the best way, to protect the public. It makes the case for a new conceptual framework that “reasserts the primacy of treatment” and makes reducing future crime a central goal by, among other things, reserving jail for highest risk defendants and making available a full continuum of alternatives to jail so that judges have viable alternatives to incarceration. The systems approach is clearly the best practice in planning the capacity of a new jail.

The State did not use a systems approach in planning the new jail. It chose an approach that relies on historical data, population trends, and statistical models to “forecast” the number of beds that will be needed in the future. This is a highly problematic approach because, among other things, it assumes “that the status quo at the time the forecast is produced remains in place for the duration of the forecast.” That is an unrealistic assumption. As the *Jail Capacity Planning Guide* points out, “[p]olicies change, new laws are passed, and financial resources wax and wane,” and therefore “[j]ail planning must not rely solely on jail data” because “data alone can never reveal larger system issues” that may impact the demand for beds.

The failure to use a systems approach is a critical mistake that raises serious doubts about whether we need a billion-dollar jail with more than 1,000 detention beds and nearly 400 pre-release beds. The Oversight Commission has questioned the accuracy of the population forecast and we question it as well. The State needs to engage in system planning to get the capacity of the new jail *right*.

Resources/Authority: David M. Bennett and Donna Lattin, *Jail Capacity Planning Guide: A Systems Approach*, U.S. Department of Justice, National Institute of Corrections, NIC Accession No. 022722, November, 2009.

- ◆ **Problem:** The mental health units do not have a therapeutic design.

Comment: The custodial nature of the jail environment is “antithetical to the therapeutic setting required for inmates who are clinically depressed, vulnerable, suicidal, or psychotic.”⁵⁵ As design expert Dr. Marayca Lopez has pointed out, “in its current conception and design, it is far beyond the capacity of correctional facilities to address the crushing complexities of mental illness.”⁵⁶ We cannot, as Dr. Lopez says, expect individuals to become healthy in an unhealthy environment. It is therefore imperative that the State employ best practices in the way it designs the spaces to house and treat the mentally ill. At a minimum, the housing units for the mentally ill must provide a safe, supportive, therapeutic environment that meets *national standards and best practices for inpatient mental health facilities*. That means a therapeutic, trauma-informed living space, and adequate and appropriately designed examination and treatment space.

We also recognize the need for security in a forensic mental health facility and strongly recommend that the staff of the mental health units receive specialized training on the care and management of people with mental illness.

Lastly, there does not appear to be sufficient space allocated for mental health services (examination and treatment) in the Master Plan.

Resources/Authority: See endnote 55, Marayca Lopez and Laura Maiello-Reidy, *Prisons and the Mentally ill: Why Design Matters*, Penal Reform International (June 28, 2017).

- ◆ **Problem:** The design does not include ground level outdoor space for inmates to exercise, relax, and experience the natural world.

Comment: As presently designed, inmates at the new jail will live in a small, drab, hard-surfaced, climate-controlled and mostly artificially lighted environment several stories above ground, twenty-four hours a day, seven days a week. The design does not include outdoor space for inmates to walk, exercise, recreate, and experience the natural world. There is evidence that access to greenspace fosters prisoner well-being and that there are lower levels of self-harm and violence in prisons with more greenspace.

Resources/Authority: Dominique Moran, Phil I. Jones, Jacob A. Jordaan & Amy E. Porter. *Does Nature Contact in Prison Improve Well-Being? Mapping Land Cover to Identify the Effect of Greenspace on Self-Harm and Violence in Prisons in England and Wales*, *Annals of the American Association of Geographers*, 111:6, 1779-1795.

- ◆ **Problem:** The new jail does not allow contact visits.

Comment: All visitation at the new jail, except for attorney visits, will be by video conference. This is problematic because there is a large body of research showing that contact visits have beneficial effects on prisoners, and they are important to maintain family ties, particularly between parent and child. Denying detainees contact with family and support groups is punitive, unnecessary, and counterproductive. The new jail should allow and provide appropriate space for contact visits.

Resources/Authorities: Folk JB, Stuewig J, Mashek D, Tangney JP, Grossmann J. *Behind bars but connected to family: Evidence for the benefits of family contact during incarceration*. *J Fam Psychol*. 2019 Jun;33(4):453-464. doi: 10.1037/fam0000520. Epub 2019 Apr 11. PMID: 30973255; PMCID: PMC6625803.

- ◆ **Problem:** The new jail does not have an environmentally sustainable design.

Comment: For the past decade, correctional professionals, architects, and designers have been studying the impacts of correctional facilities on the environment and economy, and developing sustainability plans and green practices that will “consume fewer resources, create less pollution, and provide healthier environments for the users – inmates, staff, visitors, and administration.”⁵⁷ The new jail has not been designed with an overarching vision of sustainability, which should be a hallmark of all new buildings in Hawai‘i, and particularly correctional facilities that are 24-hour energy intensive structures. The State should go back to the drawing board and design a jail that makes maximum use of new green processes, materials, and technologies (including renewable energy) that will result in a fiscally responsible and environmentally sustainable jail.

Resources/Authority: Morris L. Thigpen, Thomas J. Beauclair, and Sherry Carroll, “The Greening of Corrections, Creating a Sustainable System,” U.S. Department of Justice, National Institute of Corrections, NIC Accession No. 024914, March 2011, iii.

- ◆ **Problem:** General Concerns

We are also generally concerned about the following:

- Overall the jail has a punitive, “custody and control” design with few rehabilitative features.
- The site is small and remote.

- The Master Plan has very little discussion of programming and it is unclear what programs will be offered, or if there will be adequate space for such programs.
- There is no courtroom for hearings and bench trials, which means that inmates will have to be transported to Circuit or District Court, a costly and time-consuming affair that is not without some risk to public safety.
- There are no classrooms for academic programs and training sessions.
- The facility is not designed for “open booking” (see page 31 *infra*).
- The photographs in the Master Plan indicate that the design and furnishings of the cells and day rooms will be institutional rather than normative.
- The word “rehabilitation” only appears once in the two-volume Master Plan, and that is in connection with a wastewater allowance, not a person. The absence of the word “rehabilitation,” and any discussion of how the design of the jail will promote rehabilitation, strongly suggests that rehabilitation was not part of the design philosophy.

IV. MANDATES FOR CHANGE TO A REHABILITATIVE SYSTEM

A. Statutory Mandates for a Rehabilitative and Therapeutic System

Hawai‘i already has a relatively robust framework of statutes, regulations, and rules that potentially provide the foundation for a correctional system with a rehabilitative and therapeutic focus. Indeed, there are far too many statutes that mandate rehabilitative programs to list them all here. However, the following statutes are representative. Complying with these statutes would be a good first step in transitioning to a rehabilitative correctional system.

- § 353-6 requires a community correctional center for each county, under the direction and administration of the Director, and requires, *inter alia*, that each center shall:
 - Provide residential detention for pre-trial detainees and residential custody and correctional care for committed misdemeanants and for felons committed to indeterminate sentences;
 - Provide for committed persons, correctional services, including but not limited to, social and psychiatric-psychological evaluation, employment, counseling, social inventory, correctional programming, medical and dental services, and sex abuse education and treatment programs for persons convicted of sexual offenses or who are otherwise in need of these programs;

- Provide recreational, educational, and occupational training, and social adjustment programs for committed persons;
- Provide referrals to community educational, vocational training, employment, and work study programs; and aftercare, supervisory, and counseling services for persons released from centers.
- § 353-6.5 requires the Department to develop and make available for **women offenders'** gender-responsive, community-based programs, including a community-based work furlough program, that provide women offenders the appropriate range of opportunities to ensure that their needs are met. **This statute enumerates thirteen “program models” the Department is required to provide**, including appropriate substance abuse and mental health treatment, individualized case management, life skills development workshops, educational opportunities (including special education) and employment training, family-focused programming, and transitional or reentry support.
- § 353-7 requires the Director to maintain a high security correctional facility for the residential care, correctional services, and control of high custodial risk convicted felons or the temporary detention of high custodial risk persons awaiting trial, and also requires that the facility provide correctional services including, but not limited to, psychiatric and psychological evaluation, social inventory, correctional programming, and medical and dental services, as well as recreational, educational, and occupational training, and social adjustment programs.
- § 353-8 provides that the Director may establish and operate facilities to be known as **conditional release centers**, either operated separately, or as part of community correctional centers, to provide housing, meals, supervision, guidance, furloughs, and other correctional programs for committed persons, and to give committed persons, in selected cases, a chance to begin adjustment to life in a free society and to serve as a test of an individual's fitness for release on parole.
- § 353-10 requires that there be within the Department an **intake service center** for adults in each of the counties to screen, evaluate, and classify the admission of persons to community correctional centers; and further requires the centers to provide orientation, guidance, social-medical-psychiatric-psychological diagnostic evaluation, correctional prescription program planning and security classification, and other personal and correctional services as needed for both detained and committed persons.
- § 353-13.3 provides that the Department shall be responsible for providing mental health services in community correctional centers.
- § 353E-1 establishes the statewide **integrated sex offender treatment program** for the treatment of committed sex offenders, to be implemented on a cooperative basis by the Department, the Hawai'i paroling authority, the Department of Health, the Department of Human Services, and any other agency that may be assigned sex offender oversight responsibilities. § 353E-1 requires, *inter alia*, that the sex offender treatment program

develop and continually update a comprehensive statewide master plan for the assessment, evaluation, treatment, and supervision of sex offenders that provides for a continuum of programs under a best practices philosophy; develop and implement a statewide, integrated system of sex offender assessment, evaluation, treatment, and supervision services and programs that reflect the goals and objectives of the master plan; identify all committed offenders who would benefit from sex offender treatment; work cooperatively to monitor and evaluate the development and implementation of sex offender assessment, evaluation, supervision, and treatment programs and services; and develop and implement standards and guidelines for the assessment, evaluation, treatment, and supervision of sex offenders.

- § 353H-2.5 establishes within the Department an *offender reentry office* to oversee the development and implementation of the comprehensive offender reentry system, and requires that the offender reentry office, *inter alia*: ensure that the present and future reentry needs of committed persons are being evaluated and met in an effective and appropriate manner; develop and implement risk needs assessment tools to properly place offenders in programs and services; match offenders to programs and services that address risks and needs identified; monitor and record progress made by offenders while participating in prescribed programs and services; and identify and make recommendations to address needs not addressed by programs and services.
- § 353H-3 requires the Department to develop a comprehensive and effective offender reentry system plan for adult offenders exiting the prison system as well as comprehensive reentry plans and curricula for individuals exiting correctional facilities in order to reduce recidivism and increase a person's successful reentry into the community. § 353H-3 goes on to provide that the reentry plans shall include, but not be limited to:
 - (1) *Adopting an operational philosophy that considers that offender reentry begins on the day an offender enters the correctional system.* Each offender entering the system shall be assessed to determine the offender's needs in order to assist the individual offender with developing the skills necessary to be successful in the community;
 - (2) Providing appropriate programs, including, but not limited to, education, substance abuse treatment, cognitive skills development, vocational and employment training, and other programs that help to meet the assessed needs of each individual;
 - (3) Developing a comprehensive network of transitional programs to address the needs of individuals exiting the correctional system;
 - (4) Ensuring that all reentry programs are gender-responsive;
 - (5) Issuing requests for proposals from community-based nonprofit programs with experience with offenders in the area of reentry; and

(6) Instituting model reentry programs for adult offenders.

- **§ 354D-1** includes a legislative finding that the number and types of programs operated by the Department shall be expanded to provide a comprehensive work program for inmates, and specifies that the purpose of **Chapter 354D** is to:

(1) Establish the correctional industries program to allow expanded industries programs to generate revenue to sustain its operation and allow for capital investment. The program should be structured to allow for the increased involvement of correctional industries in providing specific training skills for offenders that increase their employment prospects after release;

(2) Develop industries that provide a maximum level of work for all qualified, able-bodied inmates;

(3) Provide an environment for the operation of correctional industries similar to that of a private business operation;

(4) Encourage cooperative training ventures between the correctional industries program and the private sector; and

(5) Provide for low-cost construction, renovation, and repairs of facilities, grounds, furniture, vehicles, and equipment for private nonprofit social service, education, and health agencies and programs.

- **§ 354D-4** provides that the administrator of the correctional industries program, acting under the supervision of the Director or the Director's designee, shall:

(1) Develop programs generating revenue that best sustains their operation and allows for capital investment, and reimburses the general fund, when possible, for the expense of correctional services;

(2) Develop programs providing the maximum level of work and training opportunities for qualified, able-bodied inmates;

(3) Develop programs assuming responsibility for training qualified, appropriately screened inmates in applicable work and specific training skills that increase their employment prospects after release;

(4) Develop programs in which inmates can learn skills used in the construction and other industries, while providing low-cost construction, renovation, and repairs of facilities, grounds, furniture, vehicles, and equipment for private, nonprofit social services, health, or education agencies and programs;”

B. The Hawai‘i Correctional System Oversight Commission’s Mandate for Change

Unfortunately, the forgoing statutes have been largely ignored, and an antiquated and punitive correctional system has persisted. The ground began to shift, however, with the foundational work of the House Concurrent Resolution 85 Task Force on Prison Reform, which in turn led to the creation of the Hawai‘i Correctional System Oversight Commission.⁵⁸ Pursuant to section 353L-3 of the Hawai‘i revised Statutes, the Oversight Commission’s broad statutory mandate covers most aspects of meaningful correctional system reform:

- (a) The commission shall meet with the oversight coordinator not less than once each quarter to make recommendations and set policy, receive reports from the oversight coordinator, and transact other business properly brought before the commission.
- (b) The commission shall:
 - (1) Oversee the State's correctional system and have jurisdiction over investigating complaints at correctional facilities and facilitating a correctional system transition to a rehabilitative and therapeutic model;
 - (2) Establish maximum inmate population limits for each correctional facility and formulate policies and procedures to prevent the inmate population from exceeding the capacity of each correctional facility;
 - (3) Work with the department of public safety in monitoring and reviewing the comprehensive offender reentry program, including facility educational and treatment programs, rehabilitative services, work furloughs, and the Hawai‘i paroling authority's oversight of parolees. The commission may make recommendations to the department of public safety, the Hawai‘i paroling authority, and the legislature regarding reentry and parole services; and
 - (4) Ensure that the comprehensive offender reentry system under chapter 353H is working properly to provide programs and services that result in the timely release of inmates on parole when the minimum terms have been served instead of delaying the release for lack of programs and services.

