



STATE OF HAWAII
**CORRECTIONS POPULATION
MANAGEMENT COMMISSION**

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CORRECTIONS POPULATION MANAGEMENT COMMISSION
Meeting Minutes
Thursday, August 5, 2010

Department of Public Safety (PSD)

- Present: The Honorable Steve S. Alm, Judge, First Circuit Court, CPMC Chair
Tommy Johnson, Deputy Director for Corrections, PSD
The Honorable Will Espero, Senator, Hawaii State Legislature
The Honorable Faye Hanohano, Representative, Hawaii State
Legislature
Janice Yamada, Administrator, Adult Probation, First Circuit Court
Max Otani, Administrator, Hawaii Paroling Authority (HPA)
The Honorable Douglas Chin, Acting Prosecuting Attorney, City and
County of Honolulu
Tim Ho for Jack Tonaki, Public Defender, State of Hawaii
Sam Kanagusuku, Golden Castle Foundation
- Absent: Peter Gellatly, President, Network Media
Darcy Kishida for Mark Bennett, Attorney General, Department of the Attorney
General
Bill A. Mitchell, ATS Salvation Army
Assistant Chief Kevin Lima for Louis Kealoha, Chief of Police, Honolulu Police
Department
- Staff: Joy Windham, Program Specialist, PSD
- Guests: Janice Salcedo for Representative Mele Carroll
Michael Hoffman, Institutional Division Administrator, PSD
Cheryl Marlow, Interagency Council on Intermediate Sanctions (ICIS)
Coordinator, ICIS
Kanoë Kanagusuku, Golden Castle Foundation

1. **Opening:**

- Judge Alm called the meeting to order at about 2:10 P.M.
 - The following handouts were distributed to CPMC members and guests:
 - CPMC Meeting Minutes for September 10, 2010 and December 10, 2010
 - PSD Weekly Population Report dated August 2, 2010
 - PSD - Corrections Division Current Capacities, Head Counts, and Occupancy Rates by Facility Report
 - The September 10, 2009 and December 20, 2009 CPMC Meeting Minutes were approved.
 - All CPMC members and guests introduced themselves.
 - Judge Alm welcomed Acting Prosecuting Attorney Doug Chin.
 - Judge Alm stated that the CPMC started in the mid 1990's as a result of legislation that was introduced because of a huge overcrowding in the state prisons. Judge Alm further stated the purpose of the CPMC:
 - Identify the population capacity for each correctional facility.
*Part of the solution to this, was to send inmates to the mainland to serve their time.
 - Identify practices, programs, or anything that may reduce the number of inmates in prison.
 - The Legislature has not provided funding for CPMC staffing purposes.
 - Mr. Johnson confirmed the continued support for CPMC staffing until December 11, 2010 (change in leadership due to elections) for CPMC staffing by PSD, if meetings are limited to every quarter, and not monthly.

2. **New Business:**

- Judge Alm discussed 2010 legislation, under the founding leadership of Representative Hanohano, Senate Resolution (SR) 90, Senate Concurrent Resolution (SCR) 191, Senate Draft (SD) 1, which asks the HPA to establish a HOPE Parole pilot project, and to provide updates to the Legislature by certain dates.
 - Judge Alm acknowledged the challenges in starting a new project; however, he's ready to assist HPA in starting a HOPE Parole pilot project.

