



HAWAI'I HEALTH
& HARM REDUCTION CENTER

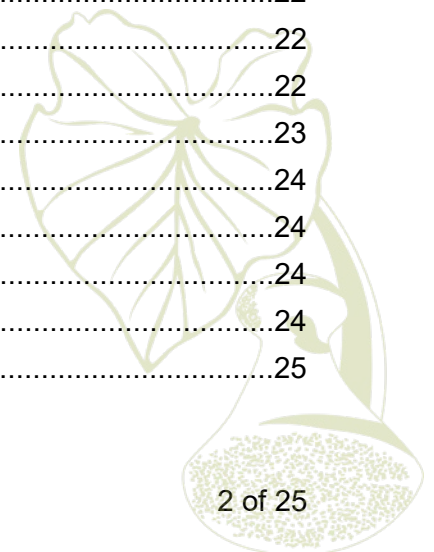
2024 O'AHU SEQUENTIAL INTERCEPT MODEL



HAWAI'I HEALTH & HARM REDUCTION CENTER
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TABLE OF CONTENTS

Background.....	3
About COCHS	3
About HHHRC	4
Goals.....	4
Overarching Themes	4
Intercept 0 Community System	7
SAMHSA's Intercept 0 Overview	7
O'ahu Overview.....	7
O'ahu Resources.....	7
Needs Identified by Attendees	14
Intercept 1 Dispatch and First Response.....	15
SAMHSA'S Intercept 1 Overview.....	15
O'ahu Overview.....	15
O'ahu Resources.....	15
Needs Identified by Attendees	16
Intercept 2 Cell Block Arrangement.....	16
SAMHSA's Intercept 2 Overview	16
O'ahu Overview.....	16
O'ahu Resources.....	16
Needs Identified by Attendees	18
Intercept 3 Court and Jail	19
SAMHSA's Intercept 3 Overview	19
O'ahu Overview.....	19
O'ahu Resources.....	19
Needs Identified by Attendees	21
Intercept 4 Reentry	22
SAMHSA's Intercept 4 Overview	22
O'ahu Overview.....	22
O'ahu Resources.....	22
Needs Identified by Attendees	23
Intercept 5 Probation and Parole.....	24
SAMHSA's Intercept 5 Overview	24
O'ahu Overview.....	24
O'ahu Resources.....	24
Needs Identified by Attendees	25



BACKGROUND

The Sequential Intercept Model (SIM) is a tool developed by the federal Substance Abuse and Mental Health Services Administration. It is used by jurisdictions as a way to understand the landscape of the behavioral health system, assisting with understanding the relationship between criminal-legal agencies such as courts, police, and behavioral health services; and to identify opportunities for improving diversion opportunities away from justice systems and into more-appropriate community settings. This is accomplished by inviting stakeholders across the health, justice, and social service agencies to provide frank discussions and assessments of the present state of health and justice systems. The model divides the criminal-legal system into segments called “Intercepts” that allow for stakeholders to see where their agency interacts with people as they move through the criminal-legal system. Like any model, it cannot fully map the reality experienced by the stakeholders or people involved in these systems.

Hawai'i Health & Harm Reduction Center invited Dan Mistak from Community Oriented Correctional Health Services (COCHS) to facilitate a conversation about the present state of the relationship between behavioral health and justice systems on O'ahu. The workshop took place on July 14, 2023, with 45 participants from across the behavioral health and justice sectors (see participant list in Appendix A). During the workshop, stakeholders provided insights into their role across systems. This data was then collated into this report, which was shared with stakeholders to provide improvements and feedback (participant list is in Appendix A). The content of this report is a result of input from the stakeholders who participated in the SIM exercise.

This SIM exercise provided an update from the previous SIM exercise in 2018 in support of Honolulu Police Department's efforts to implement Crisis Intervention Team or CIT. (See Appendix B). The CIT SIM focused on intercepts 0, 1 and 2 and was the foundation for the CIT Steering Committee that continues to support CIT. To date, there are over 250 officers certified in CIT, and the best practice recommendation is to conduct a SIM every three to five years so that the current resources and gaps in the system are identified to support not only CIT but activities across the continuum.

The current SIM was conducted with the hope that it would help O'ahu and the state of Hawai'i prepare for new opportunities, engagement systems, and federal guidance that allows states to use Medicaid dollars in the incarceration setting to help inform legislators about critical needs within the behavioral health and justice systems; and offer insights into solutions to improve diversion from justice settings. Attendees also assumed the SIM would allow for thoughtful reflection on the building of the new OCCC (See Appendix C) and legislation to support families of incarcerated people (See Appendix D).

About COCHS

COCHS is a 501(c)(3) created in 2005 through a grant from the Robert Wood Johnson Foundation to improve the connections between community and correctional health systems. COCHS has been at the forefront of efforts to improve enrollment in health insurance, access to high-quality providers and services, and elimination of policy barriers that lead to costly and inefficient outcomes in the health and justice systems.

About HHHRC

The Hawai'i Health & Harm Reduction Center (HHHRC)'s mission is to reduce harm, promote health, create wellness, and fight stigma in Hawai'i and the Pacific. HHHRC works at the intersection of the criminal-legal system, mental health, substance use, homelessness, and chronic diseases such as HIV. HHHRC was the fiscal sponsor for the SIM process and was involved in the previous and only SIM conducted in the City and County of Honolulu.

Goals

1. Create a better understanding of the flow of people through our health and justice systems in order to identify opportunities for further collaboration.
2. Identify resource gaps and opportunities created by new federal guidance; and
3. Provide a foundation for community and legislative priorities to reduce the number of people with mental illness in carceral settings and create opportunities for diversion from justice system settings.

Overarching Themes

Many at the meeting described the current moment in time as having the right mix of factors to create a more transformative justice system. As the **Department of Public Safety(DPS)** begins its reorganization, there are significant opportunities to improve coordination among health and justice partners. In many of the intercepts, there were repeated calls for improved coordination of efforts and the need to better collaborate across health and justice partners. At the same time, the Department of Human Services/Med-QUEST is proposing in its Medicaid 115 waiver renewal to support efforts at in-reach in jails and prisons across the state. If approved, the waiver would allow Med-QUEST to support Medicaid-eligible individuals for a period of time prior to their transition from correctional facilities to the community. The Medicaid opportunity could also support diversion opportunities through reinvestment of state dollars.

Like many jurisdictions, health and correctional systems are siloed in Hawai'i. It can be challenging for health services to integrate across the variety of health and social services that an individual requires, which may result in costly and unnecessary incarceration stints. Housing, staffing, and livable wages were common needs described across all intercepts. By focusing on efforts to reduce the fragmentation, improve access to and coordination across services, increase housing for people in need, Hawai'i has the possibility to leverage the opportunities created by the changes in DPS and the health system to create a transformative health and justice system that can meet people's needs and reduce the number of costly incarcerations.

Each Intercept below is introduced with SAMHSA's description of the Intercept and an overview of how the Intercept functions. The resources were described by individuals who attended the workshop. Minimal research was done to expand the description of each of the resources. The needs were described by the individuals who attended the convening and very little editing, or interpretation was done by the author.



What does this document *not* do?

1. It does not provide information on how to contact any of the resources. This is not a resource guide. Programs change rapidly and contacts for programs also change, and it is best to refer to the individual programs to find out more about their services.
2. It does not capture all of the intricacies of the health and justice systems. It also must be noted that the real systems involved in this process are not as discrete as the model would suggest. For example, reentry planning (Intercept 4) begins the moment someone is transferred to the prison (Intercept 3). Some programs may not seem to fit into one Intercept because they cross several intercepts. The usefulness of the SIM is limited by the people who attend the convening or who reached out for follow up and provided feedback.
3. It does not offer answers. The SIM is a resource that provides a point in time understanding of the current resources based on the experience of the attendees.





2023 - Honolulu, Hawai'i Sequential Intercepts for Change - Criminal Justice-Behavioral Healthcare Partnerships

The 2023 Sequential Intercept Model (SIM) has been developed by Dan Mistak, of Community Oriented Correctional Health Services (COCHS). And in partnership with the below organizations.

- 'Ōkolu Mea Nui
- American Foundation for Suicide Prevention (AFSP)
- City & County of Honolulu (CoC)
- Community Alliance of Prisons Hawai'i
- Department of Health
- Department of Human Services
- Department of Public Safety
- Governor's Office
- Hawai'i Cares
- Hawai'i Fire Department (HFD)
- Hawai'i Health & Harm Reduction Center (HHHRC)
- Hawai'i Parole Authority
- Hawai'i Prosecutor's Office
- Hawai'i State Judiciary
- Hawai'i Viet 2 Vet Inc.
- Honolulu Police Department (HPD)
- Institute of Human Services (IHS)
- Mental Health America of Hawai'i (MHAH)
- NAMI Hawai'i
- Pandemic Unemployment Assistance (PUA)
- Partners in Care (PIC)
- Prosecutor's Office
- Public Defender's Office
- Queens Medical Center (QMC)
- Reimagining Public Safety in Hawai'i Coalition
- State Office on Homelessness and Housing Solutions (SOHHS)
- United Healthcare (UHC)
- United Self Help

ACT = Assisted Community Treatment

CAMHD = Child & Adolescent Mental Health Division

CORE = Crisis Outreach Response and Engagement Program

HOPE Probation = High-intensity supervision program

IHS = The Institute for Human Services

ISC = Intake Service Centers

OISC = O'ahu Intake Service Center

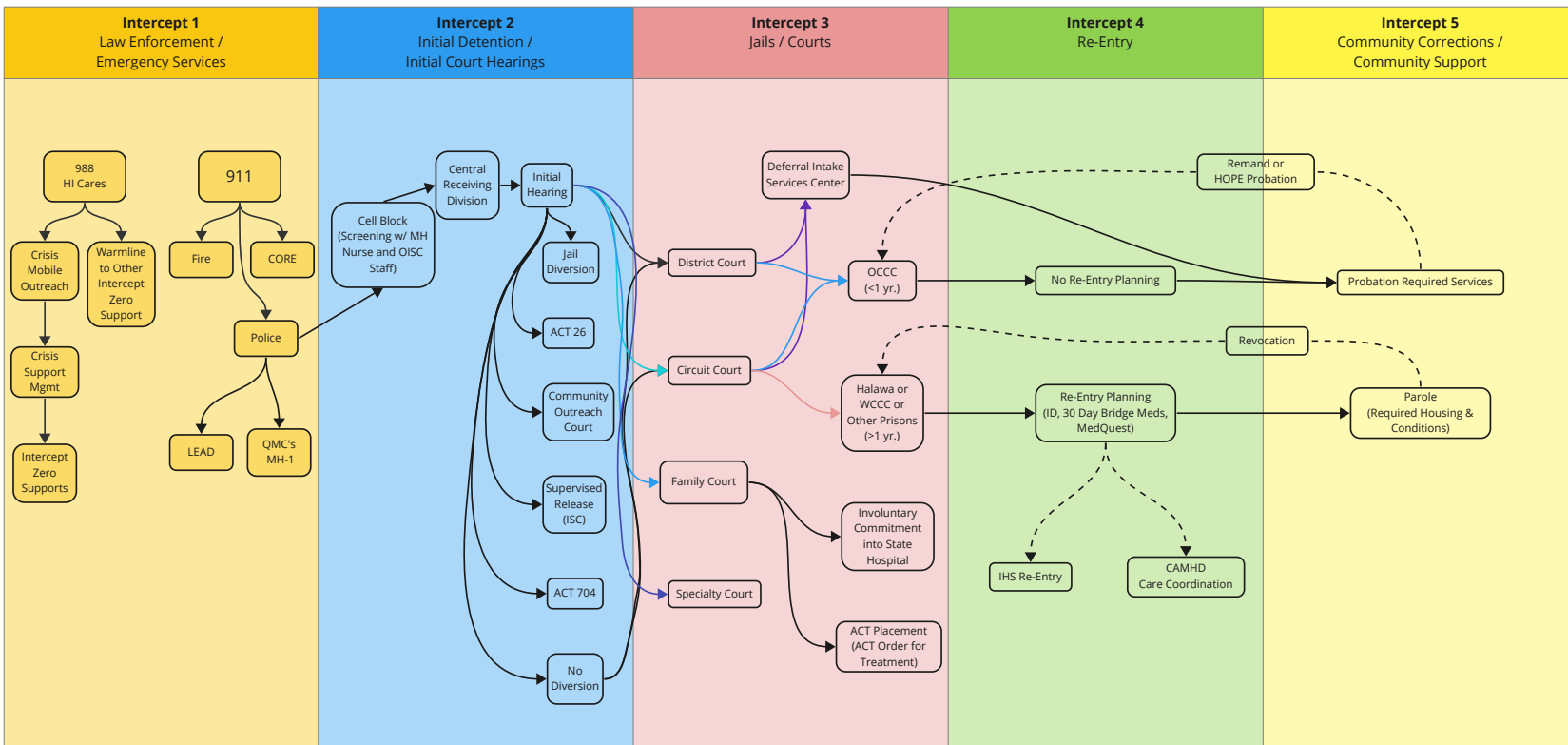
LEAD = Let Everyone Advance w/ Dignity (Previously known as Law Enforcement Assisted Diversion)

MH-1 or MH6 = Mental Health Emergency Examinations and/or Hospitalization

OCCC = Oahu Community Correctional Center

QMC = Queens Medical Center

WCCC = Women's Community Correctional Center



INTERCEPT 0 COMMUNITY SYSTEM

“Intercept 0 encompasses the early intervention points for people with mental and substance use disorders prior to being charged for an offense by law enforcement.” – Substance Abuse and Mental Health Services Administration (SAMHSA)

SAMHSA's Intercept 0 Overview

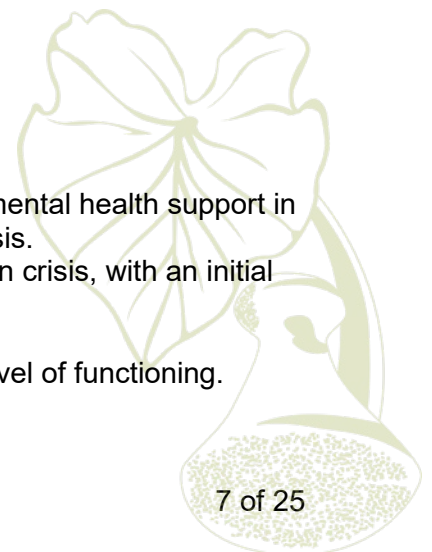
- Connects people who have mental, and substance use disorders with services before they come into contact with the criminal justice system.
- Supports law enforcement in responding to both public safety emergencies and mental health crises.
- Enables diversion to treatment before an arrest takes place.
- Reduces pressure on resources at local emergency departments and inpatient psychiatric beds/units for urgent but less acute mental health needs.

O'ahu Overview

O'ahu has many resources for people's health needs, but many of these resources may not be able to adequately coordinate across partners. 911 and 988 are included in this Intercept but are also key components of Intercept 1. Calls to these numbers could result in non-police responses and thus would remain a community support. Calls to 911 that lead to police response could be seen as Intercept 1 resources.

O'ahu Resources

- Emergency calls can be made to 911 or the new 988 line.
- 911—Calls into 911 can be dispatched to police or fire.
 - Crisis Intervention Team (CIT) Officers can be requested for behavioral health related calls.
- **Hawai'i CARES 988** is the combination of the former ACCESS, Coordinated Access to Resources Entry System (CARES) and Crisis Line.
 - **Hawai'i CARES 988** partners with Aloha United Way to provide Substance Use Disorder Care Coordination.
 - Services are available for anyone, including families and friends that need extra support.
 - **Hawai'i CARES 988** offers Mental & Emotional Help
 - Can dispatch **Crisis Mobile Outreach (CMO)**
 - Provides screening and referral to mental health services.
 - Provides support for those who need someone to talk to.
 - Can connect to warm line on the continental U.S.
 - Funded through **Adult Mental Health Division (AMHD)**
 - Provides face-to-face, short term, crisis intervention and mental health support in a variety of community settings during a mental health crisis.
 - Provides a trauma informed care response to the person in crisis, with an initial screening and comprehensive assessment.
 - Ensures linkage with additional resources.
 - Assists the person in crisis in returning to their baseline level of functioning.



