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Kauai Community Correctional Center (KCCC)
March 2024 Site Tour Observations
Date of Report: April 18, 2024

On Thursday, March 21, 2024, the Hawaii Correctional System Oversight Commission (the Commission, HCSOC) toured the Kauai Community Correctional Center (KCCC) collectively as a group. The tour included three of the five Commissioners – Mark Patterson (Chair), Martha Torney, Mark Browning in addition to the Oversight Coordinator and staff. This report encompasses notes from the Commissioners and will be discussed at the monthly public meeting held on April 18, 2024.

General Observations

The rated capacity of KCCC is 128, and during the tour, the headcount of the facility was 117 individuals (96 males, and 21 females). It is important to note that the Cabins, noted below, are not included in the rated capacity as there is no fire suppression equipment immediately available and no second exit from the cabins. The Weekly Population Report for Monday, March 25, 2024, indicates that 47.8% of the KCCC jail population are pretrial inmates. Sentence Felons (22 individuals) were excluded from this calculation.

The Commission is tasked with re-evaluating the rated capacity of each correctional facility but currently does not have the staff to support this effort.

KCCC staff provided access to the Commission without any hesitation or issues. Commissioners were able to speak to individuals in custody throughout the facility, and individuals in cells within Module A, Module B, and the shipping containers.

Ongoing Construction Projects

There were two critical construction projects underway during the Commission's visit: 1) the sewer main in front of the facility had burst, preventing the utilization of three holding cells adjacent to the administration area, and 2) the water main by the highway being serviced. The Commission was informed that the water main construction has resulted in the delay of much needed remodel of the kitchen.

Module A

Module A is the oldest part of the facility, opened in 1977, and is made up of four, three-cell units. Each three-cell unit has a very small dayroom that opens into a larger central dayroom. During the Commission's last visit, half of Module A was being renovated. The renovation is completed now; however, the Commission noted the new shower area in Module A had water pooling in the center

of the room. It seems this project should not have been accepted as complete until such problems were resolved.

The law library is located in Module A, a male-only unit, potentially causing access restrictions for females. However, access to the law library is not a complaint the Commission has received from individuals at KCCC.

Module B

Module B was added in 1986 and is a unique space with six large cells of approximately 157 square feet each, allowing a rated capacity of four inmates assigned to each cell. However, three double bunks (bed for six individuals) were found in the cell that the Commissioners had visited (Cell B-1). The individuals assigned to Cell B-1 were deeply concerned with the time spent in their cells. They claimed they were confined to the cell for 22-hours per day.

The dayroom is quite large, but again, all individuals were locked in their cells during the Commission's visit. It is unclear how often they are allowed outside of their cells. Additionally, the facility placed steel shutters over the cell door windows, limiting any sight outside of the cell. Staff claimed this was for security reasons.

There was water leaking into the dayroom out of Cell B-2, but it was unclear what was causing the leak.

Module C

Module C, opened in 1997, is an L-shaped building with two large dormitories joined by a multipurpose room in the center and a bathroom for each wing. Each dorm is divided into cubicles with half-walls. The building was under renovation during the Commission's March 2023 visit, and renovations are now complete. All windows were replaced, and the bathrooms were renovated. The unit was clean, and individuals had considerable freedom of movement within the unit.

There is a secure recreation yard available outside of Module C, which was in use when the Commissioners arrived.

Cabins A-C

Cabins A, B and C were originally built as temporary housing for Kauai residents after Hurricane Iniki. The cabins were moved to the facility between 1993 and 1995 as temporary housing but continue to be used today. These units were not included in the 2001 capacity report as they do not meet fire code—no fire suppression system and no second exit.

Cabins A and B, which house men, have an outside lanai that serves as the dayrooms for those units. Cabin C, which houses women, had a lanai that was enclosed to increase the number of beds, leaving the women no dayroom space. Per the Commission's recommendation after the last visit in March 2023, a small lanai was added to Module C to ensure the women are afforded a dayroom/outdoor space comparable to the men. However, the Commission was informed by the women housed in Cabin C, and staff that the women are given limited access to the lanai since male worklines sometimes pass by in the surrounding areas. The facility must ensure incarcerated women have the same access to dayroom and recreation space as men.

Shipping Container Housing

The shipping containers in front of the administration area were originally used for new intakes and active COVID-19 cases but are now being used as a secure housing unit for the women.

The cells were larger than similar cells at OCCC, and one cell that was opened had three double bunk beds in it (six beds total). Although each cell had a small window in the door, the windows were covered. Therefore, no natural lighting was available in the cells.

