



STATE OF HAWAII
**CORRECTIONS POPULATION
MANAGEMENT COMMISSION**

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CORRECTIONS POPULATION MANAGEMENT COMMISSION

Meeting Minutes

Wednesday, November 10, 2010

Department of Public Safety (PSD)

- Present: The Honorable Steve S. Alm, Judge, First Circuit Court, CPMC Chair
Clayton A. Frank, Director, PSD
Tommy Johnson, Deputy Director for Corrections, PSD
The Honorable Will Espero, Senator, Hawaii State Legislature
Max Otani, Administrator, Hawaii Paroling Authority (HPA)
Armina Ching, First Deputy, City and County of Honolulu, Prosecutor's Office
Sam Kanagusuku, Golden Castle Foundation
- Absent: Janice Yamada, Administrator, Adult Probation, First Circuit Court
The Honorable Faye Hanohano, Representative, Hawaii State Legislature
Peter Gellatly, President, Network Media
Mark Bennett, Attorney General, Department of the Attorney General
Jack Tonaki, Public Defender, State of Hawaii
Bill A. Mitchell, ATS Salvation Army
Assistant Chief Debbie Tandal for Louis Kealoha, Chief of Police, Honolulu Police Department
- Staff: Rosalina Aipopo, Executive Assistant, PSD
Joy Windham, Program Specialist, PSD
- Guests: Jeff Kent, Policy Advocate, Office of Hawaiian Affairs (OHA)
Janice Salcedo for Representative Mele Carroll
Michael Hoffman, Institutional Division Administrator, PSD
Larry Hales, Substance Abuse Program Manager
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 2:00 P.M.
 - The following handouts were distributed to CPMC members and guests:
 - CPMC Meeting Minutes for August 5, 2010
 - PSD Weekly Population Report dated November 1, 2010
 - Copies of Senate Resolution (SR) 90, Senate Draft (SD) 1 and Senate Concurrent Resolution (SCR) 191, SD1
- Judge Alm questioned page 9 of the CPMC Meeting Minutes for August 5, 2010, where Senator Espero stated that over \$500 million dollars is sent to the mainland.
 - Judge Alm asked Senator Espero if the above stated amount was over the last decade or so.
 - Senator Espero agreed that the amount is over a period of time.
- The August 5, 2009 CPMC Meeting Minutes were not approved because of a lack of a quorum.
- All CPMC members and guests introduced themselves.
 - Judge Alm welcomed First Deputy Ching, who replaced Mr. Doug Chin.
- Judge Alm provided the following background of the CPMC:
 - Created by statute in the mid 1990's when PSD's inmate population was high, with the following twin goals:
 - Look at the inmate population at each correctional facility, and identifying a population cap for each correctional facility.
 - Identify practices, programs, or procedures that may reduce the number of inmates in prison.
 - Judge Alm said that the newly-elected Prosecutor, Keith Kaneshiro, was PSD's Director at the time when the idea came up to send inmates to the mainland in order to reduce the inmate population on a short-term basis (i.e. couple years), until a new prison was built.
 - The new prison was never built; so, the first goal is somewhat mooted because inmates are sent to the mainland, no matter the cost.
 - The second goal is always appropriate to identify programs and practices that might reduce the inmate population.

- Judge Alm said that one of the problems with the CPMC, is that the Legislature never provided funding for it.
 - Meeting regularly would be a tremendous burden (i.e. lack of staffing)
 - Director Frank and Mr. Johnson have volunteered to provide staffing services (i.e. provide meeting minutes) and a location to meet, if the CPMC agreed to meet quarterly.
 - Mr. Johnson said that it would be up to the next PSD Director to decide on the level of his/her support to the CPMC.

2. **New Business:**

- Judge Alm said that at the last legislative session, HPA was asked to look at establishing a HOPE Parole pilot project.
 - Judge Alm said that this was discussed at the last CPMC meeting in August 2010.
 - Judge Alm said that Mr. Otani was supposed to check with the head of HPA about doing a HOPE Parole pilot project or doing a HOPE Parole pilot project at the division level, and provide an update related to this.
 - Mr. Otani said that he talked with the Chairman of HPA and reported that he doesn't want to do HOPE Parole because of a lack of time and resources to do the hearings.
 - Mr. Otani provided the following update related to a HOPE Parole pilot project:
 - Mr. Otani said that he is looking at doing HOPE Parole pilot project at the division level.
 - Mr. Otani stated that he has identified the population that he could possibly pilot 10 parolees with.
 - ❖ Mr. Otani reported that these would be parolees that violated parole; so, on the first violation, the parolee would enter HOPE Parole pilot project.
 - ❖ Mr. Otani said that he would essentially be running the HOPE Parole pilot project.
 - ❖ Mr. Otani said that the detainment and release would be at the division level, and not moved up to the parole board level, unless the absolute to need to move forward with revocation.
 - Mr. Otani said that HPA is kind of in limbo at this time, because of the uncertainty of HPA's administration.
 - Mr. Johnson said that when the change in administration occurs, he would possibly return to HPA as the Parole and Pardons Administrator.
 - Judge Alm asked if HPA Chairman's, Al Tufono's term is staggered.