To achieve these ends, the commission shall authorize the oversight coordinator to adopt rules in accordance with chapter 91.⁵⁹

As noted previously, the Hawai‘i correctional system takes a warehousing approach to corrections, which translates in practice to a purely punitive model of corrections. The establishment of the Oversight Commission reflects the Legislature’s understanding that Hawai‘i’s correctional system needs to transition from a punitive model of corrections to a rehabilitative and therapeutic model. Indeed, the Oversight Commission’s broad statutory

mandate includes the requirement that it “facilitat[e] a correctional system transition to a rehabilitative and therapeutic model.”⁶⁰

The planning process recommended in Section V of this paper is consistent with and supportive of the Oversight Commission’s statutory mandate to reduce Hawai‘i’s prison population, to move the State’s correctional system towards a rehabilitative and therapeutic model, and to improve reentry programs and services.

C. The National Tide of Change

Hawai‘i is not alone in recognizing that mass incarceration in punitive facilities is unnecessarily costly, ineffective and often counterproductive, profoundly unfair and racially discriminatory, and socially destructive. The American Bar Association’s (ABA’s) House of Delegates took aim at mass incarceration in at their 2022 Annual Meeting in Chicago.

Resolution 604. ABA Resolution 604 adopts the ABA’s Ten Principles on Reducing Mass Incarceration and urges all legislative and governmental bodies to implement policies consistent with these guidelines.⁶¹ According to the Working Group on Building Public Trust in the American Justice System, which sponsored the resolution, the ten principles build on existing ABA policies related to sentencing, pretrial detention, and court fines and fees; and they outline crucial steps that jurisdictions can take to fully reform their criminal legal systems.⁶²

In moving the resolution, Robert Weiner, the chair of the working group, pointed out that the United States has less than 5% of the world’s population but nearly 25% of its incarcerated individuals.⁶³ Weiner added that those in U.S. prisons and jails are disproportionately people of color, citing statistics showing that one of every three Black men born in 2021 can expect to be incarcerated at some point in their lives.⁶⁴ He noted that this disrupts families, perpetuates poverty, leads to discrimination in hiring and hinders upward mobility.⁶⁵

Here, then, are the ABA’s Ten Principles on Reducing Mass Incarceration:

- Limit the use of pretrial detention.
- Increase the use of diversion programs and other alternatives to prosecution and incarceration.
- Abolish mandatory minimum sentences.
- Expand the use of probation, community release and other alternatives to incarceration, and create the fewest restrictions possible while promoting rehabilitation and protecting public safety.

- End incarceration for the failure to pay fines or fees without first holding an ability-to-pay hearing and finding that a failure to pay was willful.
- Adopt “second look” policies that require regular review and, if appropriate, reduction of lengthy sentences.
- Broaden opportunities for incarcerated individuals to reduce their sentences for positive behavior or completing educational, training or rehabilitative programs.
- Increase opportunities for incarcerated individuals to obtain compassionate release.
- Evaluate the effectiveness of prosecutors based on their impact on public safety and not their number of convictions.
- Evaluate the effectiveness of probation and parole officers based on their success in helping probationers and parolees and not their revocation rates.⁶⁶

Mark Schickman, a Section of Civil Rights and Social Justice delegate to the House of Delegates and a native of California, spoke in favor of the resolution. He mentioned the city of San Francisco, which is known as one of the most liberal cities in the country but recently recalled progressive District Attorney Chesa Boudin over concerns about rising crime rates:

“We got into a situation where our communities want us to do something about it, and the simple answer is put people in jail,” Schickman said. “But at the same time, America cannot be known as the biggest jailer in the world. It’s not an either-or issue, and if you treat it as an either-or issue, there is no good solution. It needs to be dealt with through these 10 principles, [which are] reasonable ways that we as a society can deal with the issues.”⁶⁷

The ABA resolutions are part of a nationwide trend to rethink how we use our jails and prisons. For example, when the MacArthur Foundation announced a \$75 million initiative to challenge the way America thinks about and uses its jails, it received grant applications from more than 200 jurisdictions in 45 states and territories.⁶⁸ The 20 cities that received grants demonstrated a variety of effective ways to keep people out of jail who did not belong there and to address racial disparities in their justice systems.⁶⁹ Overall, the average drop in daily jail population for participating cities and counties was 22%, and the cities are safer, fairer, and healthier as a result.⁷⁰

D. Resources to Support Change

In 1974, the National Institute of Corrections was established within the U.S. Bureau of Prisons through an act of Congress.⁷¹ The legislation creating the NIC included the following prescription of authority under Title 18 of the U.S. Code, which reflects the enormous resources now available through the Institute:

§ 4352. Authority of Institute; time; records of recipients; access; scope of section

(a) In addition to the other powers, express and implied, the National Institute of Corrections shall have authority:

(1) to receive from or make grants to and enter into contracts with Federal, State, tribal, and general units of local government, public and private agencies, educational institutions, organizations, and individuals to carry out the purposes of this chapter;

(2) to serve as a clearinghouse and information center for the collection, preparation, and dissemination of information on corrections, including, but not limited to, programs for prevention of crime and recidivism, training of corrections personnel, and rehabilitation and treatment of criminal and juvenile offenders;

(3) to assist and serve in a consulting capacity to Federal, State, tribal, and local courts, departments, and agencies in the development, maintenance, and coordination of programs, facilities, and services, training, treatment, and rehabilitation with respect to criminal and juvenile offenders;

(4) to encourage and assist Federal, State, tribal, and local government programs and services, and programs and services of other public and private agencies, institutions, and organizations in their efforts to develop and implement improved corrections programs;

(5) to devise and conduct, in various geographical locations, seminars, workshops, and training programs for law enforcement officers, judges, and judicial personnel, probation and parole personnel, correctional personnel, welfare workers, and other persons, including lay ex-offenders, and paraprofessional personnel, connected with the treatment and rehabilitation of criminal and juvenile offenders;

(6) to develop technical training teams to aid in the development of seminars, workshops, and training programs within the several States and tribal communities, and with the State, tribal, and local agencies which work with prisoners, parolees, probationers, and other offenders;

(7) to conduct, encourage, and coordinate research relating to corrections, including the causes, prevention, diagnosis, and treatment of criminal offenders;

(8) to formulate and disseminate correctional policy, goals, standards, and recommendations for Federal, State, tribal, and local correctional agencies, organizations, institutions, and personnel;

(9) to conduct evaluation programs which study the effectiveness of new approaches, techniques, systems, programs, and devices employed to improve the corrections system;

(10) to receive from any Federal department or agency such statistics, data, program reports, and other material as the Institute deems necessary to carry out its functions. Each such department or agency is authorized to cooperate with the Institute and shall, to the maximum extent practicable, consult with and furnish information to the Institute;

(11) to arrange with and reimburse the heads of Federal departments and agencies for the use of personnel, facilities, or equipment of such departments and agencies;

(12) to confer with and avail itself of the assistance, services, records, and facilities of State, tribal, and local governments or other public or private agencies, organizations, or individuals;

(13) to enter into contracts with public or private agencies, organizations, or individuals, for the performance of any of the functions of the Institute; and

(14) to procure the services of experts and consultants in accordance with section 3109 of title 5 of the United States Code, at rates of compensation not to exceed the daily equivalent of the rate authorized for GS-18 by section 5332 of title 5 of the United States Code. 18 USC §4352.

During the four-plus decades since its founding, the NIC has evolved into an extraordinary clearinghouse and repository for information related to almost all aspects of corrections. In addition to the vast amount of information readily accessible through the NIC website, the NIC offers direct assistance and support with respect to many issues common to corrections.⁷² Although there are numerous materials available through the NIC that are directly relevant to the planning and design of a jail, there are two publications that stand out as especially relevant to the planning and design of Hawai‘i’s new jail: the *NIC Jail Design Guide*⁷³ and the *NIC Jail Capacity Planning Guide: A Systems Approach*.⁷⁴ Both of these documents are freely available from the NIC website.

V. THE PATH FORWARD – THE NIC JAIL DESIGN GUIDE

The *NIC Jail Design Guide*, Third Edition, was developed to provide information about basic concepts and issues surrounding jail design. It is a 325-page document that provides an evidence-based, step-by-step guide to best practices for planning and designing a jail that fits a jurisdiction's unique needs:

The *NIC Jail Design Guide* discusses current correctional standards and architectural principles that are important to building a cost-efficient jail to meet a locality's particular needs. While plainly written, it is sufficiently technical and detailed to guide local officials, architects, and planners who may be unfamiliar with jail design, construction, and operational issues. It does not, however, include sample floor plans, as that would imply the recommendation of model solutions to jail planning and design issues. Each jurisdiction needs to craft a jail design to meet its unique situation and community needs.⁷⁵

The *Jail Design Guide* includes numerous references to other resources and materials that relate to jail planning and design, including other materials prepared by the NIC. The following references to the *NIC Jail Design Guide* are provided to illustrate best practices for the planning and design of a jail, and to demonstrate how inadequate and flawed the existing planning process has been from the outset with respect to the new OCCC.

The fundamental premise of the *NIC Jail Design Guide* is that “form follows function,” meaning that good jail design is measured by the degree to which the facility conforms to and serves the needs and activities of those who use it.⁷⁶ Accordingly, the first phase of the planning process for a new jail should be focused on determining the intended functions of the jail. The *Jail Design Guide* recommends that this take place during a four-phase “**Pre-design Planning**” process.⁷⁷ This Pre-design Planning process begins with “Phase 1,” which includes “a hard look at the criminal justice system as a whole,” *in order to determine how the contemplated jail fits into that system.*⁷⁸ The Pre-design Planning then focuses on the following:

- Phase 2: “Needs Assessment,” which contemplates the following tasks:
 - Developing a policy group.
 - Reviewing applicable standards and legal requirements.
 - Developing the system mission statement and goals.
 - Evaluating the current criminal justice system and policies.
 - Evaluating the existing facility for standards compliance.
 - Evaluating existing alternative programs.
 - Evaluating current staffing levels against the staffing levels that are needed.
 - Identifying options, including:
 - Evaluating changes to policies and practices in the criminal justice system.

- Evaluating the facility to determine whether renovation/expansion is needed.
 - Evaluating non-facility alternative programs.
 - Appointing a transition team leader who will be involved in all aspects of the project.
 - Developing cost estimates for the project and staffing/operational costs for the first checkpoint for the project.
 - Developing and producing a needs assessment report and a determination of inmate capacity by year.
 - Starting to develop support for the project in the community.⁷⁹
- Phase 3: “Facility Program Development,” which contemplates the following tasks:
 - Developing a functional program, which includes:
 - Developing operational principles and functional scenarios.
 - Reviewing applicable state and national standards.
 - Developing a staffing plan for the new facility.
 - Developing a space program, which includes:
 - Identifying square footage needs for the new facility.
 - Developing adjacency diagrams.
 - Analyzing design criteria.⁸⁰
- Phase 4: “Project Definition and Implementation Plan,” which contemplates the following tasks:
 - Evaluating facility options (new construction versus renovation/expansion).
 - Developing a conceptual design for the new facility.
 - Developing a cost-benefit analysis and lifecycle costs.
 - Conducting user and owner reviews.⁸¹

The NIC *Jail Design Guide* emphasizes the importance of two of the tasks included in Phase 2, the “Needs Assessment.” First, the *Jail Design Guide* recommends that the “Mission Statement” for the project define many of the fundamental aspects of the facility, including:

- The legal mandates for the jail.
- The entities responsible for its operation and funding.
- Who will be incarcerated in the jail and why.
- Responsibilities for safety, security, and service to inmates, staff, and the community.
- The correctional philosophy of the jail with respect to both pretrial and sentenced inmates, including programming, goals of punishment, reintegration into the community, rehabilitation, and so forth.⁸²

Second, the *Jail Design Guide* emphasizes the importance of “Establishing Bed Capacity,” which is integrally related to the Mission Statement task of determining “who will be incarcerated in the jail and why.” As the Guide notes, “[t]he total number of beds drives facility development and operational costs more than any other factor.”⁸³ Among the multiple issues that should be considered when establishing future bed needs are the following:

