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No. \_\_\_\_\_

October 25, 2022

Hawaii Correctional System Oversight Commission  
235 S Beretania Street, 16<sup>th</sup> Floor  
Honolulu, HI 96813

RE: The Correctional Reform Working Group Report entitled, "Getting it Right: Recommendations and Action Plan for a Better Jail"

Aloha Chair Patterson and Commission Members,

The Department of Public Safety (PSD) appreciates the interest of the Hawaii Correctional System Oversight Commission (HCSOC) in entertaining the recommendations of the Correctional Reform Working Group regarding the redevelopment of the State's largest jail, the Oahu Community Correctional Center (OCCC). However, PSD has serious concerns about many of the statements and conclusions contained in the document. Following are some of the areas of concern.

**Report Contends that Costs are Too High**

**The new jail will cost \$1 billion.** (Report, pages 4-5)

The report compares costs for a 4,000-bed prison in Utah to a 1,000-bed jail in Hawaii. This is an apples-to-oranges comparison in terms of size (4,000-bed to 1,000-bed—a multiple of 4 times) and type of facility (prison vs. jail, which differ in infrastructure and security components). The initial cost estimate for the new OCCC was \$500 M. But it is important to note that the addition of unjustified delays to the timeline of a methodical and meticulous planning process will assure a significant escalation in costs.

**P3 will be a financial disaster.** (Report, page 3)

This obvious prejudice against P3 is unfounded. The P3 methodology can take various forms, and this highly successful project delivery method has been used all over the world for a multitude of project types, including correctional facilities. A thorough Business Case Analysis was conducted to compare various available procurement methods and to recommend the best method to deliver the optimal project outcome for the new OCCC – the recommendation was for P3. Moreover,

increasingly tight fiscal markets also suggest a preference for P3 over the issuance of GO bonds.

### **Report Contends that Planning for the New Jail Has Not Followed Best Practices**

**Planning for the new OCCC is not following best practices.** (Report, page 2)

The Report supports the planning processes outlined in the National Institute of Corrections (NIC) Jail Design Guide as “the path forward” in developing the new OCCC. We couldn’t agree more. The consulting group, Pulitzer/Bogard & Associates (P/BA), which literally “wrote the book” for the NIC, is a member of the consulting team advising the OCCC project. P/BA’s principal, Curtiss Pulitzer, one of the authors of the NIC guide, has advised corrections officials around the country on how to incorporate best correctional practices in new jail facilities and is a part of the planning team for the new OCCC. P/BA’s operating principles and architectural space program report, as well as the population forecast report and other expertise have contributed greatly to the planning for OCCC and should reassure the Working Group and Commission that the State is effectively aligning its plans with the NIC Jail Design Guide.

**Report: “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.”** (Report, pages 28 and 32)

The report then contradicts its support for the NIC Jail Design Guide and its lead author, Curtiss Pulitzer. The principal of the highly respected Pulitzer/Bogard organization was a lead author of the NIC Guide, with over 40 years of experience assisting the successful development of many correctional facilities projects nationwide.

Utilizing the most comprehensive data sets available for the Hawaii target population, The expert and experienced P/BA’s population analysis utilized data from two main sources: multiple comprehensive data extracts containing a host of variables at the charge level for every inmate in the Hawaii system from PSD records, and similar data extracts containing every single court filing between 2018 and November 2020 from the Hawaii State Judiciary. The records from the various files were linked in order to construct a database that ultimately contained **tens of millions of points of measurement**. This allowed the P/BA research team the opportunity to reconstruct the OCCC population within the criminal justice system for each and every day during the study’s time period. There are multiple statistical methodologies for building statistical forecasts. The forecasting technique developed from Box and Jenkins’ Autoregressive Integrated Moving Averages (ARIMA) approach is one of the best options and was used for this analysis. ARIMA is generally used in time series forecasting

situations primarily because of its ability to avoid the built-in errors of other forecasting techniques. ARIMA approaches are designed to estimate, diagnose and control for autoregression problems.

P/BA produced two population forecast reports, the original forecast and a recent updated forecast. The second forecast was intended to identify ongoing population trends, and it did reveal a decrease in the population forecast over the original population forecast, likely due to the COVID-19 pandemic, which artificially constrained OCCC's intake. What it could not do was account for the rapid flood of intakes that is expected following the decline in the pandemic's community impacts.

**The community have not been consulted.** (Report, page 2)

This statement is false. PSD and the consultant team have continuously engaged the community throughout the planning process through continued attendance at neighborhood board and community association meetings, publication and distribution of informational newsletters and FAQ pages, and made themselves available when questions or concerns were raised. The team's outreach also includes frequent uploaded reports to the OCCC Future Plans webpage, which also specifically incorporates comments and suggestions that were received during public commenting periods.

