

Honolulu, Hawaii

OCT 14 2009

RE: Senate Ad Hoc
Committee: Kulani
Correctional Facility

Honorable Colleen Hanabusa
President of the Senate
Twenty-Fifth State Legislature
Regular Session of 2010
State of Hawaii

Madam:

Your Senate Ad Hoc Committee, to which was referred:

"THE SENATE'S REVIEW AND ASSESSMENT OF THE IMPACT ON THE
COMMUNITY FROM THE REDUCTION IN GOVERNMENT SERVICES DUE TO
BUDGET RESTRICTIONS AND LAYOFFS AND FURLOUGHS OF CERTAIN
STATE EMPLOYEES,"

begs leave to report as follows:

BACKGROUND

On August 4, 2009, Governor Linda Lingle announced that the State would immediately begin delivering written layoff notices to the approximately 1,100 state employees who were previously notified their positions could be eliminated. In addition, the Governor announced the furlough of approximately 900 "exempt excluded" non-union state employees for three days per month effective September 1, 2009. These 900 employees were not covered by Judge Karl Sakamoto's order barring the Governor from unilaterally implementing furloughs for union employees.

In response, you assigned the Senate Vice-President the responsibility of coordinating the Senate's review and assessment of the impact to the community from the reduction in government services due to budget restrictions and layoffs and furloughs of certain state employees, and announced formation of a Senate Ad Hoc Committee. For this purpose, the Vice-President was appointed chair of the Ad Hoc Committee, with the Committee to be comprised of senators interested in gaining more information about the proposed reductions in services.



As such, the Ad Hoc Committee conducted informational briefings to gather information on the anticipated impacts of the planned closure of the Kulani Correctional Facility.

INFORMATIONAL BRIEFING

Your Committee conducted three informational briefings: on August 13, 2009, in Hilo, Hawaii, on August 14, 2009, in Kailua-Kona, Hawaii, and on August 19, 2009, in Honolulu, Hawaii. In attendance at the Hilo briefing were Russell S. Kokubun, Chair; and Senators Colleen Hanabusa, Gary L. Hooser, and Dwight Y. Takamine. In attendance at the Kailua-Kona briefing were Russell S. Kokubun, Chair and Senator Dwight Y. Takamine. In attendance at the Honolulu briefing were Russell S. Kokubun, Chair; and Senators Rosalyn H. Baker, Suzanne Chun Oakland, Will Espero, Brickwood Galuteria, Colleen Hanabusa, Gary L. Hooser, Donna Mercado Kim, Norman Sakamoto, and Dwight Y. Takamine.

Prior to the Honolulu informational briefing, three subpoenas commanding appearance and testimony before your Committee were served: one to the Chairman of the Correctional Industrial Advisory Committee, and two to administrators at Kulani Correctional Facility.

Written comments were received from the Department of Public Safety, the Mayor of the County of Hawaii, Community Alliance on Prisons, and six individuals, and approximately two dozen people presented oral testimony. Video links to the briefings and selected testimony are available on the Legislature's website.

Kulani Correctional Facility

Kulani Correctional Facility (KCF) is a 160-bed minimum-security prison that incorporates vocational training and specialized programming for male inmates who are serving the last four years before their tentative parole date. Situated on 8,000 acres outside Hilo, Hawaii, the 20-acre facility opened in 1946 as a work camp and initially focused on assigning inmates agricultural and forestry work. Current programs stress mechanical repair and maintenance, construction, heavy equipment operation, computer work, as well as horticulture and conservation. It is the only Department of Public Safety (Department) facility that is a mandatory work camp, requiring every inmate to work full time.



KCF is also the primary location for the Department's Sex Offender Treatment Program (SOTP), which generally takes two years to complete. Unless determined violent or mentally challenged, or the inmate refuses to work, minimum-custody sex offenders are assigned to KCF. Sex offenders not eligible for KCF are housed in Halawa Correctional Facility, a medium-security and high-security facility. The only other minimum-security facility in the State is the Waiawa Correctional Facility, which does not house sex offenders.

The 160-bed KCF facility has housed up to 220 inmates without creating operational problems, and the August 2009 population count of 123 inmates is the lowest in over twenty years. Current staffing consists of the following positions:

Administration:	8	6 filled, 2 vacant
Security:	53	48 filled, 5 vacant
Security Training:	1	filled
Operations:	11	10 filled, 1 vacant
Offender Services:	6	filled
Education:	2	filled
Library:	1	filled
Health Care:	3	filled
Food Services:	5	filled
Correctional Industries:	2	1 filled, 1 vacant

Based on the information and testimony received, your Ad Hoc Committee has identified the following priority concerns.

PRIORITY CONCERNS

- Kulani Correctional Facility has the most successful Sex Offender Treatment Program (SOTP) in the nation, and options for inmate transfers to other SOTP facilities - either in-state or out-of-state - are limited or would house minimum-custody inmates in medium-security facilities. This is in conflict with the standards of the American Correctional Association and the Department's policies and procedures on the housing of inmates based on their custody levels. Also, treatment providers attribute the program's success in part to Kulani's milieu. Sex offenders not only receive treatment, but also must work and function responsibly with minimum supervision, an environment that



does not exist at the sites to which the sex offenders will be transferred.