- Assists the person in crisis in resolving crises in the least restrictive setting.
 - Assists frequent users of crisis services in developing plans to foster a sense of independence and promote their own wellness.
 - Partners with the **Child & Adolescent Mental Health Division (CAMHD)**
 - Offers free services for children and youth who have severe emotional or behavioral challenges.
 - Services include assessment, case management, and therapeutic support in the home and community, or temporary out-of-home placements.
 - Crisis Support Management
 - Accepts referrals from **CMO**.
 - Provides 30-day temporary case management.
 - Face-to-face contact within 24 hours.
 - Linkages to providers and health plans.
- Crisis Stabilization services
 - 10-14 days of support.
 - No reservations and no holding.
 - Provides physical and mental health screening and treatment planning.
- **Community-Based Case Management support**
 - Offered through AMHD for those with Severe Mental Illness without insurance.
 - Those with The Community Care Services program provides Intensive behavioral health services, in addition to basic behavioral health services covered by Medicaid health plans, and is offered to adults diagnosed with a qualifying serious mental illness (SMI) and/or a serious and persistent mental illness (SPMI). These adults must be enrolled in a Medicaid health plan and meet CCS eligibility criteria as determined by Med-QUEST Division (MQD). A referral to CCS can be made using Med-QUEST form 1157.
- City and County of Honolulu has programs designed to support emergency services.
 - Emergency Services Department
 - **Crisis Outreach Response and Engagement (C.O.R.E.)** non-HPD response effort that responds to crisis calls, from within the community, which are non-violent and do not require emergent medical assistance. The response team includes emergency medical technicians and community health workers trained in relationship building, extending compassion, problem-solving, and crisis prevention intervention. C.O.R.E. is committed to supporting a diversified response system that is adaptable to the needs of the participant, the community, and the resources of the responders. Once the identified crisis is addressed, C.O.R.E. will deploy a participant-centered follow-up routine that includes continual assessment of their needs and linkage to community resources when necessary. 50+ employees in service.
 - **Medical Respite**-19 beds. Allows for a stepdown for people leaving the hospital so they do not just go back to the street. Can be in medical respite for 2-3 mos.
 - Department of Community Services
 - **WorkHawai'i** provides employment and training services to O'ahu residents designed to help people find and keep jobs, and to advance in their careers. WorkHawai'i provides services people with disabilities, and people who are homeless or at risk of homelessness. The program is free and open to all O'ahu residents, regardless of income or employment status.

O'ahu has a variety of community providers who can support individuals, their families, which could avoid ever being entangled in the justice system.

- **NAMI Hawai'i** offers programs for people whose lives have been affected by mental illness. NAMI Hawai'i is committed to offering community-focused education, support, and advocacy programs for family caregivers and individuals living in recovery from mental illness. NAMI participates in Crisis Intervention Trainings and supports training and education regarding Assisted Community Treatment (ACT). Programs include:
 - **NAMI Family & Friends** is a free 90-minute or four-hour seminar that informs people who have loved ones with a mental health condition how to best support them. It's also an opportunity to meet other people in similar situations and gain community support.
 - **NAMI Family-to-Family** is a free, 8-session educational program for family, significant others, and friends of people with mental health conditions. It is taught by NAMI-trained family members who have been there, and includes presentations, discussions, and interactive exercises.
 - **NAMI Family Support Groups** are for caregivers of loved ones with mental health conditions. Join a caring group of individuals helping one another by utilizing their collective lived experiences and learned wisdom. Family members can achieve a renewed sense of hope for their loved one living with mental health challenges.
 - **Connection Recovery Support Groups** are free, confidential, and safe groups of people living in recovery from mental health conditions. Mental Health Peer Support Groups are individuals helping one another by utilizing their collective lived experiences and learned wisdom, renewing a sense of hope for recovery.
 - **NAMI Basics** is a 6-session education program for parents, caregivers and other families who provide care for youth (ages 22 and younger) who are experiencing mental health symptoms. Basics is run OnDemand, guided by parents and family members with lived experience, self-paced, and available 24/7.
 - **NAMI Peer-to-Peer** is a free, 8-session educational program for adults with mental health conditions, who are looking to better understand themselves and their recovery. Taught by trained leaders with lived experience, this program includes activities, discussions, and informative videos.
 - **NAMI Ending the Silence** is a free presentation aimed at students, loved ones, and school staff. Ending the Silence helps audience members learn about the warning signs of mental health conditions and what steps to take if you or a loved one are showing symptoms of a mental health condition.
 - **NAMI Homefront** is a free, 6-session online educational program for families, caregivers and friends of military service members, and veterans with mental health conditions. Based on the NAMI Family-to-Family Education, NAMI Homefront is designed to address the unique needs of our precious military community.
- **United Self-Help** is a nonprofit organization whose mission is to promote mental health through education and mutual support. They offer in-person yoga classes. They offer online support through:
 - Anxiety and Depression support
 - United Self-Help support group
 - Writers in Recovery, a community centered on sharing writings and inspiration.
- **Mental Health America of Hawai'i's** mission is to promote mental health and wellness through education, advocacy, service, and access to care, with an emphasis on

reduction of stigma of mental illness and improvement of overall care, treatment, and empowerment of those with mental illnesses and their families.

- Warmline is available for statewide support Monday through Friday, 9:00-4:30. The warmline connects individuals with resources for mental health and other social services.
 - Psycho-educational trainings are available. They offer 25 Evidence-Informed Trainings for youth, adults, providers, schools, and other organizations.
 - Annual Mental Health Awareness and Awards Celebration- This event celebrates our community leaders, advocates and employers who dedicate themselves to promoting mental wellness and improving the care of people with mental health challenges through positive and innovative programs and leadership.
 - Annual Maui Suicide Prevention Awareness Mini Conference
 - Maui response and support- psycho-educational trainings specific to post-traumatic events/natural disaster, non-clinical support groups upon request, and peer support groups in partnership with NAMI HI.
- **American Foundation for Suicide Prevention-** Hawai'i Chapter is a grassroots, volunteer organization that focuses on eliminating the loss of life from suicide by delivering innovative prevention programs, educating the public about risk factors, and warning signs, raising funds for suicide research and programs, and reaching out to individuals who have lost someone to suicide.
 - Signature Events- Hike for Hope is a statewide hiking event to raise suicide awareness and decrease the stigma for survivors of suicide loss; Out of the Darkness Walk is a suicide awareness walk that supports suicide loss survivors and those with a lived experience; and the International Survivors of Suicide Loss Day is a luncheon to provide peer support to survivors of suicide loss.
 - Psycho-educational trainings available to learn more about suicide prevention, warning signs, and resources including Talk Saves Lives.
 - **The Waiole Kitchen & Bake Shop** in Mānoa is committed to meeting the needs of O'ahu's underserved community and provides training for people released from incarceration.
 - **Veteran's Administration's Homeless Program** is an important resource for veterans. They work closely with the Veterans' Court and help veterans coming out of jail find housing.
 - **Federally Qualified Health Centers**—FQHCs provide a broad set of services on a sliding scale. Med-QUEST members can be seen for free. Many sites offer behavioral health and mental health in addition to primary care. FQHCs will often be the main provider for justice-involved people on the outside and coordination with them is essential for diversion, reentry, and support while in the community.
 - FQHCs on O'ahu include.
 - Kalihi Palama Health Center
 - Kokua Kalihi Valley
 - Koolauloa Community Health and Wellness Center
 - Wahiawa Center for Community Health
 - Waianae Coast Comprehensive Health Center
 - Waikiki Health Center
 - Waimanalo Health Center



- **Papa Ola Lōkahi** offers substance use treatment to kanaka maoli through their 'Imi Ke Ola Mau program. The program centers on Native Hawai'ian healing practices and holistic healing modalities that strengthen connections to cultural traditions rather than force western modalities on those seeking help.
- **Samaritan Counseling Center Hawai'i** provides mental health counseling for individuals, couples, and families, in-person on O'ahu and through telehealth, regardless of ability to pay.
- **The Steven A. Cohen Military Family Clinic at Child & Family Service** provides confidential, high-quality behavioral healthcare services and case management resources at low to no-cost and without long wait times to veterans, their families, and the families of Active Duty, National Guard, and Reserves, including spouse or partner, children, parents, siblings, caregivers, and others. Services are available regardless of discharge status, role while in uniform, combat experience, ability to pay or insurance.
- **Department of Health's Adult Mental Health Services** offers a variety of services described through the document. In addition, they offer:
 - Clubhouses- a voluntary, member-driven psychosocial rehabilitation program for adults who experience the challenges of mental illness. Program participants are offered a multitude of services to improve the quality of their lives through meaningful work, positive relationships, and gainful employment. Members can build on their strengths and abilities to acquire or improve skills needed to reach their individual goals and aspirations. There are five clubhouses on O'ahu.
- **Catholic Charities Hawai'i** provides a wide range of social services with dignity, compassion, social justice, and a commitment to excellence. Through programs and advocacy efforts, Catholic Charities Hawai'i serves all people, especially those with the greatest need, regardless of their faith or culture.
 - Counseling programs offer individuals, couples, and families the support they need to build healthy relationships and enhance personal wellness. We work to address issues such as depression, anxiety, stress, grief, abuse, trauma, family problems and relationship challenges.
- **Queen's Medical Center**
 - Level 1 Trauma Center
 - Queen's Care Coalition is a hospital navigation program to address highest utilizers of emergency and acute care services with a focus on unhoused and Native Hawaiian patients.
 - Mental Health Emergency Worker in Conjunction with Dept of Health offers 24/7 resources and assessment/approval of MH-1 transports by police/AG/sheriffs. In CY 22 MHEW received 3,245 calls from HPD resulting in 2,486 approved MH1s on O'ahu. 1,198 MH1s were sent to Queen's Punchbowl for evaluation resulting in 209 hospital admissions. Patients discharged from the ED are seen by SW and connected with resources.
 - 60 percent of all MH-1s are transferred to Queens.
 - Besides MH-1, some people may be transported to Queens by the police, but attendees noted that 80% are discharged back to the streets.

- **Partners in Care**—A coalition of representatives from nonprofit homeless providers, government stakeholders, private businesses, community advocates, public housing agencies, hospitals, universities, affordable housing developers, and persons experiencing homelessness and formerly homeless persons. PIC is a planning, coordinating, and advocacy alliance that develops recommendations for programs and services to fill needs within O'ahu's Continuum of Care (CoC) for homeless persons. PIC assists in developing new programs, while working to preserve or expand effective existing programs.
 - The O'ahu Homeless Management Information System (HMIS) is a countywide software program that is designed to capture client-level information over time on the characteristics and service needs of individuals at-risk of and experiencing homelessness. On O'ahu, the HMIS is administered by a designated HMIS Lead Organization that receives funding to develop and implement O'ahu's HMIS. Since inception in 2004, the HMIS has matured into a complex data collection and reporting tool utilized by homeless service providers across the Island of O'ahu. O'ahu's HMIS enables the sharing of client data, allowing for a greater collaboration among homeless service providers across the island.
 - O'ahu Coordinated Entry System (CES) facilitates the coordination and management of resources that comprise the crisis response system in the county. In mid-2018, this system was introduced across the island. There are now systems that serve Single Adults, Families with and without minor children, Youth, Veterans, and Domestic Violence sub-populations.
 - PIC also fosters a landlord engagement program to help find landlords willing to rent to people with a history of homelessness and to help those seeking housing units find appropriate homes.

- **Family Guidance Centers**—are state-funded mental health clinics that provide a variety of services to children, adolescents, and their families. FGCs offer individual and group therapy, family counseling, case management, and other support services. They serve clients from all walks of life, regardless of income or insurance status.

- **Med-QUEST:**
 - Med-QUEST benefits for a variety of services are offered through five Managed Care Plans in Hawai'i: AlohaCare, Kaiser, HMSA, 'Ohana Health Plan, and United Healthcare.
 - Med-QUEST offers eligible members (unsheltered or at-risk of homelessness, who meet medical and/or behavioral health criteria) outreach, pre-tenancy, and tenancy support through the "Community Integrated Services" (CIS) program. Recent improvements to the program have increased access to these services.
 - AMHD handles those with justice involvement and uninsured/underinsured.
 - Community Case Services is the state's specialty behavioral health managed-care program managed by 'Ohana Health Plan, a subsidiary of Wellcare Health Insurance of Arizona.



- **Ho'ōla Nā Pua**
 - Private nonprofit to stop human sex trafficking and exploitation of minors. Offers mentoring, Education, crisis, peer support, and advocacy.
 - Identifies schools and minors who could be exploited.
 - Provide group services and referrals and residential services.
 - 32 beds.
 - Funded through private funds, grants, and insurance.
 - Private or provider referral

- **Institute for Human Services (IHS)** is a nonprofit organization that aims for to create “a community where homeless people are empowered with hope, dignity and confidence to quickly access and sustain a safe, decent and affordable home.” IHS offers a variety of services:
 - Emergency shelter for men, women, and children and families with wrap around services and triage
 - Medical respite specialty shelter
 - Medication-assisted detox services
 - Initiation of MH 2 (oral ex parte) and call for MH1 (emergency transport to ED for psychiatric evaluation)
 - Street outreach for housing navigation
 - Collaboration with HPD in identifying high risk individuals to initiate outreach, treatment, petitions for ACT or guardianship, connection to community outreach to remove barriers to housing.
 - Psychosocial Rehabilitation (PSR) to cultivate stable tenancy skills.
 - Housing Programs of many types including Rapid Rehousing, Homeless Prevention, transitional for Re-Entry, supported housing for Families with children at Kahauiki Village
 - Employment Programs: Core employment services, vocational training, part time “gig” work, internships, connection with employers
 - Imi Ola Piha
 - Homeless Triage Center
 - Medically assisted detox for homeless desiring to get clean and sober (8 beds) (5-10 days)
 - Initiation of psychiatric treatment
 - Case Management to support transition to continued treatment in a residential setting: either residential treatment or housing with intensive outpatient treatment (IOP)

- **Community Alliance on Prisons**
 - CAP sponsors and supports legislative efforts to improve conditions in jails and prisons and create opportunities for diversion from the justice system.
 - Offers support for families of people who are incarcerated,
 - Sponsors and supports legislative efforts to improve conditions in jails and prisons.
 - Researches evidence-based practices to reduce the carceral population.
 - Worked with other community groups to help people being released during COVID secure cell phones, resources, and in some cases, housing,
 - Developed an easy-to-read COVID fact sheet with graphics for those incarcerated and had it translated in the 8 languages spoken in our correctional system (Chuukese, English, Hawaiian, Ilokano, Samoan, Tagalog, Tieng Viet, and Tongan),
 - Promotes opportunities for diversion from the justice system by convening a group of service providers to help the state understand the needs and resources.

Needs Identified by Attendees

- Significant investments in housing and supportive housing.
- Long term Supportive Housing—Aging out populations/providers.
- Help with contracting with state entities—Providers don't know how to connect with DoH and Med-QUEST. Please see this section on the MQD website regarding [provider enrollment](#).
- Establish an Emergency Rental Assistance program to prevent evictions and the accompanying houselessness that increases the risk of incarceration.
- Establish a residential mental health treatment facility for severely and persistently mentally ill people.
- Drug/Mental Health “Drop-Off” Center where anyone can bring a friend or family member who is in crisis and get immediate help including: stabilization, treatment, temporary housing, and case management services.
- Increased collaboration between the CCS/DHS and the AMHD systems.
- Figuring out the churn for people who are involved with the justice system as they are moved between case management systems. The same provider may have to work across multiple payers to provide case management.
- Linkages to services with people with complex medical issues but may face rejection due to lack of services and places for long-term care.
- No “wet” shelter on island.
- C.O.R.E. services are mainly in Waikiki and downtown—mainly due to vehicle and personnel limitations. Expansion could be supported through alignment with health dollars.
- C.O.R.E. services are mainly supported through federal COVID dollars, and there is a need to ensure services long term.
- Need to pass the crisis continuum services. Recent legislation died.
- Need for providers who accept Medicaid.
- Certified Community Behavioral Health Clinic is on Maui but has not yet reached O'ahu.
- There may be duplication of efforts with justice system requirements due to the lack of coordination with providers.
- Long-term beds. Screenings show a lot of needs but not a lot of long-term placement options.
- Need for streamlined technical response. Perhaps Partners in Care.
- “The money is here” and there are needs for partnerships. There is a lot of agreement, but there needs to be contracts.
- Needs for guardians *ad litem*, which are necessary to support ACT.
- HHIE is not real time. Some Epic access exists, but it can be challenging to track clients without access.
- C.O.R.E. sometimes does not have immediate answers but a recording that says they'll return an answer in 24 hours.



INTERCEPT 1 DISPATCH AND FIRST RESPONSE

“The primary activity at Intercept 1 is law enforcement and emergency services responses to people with mental and substance use disorders.” –SAMHSA

SAMHSA'S Intercept 1 Overview

- Begins when law enforcement responds to a person with mental or substance use disorders.
- Ends when the individual is arrested or diverted into treatment.
- Is supported by training, programs, and policies that help behavioral health providers and law enforcement to work together.