- Judge Alm said because there has been good success with HOPE Probation, the Legislature asked the Judiciary and the Department of the Attorney General to assist the HPA in establishing a HOPE Parole pilot project.
- Judge Alm said that a few weeks ago, he sent letters to PSD Director Clayton Frank, HPA Chairman Al Tufono, Attorney General Mark Bennett, and Public Defender Jack Tonaki to see if they're ready to assist HPA in starting a HOPE Parole pilot project.
- Mr. Otani advised that the Parole Board is limited to the amount of work hours/month, so the ability to conduct hearings will be a problem.
 - Mr. Otani reported that with furloughs, the part-time Parole Board Members are limited to a maximum of 116 hours/month.
 - Mr. Otani advised that hearings are conducted approximately 3 weeks/month, about 15 days/month.
 - Mr. Otani reported there are between 300-400 hearings/month.
 - Mr. Otani said that a Parole Board Member was recently retired.
 - Mr. Otani said the Governor appointed a 60-day interim (term expires August 2010) Parole Board Member who was appointed from the Big Island; however, because of unbudgeted travel costs, this Parole Board Member is used sparingly.
- Mr. Otani stated that by law, decisions made on parolees (i.e. parolee's status), require a minimum of 2 Parole Board Members.
- Judge Alm asked if it's possible to go through rule-making to have 1 Parole Board Member decide on a parolee's status.
 - Mr. Johnson and Mr. Otani responded that the statute would have to be changed.
 - Mr. Johnson said there's a need to be mindful that the parolee has the right to appear in-person for the parole violation.
- Judge Alm acknowledged that there are all kinds of issues and challenges in starting this project; however, he's convinced this project can be done because HOPE Probation is successful, despite it initially being a cumbersome and antiquated system.
- Judge Alm said that HOPE Probation began with 34 probationers to 1,600 probationers today.
- Judge Alm said he accepts the challenge HPA has because of hearings held at various locations (courts are at 1 location), but asked if it was possible to schedule the hearings at HPA (1177 Alakea Street) at the end of the calendar.
 - Mr. Otani responded that hearings are held 3-4 days/month at HPA; however, there would be a problem with the

- transportation of the inmate because there are no holding facilities at HPA.
- Mr. Otani said the correctional facilities may not have the manpower to transport the inmates.
 - Mr. Johnson said that PSD intends to accommodate the Legislature; however, there is a lack of resources to do regular court runs and potential extra hearing runs, which creates a safety issue.
 - Mr. Johnson said that the hearings would have to be conducted in the correctional facilities; however, there would have to be 2 of the 3 Parole Board Members present because the majority has to rule.
 - Judge Alm asked why can't 10 parolees start in the project? Why can't the potential 2-3 parole violators be transported to HPA or to District Court and escorted to HPA for the hearing? Why can't the hearing be held in the last half hour of scheduled hearings?
 - Mr. Johnson responded that there's a security concern related to having inmates out in public because of potential escapes.
 - Mr. Johnson said that if the inmate is in-custody, the inmate can be escorted within the confines of the correctional facility, and this project can be done; however, the Parole Board's schedule needs to be considered.
 - Judge Alm stated that HOPE Probation initially had similar conversations (listed above); however, all hurdles were surmounted.
 - Judge Alm said that it takes the "will" to want to do it, and the willingness to try something new.
 - Mr. Johnson said that on the Parole Board, the Chairman's position is full-time, and the other 2 positions are part-time; so, it would be tough to have the Parole Board have additional hearings.
 - Mr. Johnson said the 2 part-time positions on the Parole Board needs to be changed to full-time positions.
 - Mr. Johnson said that the Sheriff's Division lacks manpower to provide escorts.
 - Judge Alm said that PSD/HPA needs to look at how HOPE Parole can be done now, and not wait to see if the part-time Parole Board Members can change to full-time positions because that may never happen.
 - Judge Alm said that in regards to the letter he sent to Chairman Tufono (listed above) he has not heard back from him.

- Mr. Johnson recommended that the opinion (i.e. Does he support HOPE Parole?) of Chairman Tufono be obtained.
- Mr. Otani will ask Chairman Tufono for his opinion.
- Mr. Otani said that the parole supervision can be worked out (i.e. identify parolees).
- Mr. Otani reported that the Parole Board meets at Oahu Community Correctional Center (OCCC) 1 x month and at Halawa Correctional Facility (HCF) 5 xs month.
- Judge Alm said that the parole violators will be afforded attorneys.
 - Mr. Otani said that he's looking at this process as a "retake" (preliminary hearing), and the parolee is not afforded an attorney at this point.
 - Mr. Otani said that the parolee should be afforded an attorney when the parolee is presented before the Parole Board.
 - Mr. Otani said that the Prosecutors and Deputy Attorney Generals are not used at violation hearings; Public Defenders would have to assist, if a parolee is afforded an attorney.
 - Judge Alm said that HOPE seems to work well because the offenders feel that they are treated fairly, and reported the following:
 - The probationer is told what not to do, the probationer is proportionately penalized (1-2 weeks in jail) if they do what they were told what not to do.
 - The Prosecutors and the Public Defenders are part of the violation process.
 - The only reason it works is because the probationers doesn't contest/doesn't ask for hearings (There were 5-6 contested hearings in 5 ½ years).
 - ❖ It's what happened recently (i.e. Did you test positive for drugs? Did you see your Probation Officer ?).
 - ❖ The offender knows that a probation violation will not lead to years, but 1-2 weeks; so, they admit to the violation.
 - ❖ The average probation violation hearing is 7 ½ minutes long.
 - ❖ Judge Alm currently supervises 1,400 felons.
- Judge Alm suggested that because the SR is flexible, HOPE Parole should start with 10 parolees (i.e. drug offenders, offenders who left Kashbox in order to support sobriety).
 - It starts with a one-time warning hearing, possibly conducted by Chairman Tufono.