- Projections of data other than jail average daily population (e.g., bookings, criminal case load, arrests, average length of stay).
- The condition of the local economy and community.
- Local and regional population growth and demographic changes.
- Use of alternatives to incarceration, such as releasing pretrial inmates on their own recognizance or creating a home arrest program (electronically monitored or otherwise) for sentenced inmates. Streamlined criminal justice case processing that results in shorter pretrial lengths of stay and thus a lower jail population.
- Changes in law that could measurably increase or decrease the jail population, such as a state mandate that nonviolent felons serve jail time rather than a state prison sentence.
- Inmate classification and separation requirements
- Daily, monthly, and annual deviations from the projected trend line to examine population peaks⁸⁴

The NIC *Jail Design Guide* goes on to recommend that a bed-capacity-setting process include capacity projections broken down: (1) by year (for 10–20 years into the future); and (2) by types of beds needed (e.g., male/female, security or classification type, special needs, program or reentry), which will determine the number and size of the jail’s living units.⁸⁵ The Guide also notes that this “capacity-setting process may recommend alternative policies and practices for the criminal justice system to limit the growth in the number of inmates”⁸⁶

As mentioned, the resources available from the NIC include another highly relevant planning document entitled *Jail Capacity Planning Guide*. This is an 80-page document that is predicated on the assumption that “it is essential that jurisdictions adopt comprehensive, effective strategies to address the problem of crowding in our nation’s jails.”⁸⁷ To this end, the *Jail Capacity Planning Guide* describes its purpose as follows:

This guide describes key population management strategies that have as their foundation the necessity of holding offenders accountable while making judicious use of detention resources. This guide also makes the case for the importance of identifying offenders who pose higher risks and targeting them for the most intensive correctional resources, making available a full continuum of alternatives to jail, relying on evidence-based sanctions and quality treatments, and building in transition and stepdown options from jails.⁸⁸

The *Jail Capacity Planning Guide* provides a deep dive into the difficult task of establishing bed capacity for a new jail, and provides an extremely helpful complement to the *NIC Jail Design*

Guide. It calls for a “systems approach” to planning which recognizes that the number of beds needed in a new jail is determined by policies and practices in the larger criminal justice system, and that the only way to successfully manage the jail population and avoid overcrowding is to address and manage those policies and practices:

Jails are part of a complex criminal justice system whose policies and practices directly influence total bed need. As such, jail planning cannot be done in a vacuum. Any consideration of future jail bed need must take place within the context of a discussion about how to manage the larger criminal justice system more effectively. ***Jail planning and system planning are one and the same.***

Among the factors that determine the demand for jail beds are:

- Booking versus cite and release policies of the police department
- The availability of pre-booking alternatives (detoxification and crisis centers)
- Pretrial supervision, monitoring and tracking policies
- Arrest warrant policies
- Access to early pretrial risk assessment information
- Early case resolution procedures
- Jail length of stay
- Case processing time
- Early appointment of counsel
- Deferred sentencing options
- Bail policies and bail bond review procedures
- Sentencing mandates
- The availability of alternatives to incarceration (treatment, work release, etc.)

Communities that proactively address the policies and practices driving their jail population can avoid overcrowding and the multitude of problems it entails. Communities that ignore what is happening in the larger justice system quickly fill up their jails, and that creates a demand for more beds and triggers a vicious cycle of building new and larger jails. This cycle is documented in the Vera Justice Institute’s study *Broken Ground: Why America Keeps Building More Jails and What It Can Do Instead*.⁸⁹ Indeed, the *Jail Capacity Planning Guide* specifically warns against a planning process that relies solely on jail data: “Jail planning must not rely solely on jail data. To do so is to institutionalize current practices by assuming the existing system is operating in an optimal fashion. *Jail data alone can never reveal larger system issues.*”⁹⁰

We are at a loss to explain why the State did not follow best practices and engage in system planning; but irrespective of the reason, we believe that the State does not have an adequate and reliable population forecast for the new jail. We recommend that the State disregard the existing jail population forecast and immediately begin a system planning process.

Jail capacity planning is a critical aspect of the Predesign Planning process and is intended to provide sufficient information and assumptions for reasonable conclusions to be reached with respect to the general magnitude and character of the facility. Once the capacity and character are determined, the *Jail Design Guide* recommends that the following major building considerations be addressed as a final part of the Predesign Planning process:

- Confirming the inmate classification/separation system established during capacity setting.
- Determining the appropriate occupancy level for each classification of inmate (i.e., single occupancy cell, double-occupancy cell, multiple-occupancy cell, dormitory).
- Establishing the method(s) by which inmate surveillance/supervision will occur in housing areas.
- Estimating staffing needs relative to different design and management concepts.
- Identifying the range of non-housing functions in the jail that must be supported by space (e.g., booking, medical services, programs, administration).
- Ascertaining which services (e.g., food, laundry) can be obtained elsewhere or to what outside agencies the jail might provide services through expanded facilities.
- Deciding the degree of expansion to be accommodated.⁹¹

After the Predesign Planning process has been completed, the actual design process can begin:

When predesign planning is complete, it is time for the architect and the client to undertake the design process. This process starts with preliminary schematic designs of a very basic nature. These initial designs explore a series of major considerations that will fundamentally influence the direction of the design well before individual spaces are drawn. They also allow for a preliminary estimate of staffing needs.⁹²

Hundreds of pages of the *Jail Design Guide* are devoted to the process of translating the findings and conclusions reached through the Predesign Planning process into an architectural design in which form truly follows function. The recommendations and action plan that follows in Section VIII are focused only on the Predesign Planning process, which encompasses the scope of work done to date in connection with the planning of the new jail. In pursuing these recommendations, the tremendous resources of the NIC are readily accessible to provide guidance, including best practices. First, however, we will provide a brief overview and description of a recently constructed facility that utilized many of the resources described in this paper in designing and constructing a rehabilitative jail.

VI. DESIGNING FOR REHABILITATION: THE LAS COLINAS DETENTION AND REENTRY FACILITY

The Las Colinas Detention and Reentry Facility in Santee, California, is the women's jail for San Diego County. It opened in 2014 and was designed by kmd+ and HMC Architects. The design

team’s goal was to create a facility that has a normative environment and fosters interaction between inmates and staff. The facility cost \$280 million. It can house up to 1,280 women and is situated on a 45-acre parcel near a residential neighborhood.⁹³

No one from our working group has visited Las Colinas; therefore, we cannot comment on for how it is operated or whether it achieves the rehabilitative goals for which it was designed. We express no opinion on whether it is a “good or bad” jail. We discuss it here simply as an architectural model to stimulate thinking about designs that focus on creating a normative, humane, and rehabilitative environment.

The landscaping at Los Colinas creates a sustainable and restorative environment inspired by the site’s natural surroundings and history.⁹⁴ Native trees and shrubs planted along the perimeter of the facility act as a screen and provide a natural wildlife corridor.⁹⁵ Special landscape features include integrated shade structures, bioretention gardens, a greenhouse that is part of the facility’s horticultural training program, an amphitheater for outdoor events, and a sports court.⁹⁶



The campus is divided into four zones – administration, communal, programmatic, and housing – connected by a central quad as on college campuses.⁹⁷ Prisoners move among the zones as required by their daily activities.

There are 26 buildings on the campus, each with a specific function.⁹⁸ They include an administration and visitation building, detainee housing, a clinic, an infirmary, a library, a religious service building, an intake building, training facilities, educational buildings, a food services building, a maintenance building, and others.⁹⁹



Low security inmates are housed in open cubicles with low walls

The housing units are designed to accommodate low, medium, and high security detainees. Low security detainees are housed in cubicles that have a bed, desk and a large window to allow natural light.¹⁰⁰ The medium and high security housing are each designed to be as normative as possible for their level of security.¹⁰¹

Interiors throughout the facility use soft colors, normal looking furniture selected for its aesthetics, safety, and durability, acoustics that dampen sound, and custom designed lighting.¹⁰²

Las Colinas uses a “step down” security classification system in which new detainees are assigned an initial level of security and can gradually progress to lower levels. At each lower level there is greater independence and a more normative environment.

An innovative feature of Las Colinas is “open booking,” an intake system in which detainees are not put in holding cells but are seated in an open area that has comfortable furniture, rest rooms, and telephones. They remain in the seating areas or “waiting room” until they are called to medical screening, photographing, or other areas of intake within the booking process. Holding cells are only used for detainees whose actions or security level require them to be separated from other detainees.¹⁰³

Las Colinas also uses “direct supervision” in which staff are stationed within the housing unit instead of in video monitoring stations that are set apart from the detainees.¹⁰⁴

This allows greater interaction and communication between detainees and staff which can resolve problems and conflicts before they become serious incidents.¹⁰⁵



Day room. The open guard station is a feature of “direct security”

Both academic and vocational educational programs are available at Las Colinas.¹⁰⁶ It is LEED Gold Certified and has received over a dozen design awards.¹⁰⁷

VII. GOOD FACILITY DESIGN MUST BE SUPPORTED BY PROPER STAFF TRAINING

Good facility design alone is not enough. The best designed jail can easily be undermined or sabotaged by staff who ignore or resist elements of functionality which they do not understand or accept. It is essential that, at every level of authority within the correctional system, the staff be trained in the rehabilitative model of corrections. Realistically, this will require a substantial, sustained commitment of resources to recruit, educate and train personnel, leading to the development of a more professional and better compensated staff to complement and support, rather than undercut, the functionality designed into the new jail.

Four years ago, the HCR 85 Task Force on Prison Reform recommended that the State create an “academy” to provide staff with the knowledge and skill needed to become an integral part of a rehabilitative correctional facility. The curriculum would include the philosophy and principles of rehabilitation, the role of the correctional professional in promoting rehabilitation, conflict resolution, counseling, cognitive behavior intervention, collaborative casework, the implementation of evidence-based programs, and other relevant subjects.

The State should begin work on the academy immediately so that there are staff who are trained and ready to work in a rehabilitative environment when the new jail opens.

VIII. RECOMMENDATIONS AND ACTION PLAN

For the reasons set forth above, and in *Getting It Right*, we submit the following recommendations and action plan for consideration:

- 1) The planning and design process for the new jail should begin anew, but with the understanding that the planning and design work done to date may be considered as part of the new process.
 - a) The Pulitzer Bogard Population Forecast Report included in the Master Plan Report is inadequate and misleading as the basis for planning a new facility because it does not accurately describe the future population, and therefore should be rejected.
 - b) The existing AHL-Louis Berger – Integrus draft Master Plan Report for the new OCCC is fatally flawed, and should be rejected.

- 2) The proposed public-private partnership model is not conducive to a public works project such as building the new OCCC and should be rejected. The state should use general obligation bonds to finance the jail and work to make the design and operation of the facility as efficient as possible while meeting statutory and constitutional requirements.
- 3) The planning and design process for the new jail should generally follow the approach outlined in the *NIC Jail Design Guide* and the *NIC Jail Capacity Planning Guide*. Consonant with the recommendations in the *Jail Design Guide*, the Predesign Planning process should be distinguished and separated from the actual design process.
- 4) The planning and design process for the new jail should also draw on other NIC resources, including the *NIC The Greening of Corrections: Creating a Sustainable System*, to increase efficiency, reduce operating costs, and ensure that the new facility is in line with the State's energy and environmental policies and goals.
- 5) Due to the scope and complexity of the Predesign Planning process, a qualified correctional planning consultant or professional project manager will be essential.
- 6) The Oversight Commission and Oversight Coordinator should convene an Advisory Committee to provide input and recommendations regarding the planning and design of the new jail, and the process for selecting a qualified correctional planning consultant. The Advisory Committee should have an equitable balance of people from the public, private, and government sectors and should include persons with prior involvement with the criminal justice system and members of the community who have demonstrated a commitment to improving the criminal justice system and addressing the needs of incarcerated persons. Without limitation to the foregoing, the Advisory Committee should include representatives of the Native Hawaiian community, such as OHA and other similarly experienced entities or individuals.
- 7) The Oversight Commission and Oversight Coordinator should prepare a "scope of work" that will define a comprehensive scope of services, and a management plan and process, to direct and govern the work, duties and responsibilities of the correctional planning consultant or project manager. This scope of work should include the requirement that the planning and design process generally follow the approach outlined in the *NIC Jail Design Guide* and the *NIC Jail Capacity Planning Guide*, and should also include provisions that reflect the following foundational principles:
 - a) The existing DPS system operating policies and procedures are badly outdated and misaligned with contemporary evidence-based best practices. The planning and design of

the new jail provides a singular opportunity to implement a rehabilitative and therapeutic approach to corrections.

- b) A rehabilitative and therapeutic model for the new jail should guide the comprehensive inventory, assessment, planning and design of *every aspect and component of the correctional system as it effects the jail*, including: (1) diversion programs and services and other “off-ramps” that largely determine who will be incarcerated in the new jail; (2) the programs and services to be made available to those housed in the new jail; and (3) the programs and services designed to assist prisoners as they reenter free society.
 - c) A rehabilitative and therapeutic model for the new jail should adopt a “medical model” with respect to the conditions of confinement, and the programs and services to be made available within the correctional system. The medical model for corrections is grounded on the recognition that many, if not most, of the people who enter the correctional system have underlying problems or issues that have contributed to their arrest. From the time a person initially becomes involved with the correctional system, the medical model focuses on diagnosing and treating any root problems that are determined to have contributed substantially to behavior that resulted in the arrest.
 - d) A rehabilitative and therapeutic model for the new jail requires that the jail staff at all levels be trained to perform their jobs competently and with a high degree of professionalism. Proper training of jail staff will require a substantial commitment of resources to educate, certify, and compensate staff appropriately.
 - e) The planning and design process should make every effort to ensure that the programs and services mandated by Hawai‘i’s statutes are provided.
- 8) The Oversight Commission and Oversight Coordinator should prepare a budget for completing the Predesign Planning process, as outlined in the *NIC Jail Design Guide*, and this budget should be submitted to the Legislature for funding.