The shower was located outside, across from the cells, and movement to showers can be observed by people in custody in Module C, the recreation yard, and a small visiting area. Netting is placed over the fence surrounding the shower area, yet it is still obvious that others can see figures that pass the netting. There was no Adult Correctional Officer (ACO) assigned specifically to the container area as there is no specifically assigned post to the shipping containers, and it is unknown how often the cells are checked.

There was no dayroom available to the women, resulting in more time spent in their cells.

Suicide Watch Observation Cells

Three holding cells are located within the Administration area of Module A, with observation windows along a hallway. These are multipurpose cells for administrative segregation and suicide watch. The holding cells were not operable during the tour due to the sewer issue noted above.

Kitchen

The facility-wide kitchen and mess hall for Module C and the cabins are located in a separate building that is in dire need of replacement. The floors in the kitchen and mess hall were worn through to bare wood in some areas and completely gone in other areas. Plywood had been temporarily laid down to cover missing floorboards, but they were flimsy and extremely dangerous to walk on. The dangerous condition of the floor in the kitchen and mess hall could easily result in serious injury to staff and people in custody. A new floor must be laid as soon as possible.

It is important to note that during the March 2023 tour, the Commissioners noted the same issues and concerns, but were told that the kitchen was soon scheduled to be replaced. Now, work cannot start until the water main is repaired, a project currently underway but moving ahead very slowly. Commissioners were informed that a module system is to be installed behind the existing kitchen which will then be removed, and a kitchen and chow hall will be built. The conditions have worsened since the Commission's 2023 tour, and it is obvious that nothing has been done to remedy the situation. The condition of the structure has degraded so significantly that the ability of staff to manage and provide quality meals is in question.

One Commissioner noted that the kitchen is in such despair, that it should be closed entirely and alternative means of providing meals be considered.

Staffing Shortages

Staff burnout was extremely evident during the tour. This appears to be due to severe staffing shortages, consistently long work hours (consistent 16- and 24-hour shifts), and being tasked with multiple posts and multiple roles. For example, the gate post is expected to manage the shipping containers and the furlough population. In reality, those should be three separate posts for three

separate officers, however, one officer is expected to run all posts without mistakes. Pure exhaustion has been more evident in KCCC than in any other facility. The Commission believes that KCCC staff are doing the best they can, but they have been forced to work in these same conditions for far too long, and relief is needed as soon as possible.

Facility Worklines

The Commission was informed that KCCC is not paying individuals to work on worklines. The Commission addressed this with the Warden while on site and were informed that the facility believes it is more rehabilitative not to pay people in custody such low wages (25 cents an hour, per policy), and instead, believes it's best for people in custody to give back to the facility and community by volunteering their time on worklines. The facility sees 25 cents an hour pay as disrespectful.

Although the Commission agrees that wages are extremely low per policy, it is not acceptable to deviate from policy, particularly when the deviation may affect the opportunity to buy commissary items or make phone calls, or video visits. Additionally, this puts an additional disparity on the community members as they will be the ones who send in money for people in custody to partake in commissary, phone calls, or video visits.

Restraint Chair and WRAP Chair

The Commission was quite taken aback to discover both a Restraint Chair and a WRAP chair (which uses straps to fully immobilize the body) in the security office of the facility. These restrictive restraints are at the highest level on the use of force continuum. Restraint and WRAP Chairs have caused serious harm to people in custody, resulted in death, and have been subjected to lawsuits in many states. It is an area ripe for misuse and litigation.

Staff in the facility were not aware of any policy governing the use of the chairs but claimed that staff were trained in how to use the Restraint and WRAP Chairs. When questioned, the Warden said he believed there was a policy but was unable to provide one to the Commission as he had to leave the facility for a meeting.

When either chair is used, no log is maintained while an individual is restrained. Of even more concern, the Commission was informed that when either restraint chair is utilized, the individual strapped to the chair is placed back in their cell and checked every thirty minutes or so until the individual calms down. The Commission was informed that the chairs are mostly utilized when an individual is kicking or banging the cell door to protect the individual from injury and the cell from destruction.

Recommendations to be considered by the Department of Corrections and Rehabilitation:

- 1) Immediately cease any usage of the Restraint Chair and WRAP Chair until, at minimum, a policy is developed and approved by the Attorney General to protect the state from liability.**

If the Department of Corrections and Rehabilitation intends to continue use of such restraints mechanisms, it is imperative that a policy be developed and approved by the Attorney General to protect the State from liability.