O'ahu Overview

As mentioned in Intercept 0, emergency numbers 988 and 911 can dispatch a variety of actors who can help people avoid arrest. However, if police are dispatched, there are a variety of diversion opportunities.

O'ahu Resources

- **Honolulu Police Department** has special training for officers who will come in contact with people with behavioral health needs.
 - Crisis Intervention Training—200 Officers that have taken a 40-hour training. Intensive training that is focused on helping officers understand the needs of someone in crisis. Available after two years of service. De-escalation to connect people with services. Can be requested by someone calling dispatch.
 - Mental Health First Aid—an 8-hour training that provides a background on people in crisis. Every recruit now graduates with MHFA training.
 - Calls Queens for MHEW for MH-1 calls (see Intercept 0).
 - Can field a request from partners like IHS with an attempt to locate in order to find someone who might need medication administration.
 - Upon arrest, HPD takes someone to cell block (see Intercept 2).
 - No drop-off center other than hospitals. Hospitals sometimes reject people after evaluation. Attendees reported that 80% get discharged after being brought to the hospital. Hospitals may try to find out who the person has as a case manager, but this is done over the phone rather than through querying an electronic system.
- **Fire Department/Emergency Medical**
 - Co-responds for a “mental health” call under an “altered mental status.” Dispatch is context specific based on where someone is. Can request HPD assistance if it is something outside of the current set of skills for them.
- **LEAD**—Let Everybody Achieve Dignity/Law Enforcement Assisted Diversion
 - Program to help specific clients avoid incarceration. Can help identify whether there are case managers already and can connect with service providers that already exist. LEAD is implemented currently by HHHRC.
 - Pre-arrest diversion program. There is a list of particular offenses where LEAD could receive referrals for some crimes. Only 50 people in LEAD. It provides intensive case management with 3-5 touches per week.

- Significant decrease in ED utilization, increase in housing, and significant decrease in methamphetamine reduction.
- Small but successful.
- Involves partnership in decision making about whether law enforcement should result in diversion or arrest.
- 2 case managers with 25 cases each.

Needs Identified by Attendees

- HPD Community Outreach Unit no longer exists.
- Fire Dept/EMS has challenges requesting a CIT person when they need HPD backup, but HPD said that EMS dispatch could request CIT.
- Need for peers and pathways out of crisis care.
- One-stop-shop for crisis and services.
- Increased support for LEAD to expand number of cases.

INTERCEPT 2 CELL BLOCK ARRANGEMENT

“Once an individual is arrested, they have moved to Intercept 2 of the model. At Intercept 2, an individual is detained and faces an initial hearing presided over by a judge or magistrate.”—SAMHSA.

SAMHSA's Intercept 2 Overview

- Involves people with mental and substance use disorders who have been arrested and are going through intake, booking, and an initial hearing with a judge or magistrate.
- Supports policies that allow bonds to be set to enable diversion to community-based treatment and services.
- Includes post-booking release programs that route people into community-based programs.

O'ahu Overview

An arrested individual is taken to **HPD Central Receiving Division (CRD)** where they are examined by a DOH contracted nurse. The Intake Service Center begins a series of screenings to inform bail decisions and specialty court opportunities.

O'ahu Resources

- After arrest, an individual is taken to one of several CRD for booking and processing.
 - Before taking to cell block, MH-6 could be initiated, which would allow for involuntary commitment (See Appendix E).
 - DOH/AMHD funded a nurse at cell block for approximately six months. The nurse meets the arresting officer at the squad car and screens for active health issues that would necessitate sending the officer and detained individual to Queens. Cell block nurses can prescribe three days of medications that must be picked up by an HPD officer.
 - People sent to Queens must be medically cleared before they can return to cell block.

- Brief mental health screenings occur. Once they move to “sheriffs cell block” Intake Service Center look at those who are eligible for mental health services or mental health diversion. AMHD diversion get intake client services data and then look at the history for whether someone meets criteria. They then call the public defenders and prosecutors for misdemeanors and possession felonies.
- Contract funding the nurses services has since been completed and is no longer being provided.
- Limitations:
 - Screenings carried out at cell block by the DOH/AMHD nurse are not transferred to the community correctional centers.
 - “Clearing” for incarceration happens at Queens, which adds extra transportation and HPD staffing to and from cell block.
 - Cell block nurses cannot check whether an individual has case management in real time, and many people are processed out of cellblock before the results of the case management check.

Depending on violation, O’ahu Intake Services conducts a variety of screenings and provides recommendations to the court for diversion and bail. Once an individual is placed in cell block, the arresting officer is relieved. Evaluations are completed by the Central Receiving Division to identify an individual who might qualify for a variety of diversion opportunities. The Prosecutor receives the list of those in custody the night before a hearing. They are screened for charges and whether they should be arraigned or released.

- **Jail diversion:** Voluntary program. Non-violent and petty misdemeanors and felonies with SMI (very limited amount of time). 6-8mos. No structured connection with broader health system partners. Can be released from custody to a stabilization bed for what services would be appropriate. Cases are dismissed after 6-8 mos. AMHD creates the treatment plan, and the public defender, prosecutors, and judges sign off.
- **Act 26**—Diversion for non-violent petty misdemeanors. Initial evaluation for whether there is a mental ability to continue a case. If a person is eligible for Act 26 diversion, the court may order them to participate in a treatment program for mental illness or substance abuse. The court may also order the person to undergo other conditions, such as submitting to drug testing or participating in counseling. If it is deemed that the person is not capable of understanding their case, then they are held in a hospital. After 90 days, they are reevaluated and released, and cases are dismissed. This was started in 2020 to redirect people with serious mental illness into treatment programs.
- **Community Outreach Court** was designed to assist people facing multiple low-level “quality of life” offenses and alleviate the congestion in district courts created in part by those cases. There is an arraignment of charges. Those in custody cannot make bail and remain in custody at cell block.
- **Supervised Release** through Intake Service Centers. If this is granted in lieu of bail, then the Intake Service Center will manage the requirements for supervised release. The court may order treatment and screenings or other orders specific to the case until the final disposition of the case. People are only eligible for supervised release if they cannot post bail. Those who post bail cannot be assisted. ISC staff reported that if there are appropriate services in the community, they try to connect with providers and health

insurance, but there are no automatic connections to these providers due to the segmentation of information. ISC staff are reliant upon the reports from the individual. Standard order requires “seeking appropriate care” without more content on what that care is.

- **Chapter 704** of the Hawai'i Revised Statutes (HRS) is the statutory outline for determining whether someone is fit to proceed in a trial. 704 determinations are complicated and described in the flowchart available in Appendix E.

Needs Identified by Attendees

- There is little to no coordination with health plans for diversion programs. AMHD took case management for people involved with the justice system, but this case management is not connected to the broader health insurance plans, increasing costs for the state.
- Act 26 might not have actually diverted many people.
- Greater use of citations in lieu of arrest, and authorization for police to issue citations for non-violent class C felonies. This was recommended by the HCR 134 Task Force in 2019.
- Possible concerns about attorney access to clients in jail.
- Jail diversion is run by AMHD, which can create challenges with coordinating care with health plans.
- Bail Reform. At a minimum, people charged with non-violent Class C felonies and lower-level offenses (misdemeanors, petty misdemeanors, violations) should be released without posting money bail.
- Need to create an offense – PDD4- which provides that possession of 2 grams or less of a dangerous drug is a misdemeanor.
- Need for investment on where people can be diverted.
- Need for methamphetamine addiction support.
- There are no diversion opportunities for any domestic violence charges. This can create major challenges for families who might have adult children with serious mental health needs who may be decompensating. Families attempting to remain intact do not have systems that support them appropriately. The system does not fit families trying to support family members with mental health needs.
- Too much is mediated by the public defender, who is serving a legal role. Need for support from health systems for clinical discussions around people's needs.
- People need to plead not guilty to get access to an attorney, which means the process is too far underway for meaningful diversion.
- One attendee said “People are detained at OCCC while fitness is being determined. Caseloads for evaluating fitness—50 people on each caseload. Participants mentioned that the evaluation process is too slow to help people be released due to fitness.”
- Turn arounds are so tight that it is challenging to do in-depth evaluations.
- No linkage to electronic health systems to identify medications that an individual is receiving.
- Non-therapeutic and not much input from those who have moved through these systems about how these systems operate.
- No Peer support to help people moving through these systems.
- Need a bill prohibiting denial of pretrial release based solely on defendant's first positive drug test.

- Several participants described the problems with programs like “Weed and Seed” that increase the number of engagements between police and people with unmet mental health needs.

INTERCEPT 3 COURT AND JAIL

“During Intercept 3, people with mental and substance use disorders who have not yet been diverted at earlier intercepts may be held in pretrial detention at a local jail while awaiting the disposition of their criminal cases.”—SAMHSA.

SAMHSA’s Intercept 3 Overview

- Involves people with mental and substance use disorders who are held in jail before and during their trials.
- Includes court-based diversion programs that allow the criminal charge to be resolved while taking care of the defendant’s behavioral health needs in the community.
- Includes services that prevent the worsening of a person’s mental, or substance use symptoms during their incarceration.

O’ahu Overview

An individual who was detained at cell block attends their first hearing and the case dismissed, the individual is released with or without conditions, or they are transferred to OCCC while awaiting trial. An individual may be eligible for several different specialty courts which have their own criteria for participation. An individual found guilty may serve the rest of their time in OCCC, be transferred to one of the state’s prisons, may be released due to time served pretrial, or sentenced to probation. Each facility has screenings for appropriate placement and understanding the mental health needs.

O’ahu Resources

- **Intake Service Center (ISC)** under the Hawai’i Department of Public Safety (PSD) carries out a variety of functions for those entering incarceration. They also manage pretrial defendants in the community under Supervised Release (SR) in lieu of bail, with terms and conditions as set by the Judiciary.
 - ISC screens pre-trial misdemeanants at HPD Cellblock and completes the same-day pretrial bail reports for the Court. These include recommendations for pretrial release or detention when defendants make their first appearance in court.
 - ISC screens for Dept of Health’s Jail diversion program and makes a referral.
 - ISC may make referrals to court clinicians for an evaluation under HRS 704-404.
- **Courts**
 - There are a variety of state courts in O’ahu that handle different cases depending on the status of the individual and jurisdiction of the court. In general,
 - District Court: Handles Misdemeanors
 - Circuit Court: Handles felonies.
 - Family Court: Handles ACT placements.

- **Specialty Courts**
 - Besides the traditional courts, there are a variety of specialty courts.
 - **The Veterans Treatment Court** takes a holistic approach to help provide the resources and treatment these veterans need to get healthy, get employed, and return to being law-abiding citizens so they can enjoy the freedoms they fought to protect. Judge Trish K. Morikawa and her team partner with staff from U.S. Vets and Salvation Army Addiction Treatment Services so the defendants can be evaluated and treated for mental health and substance abuse. In addition, the Court helps these defendants find housing and get job training. Felonies are eligible. Public defender identifies and the prosecutor and judge agree.
 - **Mental Health Court** partners with community treatment providers offer specialized care for participants requiring psycho-social rehabilitation, psychiatric treatment, substance abuse recovery, and other individualized treatment. Upon admission to the Mental Health Court program, participants redirected from incarceration to treatment are expected to receive multiple benefits including mental and medical support, reduced jail sentences, and probation or dismissal of charges, as determined case by case.
 - Referred by public defender.
 - **Women's Court**—A 3-year pilot program. Anticipated 30 participants.
 - **DWI Court**—helps participants to attain sobriety through a comprehensive, court-regulated, treatment plan that provides intervention support for non-violent offenders. Entry is voluntary and requires each participant to go through a screening process and enter a no contest or guilty plea before admission. Rehabilitation is coordinated by a DWI Court Case Manager and includes alcohol monitoring, individual and group counseling, and regular attendance at self-help meetings. In addition to treatment, participants are required to make regular court appearances before the presiding District Court Judge for evaluation. Each participant's sentence is stayed pending compliance and successful completion of the DWI Court Program, which is a minimum of one year. There are three phases. Requires wearing an alcohol monitoring device for 90 days, then they move onto 90 days with a breathalyzer. After that, they are monitored. They receive case management and treatment with a provider such as Hina Mauka or Queens. Assessments are done by the providers, not by justice system staff. A graduate will have received over 190 hours of medical treatment and attended 166 Alcoholics Anonymous meetings if they meet all the requirements.
 - **Drug Court**—A variety of different courts that could be because of a charge, but it could also be because of a probation revocation. People could be there because of a revocation of probation.
- **Jail/Prison:**
 - Pre-trial detainees are taken from HPD CRD to court. People with misdemeanors may be released right from this hearing while awaiting trial. For those who have been sentenced for a misdemeanor or a sentence that is less than a year, they will serve at OCCC. Those who cannot post bail will be housed at OCCC.
 - O'ahu Intake Service Center does an initial screening at the OCCC, and they can access the Cell Block data.
 - ISC screened for medical and mental health screening for in-facility services, Prison Rape Elimination Act screening (PREA), and classification screening.
 - A positive mental health receiving screening results in a Post-Admission Mental Health Assessment (PAMHA) within 14 days of admission.

- If an individual is admitted to a mental health module, a PAMHA is completed within one business day unless they were placed on a suicide or safety watch.
 - A person with a positive PAMHA may be referred to a licensed mental health professional for further Mental Health Evaluation as needed.
 - All people residing in a mental health treatment module shall have a mental health evaluation and comprehensive treatment plan within fourteen days.
 - HRS 353-10 requires ISC to conduct internal pre-trial risk assessments within three working days of admission on eligible pre-trial detainees.
 - Assessment tool is validated to measure Risk of Flight and criminal conduct.
 - Within three working days, ISC is required to submit Pre-trial Bail Reports to the courts that include the risk assessment.
 - ISC recommends release on Own Recognizance for Low Risk; Supervised Release for Moderate Risk; and bail for High-Risk defendants.
 - ISC often provides updated Pre-trial Bail Reports if provided with new information, which usually comes in the form of a Motion for Supervised Release Filed by defense counsel.
 - All recommendations for release under supervision are supported with conditions to mitigate the identified risks.
 - HRS 353-6.2 mandates Periodic Review. Within 90 days (and every 90 days for those pre-trial people who remain in custody) ISC must reestablish contact with the pre-trial defendant to reassess if any change in circumstances warrant reconsideration to recommend release.
- People with chronic needs may be triaged to a “chronic care clinic.”
 - For those sentenced to more than a year, men go to Halawa and women go to WCCC.
 - **Waiawa Correctional Facility:**
 - Attendees noted Waiawa’s special program KASHBOX. Other prisons may have similar special programs but were not mentioned.
 - 334-bed, minimum-security prison for sentenced male inmates. WCF provides an environment that helps inmates successfully re-enter the community from prison. All inmates participate in education or substance abuse treatment programs.
 - The WCF has 240 beds that are devoted to KASHBOX, an intensive residential substance abuse treatment program for inmates with serious substance abuse problems. Supporting Keiki of Incarcerated Parents is a unique pilot program designed to help male inmates with substance abuse issues become better fathers. This program allows the inmate to participate in parenting groups, and structured playgroups and reading activities with their children. The WCF also provides general education programs, which allows inmates to work towards and associate of arts degree. Also, in-facility work lines such as food service, building maintenance, heavy equipment, farm, janitorial, educational tutoring, and landscaping, help inmates acquire skills, and practice good work habits.

Needs Identified by Attendees

- Need for diversion models that can avoid the legal process around fitness determinations. Evaluators have 50 people on their docket, and it can take up to 55 days before the primary evaluation occurs.

- Give defendants who do not show up in court a 48 hour “grace period” before issuing a bench warrant (would codify current practice)
- A person who was deemed fit might find themselves decompensated after they stay in incarceration too long.
- Currently there is not a functioning electronic health record, but the state is currently procuring one. This could allow PSD to create business associate agreements that will allow for the sharing of data.

INTERCEPT 4 REENTRY

“At Intercept 4, people plan for and transition from jail or prison back into the community.”—SAMHSA.

SAMHSA’s Intercept 4 Overview

- Provides transition planning and support to people with mental and substance use disorders who are returning back to the community after incarceration in jail or prison.
- Ensures people have workable plans in place to provide seamless access to medication, treatment, housing, health care coverage, and services from the moment of release and throughout their reentry.