CONCLUSION

Hawai‘i is at a crossroad. We can build the large, expensive and punitive jail described in the Master Plan, knowing that it will simply perpetuate a broken correctional system, or we can build a transformative jail based on best practices. If we are genuinely interested in reducing our unacceptably high rate of recidivism, we should not miss this once-in-a-generation opportunity to move our correctional system in the direction of rehabilitation.

As described in this document, we believe that the Oversight Commission and the Oversight Coordinator have both the mandate and the expertise to “oversee” the planning for the new jail.

We recommend that the Oversight Commission and Oversight Coordinator work with an Advisory Committee to develop a “scope of work,” guided by best practices, to be used to retain a qualified correctional planning consultant to work with the Oversight Commission to manage the planning and design process.

Although the Predesign Planning process must start over again, *that does not mean we have to start from scratch*. Much of the work that has already been done – such as the project background, site selection, site analysis, data collection, and other basic planning work – can be used going forward. In addition, the groundwork done by the HRC 134 Task Force and HRC 85 Task Force will facilitate and expedite the *system planning process* and the development of a rehabilitative framework for the new jail.

It is not too late to change course. We owe it to the people of Hawai‘i to *get it right*.

Mahalo for your consideration of these important issues. For any comments or questions, please contact Bob Merce at mercer001@hawaii.rr.com.

Sincerely,

The Correctional Reform Working Group:

Robert Merce, Esq. – Chair
Hayley Cheng, Esq.
Michael Klinger, Esq.
Chase Livingston, Esq.
Michael Livingston, Esq.
Hannah Matsunaga, Esq. (until 8/22)
Michael O’Malley, Esq.
Tommy Otake, Esq.
Pablo Stewart, M.D.
Justice Michael Wilson

Endnotes

¹ The Ige Administration requested an appropriation of \$15 million to continue planning for the replacement of the O‘ahu Community Correctional Center (OCCC). See State of Hawai‘i FY 2023 Executive Supplemental Budget in Brief (December, 2021) p. xvi. Accessed August 31, 2022 <https://budget.hawaii.gov/wp-content/uploads/2021/12/Budget-in-Brief-FY-23-BIB.Mn5.pdf>. The appropriation was not approved.

² Act 179 Haw. Sess. L. 2019, codified as Hawai‘i Revised Statutes (HRS) §353L-3(b) (2019).

³ Hawai‘i Correctional System Oversight Commission, “2020 Annual Report” (December 2020). Accessed August 21, 2022 <https://ag.hawaii.gov/hawaii-correctional-system-oversight-commission/2020-meeting-agendas/>.

⁴ Hawai‘i Correctional System Oversight Commission, “2021 Annual Report” (April 2022). Accessed August 31, 2022. <https://ag.hawaii.gov/wp-content/uploads/2022/04/HCSOC-2021-Annual-Report.pdf>.

⁵ Meeting of the Hawai‘i Correctional System Oversight Commission, December 16, 2021 (meeting video at 1:08). Accessed August 31, 2022. <https://www.youtube.com/watch?v=UUvIpvIRJek>. See also State of Hawai‘i, Department of the Attorney General, Hawai‘i Correctional System Oversight Commission, “Merce Report.” Accessed August 31, 2022. <https://ag.hawaii.gov/hawaii-correctional-system-oversight-commission/2022-meeting-agendas/>. (Please note that the title “Merce Report” is interchangeable with “Getting it Right: Better Ideas for a New Jail,” a full copy of which is attached as the Appendix.)

⁶ Letter, Mark K. Patterson, Chair, Hawai‘i Correctional System Oversight Commission, to The Honorable Sylvia Luke, The Honorable Ty J.K. Cullen, The Honorable Donovan M. Delacruz, and the Honorable Gilbert S.C. Keith-Agaran, January 3, 2021, p. 2-3. (See Attachment 1, Hawai‘i Correctional System Oversight Commission, “2021 Annual Report” (April 2022)). Accessed August 31, 2022. <https://ag.hawaii.gov/wp-content/uploads/2022/04/HCSOC-2021-Annual-Report.pdf>.

⁷ Letter, note 6 supra.

⁸ Letter, note 6 supra. p. 2, quoting “Merce Report,” p. 2. See also note 5 supra.

⁹ The U.S. Bureau of Justice Statistics began tracking Hawai‘i’s prison population in 1959 when Hawai‘i became a State. The yearend prison population for Hawai‘i from 1959 to 1986 can be found in the publication “Historical Statistics on Prisoners in State and Federal Institutions Yearend 1925-86,” by Patrick A. Langan, John V. Fundis, Lawrence A. Greenfeld, and Victoria W. Schneider, Bureau of Justice Statistics, NCJ -111098 (Washington, D.C.: May 1988). <https://www.ncjrs.gov/pdffiles1/digitization/111098ncjrs.pdf>. The authors note on page 2 that the

average annual increase in Hawai‘i’s prison population was the second largest in the nation “during the 1980’s.”

Regarding “tough on crime” laws as fueling the rise of prison populations in Hawai‘i and elsewhere in United State see generally National Research Council, *The Growth of Incarceration in the United States: Exploring Causes and Consequences*, The National Academies Press (Washington, D.C. 2014). See also Meda Chesney-Lind and Robert Merce, "Toward a Smaller, Smarter Correctional System for Hawai‘i" in *The Value of Hawai‘i 3: Hulihia, the Turning*, Noelani Goodyear-Ka‘ōpua, Craig Howes, Jonathan Kay Kamakawiwo‘ole Osorio, Aiko Yamashiro, Paige Rasmussen and Craig Howes (ed.) University of Hawai‘i Press (2021) p. 115.

¹⁰ Bureau of Justice Statistics, note 9 supra.

¹¹ Creating Better Outcomes, Safer Communities,” Final Report of the House Concurrent Resolution 85 Task Force on Prison Reform to the Hawai‘i Legislature, 2019 Regular Session (December 2017). Accessed August 31, 2022. https://www.courts.state.hi.us/wp-content/uploads/2018/12/HCR-85_task_force_final_report.pdf.

¹² The number of Hawai‘i prisoners incarcerated by CoreCivic at the Saguaro Correctional Center in Arizona is reported in the Hawaii Department of Public Safety’s “End of Month Population Report,” July 31, 2022. Accessed August 31, 2022. <https://dps.hawaii.gov/wp-content/uploads/2022/08/Pop-Reports-EOM-2022-07-31.pdf>.

The five states with more than 20% of their prisoners in privately operated facilities as of 2018 are New Mexico, Montana, Tennessee, Oklahoma, and Hawai‘i. See Bureau of Justice Statistics, “Prisoners in 2016,” by E. Ann Carson, NCJ 251149 (Washington, D.C.: January 2018, revised August 7, 2018): 14. Accessed August 31, 2022. <https://bjs.ojp.gov/content/pub/pdf/p16.pdf>

¹³ Hawai‘i’s incarcerated population was 727 in 1978 and 4,209 on July 31, 2022, a 479% increase. See Creating Better Outcomes, Safer Communities, supra note 11, p. 1, and Hawai‘i Department of Public Safety End of Month Population Report, supra. note 12.

Hawai‘i’s general population was 932,000 in 1978 and 1,441,000 in 2021, a 55% increase. See Macrotrends, “Hawaii Population 1950-2021.” Accessed August 31, 2022. <https://www.macrotrends.net/states/hawaii/population>.

¹⁴ The incarceration rate was calculated based on the Department of Public Safety’s July 31, 2022 End of Month Population Report (4,209 prisoners) and a Hawai‘i population of 1,441,000 See also note 13 supra.

The incarceration rate of countries around the world is compiled by Institute for Crime & Justice Policy Research (ICPR) at Birkbeck University, London. For the latest data see Helen Fair and Roy Walmsley, “World Prison Population List,” World Population Brief (Thirteenth Edition, October, 2021) pp. 11-13. Accessed August 31, 2022. https://www.prisonstudies.org/sites/default/files/resources/downloads/world_prison_population_list_13th_edition.pdf.

¹⁵ Norway has 3,032 prisoners (including pretrial detainees and remand prisoners) compared to Hawai‘i’s 4,209 prisoners. World Prison Brief, World Prison Brief Data, “Norway” at <https://www.prisonstudies.org/country/norway>. Accessed September 20, 2022.

Norway’s population as of 2021 was 5,466,000 compared to Hawai‘i’s 2021 population of 1,440,000. See Statistics Times, “Norway Demographs” at <https://statisticstimes.com/demographics/country/norway-demographics.php> and Hawai‘i population, supra. note 13.

¹⁶ A comparison of Hawai‘i’s incarceration rate with the rates of countries around the world can be found at: World Prison Brief, “Prison Population Rate, Entire World -Highest to Lowest.” Accessed August 31, 2022. https://www.prisonstudies.org/highest-to-lowest/prison_population_rate?field_region_taxonomy_tid=All.

¹⁷ Department of Budget and Finance, FB 2021-2023 Executive Biennium Budget, Budget in Brief, December 21, 2020, p. 110. Accessed September 5, 2022. <https://budget.hawaii.gov/wp-content/uploads/2020/12/FB-21-23-BIB-12-19-20.8ag.pdf>.

¹⁸ Hawai‘i Department of Public Safety, Annual Report FY 2021, p. 18. See also U.S. Department of Justice, National Institute of Corrections (NIC), State Statistics Information. Accessed September 22, 2022. <https://nicic.gov/projects/state-statistics-information>.

¹⁹ See Hawai‘i Department of Public Safety, End of Month Population Report, July 31, 2022. Accessed September 4, 2022. <https://dps.hawaii.gov/wp-content/uploads/2022/08/Pop-Reports-EOM-2022-07-31.pdf>. See also Annual Report FY 2021, note 18 supra. The costs of pretrial detainees at OCCC are calculated by multiplying the total number of pretrial detainees at OCCC by the average daily cost per inmate per day.

²⁰ See End of Month Population Report, note 19 supra. See also Annual Report FY 2021, note 18 supra. The costs of pretrial detainees Statewide are calculated by multiplying the total number of pretrial detainees Statewide by the average daily cost per inmate per day.

²¹ Kevin Dayton, “Planning Costs Climb For New Oahu Jail as Debate Drags on Over its Scope,” *Honolulu Civil Beat*, January 3, 2022. Accessed September 1, 2022. <https://www.civilbeat.org/2022/01/ige-asks-for-15-million-more-to-plan-new-oahu-jail-but-wants-to-cut-costs/>. The article states in relevant part: “Robert Merce, a lawyer and former member of the Department of Public Safety’s Reentry Commission, predicted last month the new jail will probably cost on the order of \$1 billion. Ige does not dispute that estimate, remarking last month that “I do think that we heard that that’s what jail facilities cost today.”

²² News Release, Governor David Ige, “Groundbreaking for New Housing Construction Held at Women’s Community Correctional Center,” July 12, 2021. Accessed September 1, 2022. <https://governor.hawaii.gov/newsroom/pds-news-release-groundbreaking-for-new-housing-construction-held-at-womens-community-correctional-center>.

²³ See generally, Hawai‘i Department of Public Safety, “Future of Hawaii’s Community Correctional Centers, Vol. 7-Neighbor Island CCC Housing Projects Advance” (July 2019). Accessed September 1, 2022. https://dps.hawaii.gov/wp-content/uploads/2019/07/Hawaii-CCC_Newsletter_Vol7-V4.pdf7-19-19.pdf.

²⁴ Timothy Wong, “ICIS Scorecard, Dashboard Indicators and Trends, Fiscal Years 2014-2018,” Interagency Council on Intermediate Sanctions, February, 2021. Accessed September 1, 2022. <https://icis.hawaii.gov/wp-content/uploads/2021/05/2014-2018-Hawaii-ICIS-Scorecard.pdf>.

²⁵ July 31, 2022 End of Month Population Report, note 19, supra. (assigned count).

²⁶ The Judiciary of the State of Hawai‘i, “2021 Annual Report Statistical Supplement,” Table 4, Total Caseload. Accessed September 1, 2022. <https://www.courts.state.hi.us/wp-content/uploads/2021/12/AD-P-751-StatsRpt2021.pdf>.

²⁷ Hawai‘i Paroling Authority, 2020 Annual Statistical Report, Statistical Table III, Total Parole Caseload FY2019-FY2020. Accessed September 1, 2022. <https://dps.hawaii.gov/hpa/files/2020/10/2020-Annual-Report.pdf>.

²⁸ Amanda Essex, National Conference of State Legislators, “New Report Examines Length of Probation Terms by State.” Accessed September 1, 2022. <https://www.ncsl.org/research/civil-and-criminal-justice/new-report-looks-at-length-of-probation-terms-by-state-magazine2021.aspx>.

²⁹ National Conference of State Legislators, note 28 supra.

³⁰ Justice Policy Institute, Myron B. Thompson School of Social Work, and Georgetown Law, The Disparate Treatment of Native Hawaiians in the Criminal Justice System (Honolulu: Office of Hawaiian Affairs, 2010), 17. Accessed September 1, 2022. https://justicepolicy.org/wp-content/uploads/2022/04/10-09_rep_disparatetreatmentofnativehawaiians_rd-ac.pdf.