The policy must include, at a minimum:

- Under what conditions may the restraint be used (**never for punishment**);
- Who must approve the use of the restraint (should be Warden, Deputy Warden, Chief of Security);
- Health Care must be informed and determine any medical risk in the use of the restraint;
- Placing an individual in the chair must be filmed, as with cell extraction;
- The individual should be checked on a regular basis (every 10 minutes) to ensure there is no medical problem and blood is circulating;
- There is a time limit for use of the restraint, such as two hours;
- An individual placed in the chair due to mental health issues (such as harm to self or others) must have medical and mental health approval; and,
- A log maintained for the duration of the restraint.

2) The shipping container units outside Module 5 must not be used until there is a specific post made for that area to ensure there is staff in the immediate vicinity at all times.

The Commission found that the shipping containers in front of the administration area did not have an ACO in the vicinity due to there being a lack of post assignment. Instead, the front gate officer is assigned to watch the shipping containers in addition to their normal duties. The Department places itself at considerable risk by not posting an ACO in the immediate vicinity whenever any of the cells are occupied. The shipping containers must have a designated post and otherwise not be used as an ACO cannot be guaranteed to be in the immediate area whenever a cell is occupied.

It is, therefore, recommended that KCCC not use these units unless it can post an ACO in the immediate area whenever any cell is occupied. It should be noted that the Commission posted a similar recommendation one year ago in March 2023, however, the issue has not been addressed.

3) Immediately prioritize the construction and replacement of the KCCC kitchen as it poses a dangerous threat to individuals or staff being hurt due to its desperate condition.

The floors in the kitchen and mess hall were worn through to bare wood in some areas and completely gone in other areas. Plywood had been temporarily laid down to cover missing floorboards, but they were flimsy and extremely dangerous to walk on. The dangerous condition of the floor in the kitchen and mess hall could easily result in serious injury to staff and people in custody. A new floor must be laid as soon as possible.

4) Remove the window covers of the shipping container windows to allow natural light.

The Commission found that the shipping container cells had a slab of material completely blocking the windows to ensure women in the cells were not seen by men in custody. In accordance with American Correctional Association (ACA) Standard 4-ALDF-1A-16: *All inmate rooms/cells provide the occupants with access to natural light by means of at least three-square feet of transparent glazing, plus two additional square feet of transparent glazing per inmate in rooms/cells with three or more inmates.* Therefore, the Commission recommends removing the window covers to ensure access to natural light.

It should be noted that the Commission posted a similar recommendation one year ago in March 2023, however, the issue has not been addressed.

5) Ensure individuals in the facility are receiving the most out-of-cell time possible in alignment with a rehabilitative and therapeutic environment.

Individuals in Module B claimed to be locked in their cells for 22-hours per day. This, by definition, is considered restrictive housing, also sometimes referred to as solitary confinement. Additionally, it was unclear if women who are housed within the shipping containers get any type of recreational time outside of their cells.

If the Department of Corrections and Rehabilitation is serious about the transition to a therapeutic and rehabilitative system, it is imperative to ensure individuals are not locked down within their cells for such extended periods of time.

Therefore, daily schedules should be posted in all housing units for transparency regarding programming and out of cell time. This allows individuals in custody to anticipate what is to come, and to hold the staff accountable and ensure programming is completed in a consistent manner.

6) Ensure that incarcerated women in Cabin C have access to outdoor space, specifically, the Cabin C lanai that was built for that exact purpose.

Due to overcrowding, Cabin C's lanai was enclosed to increase the number of beds to house women, leaving the women no dayroom or outdoor space. Men housed in Cabin A and B, however, still have an open and functioning lanai that they can use at their leisure. Per the Commission's recommendation after the last visit in March 2023, a small lanai was added to Module C to ensure that women are afforded a dayroom/outdoor space comparable to the men. The Commission applauded this effort; however, the Commission was informed by the women housed in the Cabin and staff, that the women are given limited access (if any) to the lanai since male worklines sometimes pass by in the surrounding areas.

The facility must ensure incarcerated women have the same access to dayroom and recreation space as men.

7) Ensure that individuals who work on the facility worklines are being paid accordingly, by Department policy.

The Commission was informed that KCCC is not paying individuals to work on worklines. Although the Commission agrees that wages are extremely low per policy, it is not acceptable to deviate from policy, particularly when the deviation may affect an individual's opportunity to buy commissary, phone calls, or video visits. Additionally, this places an added burden on the community members as they will be the ones who send in money for people in custody to purchase commissary or make phone calls or video visits. Therefore, KCCC must pay individuals who work on the workline their appropriate wage per Department policy.

The Commission extends special thanks to the KCCC staff for their time, professionalism, and expertise during the tour.