O’ahu Overview

Good reentry begins the moment someone enters incarceration. For those who are incarcerated for more than 30 days, the Reentry Office at PSD offers reentry planning. Some community partners may be able to assist, but COVID has limited the amount of entry to facilities by community partners.

O’ahu Resources

- **Reentry Office**—Reentry planning is accomplished by Reentry Office at PSD. By statute, the PSD must provide effective and comprehensive reentry planning and must issue civil identification documents to people exiting jails and prisons.
- Screening for reentry needs is done at intake at Halawa. At the Community Correctional Centers, there are not as many screenings because people move in and out quickly. This is a significant challenge because people with unmet needs may enter and leave jail many times before they connect with services that could help them avoid incarceration.
- Currently, the Reentry Coordination Office is working with Med-Quest to identify **all** sentenced individuals who are scheduled to max out at the end of their sentence – prison or jail – and have them complete the forms Med-QUEST identifies, based on their history with Med-QUEST.
- Forensic coordination services offer care coordination.
 - All released individuals are supposed to get thirty days of medication or a card that allows them to pick up prescriptions for free.
- Community providers help to connect people with services, but reach-in is limited:

- **IHS** provides:
 - Reentry transitions and housing support
 - Access to healthcare and vital docs, social support
- **'E Kola Mea Nui** offers
 - Offers referrals
 - Placements
 - Health and wellbeing
 - Cultural support and advocacy
- United Self-Help
 - Offers the program Max-outs. This is a Peer support organization run by United Self Help that provides peer services for people who leave incarceration due to serving their maximum term.
- Worknet provides:
 - Pre-release training programs begin 6-9 months prior to release.
 - Programs offered in gender specific cognitive/behavioral curriculum formats.
 - Programs that meet Parole Board mandates for Cognitive Skills and Anger training.
 - Programs delivered at WCCC, Halawa and Waiawa prisons.
 - Training lessons are delivered 100% live; 100% on ZOOM; 100% by correspondence or any combination of these platforms.
 - Specialized vocational skills training in digital office skills at WCCC.

Needs Identified by Attendees

- Money, child care, SNAP, Medicaid, rental assistance and utilities, work-training, family strengthening, after school, dv support
- Homeless outreach and support and more housing
- Reentry is chronically understaffed and only supports people who are incarcerated for more than 30 days.
- Coordination with reentry and Med-QUEST is just beginning and there are still challenges with identifying what paperwork is necessary.
- Working with Social Security to get documents.
- Acquiring naturalization documents.
- Reentry documents dependent upon a higher level of literacy than many might have.
- Reentry case managers are overworked and disconnected from the health systems. There are only two staff.
- Entering into the facility can be challenging for community providers.
- Lack of a place to go leaves people on parole.
- Medical Release bill for terminally ill or seriously debilitated individuals
- There is a lack of housing for people coming out of jail. Housing in the community should be built *as part of the jail construction*. The units should include supportive housing and should be reserved for people leaving jail (and/or prison?).
- Supportive housing for people granted compassionate release, particularly for prisoners with Alzheimer's disease.
- Housing should include available beds at acute, subacute, and foster care levels of care.
- Leahi and Maluhia should be required to accept compassionate release prisoners who require skilled nursing care.
- Consider contracting with a care home provider for those who do not qualify for skilled nursing care.

- Compassionate release legislation with time limits for reviewing cases and effectuating release. Expedited process for rapidly dying incarcerated persons.
- Mandatory classes in Cognitive Skills.
- Mandatory classes in Anger Management.
- Exit plans are not provided for incarcerated individuals when they reach maximum term.

INTERCEPT 5 PROBATION AND PAROLE

“People under correctional supervision are usually on probation or parole as part of their sentence, as part of the step-down process from prison, or as part of other requirements by state statutes.”—SAMHSA

SAMHSA's Intercept 5 Overview

- Involves individuals with mental or substance use disorders who are under community corrections' supervision.
- Strengthens knowledge and ability of community corrections officers to serve people with mental or substance use disorders.
- Addresses the individuals' risks and needs.
- Supports partnerships between criminal justice agencies and community-based behavioral health, mental health, or social service programs.

O'ahu Overview

Individuals in Hawai'i may be sentenced to probation which is overseen by the Hawai'i State Judiciary. An individual who served his time may be released on parole and overseen by the Hawai'i Parole authority. Individuals on probation and parole must meet a set of expectations defined by the conditions of their probation or parole. Failure to meet the conditions may result in incarceration or revocation of parole.

O'ahu Resources

- **Probation:**
 - Probation in Hawai'i is overseen by the Hawai'i State Judiciary, Adult Probation Division. An individual can be sentenced to standard probation under the supervision of a probation officer. Under probation, an individual can have a variety of expectations and variable consequences for not meeting the expectations.
 - Besides standard probation, an individual could receive a deferred sentence. For a deferral, there is no conviction, and if all conditions are met, then a case can be dismissed. Deferred sentence can allow for someone to earn to dismissal or a reduced sentence.
 - Deferral did not use to be an option for family court.
- **Parole**
 - Parole in Hawai'i is overseen by the Hawai'i Paroling Authority (HPA). The HPA is a five-member board that is appointed by the Governor and confirmed by the State Senate. There are one full-time and four part-time board members. The HPA is responsible for making decisions about whether to grant parole to people in the Hawai'i Department of Corrections. To be eligible for parole, someone must have served their minimum sentence. The minimum sentence is the amount of time that

someone must serve before they can be considered for parole. The minimum sentence is set by the court when the inmate is sentenced. Once someone is eligible for parole, they will have a hearing with the HPA. The HPA will consider a variety of factors when making a decision about whether to grant parole, including the inmate's criminal history, their behavior in prison, and their plans for the future. If the HPA grants parole, they will be released from prison and placed on supervised release. Supervised release is a period of time during which the individual is supervised by a parole officer. The parole officer will monitor their compliance with the conditions of their parole.

- Pre-parole report:
 - Requires financials, jobs, etc. Have to have residence. A shelter is considered residency, but if they cannot stay in the shelter, then they can be remanded.
- Services are Po'ailani, ATS, Sand Island. Were described as the "eyes in the community" where they are. Parole officers check in on them once a month.

Needs Identified by Attendees

- Probation and AMHD touch the same people and there needs to be coordination and collaboration to ensure that there isn't a duplication of services.
- Need for more pathways for interfamily violence with chronic mental health needs. The current system does not support families and many feel cornered into getting a restraining order for adult children with mental health disorders.
- No place for people on the outside and it leaves people with sex offender cases without a place to land.
- Lose "chronic homeless status" if someone is incarcerated for more than 90 days.
- Parole says "they will not allow someone to become homeless" but uncertainty about what that means.
- Parole support is just sending someone phone numbers to find housing. Parole considers shelter "housed" which is a major challenge.
- There is minimal funding to support housing from parole.
- Clean and Sober housing is only available for 6 mos.
- Clinical failures can lead to revocations.
- NIMBY challenges restrict the opportunities to create housing.
- Approx. 20% of people are incarcerated because of HOPE probation.
- There is need for more protection and support for women who are experiencing abuse/violence by an intimate partner.
- Men and Women in furlough are not having basic assistance to meet essential needs.
- Furlough sites do not have training facilities for any classrooms.
- The education facilities are not accessible at OCCC because the furlough site requires a security escort to reach the learning center and personnel is not available.
- Furlough residents are not allowed to have cell phones which some employers require.



Appendix

Appendix A – Attendee List (July 2023).....	2
Appendix B – Previous SIM.....	4
Appendix C – Getting it Right.....	5
Appendix D – HB1741.....	6
Appendix E – 704 Documentation.....	7



Appendix A – Attendee List (July 2023)

Participant Name	Organization
Anisa Wiseman	NAMI Hawai'i
Mike Peacock	Hawai'i Vet 2 Vet Inc.
Sherrie Freitas	Hawai'i Cares
Flo Nakakuni	Hawai'i Prosecutor's Office
Monica Lortz	Department of Public Safety
Sondra Leiggi Brandon	Queens Medical Center (QMC)
Jacob Pekelo	Hawai'i Fire Department
Anton Krucky	City and County of Honolulu – DCS
Connie Mitchel	Institute of Human Services (IHS)
Tiana Fontanilla	Department of Health - Adult Mental Health Division (DOH-AMHD)
Mestisa Gass	Mental Health America of Hawai'i / American Foundation for Suicide Prevention (MHAH-AFSP-HI)
Robert Merce	Partners in Care (PIC)
Chelsea Wong	Queens Medical Center (QMC)
Gary Yabuta	Department of Health - High Intensity Drug Trafficking Areas (DOH-HIDTA)
Roddy Marengo	United Healthcare (UHC)
Aashish Hemrajani	Department of Health - High Intensity Drug Trafficking Areas (DOH-HIDTA)
Scott Shimabukuro	Department of Health – Child & Adolescent Mental Health Division (DOH-CAMHD)
Toni Bissen	Pandemic Unemployment Assistance (PUA)
Bud Bowles	United Self Help
Annie Valentin	Governor's Office
Jerry Villanueva	Public Defenders Office
Alana Souza	Department of Human Services - Med-QUEST (DHS-MQD)
Dina Nishioka	Department of Human Services - Med-QUEST (DHS-MQD)
Michael Champion	Governor's Office
Chad Koyanagi	Department of Health - Adult Mental Health Division (DOH-AMHD)
Christina Wang	Hawai'i Health & Harm Reduction Center (HHHRC)
Heather Lusk	Hawai'i Health & Harm Reduction Center (HHHRC)
Frank Young	Department of Public Safety – Intake Services Center (PSD-ISC)
Kat Brady	Community Alliance of Prisons Hawai'i
Laura Thielen	Partners in Care (PIC)
Dennis William	Hawai'i Cares
Amy Curtis	Department of Health – Adult Mental Health Division (DOH-AMHD)
Malia Taum-Deenik	Department of Human Services

Victorio Tolentino	Department of Human Services - Med-QUEST (DHS-MQD)
Jamee Miller	'EkoLu Mea Nui
Tia Hartsock	Governor's Office
Mark Tom	Prosecutors Office
Liam Chinn	Public Defenders Consultant
Lindsey Pacheco	Statewide Office on Homelessness and Housing Solutions (SOHHS)
Darcia Forester	Public Defenders Office
Jerry Villanueva	Public Defenders Office
Corey Reincke	Hawai'i Parole Authority
Amanda Martinez	Mental Health America of Hawai'i (MHAH)
Brook Mamizuka	Hawai'i State Judiciary - Adult Client Services
Mike Lambert	Honolulu Police Department (HPD)



Appendix B – Previous SIM





Modified Sequential Intercept Model Mapping Report

Honolulu, HI

September 11-13, 2018

Bureau of Justice Assistance
Valor Initiative

Policy Research Associates, Inc.

MODIFIED SEQUENTIAL INTERCEPT MODEL MAPPING REPORT FOR HONOLULU, HI

Final Report
September 2018

Dan Abreu, MS, CRC, LMHC
Michele Saunders, LCSW

BJA's VALOR Initiative
Policy Research Associates



ACKNOWLEDGEMENTS

This report was prepared by Dan Abreu of Policy Research Associates, Inc. (PRA) and Michele Saunders of CIT International, for BJA's VALOR Initiative: Law Enforcement and Community: Crisis Intervention Training Model Implementation. PRA wishes to thank the Honolulu Police Department for supporting this event and to the Police Academy for hosting this event. PRA thanks Police Psychologist Alicia Rodriguez, Deputy Chief of Administrative Operations Jonathon Grems, and Assistant Chief of Special Field Operations Janet Crotteau for opening the workshop on Tuesday, September 11, 2018.

RECOMMENDED CITATION

BJA's VALOR Initiative: Law Enforcement and Community: Crisis Intervention Training Model. (2018). *Modified Sequential intercept model mapping report for Honolulu, HI*. Delmar, NY: Policy Research Associates.

Contents

Introduction	1
Background	2
Agenda	3
Sequential Intercept Model Map for Honolulu, HI	5
Resources and Gaps at Intercepts 0-2	6
Priorities for Change	15
Parking Lot	16
Recommendations	17
Strategic Action Plans	22
Resources	25
Appendices.....	31

Introduction

On September 11, 2018, Dan Abreu of Policy Research Associates, Inc. (PRA) and Michele Saunders of CIT International facilitated a Modified Sequential Intercept Model Mapping Workshop in Honolulu, HI for the Honolulu Police Department as part of PRA's effort to implement the BJA VALOR Initiative Law Enforcement and Community: Crisis Intervention Training Model. The workshop was hosted by the Honolulu Police Department and the Police Academy. Approximately 40 representatives from Honolulu participated in the 1½-day event.

Opening remarks were provided by Police Psychologist Alicia Rodriguez, Deputy Chief of Administrative Operations Jonathon Grems, and Assistant Chief of Special Field Operations Janet Crotteau. In her remarks Dr. Rodriguez provided background as to why HPD applied for the CIT TA opportunity. She described herself as "a chronic people watcher and a chronic systems watcher." This caused her to question why the same people kept popping up. She spoke to officers who questioned why they were dealing with the same individuals and not doing enough to stop the cycle of crisis with these individuals. She has also spoken with hospital and medical staff on the individuals who were continuously being responded to and not getting the help to stop the cycle. The implementation of CIT can help solve and answer some of these questions. She closed by saying, "We can't ask the officers to sacrifice themselves for others but we ask that they be empathic to individuals in crisis."

On behalf of the Chief of Police, Susan Ballard who was preparing for Hurricane Olivia, Deputy Chief of Administrative Operations Jonathon Grems welcomed the group. He remarked that officer and community safety is a consistent concern for the department. He went on to state that the last few officer injuries were responding to people in crisis. He pointed out that the large turnout reflected the importance of the CIT implementation effort. "We are not going to force our way out of these issues and we need partners to work with."

Assistant Chief of Special Field Operations Janet Crotteau added her welcome and thanks to all participants. She indicated that HPD will be implementing the CIT program over the next 3 years in order to build the capacity of CIT trained officers. She closed her remarks by stating, "Let's be a different police department and a different community."

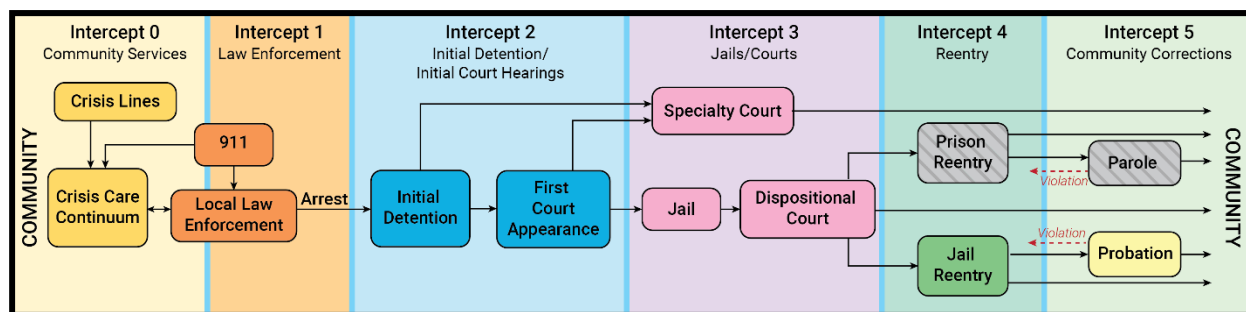
Background

The Sequential Intercept Model, developed by Mark R. Munetz, M.D. and Patricia A. Griffin, Ph.D.,¹ has been used as a focal point for states and communities to assess available resources, determine gaps in services, and plan for community change. These activities are best accomplished by a team of stakeholders that cross over multiple systems, including mental health, substance use, law enforcement, pretrial services, courts, jails, community corrections, housing, health, social services, peers, family members, and many others.

A Sequential Intercept Mapping is a workshop to develop a map that illustrates how people with behavioral health needs come in contact with and flow through the criminal justice system. Through the workshop, facilitators and participants identify opportunities for linkage to services and for prevention of further penetration into the criminal justice system. Mapping workshops that occur in the context of preparing for Crisis Intervention Team (CIT) program development focus on crisis services available in the community, as well as entry into the county jail.

The Modified Sequential Intercept Mapping workshop has three primary objectives:

1. Development of a comprehensive picture of the crisis response system for people with mental illness and co-occurring disorders and what happens in their initial contact with law enforcement.
2. Identification of gaps, resources, and opportunities for individuals in the target population.
3. Development of priorities for activities designed to improve system and service level responses for individuals in the target population



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¹ Munetz, M., & Griffin, P. (2006). Use of the Sequential Intercept Model as an approach to decriminalization of people with serious mental illness. *Psychiatric Services*, 57, 544-549.