³¹ Final Report of the HCR 85 Task Force on Prison Reform, “Summary and Key Recommendations,” Office of Hawaiian Affairs (2019).

³² Disparate Treatment of Native Hawaiians, note 30, supra. Executive summary.

³³ Disparate Treatment of Native Hawaiians, note 30, supra. Executive summary.

³⁴ July 31, 2022 End of Month Population Report, note 19 supra.

³⁵ Exclusive: Riot Leads to Lockdown at State’s Largest Jail, Hawaii News Now, February 16, 2016. Accessed September 1, 2022. <https://www.hawaii.newsnow.com/story/31238122/exclusive-riot-leads-to-lock-down-at-states-largest-jail/>. See also State to Investigate OCCC Inmate Disturbance, Honolulu Star-Advertiser, February 17, 2016. Accessed September 1, 2022. <https://www.staradvertiser.com/2016/02/17/breaking-news/state-to-investigate-occc-inmate-disturbance/>.

³⁶ Blaze Lovell, “Maui Riot Just the Latest Sign of Trouble in State’s Overcrowded Jails,” Honolulu Civil Beat, March 15, 2019. Accessed September 1, 2022. <https://www.civilbeat.org/2019/03/maui-riot-just-the-latest-sign-of-trouble-in-states-overcrowded-jails/>.

³⁷ Kevin Dayton, “Inmates Set Fire, Barricade Doors in Housing Unit of Hilo Jail,” Honolulu Civil Beat, September 8, 2022. Accessed September 1, 2022. <https://www.civilbeat.org/2020/09/inmates-set-fire-barricade-doors-in-housing-unit-of-hilo-jail/>.

³⁸ Chatman v. et al. v. Otani et al., Civil No. 21-00268-JAO-KJM (D. Haw. August 12, 2021). See also Kevin Dayton, “Federal Judge Rules Prison System Has Failed to Protect Inmates from COVID-19,” Honolulu Civil Beat, July 13, 2021. Accessed September 1, 2022. <https://www.civilbeat.org/2021/07/federal-judge-rules-prison-system-has-failed-to-protect-inmates-from-covid-19/>.

³⁹ See Testimony of the Department of the Attorney General, Thirty-First Legislature, 2022 re: Appropriations for Claims Against the State, Its Officers, or Its Employees, before House Committee on Judiciary and Hawaiian Affairs, March 15, 2022. Accessed September 1, 2022. https://www.capitol.hawaii.gov/Session2022/Testimony/SB3041_SD2_TESTIMONY_JHA_03-15-22_PDF. See also Kevin Dayton, “State To Pay \$250,000 To Cover Lawyers’ Fees in Lawsuit Over Covid-19 In Hawai‘i Prisons,” Honolulu Civil Beat, March 16, 2022. Accessed September 1, 2022. <https://www.civilbeat.org/2022/03/state-to-pay-250000-to-cover-lawyers-fees-in-lawsuit-over-covid-19-in-hawaii-prisons/>.

⁴⁰ Creating Better Outcomes, note 11, supra. p. 34. See also Michele Deitch and Michael B. Mushlin, “Let the Sunshine In: The ABA and Prison Oversight,” in Myrna Raeder (ed.), The State of Criminal Justice (Washington, D.C.: American Bar Association, (2011): 243, <https://digitalcommons.pace.edu/cgi/viewcontent.cgi?article=1981&context=lawfaculty>.

⁴¹ Anthony M. Kennedy, “Speech at the American Bar Association Annual Meeting,” (speech, San Francisco, CA, April 9, 2003), United States Supreme Court https://www.supremecourt.gov/publicinfo/speeches/viewspeech/sp_08-09-03.

⁴² See O’Lone v. Estate of Shabazz, 482 U.S. 342, 354 (1987) (Brennan, J, dissenting).

⁴³ Michele Deitch, “The Need for Independent Prison Oversight in a Post-PLRA World,” Federal Sentencing Reporter, vol. 24, no. 4, (April 2012): 236–244.

⁴⁴ Christin Johnson and Ted Sakai, “August 2022 HCCC Observations,” September 2, 2022. Accessed September 4, 2022. <https://ag.hawaii.gov/wp-content/uploads/2022/09/HCSOC-August-2022-HCCC-Observations.pdf>.

⁴⁵ Chatman v. et al. v. Otani et al. at *14, note 38 supra.

⁴⁶ Oversight Coordinator’s Monthly Report, August 18, 2022. Accessed September 1, 2022. <https://ag.hawaii.gov/wp-content/uploads/2022/08/HCSOC-2022.8.18-Meeting-Minutes.pdf>

⁴⁷ “Daisy Kasitati” See Kevin Dayton, “State Agrees to Pay \$550,000 to Settle Lawsuit Over Suicide at Maui Jail,” Honolulu Civil Beat, February 23, 2022. Accessed September 15, 2022. <https://www.civilbeat.org/beat/state-agrees-to-pay-550000-to-settle-lawsuit-over-inmate-suicide-at-maui-jail/>. See also SB 3041, SD 2, HD 1, CD 1 (2022 Haw. Sess. Laws Act 280), p. 3. Accessed September 15, 2022.

https://www.capitol.hawaii.gov/measure_indiv.aspx?billtype=SB&billnumber=3041&year=2022

⁴⁸ “Joey O’Malley” See “Michael J. O’Malley v. State of Hawaii, Civil No. 19-1-1021, Findings of Fact, Conclusions of Law and Order dated March 29, 2022, First Circuit Court, State of Hawai‘i. See also Kevin Dayton, “Judge Awards \$1.375M In An Inmate Suicide At Halawa Correctional Facility,” Honolulu Civil Beat, March 30, 2022. Accessed September 22, 2022. <https://www.civilbeat.org/2022/03/judge-awards-1-375-million-in-an-inmate-suicide-at-halawa-correctional-facility/>. See also 2022 Haw. Sess. Laws Act 280, note 47 supra.

⁴⁹ Blaze Lovell, “Hawaii Sheriffs Training Chief Arrested on Charges of Falsifying Records,” Honolulu Civil Beat, April 7, 2022. Accessed September 1, 2022. <https://www.civilbeat.org/2022/04/hawaii-sheriffs-training-chief-arrested-on-charges-of-falsifying-records/>.

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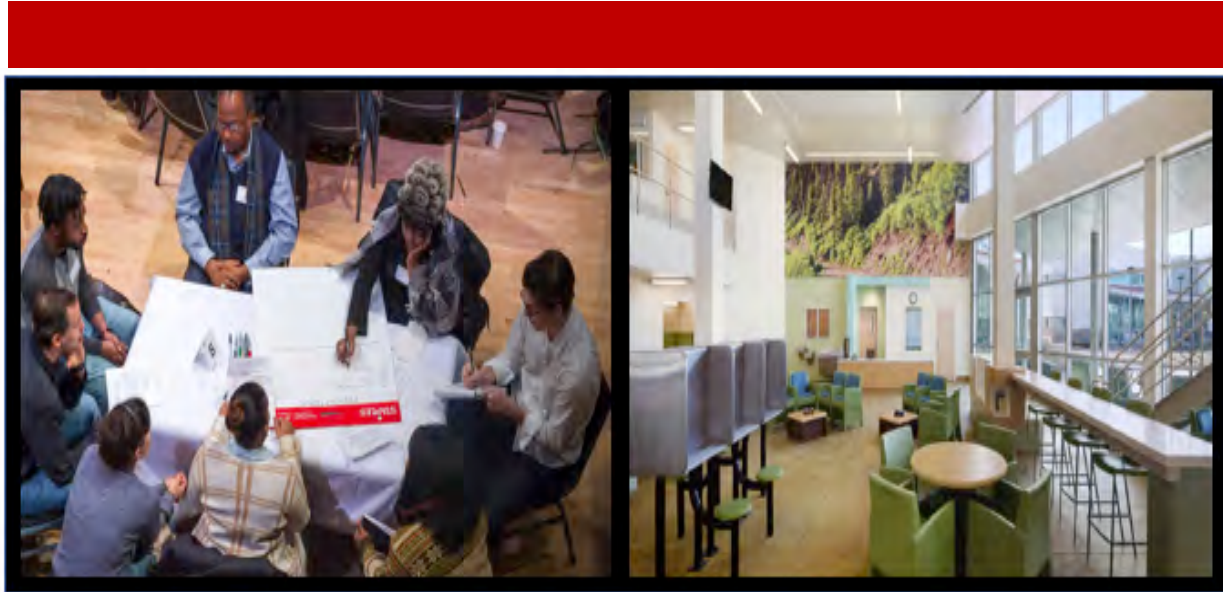
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Getting It Right: Better Ideas for a New Jail

by Robert K. Merce

APPENDIX

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BETTER IDEAS FOR A NEW JAIL*

We shape buildings; thereafter they shape us.

- Sir Winston Churchill to the House of Lords,
October 28, 1943

INTRODUCTION

Within the next few months the State plans to issue a Request for Proposals (RFP) for a public-private partnership (P3) to design, construct, finance, and partially maintain a new jail to replace the Oahu Community Correctional Center (OCCC). The new jail will have approximately 1,300 beds, and will cost \$1 billion, not the \$525 million that was projected three years ago.¹

The new jail will be one of the most expensive, if not *the* most expensive, public works projects ever undertaken by the State, and it will have a major impact on criminal justice outcomes in Hawaii for decades.

There is a right way and a wrong way to plan a new jail, and unfortunately, Hawaii chose the wrong way. The Departments of Public Safety (DPS) and Accounting and General Services (DAGS) turned to a New Jersey-based consulting firm with very little knowledge of Hawaii to lead the planning effort. The planners ignored best practices, shut the community out of the planning process, focused on bricks and mortar rather than people and programs, and failed to address critical questions about who should be in the jail, and how the State could reduce the jail population and build a smaller and less expensive jail without compromising public safety.

In 2017 the House Concurrent Resolution (HCR) 85 Task Force on Prison Reform warned that planning for the new jail was on the wrong track, and in their final report to the 2019 legislature they sounded the alarm, saying that despite spending millions on planning, the new jail incorporated all of the problems and bad ideas of the old jail and that it would be “a relic of the past the moment it is completed, because no matter how modern it looks from the outside, it will be based on outmoded and obsolete ideas and a failed planning process.” The Task Force found that the new jail was so poorly thought out that the State should convene a group of government and community stakeholders to *start the jail planning process over again* and focus on building “a smart, small, and humane 21st century jail instead of the monolithic 19th century jail that is now on the drawing boards.”²

* Portions of this paper previously appeared in the Ideas section of *Honolulu Civil Beat* on September 20, 2020 and February 21, 2021.

More recently the Hawaii Correctional Systems Oversight Commission, whose five members collectively have more than 100 years of experience with Hawaii's criminal justice system, expressed deep concerns about the new jail and called for the creation of an advisory committee of community stakeholders to review, *and if necessary revise*, the planning that has been done to date.

The new jail will be a financial disaster and produce bad outcomes for decades, but it doesn't have to be that way. If we work together we can build a jail that will make our community safer at a fraction of the cost of the jail now being planned. Working together we can build an innovative and transformative jail that will address the inequities of our criminal justice system, save lives, and meet the ever-evolving needs of our community.

But we must act quickly. If we don't stop the procurement process now, we will soon be irrevocably committed to a jail the people of Honolulu had no say in planning, and that is too big, too expensive, and will cause harm to our community as long as it exists.

THE JAIL PLANNING PROCESS WAS FLAWED FROM THE VERY BEGINNING

To understand how the jail planning process went off the rails we have to go back to 2015 when then DPS Director Nolan Espinda announced that the Honolulu Authority for Rapid Transit (HART) had decided to put an elevated rail station near the current OCCC, which meant that the land the jail occupies had become very valuable: "Now that the city plans to run Oahu's elevated rail line past the OCCC site, it is obvious the Kalihi land under OCCC could be put to much more valuable use as a new development rather than a jail site," Espinda said, adding that the idea of moving the facility had support in the House and Senate and that "there are a lot of stars aligning here."³

The City and County of Honolulu's 2018 Plan Review Use Permit for the new jail echoed Espinda's comments: "The replacement OCCC frees up important urban land in the populated Kalihi area; the existing OCCC is located within one-quarter-mile from the future Kalihi rail station."⁴

The decision to build a new jail on Oahu was not driven by the fact that the existing OCCC is falling apart and essentially unfit for human habitation: From the very beginning, the idea was to relocate the old jail as quickly as possible so that the land it occupies could be redeveloped.

In their effort to streamline the planning process DPS, DAGS, and their consultants focused almost exclusively on site-selection and the physical features of the jail and gave little or no thought to who should be in the jail, or how it should function within the context of the broader criminal justice system. While Honolulu was focused on building a huge new jail, other cities

were focused on reducing their jail populations. A Commission in New York City set a goal of reducing their jail population by more than 50 percent by closing the infamous Rikers Island Jail and replacing it with smaller jails in the city's boroughs.⁵ Philadelphia was developing a plan to cut its jail population in half and address racial, ethnic, and economic disparities in its criminal justice system.⁶ New Orleans was working on an initiative to reduce its jail population by 38 percent,⁷ and Akron, Ohio was developing a plan to divert low-level offenders from its jail.⁸ Similar reform efforts were being undertaken in at least 50 cities, both large and small, across the United States.⁹

A CRITICAL MISTAKE SENT THE PLANNING PROCESS IN THE WRONG DIRECTION

DPS and its consultants made many planning mistakes, but the biggest one by far was to decide that they did not need to examine the policies and practices driving the jail population and address them as part of a comprehensive plan to manage both the jail population and the larger justice system more effectively and efficiently. The magnitude of that error cannot be overstated because it affected every aspect of the planning process, and like taking a wrong turn at the beginning of a journey, it led the planners, and now the entire State, down the wrong path and to the wrong destination.