- Mr. Otani reported that Mr. Tufono's term is a staggered term, and his term expires in 2012.
- Mr. Johnson said that Mr. Tufono would reach an 8-year maximum term.
- Judge Alm thanked Mr. Otani for looking into the HOPE Parole pilot project.
- Judge Alm said that he would like to see HOPE Parole pilot project at the parole board level, but noted that it could be effective at the division level as well.
- Judge Alm said that OHA commissioned individuals to look at the criminal justice system regarding the treatment of Hawaiians.
 - Judge Alm said that he was interviewed by individuals from Washington about this, so he's been reviewing the OHA report.
 - Judge Alm asked if OHA representative, Mr. Kent, would like to comment about the OHA report.
 - Mr. Kent said that OHA recently hired him as a Policy Advocate in May 2010.
 - Mr. Kent said that prior to working at OHA, he was a Legal Aid attorney for Judge Nakamura, who ran the drug court on the Big Island.
 - Mr. Kent provided a short summary of the OHA report:
 - ❖ There are a lot of Native Hawaiians in the prison system.
 - ❖ There is a lack of data and clear explanation as to *why* (i.e. socio economic or repeat offender issues) there are a lot of Native Hawaiians in the prison system.
 - Mr. Kent said that there are a lot of opportunities to partner-up and make the justice system more effective for everyone, not just Native Hawaiians.
 - Mr. Kent said that OHA's trying to look at policy changes that can be made that aren't heavily resource-intensive, while continuing their grants in both education and substance abuse fields.
 - Mr. Kent said that it remains to be seen if there will be future studies based on gathering more data.
 - Mr. Kent said that OHA is still trying to develop its partnerships.
 - ❖ Mr. Kent said that OHA will try to push another task force at the Legislature this year.
 - ❖ Mr. Kent said that he prefers to work with committees such as CPMC or ICIS, where things could effectively be done,

- without creating yet another task force where members would have to attend quarterly meetings.
- ❖ Mr. Kent said the OHA report provides limited data, but it opens the door for more discussion.
- ❖ Mr. Kent said that although the arrest rate and the population rate are comparable, there are more Native Hawaiians at parole and sentencing; furthermore, the more and more Native Hawaiians stay in the system, the worse it gets.
- Judge Alm said that clearly, the drug offenses, especially the ones that carry mandatory minimums, or the people that are repeat offenders and drugs is a big part of it; that that must lead to a lot of the people (i.e. people on probation who are picking up a new offense, qualify for repeat offender) going to prison.
 - Judge Alm said a lot of people must go to prison from parole and sentencing, but a lot (never quantified) of the people must be those on probation who are picking up a new offense.
- Judge Alm said that he doesn't think people would disagree that there were too many Hawaiians in the criminal justice system.
- Director Frank said that he could have saved a lot of money because he could have told us that the majority of the correctional population is made up of part-Hawaiians or Native Hawaiians.
- Director Frank said that one of the key issues for PSD, Honolulu Police Department, and Probation is *how* (i.e. blood quantum) to define "Native Hawaiian" or "Part-Hawaiian," because it is self-reporting.
 - Director Frank said that he doesn't know how to validate a Native Hawaiian since birth certificates aren't available.
 - Director Frank asked for help in defining "Native Hawaiian."
 - Judge Alm said that self-reporting is at every stage (i.e. booking, Probation, PSD), and "...it is what it is."
 - Mr. Kent said that the self-reporting of race is related to Federal OMB Directive 15, the U.S. Census requirement for gathering racial/ethnic data, which dates back to 1970's or further back.
 - Mr. Kent said that it would be fascinating to have a self-reporting versus an observation study, but he doesn't think that kind of study would ever get done.
 - Mr. Kent said that it can be problematic in terms of, what you look like versus what you define yourself as.
 - Mr. Kent further said that it will always be a self-reporting issue, and to say that you have to clearly define "Native Hawaiian," would be a roadblock in keeping us from developing solutions.
 - Mr. Kent said that we could have a critical race theory discussion forever and get lost there; however, Director Frank's concern is a valid point for the study.