Agenda



BJA's VALOR Initiative

Law Enforcement and Community: Crisis Intervention Training Model

Strategic Planning Site Visit (SPSV) Agenda
Honolulu Police Department, Honolulu Hawaii

September 11, 2018 - 8:00 AM – 4:00 PM

Session 1: 8:00AM – 10:00 AM

8:00 Registration – Executive Leadership Session

8:30 Opening

- Welcome and Introductions
- Opening Remarks
- Overview of the Strategic Planning Site Visit
- Workshop Focus, Goals, and Tasks

BJA VALOR Initiative Overview

- Crisis Intervention Team – Summary and Essential Elements
- Law Enforcement and Community: Crisis Intervention Training Model
 - Deliverables & Timeline

10:00 Adjourn Session 1 – Transition to Session 2

Session 2: 10:00 AM – 4:00 PM

10:00 Break and Registration – Sequential Intercept Mapping

10:30 Opening

- Welcome and Introductions
- Opening Remarks
- Workshop Focus, Goals, and Tasks

The Sequential Intercept Model

- The Basis of Cross-Systems Mapping
- Six Key Points for Interception

Cross-Systems Mapping of Intercepts 0-2

- Creating a Local Map
- Examining the Gaps and Opportunities

Wrap Up

- Review

4:00 Adjourn



BJA's VALOR Initiative
Law Enforcement and Community: Crisis Intervention Training Model

Strategic Planning Site Visit (SPSV) Agenda
Honolulu Police Department, Honolulu Hawaii

September 12, 2018 - 8:00 AM – 4:00 PM

Session 2 (continued): 8:00 AM – 12:00 PM

8:00 Registration and Networking

8:30 Opening

- Opening Remarks
- Preview of the Day
- Review Day 1 Accomplishments

Establishing Priorities

- Identify Potential, Promising Areas for Modification Within the Existing System
- Top Five List
- Collaborating for Progress

Create Preliminary Strategic Action Plan

12:00 Lunch/Adjourn – Session 2

Session 3: 1:00 PM – 4:00 PM

1:00 Executive Leadership Session

- Finalize the Strategic Action Plan for implementation of the BJA VALOR Crisis Intervention Training Model

4:00 Adjourn – Session 3

September 13, 2018

Session 4: 8:00 AM – 12:00 PM

8:00 Planning for Training Implementation

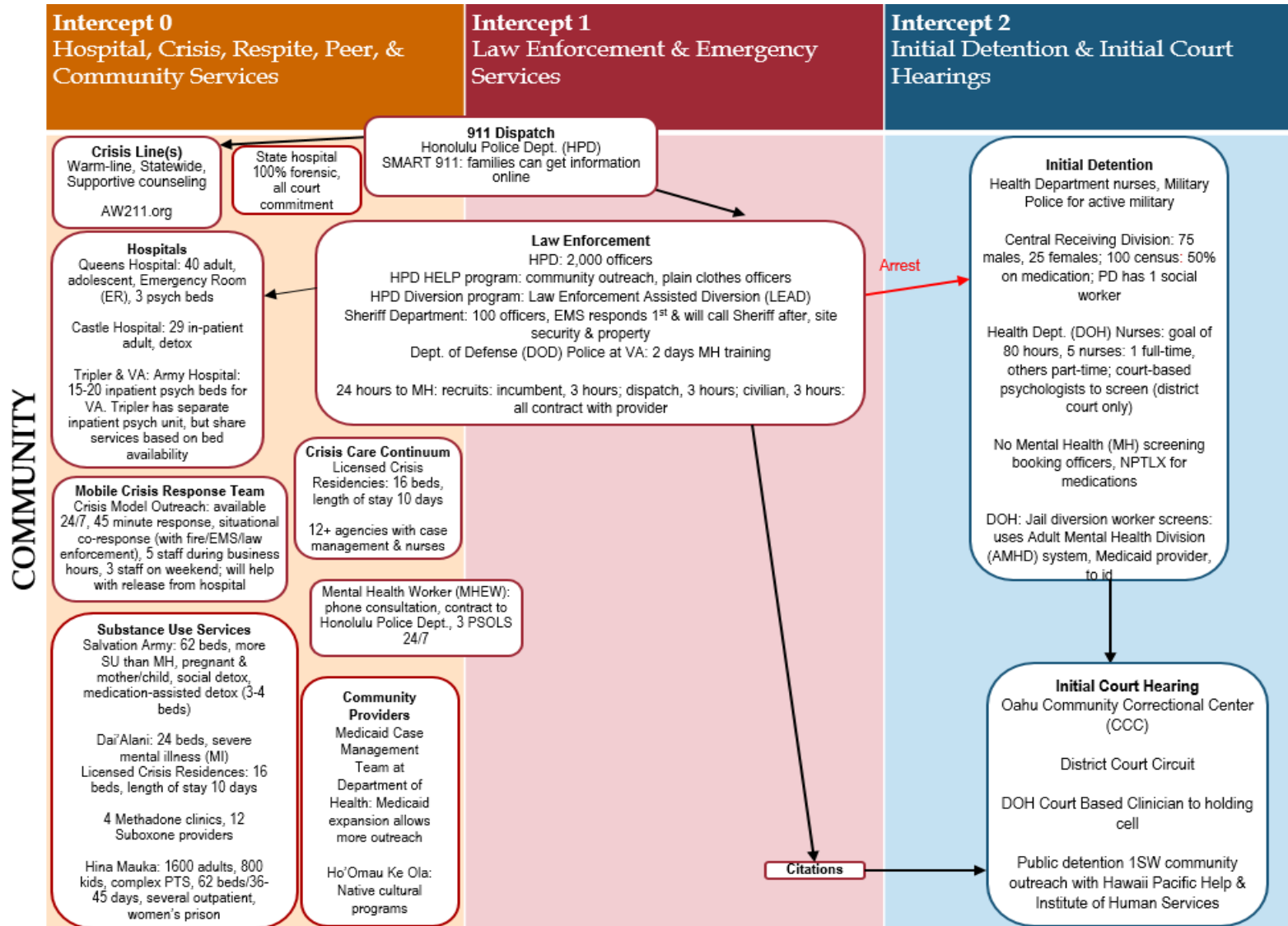
9:00 Program Evaluation & Data Collection

10:00 Curriculum Review and Local Training Component Development

12:00 Adjourn – Session 4

NOTE: There will be breaks for lunch at approximately noon and a 15 minute break mid mornings and mid-afternoons.

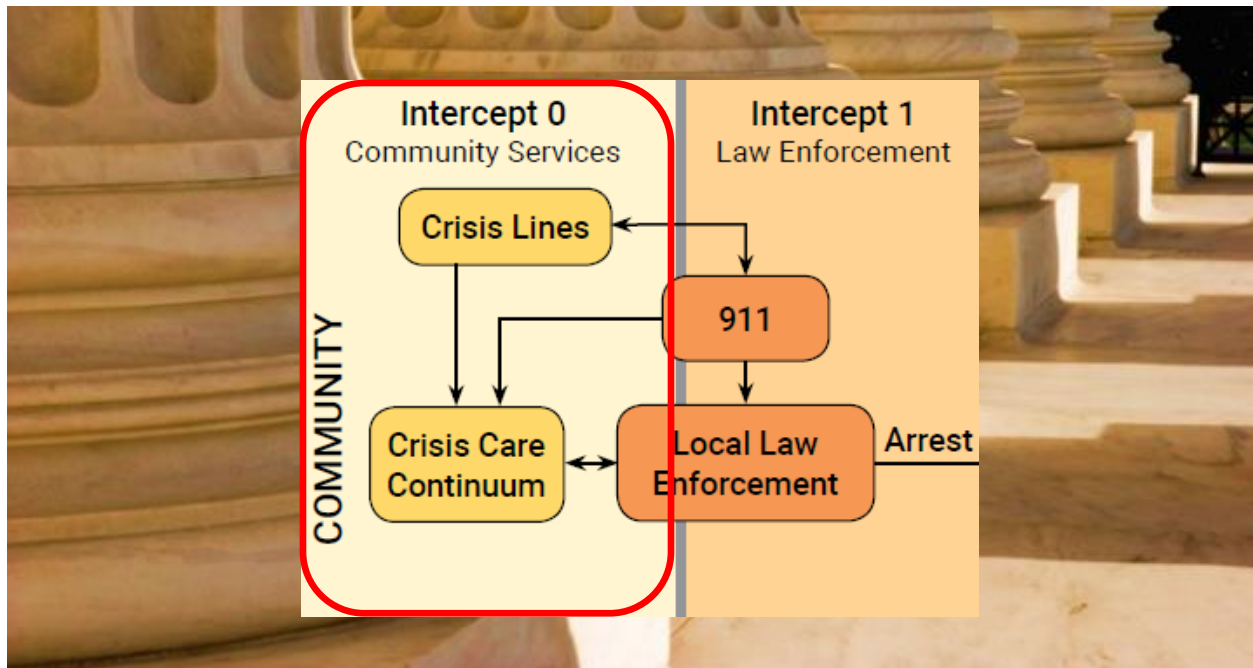
Sequential Intercept Model Map for Honolulu, HI





Resources and Gaps at Intercepts 0-2

The centerpiece of the workshop is the development of a modified Sequential Intercept Model map, specifically on Intercepts 0-2. As part of the mapping activity, the facilitators work with the workshop participants to identify resources and gaps at each intercept. This process is important since the criminal justice system and behavioral health services are ever changing, and the resources and gaps provide contextual information for understanding the local map. Moreover, this map can be used by planners to establish greater opportunities for improving public safety and public health outcomes for people with mental and substance use disorders by addressing the gaps and building on existing resources.



INTERCEPT 0

RESOURCES

- The Adult Mental Health Division (AMHD) Crisis Line, ACCESS, is a warm line that can send mobile crisis outreach and provides supportive counseling.
 - To call the newly named AMHD Crisis Line of Hawaii (formerly the ACCESS Line) is 832-3100 for Oahu residents. For neighboring islands, call toll-free at 1-800-753-6879.
 - To call the second phone line dedicated to helping people find out if they are eligible for government-sponsored mental health services, call 643-AMHD (2643).
 - Along with providing support to people in crisis, the supportive counselors also collect different data points.
 - Licensed residential services has 16 beds available for stabilization, medication management, and peer support attached to crisis services and shelters on voluntary basis for people who may call the Crisis Line of Hawaii.
- Mental Health Workers (MHEW) are contracted by the Honolulu Police Department.
 - Consultation can be done by phone and they keep data on their callers.
- Currently, there is a tracking mechanism for tracking high utilizers of Emergency Room (ER) and the crisis line.
 - If someone has had 3 emergency room visits or 3 arrests, the person is added to a more intensive user list (Intensive Case Management list).

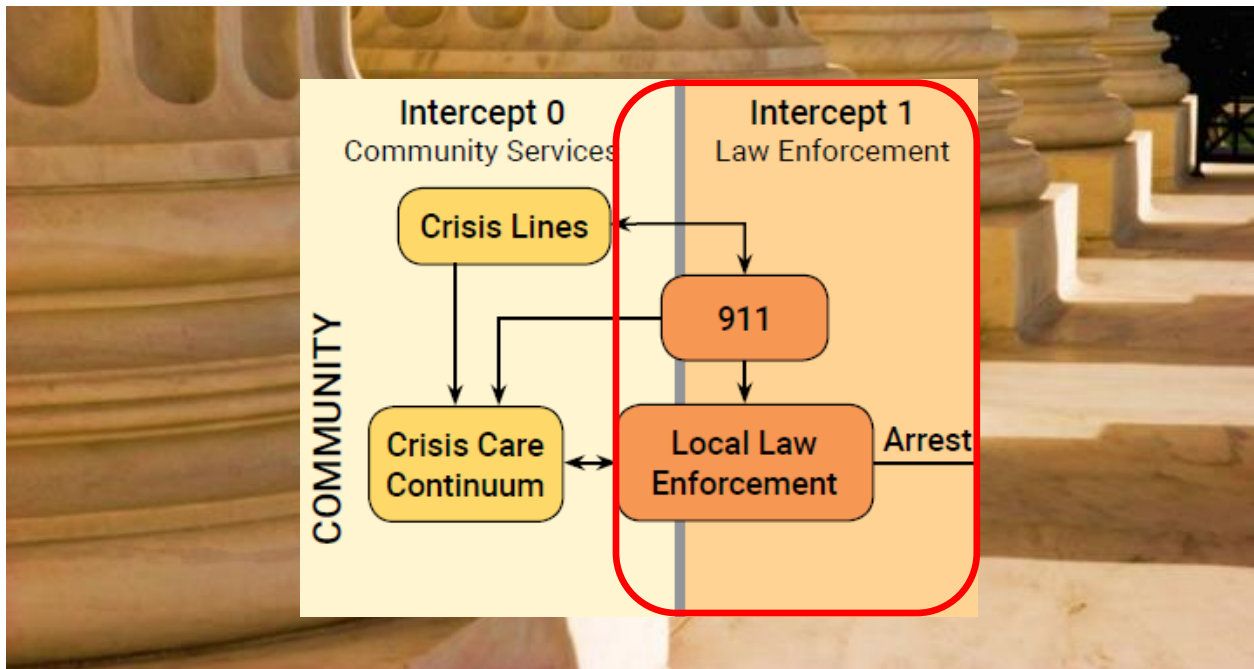
- These individuals are looked at to see where they receive services.
 - Memorandum of Understanding (MOU) with Department of Health to share data for high utilizers, which Honolulu Police Department collects.
- Castle Medical Center’s emergency room (ER) has a shorter wait time for law enforcement officers and is overall, a better emergency room experience.
 - Castle Medical Center has 3 emergency room psychiatric beds.
 - Mental Health Workers (MHEW) track where people with mental health crisis are sent to try and manage utilization at Queens Medical Center or Castle Medical Center as they tend to have the better emergency room experiences.
- For those leaving the emergency room due to a mental health issue, mobile crisis team can respond to the emergency room and assist with discharging to community resources if requested by hospital staff.
- The Salvation Army offers a Social Detox program.
- Currently, Queens Medical Center and Castle Medical Center have a Social Worker, who will assist individuals in applying for Medicaid.
- The H4 Urgent Care (Chinatown) for Homeless is a small-scale, new alternative to the emergency room and brings service providers together.
- Medication Assisted Treatment (MAT) is available through:
 - 4 Methadone clinics
 - 12 Suboxone providers
- Presently, all health plans require a 7 day follow-up.
- Peers are attached to Center for Mental Health Services, crisis services and shelters
 - Peer support services looking at HIPAA compliance apps to share information
- Kokua Life is a free suicide prevention app that provides users with Hawaii resources and tools related to suicide prevention. You can find it in the App store.
 - The app is divided into sections so you can look for information on finding help for yourself or others and includes a resource directory for mental health and social service providers on each island. Kokua Life was created by Mental Health America of Hawaii with funding from the City and County of Honolulu.

GAPS

- It was reported that there is currently a 45 minute wait for mobile crisis to get to the scene.
- It was reported that Medicaid case management (MCM) through Medicaid is not used by the crisis line to respond to the people calling in with a crisis.

- It was stated that the benefits system in Honolulu is an antiquated system.
- It was stated that Assisted Outpatient Treatment (AOT) is underutilized due to a lack of capacity.
- Currently, it was reported that there is a high demand for residential beds and that there are a lack of residential beds available, which can make for long wait times or people being turned away entirely.
- It was reported that Queens Medical Center is hit & miss in relation to the length of time for law enforcement officers to wait, which can be 15 minutes or upwards of an hour. Similarly, there is variability in the experience for law enforcement and availability, which changes frequently as behavioral health in the emergency room is managed by the emergency room staff.
 - It was similarly reported that Queens Medical Center emergency room and inpatient psychiatric patients are managed differently and are not as well connected to services.
 - Likewise, it was reported that Queens Medical Center's placement is particularly high in geriatric patients.
- Currently, it was reported that the state hospital does not serve civil patients, only forensic patients and the local hospitals serve civil patients, which causes bed capacity issues.
 - Similarly reported, there are capacity issues with residential substance use treatment, which has a long wait list.
- NAMI reported that emergency room back door referrals do not often occur.
- It was reported that there is no straight detox. Detox is either done stand alone or in a hospital.
 - In order to receive detox, it was reported that the person will have to say they are suicidal or mentally ill to get the mental health treatment.
 - It was also reported that insurance plans are no longer paying for straight detox, which makes this concern even larger.
- If not CSS or uninsured, it was reported that service access is an issue.
- While there is a Memorandum of Understanding (MOU) between the Department of Health and the Honolulu Police Department, there was a question about whether these departments are sharing adequate information.
- Similarly, it was reported that different organizations use differing terminology to identify the high utilizers of emergency services.
- There are reported barriers between databases and information sharing among providers to include veteran's affairs (VA). One of these barriers includes the need for more sharing agreements among providers and within the system itself as there are still large silo's that exist.
- The Department of Education and Department of Health are reportedly starting to work together to create a universal release form.
- It was reported that there is a lack of available psychiatrists, which can leave new patients waiting for months to be seen.