THE STATE DELIBERATELY IGNORED BEST PRACTICES IN THE PLANNING PROCESS

Virtually all of the problems with the new jail stem from the fact that the planners decided not to follow best practice in jail planning, many of which are clearly set out in the National Institute of Correction's *Jail Capacity Planning Guide: A Systems Approach* (2009).¹⁰

The systems approach views jails as one of many parts of a criminal justice system whose policies and practices determine how the jail is used and how many beds are needed to avoid overcrowding. The systems approach stresses that *the key to long term management of the jail population is directly tied to management of other aspects of the justice system:*

Jails are part of a complex criminal justice system whose policies and practices directly influence total bed need. As such, jail planning cannot be done in a vacuum. Any consideration of future jail bed need must take place within the context of a discussion about how to manage the larger criminal justice system more effectively. ***Jail planning and system planning are one and the same.***¹¹

The systems approach shifts the nature of jail planning from simply making population forecasts based on past trends and the assumption that the policies driving the jail population will remain unchanged—the approach used in Hawaii—to developing a continuum of options for law enforcement and judges in which jails are only one option among many, and one to be used

sparingly and as a last resort. The systems approach calls on planners to “plan as much for programs as they do for [jail] beds.”¹²

Research has shown that the traditional way we use jails does nothing to reduce future offending. Accordingly, jail planning must move beyond the simplistic formula-based approach that builds beds based on past demands to a results-based paradigm that addresses the many factors that drive the demand for beds.¹³

The systems approach is based on a body of research that challenges the notion that locking people up is the only way, or the best way, to protect the public.¹⁴ It makes the case for a new conceptual framework that “reasserts the primacy of treatment and redefines the system’s response to failure.”¹⁵ It is a new way of thinking about the criminal justice system that makes reducing future crime a central goal and manages the jail population long-term by:

1. Reserving jail for the highest risk defendants;
2. Making available a full continuum of alternatives to jail;
3. Relying on high quality treatment and evidence-based sanctions;
4. Creating strong and effective pretrial and reentry services; and
5. Adopting a positive emphasis on collaboration and systemic change.¹⁶

Population management strategies that focus on alternatives to jail significantly reduce the jail population, which in turn allows communities to build smaller and less expensive jails. That is important for three reasons.

First, construction cost for new jails are outrageously high. If, as currently projected, the new jail will cost \$1 billion and have approximately 1,300 total new beds, each bed would cost a whopping \$770,000, which is probably the highest per bed cost in the country, if not the world.

Second, although construction costs for a new jail are incredibly high, on average, *they represent only 10% of the overall operating costs of a jail over a 30-year period.*¹⁷ Thus, the key to reducing correctional costs long-term lies in reducing the jail population by providing alternatives to jail, or “off ramps,” at each at each of the key decision points in the criminal justice system.

Third, the Vera Institute of Justice studied counties that built new jails between 1999 and 2005 as a solution to old or overcrowded facilities and found that building a new jail *without addressing the policies driving the jail population* resulted in a vicious cycle in which the new jails that were

supposed to reduce overcrowding rapidly filled to capacity, creating a demand for more capacity, and precipitating a costly building cycle.¹⁸ For example:

- In Salt Lake County, Utah, a new 2000 bed jail filled to capacity within 21 days of opening;
- In Tipton County, Tennessee, a newly expanded jail that increased capacity from 122 beds to 201 beds became overcrowded the month it opened.;
- In Jefferson County, Colorado, a 480- bed jail that that was supposed to serve the county for 19 years filled up within five years; and
- In Adams County Colorado a jail that was intended to serve the county for 14 years filled to capacity in two years.¹⁹

We can only speculate on why the State decided to ignore best practices and use an old and discredited planning process for one of the biggest and most important public works projects in the history of the State, but that is what it has done. The misguided planning process will result in the continued misuse of the jail, a jail that is bigger and more expensive than it needs to be, and a jail that will not reduce future crime or keep our community safe.

THE PUBLIC WAS COMPLETELY SHUT OUT OF THE JAIL PLANNING PROCESS

“The best solutions are driven by those who experience and are familiar with the local culture and environment.” –Center for Policing Equity

Engaging the community in the jail planning process is universally recognized as a best practice and an absolutely essential element of the jail planning process. Community stakeholders bring the aggregated knowledge, skills, intuition, and insights of local residents to solving a collective challenge.²⁰ This is often called “the wisdom of the community.” Tapping into this wisdom can shape the type of questions that are asked, challenge prevailing norms, and bring about unexpected insights that lead to innovative and transformative solutions.



The National Institute of Corrections (NIC) has said:

Community participation in planning is important because the jail belongs to the community it serves; it is not solely the concern of the sheriff or director of corrections. The type of facility a community builds and the way it is used are as much a reflection of community values as they are of local, state, and federal laws. It is common for stakeholders such as victim advocates, business leaders, the clergy, educators, and elected officials to actively participate on the community advisory committee.²¹

The MacArthur Foundation also emphasizes the importance of a collaborative process in jail planning:

COLLABORATE. The first step is to ensure that the local justice system is truly functioning as a system. Policymakers must step out of their silos and consider how the different elements of the system interrelate, and how each contributes to public safety outcomes. This can take time and energy but reap rewards in the form of trust and collaboration, so that organizations have a shared understanding of the system, both as it exists now and what it can be in the future.

...

Affected groups must be on board to advance the new way of doing business, and to move forward despite barriers and setbacks. Engaging the community, the workforce, and other interested groups doesn't happen on its own. As motivation for change starts to build, conversations can begin with affected parties. Transparency and genuine opportunities for input by constituent's support engagement.²²

The Justice Management Institute has found that a “culture of collaboration is one of the shared characteristics of successful justice systems,” and in this context collaboration means more than just having meetings: it means “working together toward a common purpose—sharing a vision, preparing a plan, and implementing the plan to achieve agreed upon outcomes.”²³



The OCCC Planning Team does not include any community stakeholders or representatives. (DPS photo).

The planners at CGL/Ricci Greene

Associates, one of the country's leading justice architectural firms, likewise stress the need for a collaborative approach to jail planning: “Successful jurisdictions use a collaborative approach to planning that include representation of *all actors in the criminal justice system and the community* including advocates, judges, administrators, legislators, prosecutors, the defense bar,

correctional officers, program operators, and community members. The "buy in" from key stakeholders is *absolutely essential*.²⁴

The HCR 85 Task Force specifically found that the State and its consultants did not engage the community in the jail planning process in a meaningful way,²⁵ and that is surely a prescription for failure.

WE SHOULD NOT COMMIT TO BUILDING A NEW JAIL UNTIL WE KNOW HOW MUCH IT WILL COST

In the past 18 months, construction costs have increased dramatically due to a steep rise in the cost of materials, snarled supply chains, tariffs on steel and aluminum, and producer staffing shortages due to the pandemic.

The leading association for the construction industry, Associated General Contractors of America (AGC), recently reported that the producer price index (PPI), which measures the average changes in prices received by domestic producers for their output, increased 26.3% from June 2020 to June 2021, and even that steep increase understates the severity of the problems facing the construction industry which has seen the index for lumber and plywood increase 101%, the index for steel increased 88%, for copper and brass 61%; and for aluminum 33%.²⁶ The high prices are expected to persist well into the future.²⁷

The AGC warns that in addition to significant price increases, contractors are experiencing completely unreliable delivery times and that owners should start their projects with realistic expectations about current costs and the likelihood of increases.²⁸

THE UTAH STATE PRISON: A CAUTIONARY TALE

In 2017 Utah broke ground on a new, 4,000-bed state prison outside of Salt Lake City. The new prison was considered state of the art and was projected to cost \$550 million.²⁹ After years of planning, state legislators were pleased that construction was finally underway and Salt Lake City leaders were satisfied with the project despite their initial opposition to building the prison near their city.³⁰

But beneath the buoyant optimism there was an undercurrent of concern. As the new prison broke ground, the city's nearby airport expansion project was \$350 million over budget and construction costs in the area were up 12%.³¹ Jim Russell, the state official overseeing the new prison said he was concerned about the cost increases but confident they could be managed. State Senator Jerry Stevenson, who co-chaired the legislature's Prison Development Commission, acknowledged that higher construction costs were "very possible" but said it was an issue the legislature would address when and if it arose.³²

By April of 2019 the cost of the new prison had risen from \$550 million to \$800 million³³ and construction costs were running 18% to 20% higher than anticipated, but by that time it was too late to do anything about it. Senator Stevenson said that the legislature did not want to come up with the additional funds but “we’re way past the point of no return on this. We’re going to have to finish it now.”³⁴

Utah’s new prison is now almost complete. The final cost has not been tabulated but it is expected to come in at about \$1 billion, depending on the final procurement process.³⁵ That’s an 80% increase over the original cost estimate.

Officials blame the high cost on tariffs on China, the pandemic, labor shortages, and supply chain issues. “We’ve had now 42% escalation [in construction costs] since 2015 when it [the prison] was first funded until now,” Russell said. “All in all, I think we’ve done a fantastic job with where we’re at. The budget could have been much more . . . *it should have been \$1.3 billion.*”³⁶

The Utah State Prison is the canary in the coal mine. We do not have an accurate estimate of how much the jail will cost, so there is no way to determine if it will be worth the price, or if a P3 is a better financing option than the traditional procurement process.

THE NEW JAIL WILL MAKE HAWAII’S LONG-TERM FISCAL PROBLEMS WORSE

In 2019 a committee of economists, scholars, and fiscal experts from the Hawaii Executive Council issued a report, *Troubled Waters: Charting a New Fiscal Course for Hawaii*, that documents the enormous fiscal challenges facing Hawaii’s State and local governments in the next 30 years.³⁷ The Committee found that future costs in three critical areas—mitigating the impact of climate change, developing and maintaining infrastructure, and honoring public employee retirement benefits— will exceed \$88 billion, and that revenues will not be sufficient to meet those needs.

Today, the cost of operating government is getting more expensive while Hawaii’s economy has not kept pace with the rest of the nation. Between 2012 and 2018, the cost of State government increased 41% despite the number of employees remaining relatively flat. During this same period, Hawaii’s economy grew 9.8% or 1.6% annually compared to the national rate of 2.4%. DBEDT forecasts GDP growth of 1.1% in 2019 and 1.2% in 2020. Faced with these economic conditions, State and county governments cannot continue to operate in such a manner. *Government will simply be too expensive to conduct business as usual.*³⁸

The report calls for government and the private sector to collaborate, innovate, and create a strategic vision to address the serious fiscal challenges facing the State.³⁹

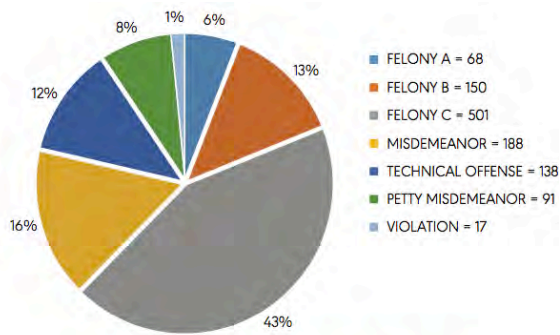
Honolulu has a wealth of innovators and thought-leaders from business, labor academia, non-profits, and other interest groups who are ready to share their knowledge, experience and insights in a collaborative effort to improve our criminal justice system and plan and design a jail that will meet the needs of our State ***without putting a huge financial burden on the next generation.*** It would be foolish not to tap into this reservoir of knowledge, experience, and insight in planning the new jail.

THE OPERATING COSTS OF THE NEW JAIL ARE NOT SUSTAINABLE

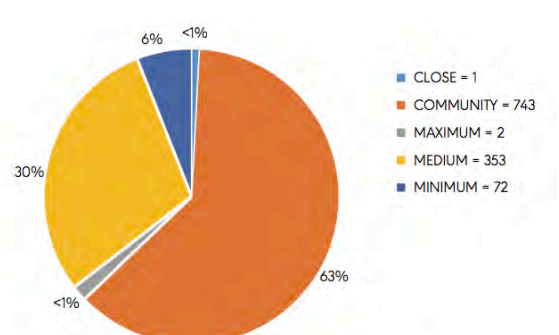
In June, 2021, DPS and DAGS received a report from one of their consultants that said “assuming there are no changes in our criminal justice or correctional policies,” by 2024 the average daily population (ADP) of the new jail will be 1,237 inmates, and that the ADP would decrease to 918 inmates by 2032.⁴⁰

It now costs \$219 a day to house an inmate in Hawaii.⁴¹ That cost will almost certainly increase, but using the current figure, by 2024 the OCCC population will cost the State, on average, \$271,000 a day (\$99 million a year) decreasing to \$201,000 a day (\$73 million a year) by 2032 (assuming current costs). The lease rent on the new jail –which will include the private partner’s profit–will also have to be factored into the cost of operating the new jail.