- KCF has a successful Substance Abuse Treatment Center in which prisoners can get dual treatment. While other Hawaii and Mainland facilities have substance abuse programs, not all accept sex offenders and a great portion of sex offenders require both programs.
- KCF provides educational training and occupational skills in auto mechanics, construction, landscaping, conservation, heavy equipment, laundry services, and kitchen services. Inmates are involved in a wide range of community service projects in these areas - efforts that the communities would not otherwise be able to afford.
- Local vendors, including food suppliers, supply tens of thousands of dollars worth of goods and services to KCF each month, and the loss of sales will have a detrimental economic ripple effect for businesses throughout the island.
- The Going Home Committee is a consortium of public and private agencies focused on promoting successful reentry programs on the Big Island. A significant percentage of inmates housed at KCF are Big Island residents. By serving a portion of their sentences in their home community, these inmates benefit from regular family visitation, establishing contacts with community groups, such as churches, which can provide positive relationships after release, and from social and employment services specific to their needs. Going Home has worked to improve programs that foster transition for KCF inmates who will return to the Big Island communities. Programs such as job readiness, mentoring, and housing placement, help offenders become productive citizens and reduce recidivism and victimization. Without KCF, this transition will be much more difficult for inmates from the Big Island.
- The Federal Detention Center (FDC) and Halawa Correctional Facility are medium-security facilities in Honolulu, and Waiawa Correctional Facility in Waipahu is a minimum-security facility; all house Hawaii inmates. Transferring KCF inmates to these facilities will severely limit the inmates' ability



to meet their required prescriptive program, particularly those in the SOTP.

- Currently, six of the nine correctional facilities in Hawaii are under capacity. Closing KCF and transferring inmates will not significantly address the under-capacity issue in Hawaii facilities, and calls into question the cost analysis of keeping inmates at mainland facilities. At minimum, this cost analysis should include the economic impact of housing inmates in Hawaii as opposed to the mainland.
- The courts determine each inmate's maximum sentence, and the Hawaii Paroling Authority (HPA) sets a minimum sentence and a tentative parole date (TPD). Inefficiencies have resulted in inmates returning from mainland facilities after their TPD, or with too little time to meet their required prescriptive program before their TPD. This has led to increased costs for housing and treatment of inmates beyond the period required by the HPA.
- KCF has received significant state investments through capital improvement projects: \$8,136,937 since 2000. To date, the Department has not provided finalized contingency plans for use of the facility, or total savings realized from its closure.

To address these priority concerns, your Ad Hoc Committee has developed the following recommendations.

RECOMMENDATIONS

- Require the Department of Public Safety to provide the Ad Hoc Committee with information listing the facilities where former KCF inmates are being housed, the programs available at these facilities, and whether the available programs will be adequate for the inmates to meet their required prescriptive program before their TPD.
- Direct the Senate Majority Research Office to conduct a legal analysis regarding the Governor's authority to unilaterally close the Kulani Facility without first obtaining legislative authorization. Although the Governor appears to have the authority to restrict funding to programs under administration control, there is a question as to whether the

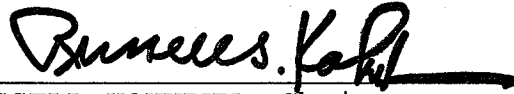


Governor has the legal authority to shut down the facility altogether without legislative authorization, particularly since the funding for the facility was contained in the Executive Budget and the Governor did not line item veto the appropriation.

- Require the Department of Public Safety to provide no later than twenty days prior to the Regular Session of 2010 a plan for use of the Kulani facility.
- Request the Auditor to conduct a financial and management audit of the Department of Public Safety, to include an audit of CCA contracts in order to determine CCA costs relative to the cost of housing inmates in Hawaii facilities.
- Require the Department of Public Safety to finalize and release no later than twenty days prior to the Regular Session of 2010 the prisoner assessment study initiated in 2006.
- Require the Department of Public Safety to consult with the counties to determine the feasibility of transferring pretrial detainees to county jurisdiction or to develop a fee schedule for housing pretrial detainees in order to expedite timely due process.
- Require the Department of Public Safety to provide open records upon request: all inmate housing contracts, including private prisons on the mainland and the Federal Detention Center in Honolulu; contracts for the SOTP; contracts for the Substance Abuse Treatment Program; contracts for vocational training with the University of Hawaii at Hilo and Hawaii Community College; and the Memorandum of Agreement with the Five Mountain Alliance Group.
- Require the Department of Public Safety to provide the Legislature with a plan describing in detail how it will comply with chapter 353H, Hawaii Revised Statutes (the Community Safety Act of 2007).



Respectfully submitted on
behalf of the Senate Ad Hoc
Committee,



RUSSELL KOKUBUN, Chair

