

Recommendations Regarding The New Jail To Replace the Oahu Community Correctional Center (OCCC)

The House Concurrent Resolution 85 Task Force on Prison Reform (HCR Task Force) was created in 2016 to make recommendations to the Legislature on ways to improve Hawai‘i’s correctional system, including recommendations on the cost and design of future correctional facilities. The Task Force spent more than two years studying Hawaii’s correctional system and issued its 116-page Final Report in December, 2018.

Four chapters of the report are devoted to the State’s plans to replace OCCC with a 1,380- bed jail for men in Halawa Valley that will cost an estimated \$525 million, and a \$45 million jail to be built on the grounds of the Women’s Community Correctional Center in Kailua, to house women currently housed at OCCC.¹ The jail is being planned by the Departments of Public Safety (DPS) and Accounting and General Services (DAGS) along with contractors Architects Hawaii and the Louis Berger Group of New Jersey.

The HCR 85 Task Force was critical of the new jail in two important respects. First, the jail has been planned without any meaningful input or guidance from the community, and second, the planners failed to take a critical step in the planning process which is to identify the factors driving the jail population and to recommend policies that would significantly reduce that population without compromising public safety. This is critically important because, as the Task Force pointed out, jails are the gateway to prison and just 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.”²

The Task Force also stressed that cities and counties across the country are actively reducing their jail populations and building smaller and less expensive jails by diverting individuals with mental health and substance abuse issues to community-based treatment facilities; reforming their bail systems to ensure the speedy release of individuals who can be safely supervised in the community while awaiting trial; expediting hearings for people charged with technical probation and parole violations; expediting indigence screening and program referrals; expanding the use of citations for low-level, non-violent offenses; and expediting case processing.

The HCR 85 Task Force was so concerned about size, cost, and design of the jail that it recommended that the State “*immediately stop planning a large new jail to replace OCCC and establish a working group of stakeholders and government officials to rethink the jail issue and create a jail that is smaller, smarter, and less expensive than the one now under consideration.*”

¹ See HCR 85 Task Force Final Report, chapters 13-16, pp. 62-78. https://www.courts.state.hi.us/wp-content/uploads/2018/12/HCR-85_task_force_final_report.pdf.

² HCR 85 Final Report, p. iv.

The report warns that unless the State takes immediate action, the \$525 million-dollar jail will be out of date 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.”³

On July 9, 2020, Bettina Mehnert, Chief Executive Officer of Architects Hawaii briefed the Oversight Commission on the plans for the new jail. The Commission also heard from Robert Merce who served as Vice-Chair of the HCR 85 Task Force and wrote its Final Report to the Legislature.

The Oversight Commission shares the HCR 85 Task Force’s deep concerns about the new jail. Community stakeholders should have played a key role in the planning process from the very beginning, but better late than never. As the HCR 85 Task Force pointed out:

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.”⁴

The Commission strongly recommends that DPS 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. The Committee should include a wide range of community stakeholders and, as envisioned by the HCR 85 Task Force, it should be a *full partner* in the planning process along with DPS, DAGS, Architects Hawaii, and others.

The above recommendation is not based solely on the HCR 85 Task Force Report, but also on the Commission’s independent analysis and judgment. Best practices in jail planning clearly require a comprehensive analysis of ways to reduce the jail population before deciding on the capacity of a new jail, the programs it should provide, and its role in the community. This is particularly important in Hawaii where each bed in the new jail will cost taxpayers \$380,000⁵ and the cost of housing a large number of pretrial detainees statewide is over \$180,000 per day.⁶

³ HCR 85 Final Report p. 80.

⁴ HCR 85 Final Report, p. 69, quoting James R. Robertson, *Jail Planning and Expansion, Local Officials and Their Roles*, Second Edition (Washington, D.C.: National Institute of Corrections, 2010): 15, <https://info.nicic.gov/nicrp/system/files/022668.pdf>.

⁵ Estimated cost of new jail - \$525 million ÷ 1,380 beds = \$380,434 per bed.

⁶ On November 2, 2020 the total number of pretrial detainees statewide was 914. It costs \$198/day to incarcerate a person in Hawaii. 914 pretrial detainees x \$198/day = \$180,972. When state jail populations were higher, prior to the coronavirus pandemic, the State had well over 1,000 pretrial detainees that cost around \$209,00 per day.

Opportunities clearly exist to significantly reduce size of the new jail and thereby save millions of dollars in construction and operating costs while making our communities safer. This is not the place for an extended discussion on how that can be done, but, as shown below, if the State focused on two categories of prisoners—pretrial detainees and HOPE probation violators—it could reduce the jail population by **as much as 75%**.

- **Pretrial Detainees.** As of November 2, 2020, 64% of the men at OCCC were pretrial detainees.⁷ Data from DPS shows that 75 to 80 percent of pretrial detainees are charged with relatively low-level class C felonies or below (i.e. misdemeanors, petty misdemeanors, or violations). Reforming Hawaii’s bail system could reduce the jail population by as much as 50 percent without compromising public safety.⁸

- **HOPE Probation Violators.** As of November 2, 2020, 23% of the men at OCCC were probation violators⁹, most of whom were serving time in jail as a sanction for a technical violation of the HOPE probation rules. We agree with the HRC 85 Task Force that HOPE probation and select parole violators could be housed in dormitories or assigned to community-based facilities where, in either case, the reasons they violated the conditions of probation or parole could be addressed by mental health and/or addiction treatment professionals, and hopefully remedied. Creating alternative housing for HOPE probationers would reduce the jail population by 20% or more.

Beyond the foregoing the State should focus on reducing the jail population with robust pre-arrest diversion programs statewide, and evidence-based programs that address the root causes of homelessness in our communities.

⁷ DPS Weekly Population Report, November 2, 2020. <https://dps.hawaii.gov/wp-content/uploads/2020/11/Pop-Reports-Weekly-2020-11-02-1.pdf>

⁸ For example, in the District of Columbia 94% of defendants were released pretrial in FY 2019 without using a financial bond. A study covering the period 2012-2016 showed that 88% to 90% of pretrial releasees in D.C. were arrest-free of any crime pending trial and 97% to 99% were not arrested for a violent crime. In FY 2016, 91% of pretrial defendants made all scheduled court appearances.

⁹ November 2, 2020 Weekly Population Report.