- It was suggested the there is a need to integrate peer specialists into the service delivery system.



INTERCEPT 1

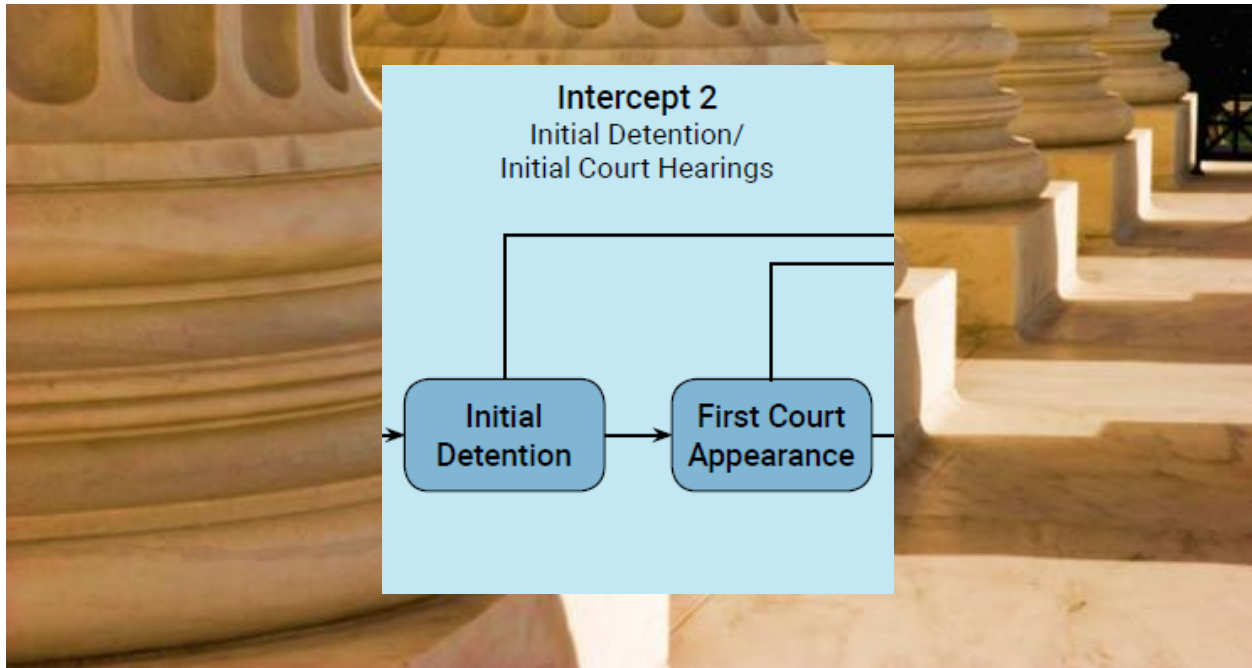
RESOURCES

- Paramedics and Emergency Medical Services Teams (EMT) have general behavioral health knowledge, but not specialized Mental Health First Aid training (MFHA).
- Honolulu Police Department will training non-CIT officers in Mental Health First Aid.
- Mental Health First Aid Youth is available by the Developing Options to Violence (DOV) through Child & Family Service.
 - The fire department has trained youth responders on Mental Health First Aid.
- Hawaii Health and Harm Reduction Center (HHRC) and Law Enforcement Assisted Diversion (LEAD) are completing a system gap analysis.
- HELP is a police department-based community outreach program, which includes a 4-hour training for officers to learn about various programs and how to effectively interact/approach the homeless population of O'ahu
- Current mental health training within the Honolulu Police Department includes:
 - 24-hour mental health for new recruits
 - 3 hours/year for incumbent sworn personnel
 - 3 hours/ year for new dispatchers
 - Online mental health training for civilian employees
- Cheryl, the Veteran's Justice Outreach (VJO) person trained military police for 2 days
- SMART 911 is a national service that collects and stores a persons' information to assist 911 dispatchers in locating the person should that person ever call 911 from their cell phone. As over 80% of calls made to 911 come from cell phones, only your number and a general sense of the persons' location is available to the dispatcher. With Smart 911, a person can provide 911 dispatchers and first responders with critical information you would want them to know in any kind of emergency. Smart 911 has online registration for easy access to the program and is visible to any participating 911 center nationwide.
 - Safety profiles include: people living in your household, pets, service animals and livestock, medications and medical equipment, vehicle descriptions, phone numbers associated with your family, medical conditions and allergies, property details, layout and utility information, and emergency contacts.

GAPS

- It was reported that dispatch does not ask military or veteran status when answering calls.
- It was suggested that there is a need to expand mental health first aid training.

- Similarly, it was suggested that Honolulu needs to increase its alternatives to the emergency room and alternatives for police.
 - It was reported that there is lack of a crisis stabilization unit on the island.
- There was a reported issue with school calls, where a school will make a call to law enforcement officers for a student with a mental health diagnosis, but the school is unable to share their treatment plans due to rules laid out by the Department of Education.
- It was reported that the Sheriff department has resource issues and a narrow focus on what the important issues are to focus on.
- It was stated that peers are underutilized across all intercepts.



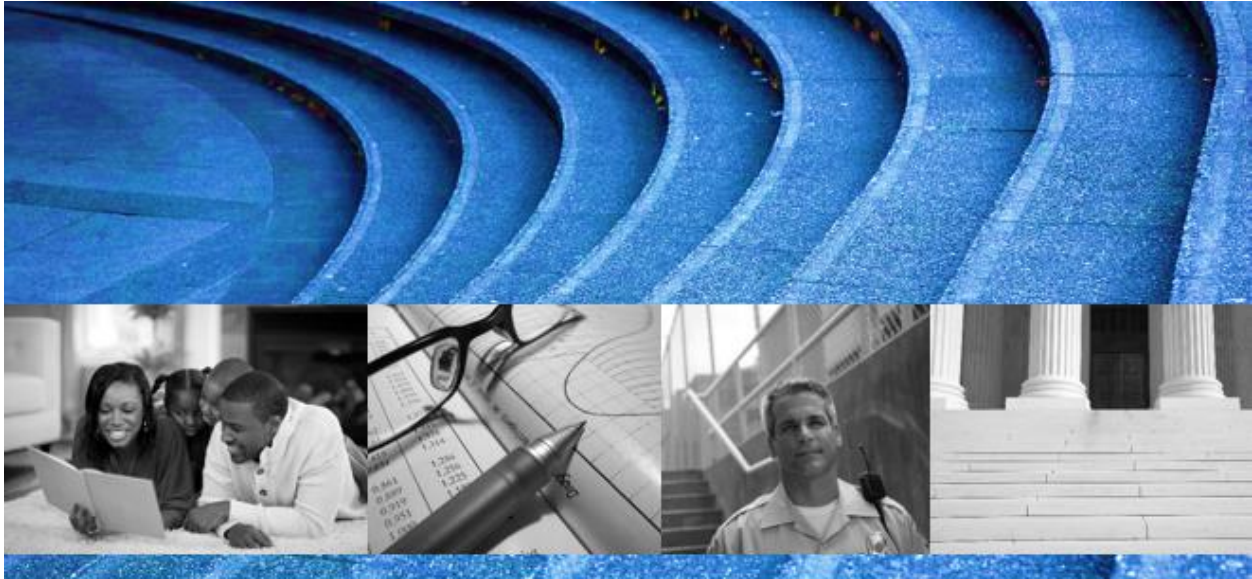
INTERCEPT 2

RESOURCES

- The Department of Health’s (DOH) Community Mental Health Center (CMHC) go to jail every day in order to identify those with mental illness, so that they can assist them once they are back in the community.
- The Department of Health has psychologists that are court-based to screen for behavioral health issues. However, this program is only for the District Court and misdemeanors.
 - These program psychologists have access to check with the Community Mental Health Center and with private mental health practitioners to see if they have their clients as a follow-up.

GAPS

- It was reported that the two Department of Health workers that work in jail and in court need to talk more with each other.
- Presently, it was stated that there is no nursing coverage available 24/7 when a person is being booked.
- Similarly, it was stated that booking officers do not screen for mental health diagnoses or symptoms.



Priorities for Change

The priorities for change are determined through a voting process. Workshop participants are asked to identify a set of priorities followed by a vote where each participant has three votes. The voting took place on September 12, 2018. The “Action Plan” priorities are highlighted in italicized text, and the preliminary work plans that were developed to address those areas during the workshop are detailed later in this report

- 1. Expand crisis care continuum (13 votes)***
- 2. 1 stop referral for CIT Officers (12 votes)***
- 3. Expand peer utilization across intercepts 0-2 (8 votes)***
4. Information sharing; explore “universal” release form
5. Improve integration between mobile crisis, CIT officers, and H4
6. Medically assisted treatment (MAT) and medically managed substance use alternatives
7. Improve crisis line and 911 integration
8. Continue conversation on AOT/ACT
9. Insure equal crisis coverage across regions



Parking Lot

Some gaps identified during the Sequential Intercept Mapping are too large or in-depth to address during the workshop. These issues are listed below.

- It was suggested the Honolulu review current criminal sanctions.
- Better coordination for cash assistance, food stamps, and lost paperwork.
- It was reported that there is a lack of state hospital long term care for patients.
 - The only access to long term care requires criminal charge and court commitment to state hospital which is 100% forensic.
- There is a need for state guidance on data sharing, integration and information sharing, as many concerns about information sharing come from federal regulations, such as HIPAA or the Department of Education.



Recommendations

Honolulu has a number of exemplary programs that address criminal justice/behavioral health collaboration. Still, the mapping exercise identified areas where programs may need expansion or where new resources and programming must be developed.

1. Continue to shape efforts by formalizing a County-wide Criminal Justice/Behavioral Health Planning Body to address the needs of justice-involved persons with mental health and substance use disorders.

It is noted that Oahu County has adopted a Stepping Up Resolution. However, a standing Committee or task force is yet to be developed. Discussion with participants resulted in a decision that a CIT Steering Committee and CIT Advisory Group would be developed. CIT Steering Committee Members were identified at the close of the site visit. (Appendix X). Membership of the Advisory Committee was discussed and many SIM Workshop participants asked to join. Final Advisory Committee membership will be determined in the coming weeks.

Because of the central role both Castle and Queens Hospital will have in effective crisis response, we aside from participation in the Advisory Committee, that they have representation on the Steering Committee.

There is currently a lack of coordinated Behavioral Health and Criminal Justice planning on Oahu. In the long term, development of a formal planning group should be considered. There is a need for on-going dialogue, joint planning, and increasing awareness regarding system resources. Implementation of initiatives to increase diversion opportunities will require involvement of a broad group of stakeholders with sufficient authority to impact state-, county-, and municipal-level change.

Bexar County (Texas), Memphis (Tennessee), New Orleans Parish (Louisiana), Los Angeles (California) and Pima County (Arizona) are examples of counties and municipalities that have developed Criminal Justice Mental Health Planning Committees.

Also, the following national initiatives can inform planning efforts and provide technical assistance to enhance community collaboration:

- The International Association of Chiefs of Police's One Mind Campaign
<http://www.theiacp.org/onemindcampaign/>

- The Stepping Up Initiative
<https://stepuptogether.org/>

2. Expand Crisis Care Services

Expansion of crisis services and development of a 1 stop drop off for Law Enforcement were the 1st and 2nd ranked priorities. Currently, the main drop off locations for urgent/crisis/emergency evaluation are emergency rooms at either Queens Hospital or Castle Hospital. However, participants reported that responsiveness to police drop-offs are varied and law enforcement wait can in the emergency room can range from 15 minutes to over an hour or longer. For individuals not admitted referral linkages are inconsistent. In addition collecting data on hospital emergency room uncompensated care costs may help engage the hospitals in on-going participation as CIT program development stakeholders since it is likely that CIT program development and enhanced partnerships will reduce ER referrals and decrease uncompensated care costs. Virginia conducted an uncompensated care study to examine costs of behavioral health use of Emergency Rooms and offered remedies to address uncompensated care costs “Hospital Uncompensated Care Costs in Virginia”, Policy Brief. September 2015.

(https://hbp.vcu.edu/media/hbp/policybriefs/pdfs/VCU_DHBP_HUCC_WEB.pdf).

Development of a Crisis Stabilization Unit, may be a long term outcome of this initiative.

There is a mobile crisis linkage, which is a significant island wide resource, which will likely provide additional support to law enforcement response and will likely provide follow-up to an initial law enforcement response. The mobile team standard is to respond to a call within 45 minutes. Participants reported that mobile crisis capacity to meet this standard can at times be challenged. Capacity to provide co-response once CIT is implemented may also be limited depending on time of day and other service demands.

To be effective, mobile crisis must be adequately staffed to respond promptly to crisis calls. More communities are coordinating mobile crisis team responses with law enforcement especially during peak call hours and co-locating services or embedding clinicians in police district headquarters. Often these services are augmented by providing telephone or videoconference consultation to law enforcement.

The Crisis Residential Program and H4 are also likely to provide additional crisis response alternatives for law enforcement and emergency room diversion. This program is often at capacity and so, ER's continue to be over utilized.

In addition to the MHEW phone support already provided to on-scene officers, enhancing this support with videoconferencing to Oahu's Crisis Services could enhance crisis support to law enforcement particularly in the more remote areas of the Island.

- Remington, A. (2016). *Skyping During a Crisis? Telehealth is a 24/7 Crisis Connection* (see Appendix 1). Also the Behavioral Health Response (BHR) provides [Virtual Crisis Support](#) to the St. Louis, MO police department

The Substance Abuse and Mental Health Services Administration (SAMHSA) and many states have begun to identify a “Continuum of Care for Crisis Services” (see Resources Section) In addition, states including Texas, New York, Virginia, Arkansas and California have state-funded initiatives to enhance crisis services in communities.

More recently, the [Crisis Now Network](#) has identified Core Elements of Crisis Response and toolkits for expanding crisis services including a self-assessment matrix.

Also, mentioned during the SIM Workshop is the [MHA Human Services Directory](#) “Finding Help: A Human Services Directory for the State of Hawaii”, which was updated as recently as May, 2018. The Directory is an important resource for CIT program development and resource awareness.

3. At all stages of the Sequential Intercept Model, gather data to document the processing of people with mental health and substance use disorders through the criminal justice system locally.

Improving cross system data collection and integration is key to identifying high user populations, justifying expansion of programs, and measuring program outcomes and success. Creating a data match with information from local/state resources from time of arrest to pre-trial can enhance diversion opportunities before and during the arraignment process.

Data collection does not have to be overly complicated. For example, some 911 dispatchers spend an inordinate amount of time on comfort and support calls. Collecting information on the number of calls, identifying the callers and working to link the callers to services has been a successful strategy in other communities to reduce repeated calls. Dashboard indicators can be developed on the prevalence, demographics, and case characteristics of adults with mental and substance use disorders who are being arrested, passing through the courts, booked into the jail, sentenced to prison, placed on probation, etc.

A mental health dashboard can also be developed to monitor wait times in hospitals for people in mental health crises and transfer times from the emergency department to inpatient units or other services to determine whether procedures can be implemented to improve such responses. These dashboard indicators can be employed by a county planning and monitoring council to better identify opportunities for programming and to determine where existing initiatives require adjustments.

Join the Arnold Foundation and National Association of Counties (NACo) [Data Driven Justice Initiative](#) (DDJ). The publication “[Data-Driven Justice Playbook: How to Develop a System of Diversion](#)” provides guidance on development of data driven strategies and use of data to develop programs and improve outcomes.

See also the *Data Analysis and Matching* publications in the Resources Section

4. Develop Memoranda of Understanding regarding information sharing.

There was substantial confusion and disagreement about sharing information among providers and with law enforcement. MOU's among agencies will improve stakeholder cooperation and collaboration and minimize confusion regarding information sharing.

The resource section of this document provides guidance regarding HIPAA and information sharing. Many communities have developed universal releases to facilitate release of information among stakeholders (Appendices 2, 3, 4 and 5.)

The NAMI Los Angeles Chapter developed an Inmate Medication Form (available on jail websites across the state) which enables family members to transmit essential healthcare information to jail healthcare staff to facilitate continuity of care and family involvement. (See Resources section).