- Tell the parolee that you want him/her to succeed on parole, but if you test positive or miss an appointment you will be arrested.
- With a credible threat, the parolee will not violate as much.
- Mr. Johnson said that HOPE Parole should consider conducting the warning hearing by the Field Services Branch Supervisor instead of Chairman Tufono because the Parole Board will have to conduct additional hearings.
- Judge Alm said that it's probably more effective (greater impact on the parolee) for the warning and violation hearing to be conducted by Chairman Tufono.
- Judge Alm said that HOPE Probation started on Maui about 1½ years ago.
 - ❑ Maui's results are good, but not as good as Oahu.
 - ❑ The Probation Officer does the warning hearings on Maui.
- Judge Alm reported that California Department of Corrections & Rehabilitation has 110,000 parolees and he's talking to them about HOPE Probation.
- Senator Espero said that in the next legislative session, a "volunteer parole board" could be found or the Reentry Commission could conduct the hearings.
- Senator Espero said that the leadership needs to have the right attitude.
- Mr. Kanagusuku said that there is a difference between the attitudes of a probationer vs. parolee. A parolee who just served 10 years in prison, doesn't care, and isn't afraid. A probationer doesn't want to go to prison.
 - Judge Alm said that there are a bunch of HOPE probationers who have done prison time.
 - Judge Alm said the "disruptive nature" is what makes HOPE Probation work.
 - Judge Alm said those who are on HOPE Probation are those probationers who would have the most problems on probation (i.e. done prison time, worst drug problems)
- Senator Espero said that HOPE Parole is a pilot project, and the nature of a pilot is to try it to see if it will succeed.
- Mr. Otani said that if Chairman Tufono does not support HOPE Parole, then HOPE Parole will be made at the division level, and warning hearing will possibly be conducted by himself.
- Judge Alm said that the research says to target high-risk offenders; however, it may be safer for HOPE Parole to target non-violent drug offenders.

- Mr. Hoffman said that parole violators (sentenced) cannot be sent to OCCC (pretrial).
 - Parole violators would be sent to Halawa Correctional Facility (HCF).
 - Sentenced and pretrial inmates are not housed together.
- Mr. Hoffman asked why the aspect of HOPE Probation is to “punish” instead of “programs.”
 - Judge Alm said that HOPE Probation is not just about punishment.
 - Judge Alm referred to Dr. Hawkin’s study related to HOPE Probation.
 - Judge Alm reported that the statistics for HOPE Probation recidivism statistics show a 50% reduction in new arrest for new crimes and revocation;
 - A 48% less days of incarceration;
 - There’s a \$4,000 savings in prison beds per HOPE probationer.
 - Mr. Johnson recommended that HOPE Probation statistics reflect the number of HOPE Probationers who served prison time and recidivated.
- Judge Alm said 10 parolees will not affect the bed space in the correctional facilities.
- Mr. Otani expressed his concerns related to public safety when a parolee “runs,” and cannot be found because the parolee knows when parole is revoked.
- Mr. Otani stated that the laws require the HPA to use intermediate sanctions.
 - Judge Alm responded that HOPE Probation is an intermediate sanction.
- Judge Alm asked Mr. Chin if Meth Trafficking charges can be amended to PDD II, these offenders could be placed in HOPE Probation, and the number of inmates in prison would decrease.
 - Judge Alm said that a number of Meth Trafficking cases from HPA, show these cases as \$20.00/bag sales to undercover police officers, with a minimum sentence of 1-4 years, and an average 3-year minimum sentence set by HPA.
 - Judge Alm reported that these offenders are generally users, who are selling some drugs, to pay for his habit/use drugs.