Eighty-one percent of the men in OCCC are charged with low-level (class C) felonies or lesser offenses—misdemeanors, petty misdemeanors, technical offenses, or violations. Nearly 70% are in one of the two lowest security classifications—community custody (63%) and minimum security (6%),⁴² and 23% are men who violated a condition of probation but did not commit a new crime.⁴³



Severity Classification by Gender (Men)



Security Classification by Gender (Men)

There is no rational reason for keeping so many non-dangerous, low-level offenders in jail at such a high cost. We can't afford it, and it simply doesn't make sense. We should reduce our jail population as other jurisdictions across the country have been doing for years.

CREATING "OFF RAMPS" TO REDUCE THE JAIL POPULATION

The key to reducing the jail population is to have alternatives to jail, or "off ramps," at key decision points in the criminal justice process. A full discussion of this topic is beyond the scope of this paper, but what follows are a few "off ramps" that have been discussed in Hawaii and should be carefully considered before the State builds a costly 1,300-bed jail.

■ *Issue Citations Lieu of Arrest*

Police officers currently have discretion to issue a citation in lieu of arrest for misdemeanors, petty misdemeanors and violations.⁴⁴ In 2018 the HCR 134 Task Force on Criminal Pretrial Reform recommended that the legislature expand police officer's discretion to include issuing citations for non-violent, class C felonies.⁴⁵

Expanding the use of citations to non-violent class C felonies will reduce the number of people who are taken into custody and ultimately reduce the number of people who end up in jail.

■ *Establish A 24/7 Island-Wide Crisis Response Team*

Honolulu is one of many cities whose health care and criminal justice systems are challenged by a high volume of people experiencing a behavioral health crisis. In most cases the police and fire departments are called on to respond to these people, and in many cases, the person in crisis ends up at the cell block and then in jail.

To address this problem the City and County of Honolulu recently launched a Crisis Outreach Response and Engagement (CORE) program that will use a team of emergency medical technicians and community health workers to respond to non-violent emergency calls about people in crisis.⁴⁶

That is a good idea, but unfortunately the program has been scaled back from the original concept. Instead of operating 24/7 it will operate only 12 hours a day, instead of operating island-wide it will only operate in Waikiki and Chinatown, and the response team will not include a social worker as originally planned.⁴⁷

Honolulu needs an effective, island-wide, 24/7 crisis response team. The goal should be a program that is as effective as the CAHOOTS (Crisis Assistance Helping Out On The Streets) program in Eugene Oregon that keeps people in crisis out of jail and saves the city millions of dollars every year.⁴⁸

■ *Expand Diversion Programs*

Diversion is one of the most important strategies for improving the lives people who need help, and at the same time reducing the jail population. Honolulu should have at least two types of diversion programs:

- 1. A Triage Center for People in Crisis.** Triage centers are for people who are experiencing a mental health or drug-related crisis. They are open 24/7 and are staffed by mental health professionals. The primary function of the center is to provide stabilization and case management services. The best centers accept walk-in patients and patients brought in by emergency medical personnel, mobile crisis intervention units, law enforcement, and family members or friends. Triage centers are characterized by a streamlined admission process (less than 15 minutes) and a “no wrong door” policy (patients are not turned away). Triage centers are designed for stabilization rather than extended care.
- 2. Diversion Centers.** Diversion centers provide case management services to people who are not in crisis but have chronic social, economic and medical needs, and people who have engaged in criminal activity related to poverty, addiction, mental illness, and homelessness. Pre-arrest diversion centers help people get back on their feet and reduce the chances that they will reoffend. They are effective in reducing the jail population and making communities safer.

A triage center and effective island-wide prearrest diversion centers would address the needs of the thousands of Oahu residents who are not getting the care and services they need, and significantly reduce our jail population.

■ *Enact Bail Reform*

A key decision point in the criminal justice system occurs when a person who has been arrested appears before a judge who determines whether the person should be released pending trial, or remain in custody until their case has been resolved. The pretrial release/detention decision is critically important to the defendant because studies have shown that “[j]ust a few days in jail can increase the likelihood of a sentence of incarceration and the harshness of that sentence, reduce economic viability, promote future criminal behavior, and worsen the health of those who

enter—making jail a gateway to deeper and more lasting involvement in the criminal justice system at considerable costs to the people involved and to society at large.”⁴⁹

For the disproportionately high number of people who enter jails from minority communities or who suffer from mental illness, addiction, and homelessness “time spent in jail exacerbates already difficult conditions and puts many on a cycle of incarceration from which it is extremely difficult to break free.”⁵⁰ Defendants who cannot make bail are at risk of losing their jobs, and with it the income that supports their children, pays their rent and utilities and puts food on the table. In the long run they can also lose their house or apartment, health insurance and custody of their children. After maxing out their credit cards, a family may end up deep in debt or even homeless.

In our society liberty is supposed to be the norm and detention prior to trial the exception, but in practice, just the opposite is true. A 2018 study by the ACLU-Hawaii found that overall judges in Hawaii required bail as a condition of release in 88% of cases, and in the majority of those cases it was set at a level the defendant could not afford.⁵¹

Almost half the people in OCCC are there because they cannot afford bail. In the six month period from April 1 to September 30 , 2021, pretrial detainees at OCCC cost the State, on average, \$113,000 a day. If we include the pretrial detainees in neighbor island jails the cost goes up to \$200,000 a day.

The use of money bail is often justified on the grounds that it makes us safer by keeping dangerous people in jail, but a report from the 2018 Criminal Pretrial Task Force chaired by Hawaii circuit judge (now U.S. magistrate) Rom A Trader found that “[t]here is virtually no correlation between the setting of a particular bail amount and whether the defendant will commit further crime or engage in violent behavior when released from custody. *Thus, money bail is a poor method of assessing and managing a defendant’s risks.*”⁵²

To create a truly just pretrial system, we must end money bail. That is not a radical idea. The federal government did it, and many jurisdictions have moved in that direction:

- The District of Columbia releases 94% of the people who are arrested without bail. Of those released, 91% make their scheduled court dates and 98% are not arrested for a violent crime while awaiting trial.
- Since 2017 New Jersey has rarely imposed money bail as a requirement of release. Last year the Chief Justice of the New Jersey Supreme Court reported that bail reform in the state was working “admirably and well,” court appearance rates exceeded 90%, and the percentage of defendants on pretrial release who are charged with indictable criminal activity remained “consistently low.”⁵³

- In February, 2021, Illinois completely eliminated money bail as part of a sweeping criminal justice reform bill that includes changes to every part of the justice system, from police accountability to sentencing.⁵⁴ The no bail law will not go into effect until 2023 to allow time for challenges to the bill and to train judges on how the new law should be applied.

It is time to quit tinkering with our money bail system in the hope that it will somehow become fair, equitable and just. It won't. If we want a truly just pretrial system, we have to end money bail.

We should eliminate money bail completely, but at the very least we should eliminate it for select non-violent class C felonies, misdemeanors, petty misdemeanors, and violations.

Judges should also be encouraged to release pretrial defendants on unsecured bail pursuant to HRS § 804-9.5 (2019). To our knowledge very few defendants have ever been released under this statute even though it has been the law for more than two years.

■ *Make Possession of 2 Grams Or Less of a Dangerous Drug a Misdemeanor*

HRS §712-1243, Promoting a Dangerous Drug in the Third Degree (commonly referred to as “PDD3”), makes possession of “any dangerous drug *in any amount*” a class C felony punishable by up to five years in prison and a \$10,000 fine. The term “any amount” in HRS §712-1243 includes amounts as small as the residue found in a pipe.⁵⁵

PDD3 is one of the most commonly charged drug crimes. In 2020 the Hawaii Paroling Authority set more than twice as many minimum sentences for PDD3 than for all other drug crimes combined.⁵⁶ The average minimum sentence was 2.72 years, with sentences ranging from 1 year to 4.3 years.⁵⁷ PDD3 is often charged when an individual with a substance use disorder is arrested on a minor charge, and during the custodial search police find a small amount of a dangerous drug in the defendant's possession.

The Legislature should enact SB 527, Thirty-First Legislature, 2021, that establishes a new misdemeanor offense of Promoting a Dangerous drug in the Fourth Degree for possession of small amounts of a dangerous drug, and limits the class C felony of PDD3 to possession of two grams or more of a dangerous drug.

Moreover, we should recognize that addiction is a complex, multifactorial health disorder that is preventable and treatable *and “not the result of moral failure or a criminal behavior.”*⁵⁸ We should treat substance use disorders as a public health rather than a criminal justice problem, implement evidence-based prevention and treatment programs, engage scientific experts and diverse stakeholders in coordinated policy making, support drug-related research, and ensure access to scheduled medications for therapeutic use.⁵⁹

■ *Stop Housing Probation Violators in the Jail*

In the six months prior to the outbreak of the coronavirus pandemic in Hawaii (November 30, 2019 - April 30, 2020) there were, on average, 312 male probation violators at OCCC. The average daily cost to house the male probation violators was \$68,000 a day. Almost all of the men were in the HOPE probation program and were serving short sentences for violating program rules, *not because they committed a new offenses.*

In 2018 the HCR 85 Task Force on Prison Reform recommended that the State consider housing probation violators in dormitories or assigning them to community-based facilities where the reasons they violated the conditions of their probation could be addressed by mental health and/or addiction treatment professionals and hopefully remedied.”⁶⁰

Before building 300 or more beds in the new jail for probation violators at a cost that would probably be in the neighborhood of \$120 million,⁶¹ the State should follow the recommendation of the HRC 85 Task Force and explore other housing arrangements for HOPE probation violators.

———— P3s Are Not Suitable For Planning Jails ————

P3s may be suitable for projects like toll roads, bridges, and sewage treatment plants, but they are not appropriate for jails because jails require system planning. Before an architect picks up a pencil or puts a single mark on a piece of paper, a planning team that includes government officials *and community stakeholders* must arrive at a shared vision of a successful criminal justice system and define the function of the jail within that system. Architects sometimes describe this process with the maxim “Define Before You Design.”

In defining the role of the jail, the planning team must drill down on criminal justice data, identify the policies and practices driving the jail population, and plan for the expansion of alternatives to incarceration.⁶² Jail planning decisions have a broad impact and in many ways define the community of which the jail is a part—its values, vision, goals and aspirations. As such, jail planning can and must be done by the community, and the community alone: It cannot be outsourced to a corporation under a P3 contract.

The best way to design and build a successful jail is for the planning team to work closely with a good architect. In 2020 the American Institute of Architects (AIA) amended its Code of Ethics and Professional Conduct to include prohibitions against designing spaces intended for torture and indefinite or prolonged solitary confinement,⁶³ and in 2021 the New York Chapter of the AIA went a step farther and called on all architects to stop designing “inherently unjust, cruel,

and harmful spaces” and to shift to the creation of “new systems, processes, and typologies based on prison reform, alternatives to imprisonment, and restorative justice.”⁶⁴

The State should work with architects who have a track record of designing smart and humane spaces and who adhere to the ethical principles of the New York Chapter of the AIA. The architect who designs the jail should be willing to work closely with the community to ensure that the design of the jail aligns with community values and promotes the outcomes the community wants. P3s do not allow that to happen and *they should never be used to plan or design jails.*

Three other reasons why P3s are not a good idea for designing and building jails are:

- There is no reliable way to test whether a private sector proposal to deliver public infrastructure offers value for money compared to delivery of the same project by the public sector using conventional public procurement. Tools that purport to make such comparisons, called Public Sector Comparators (PSCs) tend to be unreliable due to: (1) lack of data on which to base cost estimates; (2) the difficulty of quantifying risks; (3) a lack of consensus on what discount rate to use for payments spread out over time; (4) the use of subjective judgments that can have a dramatic effect on cost estimates; and (5) the high cost of the modeling process.⁶⁵
- The contract between the private company and the State would likely last 30 or more years during which time the State’s correctional needs will undoubtedly change. P3s typically restrict how their facilities can be used, and that severely limits a government’s ability to respond to changing conditions.⁶⁶ If the State owned the facility it could modify it to meet its changing needs, or it could even repurpose or dispose of the facility entirely.
- Jails must be carefully maintained to protect the health and safety of inmates and staff, but there is a tendency for corporate owners to save money by ignoring problems or deferring maintenance at the public partner’s expense.⁶⁷

P3s Lack Transparency. In addition to the forgoing, one of the most troubling aspects of P3s is their lack of transparency and accountability. Alabama’s ill-fated partnership with CoreCivic* highlights the problem.

* CoreCivic (formerly known as Corrections Corporation of America) owns and operates the Saguaro Correctional Center in Eloy, Arizona, that houses approximately 1,100 Hawaii prisoners. The State of Hawaii has maintained a business relationship with CoreCivic for more than 20 years.

In 2019, Alabama Governor Kay Ivey announced that to reduce prison overcrowding she was seeking proposals from private corporations to design, finance, build and maintain two new prisons and lease them to the Alabama Department of Corrections (ADC) which would operate them with State employees. In soliciting and screening potential private partners, the Ivey administration promised that “any information received in response to the solicitation/request will not be publicly available until final contract(s) has received all approvals.”⁶⁸ In other words, there would be no public scrutiny of the partnership agreement until it was signed, sealed and delivered and it was too late for the legislature or anyone else to change it.

In the ensuing months the Ivey administration selected CoreCivic as the private partner and entered into confidential negotiations on the cost of the new prisons.