5. Expand substance use disorder (SUD) treatment options and integrate strategies with current initiatives.

Participants identified SUD treatment capacity and access as a significant gap. Participants identified significant substance use treatment resources but noted deficits in residential bed access. Insuring prompt referral pathways to these programs will be critical to successful CIT program implementation.

It was noted that HPD is also developing a LEAD initiative and that there will likely be overlap in planning, training and resource awareness and development.

- The 2016 SAMHSA publication, *Screening and Assessment of Co-occurring Disorders in the Justice System* developed by Roger Peters and the SAMHSA GAINS Center (see *Screening and Assessment* section of the Resources), provides an overview of screening and assessment and treatment of individuals with co-occurring disorders in the criminal justice system. In addition, Screening and Assessment instruments for mental illness, substance use, co-occurring disorders, treatment motivation and trauma/PTSD.
- The SAMHSA publication, *Detoxification and Substance Abuse Treatment*. Treatment Improvement Protocol (TIP) Series, No. 4 SAMHSA Tip 45, provides communities with guidance on a continuum of inpatient and outpatient care for detoxification services and identifies best practices.
- Jails and prisons are increasingly utilizing Medication Assisted Treatment (MAT) at the point of reentry. See the *Medication Assisted Treatment* section of the Resources.
- The *San Diego Serial Inebriate Program* is a nationally recognized program to offer services to a chronic inebriate population.
- The 2016 *21st Century Cures Act* offers significant funding opportunities to address the Opioid Crisis. <https://www.napsw.org/assets/docs/Advocacy/caracuresact%202.22.17%201.pdf>

6. Expand the utilization of peer support across Intercepts.

Participants identified expansion of peer support across the crisis and criminal justice spectrum as the 3rd ranked priority. Settings that have successfully involved peers include crisis evaluation centers, emergency departments, jails, treatment courts, and reentry services. Please see the below for more information:

- [Peerstar Forensic Peer Support](#)
- [Keya House](#)
- [Real Program](#)

7. Improve access to Medicaid and Social Security.

Participants indicated that a barrier to care is access to health insurance. The Affordable Care Act has expanded access to Medicaid, yet communities across the country have lagged in enrolling justice involved individuals in Medicaid. A more aggressive and coordinated approach is needed to insure Medicaid benefits essential to continuing prescribed medication and accessing critical behavioral health services. Strategies include providing jail-based or diversion health personnel with access to the local Medicaid database to promptly identify enrollees and insure continuation of coverage.

Increasing efforts to enroll justice-involved persons with behavioral disorders in the Supplement Security Income and the Social Security Disability Insurance programs can be accomplished through utilization of SSI/SSDI Outreach, Access, and Recovery (SOAR) trained staff. Enrollment in SSI/SSDI not only provides automatic Medicaid or Medicare in many states, but also provides monthly income sufficient to access housing programs.

- Information regarding [SOAR for justice-involved persons](#).
- The online [SOAR training portal](#).

Social Security Disability (SSD) and Social Security Supplemental Income (SSI) provide medical benefits and income which can improve access to housing and other services. Social Security Outreach Access and Recovery training (SOAR) can improve successful enrollments and reduce approval times from months to as soon as 60 days.

- Hawaii's State Team Lead in SOAR is Yara Sutton.

Yara Sutton, MBA, MS
Acting Programs Support Services Chief
Housing and Homeless Services Coordinator
Adult Mental Health Division
Hawaii Dept. of Health

808-453-6940 (office)

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Strategic Action Plans

PRIORITY AREA 1

EXPAND THE CRISIS CARE CONTINUUM

Objective	Action Step	Who	When
Crisis beds for co-occurring high utilizers	Create a task force to discuss (may already have) Research what, where, & how many Discuss in MH-I group Lobby stakeholders – advocate CIT Queens Castle insurance AMHD ADAD DHS Providers NAMI HSAC MHA	Dr. Champion Eddie Meseresu Alicia R.	
Crisis Prevention	Develop peer specialists Training staff/case manager to address risk & protective factors Promote crisis text line	Michael Peacock NAMI	
Crisis after care	Utilize WRAP Risk and protective factors Especially adolescents		
Sub-acute stabilization center (all ages)	Create a work group to discuss Research what, where how many	HAH, AMHD, CAMHD, ADAD, DHS, Insurance providers	
Case Management for substance abuse	Integrate Substance Abuse Case Management with Mental Health Case Management	ADAD, DHS	
Expand CIT through technology	Expand capacity Improve use of technology for communication	HPD, AMHD, DHS	

PRIORITY AREA 2

1 STOP REFERRAL FOR CIT OFFICERS

Objective	Action Step	Who	When
Create drop in center 24/7 Provide supportive services to first responders	Find location Find partners(priority MOA's) Find funding	Social worker Peer specialist Family/volunteer Mental Health Substance abuse Security Transport Translator/communication	
Mobile referral 24/7 Transport Response	Find partners Expand access line & CMO response	State / city	
Increase case management response to 24/7			

PRIORITY AREA 3

EXPAND PEER UTILIZATION ACROSS INTERCEPTS 0-2

Intercept	Objective	Action Step	Who	When
Intercept 0	Increase number of peers available at crisis line	Train interested peers in crisis line procedures	Defer to Dept. of Health to conduct/coordinate training	Start conversation with Dept. of Health within 60 days
Intercept 0	Include peers throughout crisis care continuum (eg. Crisis mobile outreach, CIT outreach, hospital lobby, one-stop-shop, peer network)	Identify key leadership to strategize peer utilization expansion throughout crisis care continuum	Coordinate meeting between NAMI HI, United self-help, HV2V, HHHRC	Set up initial meeting within 60 days
Intercept 1	Include peers w/CIT related 911 calls	Coordinate with HPD dispatch and crisis line	HPD dispatch peers and crisis line	Follow up in January 2019 after CIT training
Intercept 2	Include access to peers at initial detention (cellblock) and first court appearance	Coordinate peers with CIT and jail diversion to set up and public defender	HPD-CIT and Jail diversion with peers and public defender	Follow up in January 2019 after CIT training



Resources

CRISIS CARE, CRISIS RESPONSE, AND LAW ENFORCEMENT

- International Association of Chiefs of Police. [*Building Safer Communities: Improving Police Responses to Persons with Mental Illness.*](#)
- Suicide Prevention Resource Center. [*The Role of Law Enforcement Officers in Preventing Suicide.*](#)
- Saskatchewan Building Partnerships to Reduce Crime. [*The Hub and COR Model.*](#)
- International Association of Chiefs of Police. [*Improving Police Response to Persons Affected by Mental Illness: Report from March 2016 IACP Symposium.*](#)
- International Association of Chiefs of Police. [*One Mind Campaign.*](#)
- Optum. [*In Salt Lake County, Optum Enhances Jail Diversion Initiatives with Effective Crisis Programs.*](#)
- Bureau of Justice Assistance. [*Engaging Law Enforcement in Opioid Overdose Response: Frequently Asked Questions.*](#)
- The [*Case Assessment Management Program*](#) is a joint effort of the Los Angeles Department of Mental Health and the Los Angeles Police Department to provide effective follow-up and management of selected referrals involving high users of emergency services, abusers of the 911 system, and individuals at high risk of death or injury to themselves.
- National Association of Counties. [*Crisis Care Services for Counties: Preventing Individuals with Mental Illnesses from Entering Local Corrections Systems.*](#)
- [*CIT International.*](#)

DATA ANALYSIS AND MATCHING

- Data-Driven Justice Initiative. [Data-Driven Justice Playbook: How to Develop a System of Diversion.](#)
- Urban Institute. [Justice Reinvestment at the Local Level Planning and Implementation Guide.](#)
- The Council of State Governments Justice Center. [Ten-Step Guide to Transforming Probation Departments to Reduce Recidivism.](#)
- New Orleans Health Department. [New Orleans Mental Health Dashboard.](#)
- Pennsylvania Commission on Crime and Delinquency. [Criminal Justice Advisory Board Data Dashboards.](#)
- Corporation for Supportive Housing. [Jail Data Link Frequent Users: A Data Matching Initiative in Illinois \(See Appendix 3\)](#)
- Vera Institute of Justice. [Closing the Gap: Using Criminal Justice and Public Health Data to Improve Identification of Mental Illness.](#)

HOUSING

- Alliance for Health Reform. [The Connection Between Health and Housing: The Evidence and Policy Landscape.](#)
- Economic Roundtable. [Getting Home: Outcomes from Housing High Cost Homeless Hospital Patients.](#)
- 100,000 Homes. [Housing First Self-Assessment.](#)
- Urban Institute. [Supportive Housing for Returning Prisoners: Outcomes and Impacts of the Returning Home-Ohio Pilot Project.](#)
- Corporation for Supportive Housing. [NYC FUSE – Evaluation Findings.](#)
- Corporation for Supportive Housing. [Housing is the Best Medicine: Supportive Housing and the Social Determinants of Health.](#)
- Corporation for Supportive Housing. [Guide to the FUSE Model.](#)

INFORMATION SHARING

- American Probation and Parole Association. [Corrections and Reentry: Protected Health Information Privacy Framework for Information Sharing.](#)

- Legal Action Center. [Sample Consent Forms for Release of Substance Use Disorder Patient Records.](#)
- Council of State Governments Justice Center. [Information Sharing in Criminal Justice-Mental Health Collaborations: Working with HIPAA and Other Privacy Laws.](#)
- NAMI California. [Inmate Medication Information Forms](#)

JAIL INMATE INFORMATION

- NAMI California. [Arrested Guides and Inmate Medication Forms.](#)

MEDICATION ASSISTED TREATMENT (MAT)

- American Society of Addiction Medicine. [The National Practice Guideline for the Use of Medications in the Treatment of Addiction Involving Opioid Use.](#)
- American Society of Addiction Medicine. [Advancing Access to Addiction Medications.](#)
- Substance Abuse and Mental Health Services Administration. [Federal Guidelines for Opioid Treatment Programs.](#)
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Appendix C – Getting it Right



TABLE OF CONTENTS

	Page
I. Introduction	1
II. Fundamental Change is Necessary and Long Overdue	4
A. A Brief Overview of Hawai‘i’s Correctional System	4
B. The Harsh Reality of a Broken System	7
1. The Oversight Commissioner’s Report on the Hawai‘i Community Correctional Center (HCCC)	7
2. The Oversight Commissioner’s August 18, 2022 Report	9
3. Significant Events in the Past Eight Months	10
III. Planning for the New Jail Has Not Followed Best Practices	12
IV. Mandates for Change to A Rehabilitative System	16
A. Statutory Mandates for a Rehabilitative and Therapeutic Correctional System	16
B. The Hawai‘i Correctional System Oversight Commission’s Mandate for Change	20
C. The National Tide of Change.....	21
D. Resources to Support Change	23
V. The Path Forward – The NIC Jail Design Guide	25
VI. Designing for Rehabilitation: The Las Colinas Detention and Reentry Facility	29
VII. Good Facility Design Should Be Supported by Proper Staff Training	32
VIII. Recommendations and Action Plan.....	32
Conclusion	34
Endnotes	36

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 Waianuenue 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 “**Predesign Planning**” process.⁷⁷ This Predesign 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 Predesign 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.
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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.hawaiinewsnow.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.

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Getting It Right: Better Ideas for a New Jail

by Robert K. Merce

APPENDIX

TABLE OF CONTENTS

	<i>Page</i>
Introduction	1
The Jail Planning Process Was Flawed From The Very Beginning	2
A Critical Mistake Sent the Planning Process In The Wrong Direction	3
The State Deliberately Ignored Best Practices in the Planning Process	3
The Public Was Completely Shut Out of the Planning Process	5
We Should Not Commit to a New Jail Until We Know How Much It Will Cost	7
The Utah State Prison: A Cautionary Tale	7
The New Jail Will Make Hawaii’s Long-Term Fiscal Problems Worse	8
The Operating Costs of the New Jail Are Not Sustainable	9
Creating Off-Ramps To Reduce the Jail Population	10
P3s Are Not Suitable for Planning Jails	14
21 st Century Jail Design	18
Modern Jails Should Have A Problem-Solving Function	19
Intensive Re-Entry Support–The Queens Care Model	20
Some Design Elements of a 21 st Century Jail	20
Conclusion	21
Endnotes	23

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

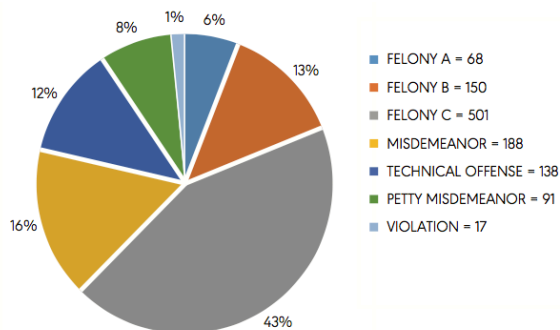
Honolulu has a wealth of innovators and thought-leaders from business, labor academia, non-profits, and other interest groups who are ready to share their knowledge, experience and insights in a collaborative effort to improve our criminal justice system and plan and design a jail that will meet the 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

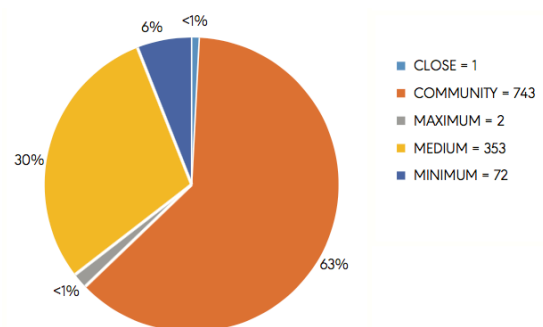
In June, 2021, DPS and DAGS received a report from one of their consultants that said “assuming there are no changes in our criminal justice or correctional policies,” by 2024 the average daily population (ADP) of the new jail will be 1,237 inmates, and that the ADP would decrease to 918 inmates by 2032.⁴⁰

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.

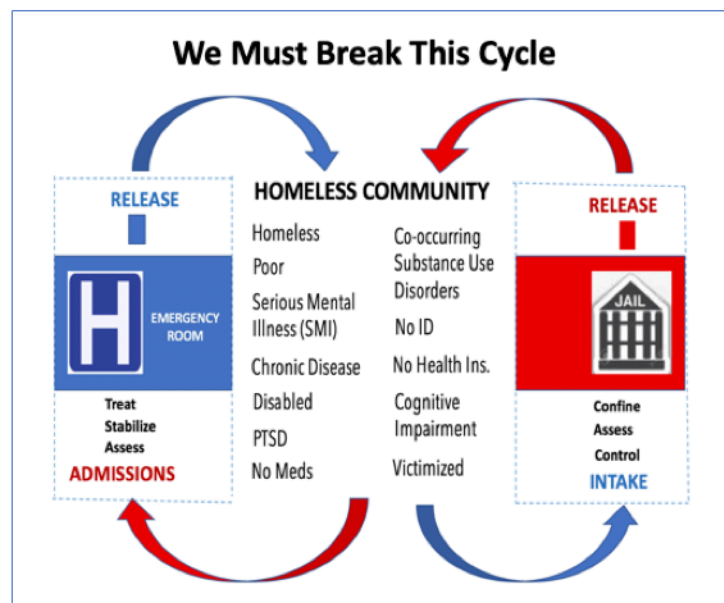
It is time for legislators and the public to step up and demand transparency in the planning of the new jail and ***put an end to the secret P3 process.***

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

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ENDNOTES

¹ Kevin Dayton, “Planning Costs Climb For New Oahu Jail as Debate Drags on Over its Scope,” *Honolulu Civil Beat*, January 3, 2022. <https://www.civilbeat.org/2022/01/ige-asks-for-15-million-more-to-plan-new-oahu-jail-but-wants-to-cut-costs/>

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Appendix D – HB1741



A BILL FOR AN ACT

RELATING TO CHILDREN AND FAMILY OF INCARCERATED INDIVIDUALS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that the National
2 Resource Center on Children and Families of the Incarcerated
3 reports that on any given day, an estimated 2,700,000 children
4 in America have at least one parent in prison or jail. A 2014
5 study by the University of California - Irvine shows that
6 significant health problems and behavioral issues were
7 associated with children of incarcerated parents, and that
8 parental incarceration may be more harmful to children's health
9 than divorce or death of a parent. Furthermore, it is evidenced
10 that children of incarcerated parents are more likely to become
11 incarcerated themselves as teenagers or adults, thus continuing
12 the cycle of incarceration that becomes generational in some
13 families, and sadly, a reality for many in the State.