- Judge Alm said that prior to amending the Meth Trafficking charges, the Prosecutor's Office should consider the offender's prior violent charges, location of incident.
 - Judge Alm stated that according to prior HPA statistics, there were about 56 parolees who received a minimum of 3 years for Meth Trafficking II, and the majority of the incidents involved undercover sales (see above).
 - Judge Alm said that a lot of these offenders (Meth Trafficking cases) would be successful on HOPE Probation.
 - Judge Alm reported that 3 neighbor island prosecutors amended the Meth Trafficking charges to PDD II.
 - Judge Alm said that around the country, mandatory statutes are being changed.
 - Judge Alm recommended that prosecutors use their discretion to amend the charges, rather than going through the Legislature.
- Mr. Otani mentioned the Senate Resolution relating to electronic monitoring (EM) and the need to identify 500 offenders.
 - Mr. Johnson advised that the criteria (i.e. classification) for offenders to be on EM must be established by PSD and HPA.
 - Mr. Johnson stated that there is a concern for public safety in regards to offenders on EM.
 - Mr. Johnson reported that after the offenders are identified, the PSD and HPA would have to formulate a strategy for funding to justify the necessary resources (i.e. would need staff to address the EM violations to prevent vicarious liability).
 - Senator Espero said this should be done with best practices, for the best interest of the state, and the security and safety of our residents.
 - Judge Alm said the advantages of the EM (GPS) is that it would provide the location/time of a crime if an offender committed an offense; also, EM is another tool to monitor parolees.
 - Senator Espero asked the status of the Reentry Commission per previous minutes stating that the Reentry Commission would start by December 2009.
 - Mr. Johnson said that the Governor needs to appoint 2 individuals to the Reentry Commission and provide their names.
 - Senator Espero asked if the Governor understands that this is legislation, and stated that's part of the attitude and problem with PSD, the Governor and the leadership.

- Senator Espero said that he was disappointed that an audit could not be conducted on PSD's contract with the Corrections Corporation of America (CCA).
 - Senator Espero stated that over \$500 million dollars (over a period of time) was sent to the mainland.
 - Mr. Johnson stated that legislative auditors are currently conducting an audit of the CCA contract, based on a letter from Speaker Calvin Say and Senator Colleen Hanabusa.
- Cheryl Marlow provided an update regarding ICIS, and provided handouts of "ICIS Report to CPMC dated August 5, 2010" to all members present at this meeting.
 - Ms. Marlow asked that the title of the handout (listed above) be changed to reflect, "Correctional Population" instead of "Correctional Program."
 - Ms. Marlow reviewed the "ICIS Report to CPMC dated August 5, 2010" (handout).
- Judge Alm provided updates regarding HOPE Probation.
 - Judge Alm reported the Legislature said that they like the specialty courts and HOPE Probation, and thanked the Legislature for continued support for HOPE Probation despite the budget cuts.
 - Judge Alm reported that over a year ago, Ms. Yamada obtained a Byrne Memorial Justice Assistance Grant administered through the Department of the Attorney General's Office, which provides for 2 drug testers, 2 probation officers, 1 Prosecutor, and 1 Public Defender.
 - Judge Alm reported that 3 weeks ago, Director Joe Schmidt of Alaska's Department of Corrections started a pilot project, Probation Accountability with Certain Enforcement (PACE) with 29 offenders, which is similar to HOPE Probation.
- Mr. Johnson reviewed the PSD Weekly Population Report dated August 2, 2010 (handout).
 - Mr. Johnson said that the internal report is generated on a weekly basis, to assist in managing the inmate population.,
 - Mr. Johnson reported that the inmate population is near maximum capacity at most of the correctional facilities.
 - Mr. Johnson noted that the Special Needs Facility (SNF) is not at the maximum bed space capacity (92.4%) because bed space must be allotted for protective custody inmates, and for inmates