State representative Rich Ringo, a Republican like Governor Ivey, complained about the secret negotiations and said that at the very least the legislature was entitled to know the developer’s profit margin.⁶⁹

Representative Arnold Mooney, another Republican, said that lawmakers were being kept in the dark and asked rhetorically how they could carry out their fiduciary responsibilities to protect taxpayers without knowing anything about the P3 contracts or the cost of the prisons.⁷⁰

Student and community groups sought information about the project but the State rejected their open records requests and insisted that secrecy was necessary to protect the integrity of the P3 process.⁷¹

On February 1, 2021, Governor Ivey announced that her administration had reached an agreement with CoreCivic and signed contracts that obligated the State to pay approximately \$3 billion to lease two prisons for 30 years.⁷² Under the agreement the prisons would be financed, constructed, maintained and owned by CoreCivic, staffed by the Alabama Department of Corrections, and would be ready for occupancy by 2025.⁷³

The version of the contracts that were released to the public on February 1 contained scant information about the terms of the agreement or the responsibilities of the parties. In a press release the Ivey administration said that “trade secrets and security-related information would not be disclosed” and that final lease costs would become available only when “financial close is achieved with CoreCivic.”⁷⁴ A Fact Sheet said that “[a]s is common in a project of this size, the parties will continue to engage in confidential negotiations during the Financial Phase designed to refine the scope and price of the project.”⁷⁵ An entire Exhibit to the contract that was supposed to contain information on how CoreCivic would obtain financing for the project was marked “Confidential.”⁷⁶

Perhaps worst of all, the agreements had virtually no information on critical elements of the project such as the design of the prisons, maintenance and utilities management, environmental and sustainability services, plant services, and roads, grounds, and landscaping services.⁷⁷

Alabama State auditor Jim Zeigler said the contracts would “make a handful of developers multi-millionaires at the expense of Alabama taxpayers” and said he would try to stop construction of the new prisons.⁷⁸

In early April, 2021, Barclays, the London financial services firm that was the primary underwriter for the prison project, tested the waters and found that there was weak support for municipal bonds to fund new prisons in Alabama. Barclay’s also experienced a wave of criticism from the financial community and the public because it had previously agreed that it would not participate in bond offering to build prisons.⁷⁹

On April 12, 2021, 43 business leaders, investors and activists signed a letter urging banks and investors to refuse to purchase bonds for the new prisons on the grounds that they would “perpetuate mass incarceration.”⁸⁰ Signers included AllianceBernstein, a firm with \$700 billion in assets under management, which announced that they would not participate in the offering because it contravened their policy against “modern slavery.”⁸¹

And in an unprecedented move, the American Sustainable Business Council and its partner, Social Venture Circle, which together represent over 250,000 businesses, returned Barclay’s membership dues and sponsorship to protest the deal.⁸² MaryAnne Howland, the American Sustainable Business Council’s board chair announced the move, saying “We abhor the hypocrisy represented here and renounce the continued investment in the broken, unjust system of incarceration of this country.”⁸³

On April 19 Barclays announced: “We have advised our client that we are no longer participating in the transaction.”⁸⁴ A short time later KeyBanc Capital Markets, Inc. a co-manager on the deal also announced its withdrawal, and the whole P3 collapsed.⁸⁵

Hawaii is heading down the same treacherous and misguided path as Alabama. It is seeking a similar P3 and it is managing the P3 process with the same degree of secrecy that plagued the Alabama project. In October DPS and DAGS announced that it had issued a Request for Information (RFI) to obtain feedback on the new jail. It received responses from 22 contractors, designers, financiers, equity investors, and others *but it has not released the names of any of the respondents or what they said about the project.*⁸⁶

The State is now preparing to issue a Request for Qualifications (RFQ) to determine which companies will be allowed to participate in the RFP next year. We can expect that the RFQ, will

be cloaked in the same secrecy as the RFI, and that DPS and DAGS will continue to plan the new jail in secret.

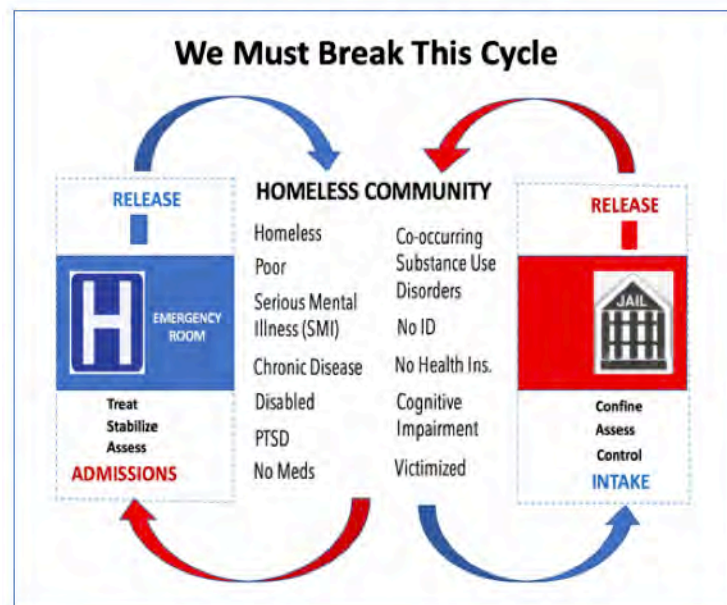
It is time for legislators and the public to step up and demand transparency in the planning of the new jail and *put an end to the secret P3 process*.

21ST CENTURY JAIL DESIGN

Architect Louis Sullivan’s adage “form follows function” raises the question “What should be the function of a jail in the 21st century, and what form should it take?”

The way jails are used today has been shaped by two major events. The first was the closing of state mental health hospitals or “asylums” as they were known, in favor of community-based treatment for the mentally ill. The “deinstitutionalization” of the mentally ill was a well-intentioned policy given the deplorable conditions in state mental hospitals, but it didn’t work. There was not enough money for the community-based centers, so they never materialized, mental health professionals underestimated the difficulty of coordinating care for the mentally ill, and court decisions made it difficult to commit very sick people against their will.

As a result of deinstitutionalization, many mentally ill people went untreated and ended up living on the street, a situation that exists to this day. In 2016 the Honolulu Police Department reported that 43% of all arrests were homeless people and that 72% of the homeless people in the police cellblock were mentally ill or on drugs.⁸⁷ Eighteen percent of the homeless population of Oahu say they have mental health issues,⁸⁸ and about 700 individuals diagnosed with Severe and Persistent Mental Illness (SPMI) are admitted to OCCC each year.⁸⁹ DPS estimates that between 9.5 % and 12% of the OCCC population are mentally ill, and on average these people cycle through the jail about once every four months, with some cycling through *every six weeks*.⁹⁰



The second major event was the passage of highly punitive state and federal laws beginning in the 1970s in response to rising crime rates and a period of tumultuous political and social change.⁹¹ From 1970 to 2000 Hawaii's combined jail and prison population increased 670 percent, and the incarceration rate increased 400 percent.⁹² "Hawai'i didn't just follow mainland 'tough on crime' trends, it led them."⁹³ In the 1980s the average annual increase in Hawaii's prison population was the second highest in the nation.⁹⁴

Today our jails function as *de facto* mental hospitals and temporary shelters for people who are homeless, too poor to make bail, and have chronic illnesses and substance use disorders.

■ *Modern Jails Should Have a Problem-Solving Function*

There are emerging paradigms in the criminal justice system that focus on problem solving and reducing recidivism rather than punishment.⁹⁵ A few examples are:

- Treatment Courts that offer alternatives to incarceration for offenses related to drug use, mental illness, domestic violence, and issues that specifically affect veterans and youth.
- Community Courts that provide alternatives to jail for low-level offenses;
- Equity Centers that support health, arts, education, and job training for those leaving prison and re-entering society;
- Restorative Justice programs that focus on rehabilitation through reconciliation with victims, family members, and the community at large;
- Peacemaking Programs modeled on Native American practices that seek to resolve disputes, heal relationships, and restore balance to the community; and
- Parent Support Programs that help non-custodial parents find employment, increase child support payments, and engage with their children.

Jails in the 21st century should have a problem-solving function and be part of the problem-solving continuum, though positioned at the far end of the spectrum and used as a last resort.

Assuming that Hawaii enacts reasonable bail reform, pretrial detainees, who make up between 40% to 50% of the jail population, will not remain in jail more than a few days, and certainly no longer that it takes for a pretrial report and risk assessment to be prepared for a judge. During that time detainees' physical, mental, and economic needs should be assessed by case managers at the jail. The case managers should ensure that prior to release detainees have a discharge plan that, at a minimum, includes a place to live, health insurance, a primary care physician,

medication, a cell phone to stay in contact with court personnel, and access to drug or mental health programs, if appropriate.

Hawaii's jails house a relatively small number of felons, misdemeanants and felony probationers who are sentenced to incarceration for a period of less than one year. Their needs should also be assessed, and treatment should begin while they are serving their sentence. They should also have a comprehensive discharge and reentry plan to ensure continuity of care when they are released.

■ *Intensive Reentry Support – The Queens Care Coalition Model*

Some of the people who are released from jail can access services on their own, but some will need extra help which should be provided by a program modeled on the work of the highly successful Queen Care Coalition (QCC). QCC uses community health workers as “navigators” to link high utilizers of the Queens Medical Center’s Emergency Department (ED), many of whom are chronically ill and unsheltered, to services in the community with the goal of improving their health and well-being and reducing their use of the ED.⁹⁶

The QCC navigators have strong communication skills. They carry a small case load of 10 to 12 clients and adhere to harm reduction principles. They meet their clients “where they are at,” build trust, create an agreed upon action plan, and work on overcoming challenges incrementally. They help their clients navigate the complex benefits system, connect them to a primary care physician, and find housing for them if they are ready for it. They sometimes attend doctors’ appointments with the client, take them shopping, and even show them how to prepare simple meals—whatever is needed.

The program works. In the period January 2018 to September 2019, QCC served 322 individuals. In this group, utilization of the ED decreased by 53% and the number ambulance transports to the hospital dropped by 54%.⁹⁷

The manager of the QCC program has said that the model of small caseloads, frequent contact, harm reduction, and goals driven by the patient rather than those assisting them, can be adapted to reduce recidivism by people who repeatedly cycle through our jails without ever getting the care they need.⁹⁸ Navigators should be part of the reentry process for those who need extra help.

Some Design Elements of a 21st Century Jail

For many architects, designers and planners, Halden prison in Norway is the model of good correctional planning. Although it is a prison, not a jail, its design principles and many of its design features are applicable to both types of facilities.

The aim of the design is an environment that supports rehabilitation. Safety and order are maintained through “dynamic security” in which staff and inmates interact constantly and staff serve as role models for inmates. Activities are scheduled to avoid monotony and boredom. The facility is designed to mirror life on the outside to the greatest extent possible so that prisoners do not become institutionalized. The government agencies that provide employment, health, housing, vocational rehabilitation and other services to the general public, provide their services people who are incarcerated.

Interior features include spacious single-occupancy cells with tall vertical windows to admit natural light; wooden furniture (bed, desk, chair, bookcase, storage area); safety glass windows (no bars); the use of materials that dampen sound and provide good acoustics; modules limited to 10 inmates who share a common living area or day room furnished with normal furniture and a television; spaces specifically designed for education, leisure and worship; indoor and outdoor exercise areas; a library; and comfortable areas for contact visits with family and attorneys.



Single Occupancy Cell, Halden Prison

Prisoners should have access to thoughtfully landscaped outdoor spaces. A recent study has shown that prisons with a higher presence of green space have lower levels of self-harm, and lower level of prisoner-on-prisoner and prisoner-on-guard violence.⁹⁹

The jail should have a courtroom for hearings and bench trials. That would reduce transportation costs, the security risks associated with prisoner transportation, and would expedite case processing and reduce length of stay in the jail.



Open space, Halden Prison

Severely mentally ill people should *not be housed in a jail*. They should be housed in a facility specifically designed for the mentally ill and staffed by mental health professionals.

In general, the 21st century jail is designed to respect the physical needs, health, dignity, and human potential of all who come in contact with it, including staff, visitors, service providers, and detainees.¹⁰⁰

CONCLUSION

Planning a new jail provides a unique opportunity to rethink and improve important elements of our criminal justice system in ways that will reduce our jail population and recidivism rate, save money, improve the well-being of people struggling with physical, mental and economic issues, and make our community safer. We should not squander that opportunity by rushing to build a jail that looks backward rather than forward and leaves in place the many antiquated and misguided policies and practices that perpetuate our overreliance on incarceration as a means of dealing with complex social and economic issues.

Planning a new jail must be part of a larger process of planning alternatives to jail. We must increase our capacity to help people while making every effort to reduce the harm that jails cause.

The collective wisdom of community stakeholders must be an integral part of the planning process because the best solutions come from people who know the local culture and environment. The people who have been planning the new jail thus far have underestimated and devalued the wisdom of Hawaii's people and their ability to collaborate and find innovative and transformative solutions to the problems facing our community.

Jails define who we are, what we believe in, and how we treat each other. We should never outsource our values to a corporation or let a corporation define who we are.

Decisions about the type of jail we build, who is in it, and how it is used, are not political or financial decisions, they are moral decisions, and it is clearly immoral to build a jail we know will cause harm, when we can just as easily, and far less expensively, build a jail that will mitigate harm and improve the well-being of members of our community.

We must join together now to stop the State from issuing an RFP for the new jail, and start planning a jail that we can afford and that reflects our values.

Robert K. Merce

December, 2021

Email: mercer001@hawaii.rr.com

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