14 The legislature further finds that children of incarcerated
15 parents are some of the nation's most vulnerable and
16 marginalized populations. Parental incarceration is noted as
17 being a strong risk factor and determinant for many adverse



1 outcomes for children, including antisocial and violent
2 behavior, mental health problems, failure to graduate from
3 school, and unemployment. Parental incarceration is nationally
4 recognized under "adverse childhood experiences" by Kaiser
5 Permanente, the Centers for Disease Control and Prevention, and
6 the Substance Abuse and Mental Health Services Administration
7 and is distinguished from other adverse childhood experiences by
8 the unique combination of trauma, shame, and stigma.

9 The legislature finds that Hawaii organizations that serve
10 children and families affected by parental incarceration have
11 developed a myriad of services aimed at this population;
12 however, there continue to be major gaps in service,
13 particularly because funding for these programs has never been
14 established as a priority. One reason is that data on children
15 of incarcerated parents have not been available. The absence of
16 data means that there is insufficient evidence available to
17 illustrate and justify the extent of the problem in Hawaii.
18 This is especially true for service providers who receive
19 federal funding to assist children and families to break the
20 cycle of incarceration.



1 In January 2014, the legislature's keiki caucus established
2 the family reunification working group to explore issues
3 surrounding children and families impacted by incarceration.
4 The group comprised representatives from several organizations
5 and service providers, including Blueprint for Change; Hawaii
6 Prisoners Resource Center, dba Holomua Center; the office of
7 Hawaiian affairs; ALU LIKE, Inc.; Queen Liliuokalani Children's
8 Center; Keiki O Ka Aina Learning Centers; Family Programs
9 Hawaii; Adult Friends for Youth; Community Alliance on Prisons;
10 TJ Mahoney/Ka Hale Hoala Hou No Na Wahine; Chaminade
11 University's Native Hawaiian Program; and Makana o Ke Akua Clean
12 and Sober Living. It also included parents of children who have
13 been affected by incarceration. The group established two
14 immediate priorities to work on: a database of children in
15 Hawaii impacted by incarceration and a one-stop resource center
16 for these children and their families. Act 16, Session Laws of
17 Hawaii 2015, required the department of public safety to begin
18 collecting data at the point of intake on the number of minor
19 children under the age of eighteen from each incarcerated
20 parent. Based on this data, in Hawaii there are approximately



1 four thousand children a year affected by parental
2 incarceration.

3 Furthermore, the legislature finds that the prison
4 environment can be frightening and traumatizing for children,
5 both in the attitudes and behaviors of prison staff and the
6 harshness of the physical setting of visitation sites. Visits
7 can include long waits, body frisks, rude treatment, and
8 exposure to crowded visiting rooms with no activities for
9 children. Those conditions do not encourage frequent visits
10 between incarcerated parents and their children. Studies
11 suggest the maintenance of family ties and parent-child
12 relationships is linked to post-release success, lower rates of
13 recidivism, and fewer parole violations; therefore, visitation
14 should be encouraged.

15 To address problems with visitation and family support, the
16 keiki caucus introduced, and the legislature adopted, House
17 Concurrent Resolution No. 205 (2019) and Senate Concurrent
18 Resolution No. 7, S.D. 1 (2019). These resolutions requested
19 the department of human services, in consultation with the
20 department of public safety, to work with the family
21 reunification working group and other stakeholders to develop a



1 plan to establish children-friendly and family-friendly
2 visitation centers at all state correctional facilities to
3 ensure the well-being of children of incarcerated parents and
4 their families. A working group was convened in August 2019 and
5 after several meetings the group developed a proposal calling
6 for the establishment of a pilot visitation and family resource
7 project to be located at Waiawa correctional facility in Waipahu
8 on Oahu.

9 The working group found that there are working models that
10 can be emulated and referenced for effectiveness and
11 applicability. One successful example is the visitation center
12 program established in California by the non-profit organization
13 Friends Outside that is funded by the California department of
14 corrections and rehabilitation under legislative mandate. The
15 primary purpose of those visitation centers is to remove
16 barriers and facilitate family visitation to strengthen and
17 reunify families with an emphasis on the well-being of the
18 child. California's visitation centers are located on prison
19 grounds but outside the prison walls and staffed with employees
20 trained to educate children on their parents' incarceration
21 through age-appropriate means, inform children and families of



1 prison and jail policies to ensure they work with their
2 incarcerated loved ones to abide by and uphold state rules and
3 regulations, connect children and families with resources in the
4 community, and facilitate incarcerated parent-child
5 relationships by addressing trauma during the period of
6 incarceration. California's visitation centers serve as a one-
7 stop shop for the children and families, which also help to
8 alleviate demands on the corrections department.

9 The legislature finds that the establishment of family
10 visitation and resource centers is in the best interest and
11 well-being of children and, as studies suggest, may have many
12 benefits for the incarcerated parent and other family members,
13 the community, and the State.

14 The purpose of this Act is to:

- 15 (1) Acknowledge adverse experiences faced by children of
16 incarcerated parents;
- 17 (2) Encourage continued efforts and engagement between the
18 department of human services, department of public
19 safety, family reunification working group, and other
20 community stakeholders to find ways to improve
21 visitation at state correctional facilities;



1 (3) Require the department of human services to work with
2 the department of public safety, family reunification
3 working group, and other entities serving children and
4 families affected by parental incarceration to
5 establish a pilot visitation and family resource
6 center at Waiawa correctional facility on Oahu that
7 has trauma-informed professionals on its staff who
8 serve as liaisons and hookele for families affected by
9 incarceration; and

10 (4) Appropriate funds necessary to establish, develop, and
11 implement the pilot visitation and family resource
12 center.

13 SECTION 2. (a) The department of human services shall
14 continue to lead a working group to address visitation and
15 support needs of children and families of incarcerated
16 individuals pursuant to House Concurrent Resolution No. 205
17 (2019) and Senate Concurrent Resolution No. 7, S.D. 1 (2019).

18 (b) The working group shall determine the anticipated
19 initial and annual costs to run a sustainable pilot visitation
20 and family resource center at Waiawa correctional facility on
21 Oahu.



1 (c) Beginning August 1, 2022, the department of human
2 services shall work with the department of public safety, family
3 reunification working group, and other entities serving children
4 and families affected by parental incarceration to establish a
5 pilot visitation and family resource center at Waiawa
6 correctional facility on Oahu.

7 (d) The pilot visitation and family resource center shall
8 be operated by a non-profit organization contracted by the
9 department of human services in cooperation with the department
10 of public safety and other community stakeholders. The staff of
11 the pilot visitation and family resource center shall include
12 trauma-informed professionals who shall serve as liaisons and
13 hookele for families affected by incarceration.

14 (e) The working group shall be exempt from part I of
15 chapter 92, Hawaii Revised Statutes.

16 (f) The working group shall submit a report of its
17 findings and recommendations, including any proposed legislation
18 and the estimated costs under subsection (b), to the legislature
19 no later than twenty days prior to the convening of the regular
20 session of 2023.



1 (g) The working group shall cease to exist on January 31,
2 2023; provided that the department of human services may
3 continue the work of the working group beyond January 31, 2023,
4 if the department deems it necessary.

5 SECTION 3. There is appropriated out of the general
6 revenues of the State of Hawaii the sum of \$305,000 or so much
7 thereof as may be necessary for fiscal year 2022-2023 for the
8 establishment of a pilot visitation and family resource center
9 at Waiawa correctional facility on Oahu.

10 The sum appropriated shall be expended by the department of
11 human services for the purposes of this Act.

12 SECTION 4. There is appropriated out of the general
13 revenues of the State of Hawaii the sum of \$115,000 or so much
14 thereof as may be necessary for fiscal year 2022-2023 for the
15 establishment of a pilot visitation and family resource center
16 at Waiawa correctional facility on Oahu.

17 The sum appropriated shall be expended by the department of
18 public safety for the purposes of this Act.

19 SECTION 5. This Act shall take effect on July 1, 2022.



Report Title:

Pilot Visitation and Family Resource Center; Waiawa Correctional Facility; PSD; DHS; Report; Appropriation

Description:

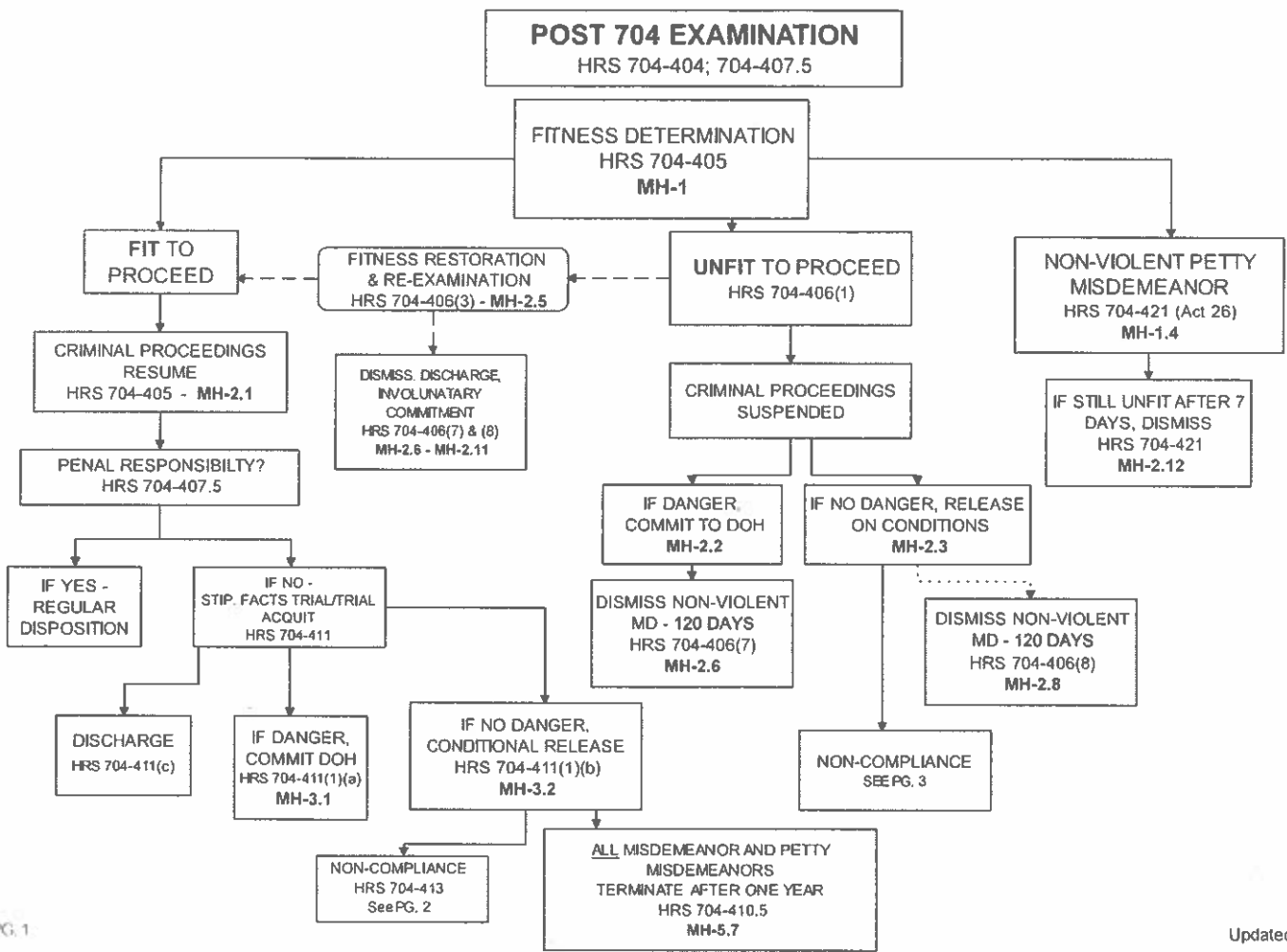
Requires the department of human services to work with the department of public safety, family reunification working group, and other entities serving children and families affected by parental incarceration to establish a pilot visitation and family resource center at Waiawa correctional facility on Oahu whose staff includes trauma-informed professionals who serve as liaisons and hookele for families affected by incarceration. Requires the department of human services to continue to lead a working group to address visitation and support needs of children and families of incarcerated individuals. Requires the working group to submit a report to the legislature before the regular session of 2023. Appropriates funds to the department of human services and department of public safety for the establishment of the pilot visitation and family resource center at Waiawa correctional facility. (CD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

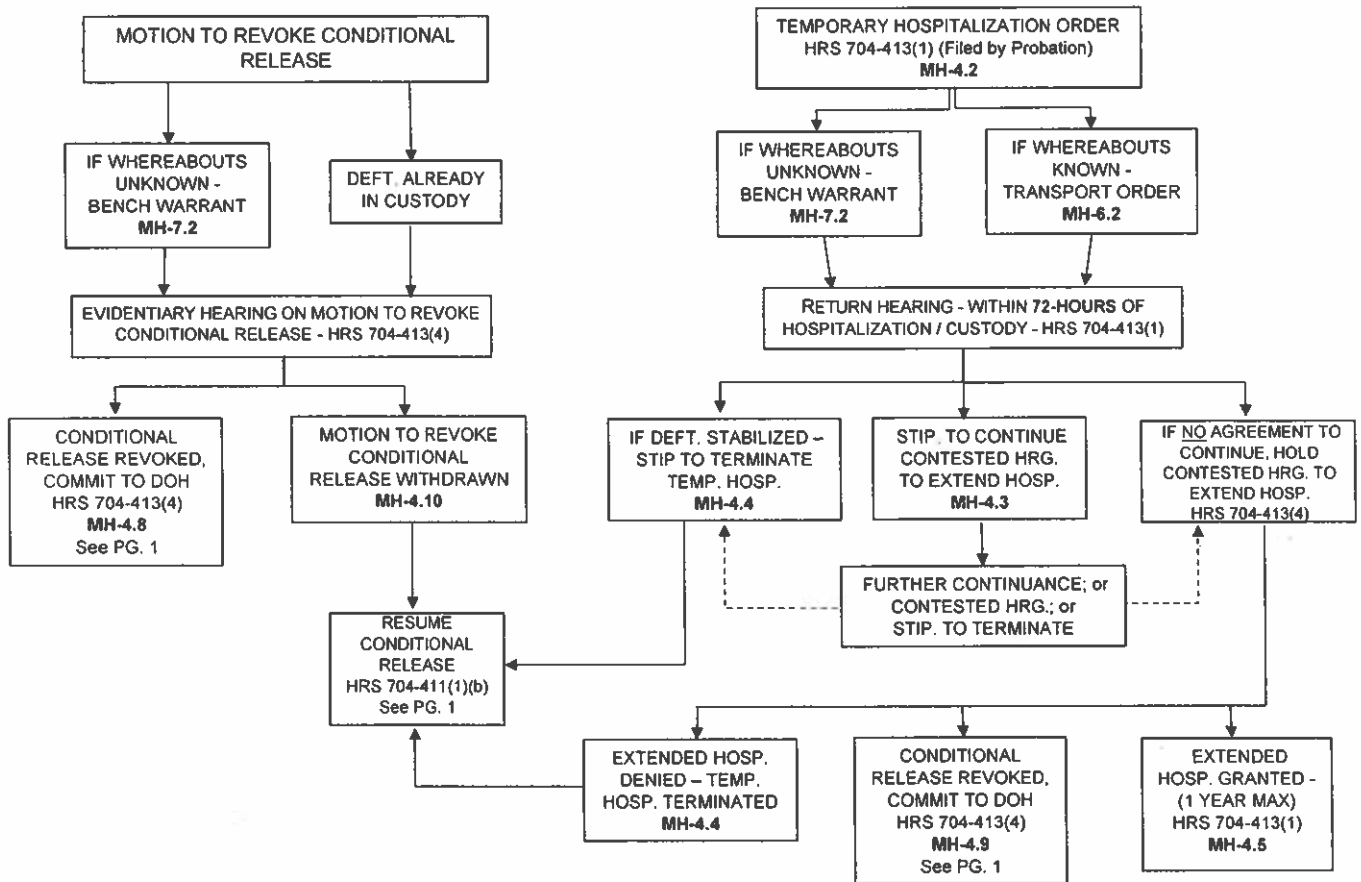


Appendix E – 704 Documentation





**NON-COMPLIANCE WITH
CONDITIONAL RELEASE – ACQUITTED DEFENDANTS
HRS 704-413**



**NON-COMPLIANCE WITH
RELEASE ON CONDITIONS – UNFIT DEFENDANTS
HRS 704-406**