- who must be transferred from the Halawa Medium Security Facility (HMSF) because of misconduct issues.
- Mr. Johnson noted that Halawa Medium Security Facility (HMSF) is not at the maximum bed space capacity (87.5%) because bed space must be allotted for new inmates, parole violators, and re-sentenced felony probationers.
 - Mr. Johnson noted that Waiawa Correctional Facility's (minimum security correctional facility) inmate population may appear low (79%); however, sex offenders cannot be housed there, and certain inmates may qualify to be housed in a minimum security correctional facility but do not have a medical clearance because WCF does not have a 24-hour infirmary.
 - Mr. Johnson expressed his concerns for any mark increase in the current inmate population because the overflow of inmates are sent to the mainland (currently 1,900+ inmates) and Federal Detention Center (currently 354 inmates).
- Mr. Johnson reported that the PSD received 5 days of reentry technical assistance from a National Institute of Corrections (NIC) Consultant, Richard Stroker, of the Center for Effective Public Policy (CEPP), to assist PSD in complying with Hawaii Revised Statute 353H, "Comprehensive Offender Reentry System."
 - Mr. Johnson said that Mr. Stroker assisted PSD in forming internal reentry committees.
 - Mr. Johnson reported that according to Mr. Stroker, the ICIS definition of recidivism is a little too broad (i.e. reporting categories: technical violation and arrests):
 - Mr. Johnson said that a violation of parole may not be an arrest for a new crime
 - Mr. Johnson said that an arrest is not necessarily a conviction.
 - Mr. Johnson reported that Mr. Stroker recommended that the PSD change their definition of recidivism, by removing some of the categories that are currently reported.
 - Mr. Johnson said the recidivism rates for PSD would decrease if the current PSD definition was changed to the national definition of recidivism:
 - Was the offender rearrested within the last 3 years upon release?
 - Was the offender convicted of a new crime?
 - Judge Alm expressed his concerns about changing ICIS' definition of recidivism because statistical comparisons (see if improvements were made) to prior years will not be available.

- Judge Alm said that the ICIS definition of recidivism is pretty common across the country.
 - Ms. Marlow said that Mr. Stroker said that the ICIS definition of recidivism is not the national definition and is conservative.
 - Ms. Marlow said that she met with Mr. Stroker, who advised her that it's okay to have the other categories that ICIS currently reports but to also track the national definition of recidivism.
 - Mr. Johnson stated that the NIC training material will be posted on the PSD website.
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- Mr. Johnson said that the September 10, 2009 and December 10, 2009 CPMC Meeting Minutes will be posted on the PSD website.
 - Mr. Johnson said that the PSD Weekly Population Report would be provided at every meeting.
 - Mr. Johnson advised that PSD's non-confidential policy and procedures are posted on the PSD website.

3. Suggestions for agenda items for next meeting:

- Senator Espero said that he'd like a survey conducted on all inmates in order to obtain their ethnic count (i.e. How many are 25 % Hawaiians? How many are 50% Hawaiians?)
 - Mr. Hoffman asked how the survey would be validated.
 - Senator Espero responded that the survey would strictly be conducted by the honor system (i.e. self-reporting).
 - Mr. Johnson said that at intake, the inmates are asked their ethnic breakdown according to a list (i.e. part-Hawaiian), but not the inmate's percentage of Hawaiian blood.
 - Senator Espero stated that part-Hawaiian doesn't say very much.
 - Senator Espero would like to know the inmate's percentage of Hawaiian blood.
 - Mr. Johnson said that in the last legislative session, he thinks the Office of Hawaiian Affairs (OHA) said they would set aside \$15K or \$20K to survey the inmates on their percentage of Hawaiian blood.
 - Mr. Johnson said that OHA would be given access to the inmate records or allowed to talk to the inmates who want to talk to OHA to ascertain the inmate's percentage of Hawaiian blood.
 - Senator Espero said that it'd be good to know the inmate's percentage of Hawaiian blood, so there could be a vested interest in their communities.

4. Closing:

- Meeting was adjourned at about 3:20 P.M.

5. **The next meeting was set for Wednesday, November 10, 2010 at 2:00 PM at PSD.**