- Mr. Kent said that OHA has a statutory definition, that he thinks refers back to HRS 10, which goes back to self-reporting (i.e. no birth certificate, no blood test)
- Mr. Johnson said that the OHA data may be skewed if it is self-reporting.
- Mr. Kent said that he does not have a perfect answer to Mr. Johnson's above stated concern; however, overall, the numbers show that there a lot of Native Hawaiians, and he doesn't know if there's a certain advantage someone would feel for saying they are Native Hawaiian.
- Judge Alm said that he hopes Mr. Kent can regularly attend CPMC meetings.
- Cheryl Marlow provided the following updates regarding ICIS:
 - Ms. Marlow reported that the CYZAP management information system training for case planning for supervisors will be held on December 6, 2010.
 - Ms. Marlow reported that the grant funds through the Sex Offender Management Team (SOMT), will provide for technical case planning training in January 2011.
 - Ms. Marlow said that the Level of Service Inventory-Revised (LSI-R) training was held October 19-21, 2010.
 - Ms. Marlow said that Motivational Interviewing training will be held December 6-7, 2010.
 - Judge Alm asked Ms. Marlow to provide ICIS meeting notifications to Mr. Kent.
 - Ms. Marlow said that she's already talked to Mr. Kent, and that he's already been notified of the next ICIS Sub-Policy Committee meeting.
- Judge Alm provided the following updates regarding HOPE Probation:
 - Judge Alm said that Mr. Gellatly dropped off calendars that he distributes to offenders who don't have calendars.
 - Judge Alm said that he wrote an article related to HOPE Probation for the *National Association of Criminal Defense Lawyers*.
 - Judge Alm said that Dr. Hawkins wrote an article for the *Journal of Global Drug Policy and Practice* that included interviews with him and Ms. Cheryl Inouye.
 - Judge Alm reported that Alaska started their version of HOPE Probation in mid July 2010, and is doing fine.
 - Judge Alm reported that Maui started their version of HOPE Probation a year and a half ago, and it seems to be going fine.
 - Judge Alm said that Chief Justice Recktenwald raised HOPE Probation with Big Island and Kauai, and they're now looking to get organized.

- Judge Alm said that Big Island's probation officers will be meeting with Ms. Inouye's staff to see how HOPE Probation can be implemented.
- Judge Alm said that it's a challenge because no one's budget is growing, and it means there's a need for creativity.
- Mr. Johnson discussed the November 1, 2010 PSD Weekly Population Report.
 - Mr. Johnson said that with the exception of Waiawa Correctional Facility (WCF) and Halawa Correctional Facility (HCF), all correctional facilities are over its maximum capacity.
 - Mr. Johnson said that mainland inmates (i.e. inmates who are minimum security and near their tentative parole date <TPD>) will be moving to fill some of the bed space at WCF.
 - Mr. Johnson said that sex offenders can't be placed in WCF.
 - Mr. Johnson said that the most recent PSD Weekly Population Report will always be presented at CPMC meetings.
 - Mr. Johnson said that the Federal Detention Center (FDC) currently houses about 363 inmates (550 capacity) who are near the end of their sentence, jail sentenced inmates, inmates with separation issues, and a few high-profiled inmates.
 - Mr. Johnson said that the jail population fluctuates the most.
 - Senator Espero asked for a rundown of the last 8 years.
 - Mr. Johnson said that he has a rundown for the last 6 years, and will provide the report to Ms. Aipopo.
- Senator Espero said to let him know if there are any new ideas for legislative bills.
 - Senator Espero said do not ask the Legislature for money, and to be creative, and to "...think out of the box..."
 - Senator Espero said that there's a new Senate President from Maui, and key legislatures who will have to tackle the following:
 - MCCC issues, relating to whether or not to build a new prison?
 - Building a state-of-the-art drug treatment center instead of a new prison on Maui?
 - Director Frank said that when meeting with groups on Maui, there were a few similarities (i.e. prevention and where we should start).
 - Director Frank said that perhaps less finances will be necessary for offenders if prevention is addressed in the beginning.
 - Director Frank said that building a jail is costly, and funds to build could be used for treatment.
- Senator Espero asked about the 2 sprung structures at WCF.

- Director Frank said that the WCF sprung structures were funded by VOITIS funds for utilization by the programs and potential housing.
- Senator Espero asked if Punene could start with sprung structures.
- Director Frank said that Punene could not start with sprung structures.
- Mr. Johnson said that sprung structures are like huge Quonset huts, and are not cheap to put up; however, it's cheaper to put up sprung structures than brick and mortar.
- Senator Espero asked if PSD still considered putting up a sprung structure at Oahu Community Correctional Center (OCCC).
- Mr. Johnson said that VOITIS funds are no longer available to put up a sprung structure at OCCC.
- Director Frank said that sprung structures are for minimum security.
- Mr. Johnson said that about 40-50 inmates could be housed in a sprung structure, with a little dayroom area.
- Senator Espero said that the sprung structures come in multiple sizes.
- Senator Espero said that there's a brown sprung structure near H-1/Fort Shafter, on the side of freeway.
- Senator Espero said that he went in Hope Chapel-Windward's sprung structure that is air-conditioned, and it could comfortably house 100 inmates.
- Senator Espero said that we're caught up on brick and mortar and barb wired fence.
- Senator Espero said that sprung structures would be appropriate for transitional, minimum security, and residential drug treatment.

3. **Suggestions for agenda items for next meeting:**

- Approve CPMC Meeting Minutes for August 5, 2010
- Update on HOPE Probation
- DPS Weekly Population Report

4. **Closing:**

- Meeting was adjourned at about 3:30 P.M.

5. **The next meeting was tentatively set (pending legislative session schedule) for Wednesday, March 23, 2010 at 2:45 PM at the State Capitol.**