**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.** (Report, page 12)

Of the fourteen recommendations of the HCR 134 Task Force cited in the report, the two pertaining to the Department of Public Safety that were enacted into statute as part of Act 179, Session Laws of Hawaii 2019, have been effectively incorporated into the practices of the Intake Service Centers statewide:

- (7) Regularly review the jail population to identify pretrial defendants who may be appropriate for pretrial release or supervision; and
- (8) Conduct risk-assessments and prepare bail reports within three working days of the defendant's admission to a county correctional center.

The other 12 recommendations either do not apply to PSD and/or have not been programmatically adopted by other justice system stakeholders.

The HCR 85 Task Force, in part, established the HCSOC, to oversee and work with the Department on facilities' population control and improving offender reentry programs. It must have been difficult for the Commission, until recently, to operate without a budget or staff, as rules and operating procedures have yet to be adopted. This has also placed a hardship on the Department, not having the

benefit of thoughtful input from the Oversight Commission on these important areas of concern as mandated in statute. It calls into question the wisdom of the Commission's apparent leap of support for the report's proposal to revamp the OCCC redevelopment project that has been so thoughtfully and meticulously researched and consulted, using the nation's foremost correctional experts.

### **Support for a Rehabilitative System**

**The new jail will be a warehouse for criminals and be punitive.** (Report, page 1)

PSD disputes this claim. From the outset, the central focus of the plans for the new OCCC has been on rehabilitation and restoration. It should be noted that 30% of the beds in the new jail would be for transitional/reentry participants with enhanced space for delivery of reentry and reintegration programs.

The OCCC and CTC Operating Principles and Architectural Space Planning Program clearly demonstrate the new facility's emphasis on reentry and rehabilitation. These program documents were posted to the OCCC website early on and continue to be available for public viewing. PSD encourages all stakeholders and the public to review this and other aspects of the planning for the facility's redevelopment at: [dps.hawaii.gov/OCCC-future-plans](https://dps.hawaii.gov/OCCC-future-plans).

### **A Case for the CTC**

The report takes issue with the Master Plan and Community Transitional Center Operating Principles/Architectural Space Program reports as being too large and too expensive. The Master Plan incorporates space for medical and mental health treatment, as well as space for various inmate services programs, all identified as necessary in the report. The CTC is exactly what the name implies, a community transitional center in which programs and services offered are intended to facilitate the inmates' successful return to the community as responsible, self-sufficient, law-abiding citizens.

Programs available to the inmates will include education, treatment, and work skills training. Inmates assigned to the CTC are deemed to be at low risk of danger to the community and may be working off site under supervision of non-CTC staff, gainfully employed within the community, and/or taking part in community-based programs/treatment. When not involved in work or programs/treatment, they will reside at the CTC, where programs provided will

focus on the inmates' specific needs, such as substance abuse, in a therapeutic setting, and transitional services that typically include the opportunity to work in the community, receive counseling and education, and participate in treatment in a structured setting.

The innovative CTC addresses many of the deficiencies of the current justice-corrections system with wrap-around, therapeutic services and the ability to readily transition according to individual needs.

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

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

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

**Report contends that the Commission’s demand, to “immediately pause the planning for the new jail and create an Advisory Committee to review, and if necessary revise, the planning that has been done to date, and to actively participate in the planning process going forward” in 2020 was rejected by DPS (PSD).** (Report, page 4)

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

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

**A Window of Opportunity. The Oahu 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.** (From Report Introduction, page 1)

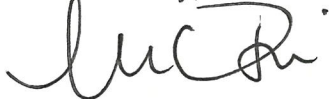
***This statement in the report is the bottom line of the OCCC redevelopment project. The project must go forward, and there is no time to lose.***

Unfortunately, the report attempts to saddle the Department of Public Safety’s OCCC Redevelopment project with a major overhaul of the entire judicial-correctional system. However, PSD is just one stakeholder (with the greatest demands and the fewest resources) that has been working within its constitutional and legal mandates to serve its mission: *To uphold justice and public safety by providing correctional and law enforcement services to Hawaii’s communities with professionalism, integrity and fairness.*

In keeping with the Department’s mission and mandates, the new jail is being designed to relieve the persistent inhumane conditions long marked by severe overcrowding and the lack of space to effectively provide rehabilitation and reintegration services. Many programs that are touted in the report as being needed but not provided by PSD are either at a fledgling stage but undeployable due to limitations of space and staffing or have suffered repeated budget and staffing cuts. I ask: how can anyone expect offenders to be effectively rehabilitated within such poor conditions? To reiterate, the new OCCC will be rehabilitative and restorative and equally important, efficient, safe, and secure for inmates and staff, and serve to enhance the safety the community.

PSD has made every effort to work with all stakeholders to answer questions and concerns and with the nation’s foremost correctional system experts to craft plans for an innovative new facility to meet current and future judicial-correctional needs. The time is now for all stakeholders to support OCCC’s redevelopment, and as plans develop, continue to contribute meaningful input towards enhancing the necessary rehabilitation and reintegration programs that will be at the heart of the restructured correctional system housed therein.

Sincerely,



Max N. Otani  
Director

c: Governor David Y. Ige  
Acting Comptroller Audrey Hidano