

The Value of Hawai'i:

Knowing the Past, Shaping the Future

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PRISONS

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ENDING HAWAII'S IMPRISONMENT BOOM: LET'S BE SMART ON CRIME, NOT SIMPLY TOUGH

The last decades of the twentieth century saw the United States embark on an unparalleled increase in the use of incarceration. As a result, the number of inmates in state and federal prisons increased nearly seven-fold. We incarcerated less than 200,000 people in 1970, but by 2008, we were incarcerating over a million and a half prisoners (1,518,559). An additional 785,556 are held in local jails, for a total of 2.3 million of our citizens under lock and key.¹ As the Pew Center on the States noted in 2008, we now imprison one out of every hundred of our citizens, giving us the dubious distinction of being the world's largest incarcerator.² With less than 5 percent of the world population, the United States houses nearly a quarter of its prisoners.³ Commenting on this trend recently, Senator Jim Webb noted that "With so many of our citizens in prison compared with the rest of the world, there are only two possibilities: Either we are home to the most evil people on earth or we are doing something different—and vastly counterproductive. Obviously, the answer is the latter."⁴

Most criminologists reject the notion that this increase in imprisonment has much to do with the crime rate, particularly in recent decades. They note that from 1971 to 2000, the overall crime rate remained virtually the same, while the national incarceration rate went up by almost 500 percent (494 percent). A recent study by the University of Texas found that while the number of inmates has grown by over 300 percent since the late 1970s, growth in prisoner numbers is responsible for no more than 27 percent of the recent drop in crime. In fact, in states with the fastest growing prison populations, crime rates did not show the marked decreases one would expect if imprisonment "worked" to reduce crime. In West Virginia, for example, incarceration increased by 131 percent, but crime in that state dropped only 4 percent; in Virginia, incarceration rose just 28 percent, but crime dropped 21 percent.⁵

What accounts for most of the increase in prison population? Many believe that a number of legal and policy changes explain the phenomenon. The passage of mandatory sentences, particularly for drug offenses; the adoption of "truth in sentencing" provisions that require prisoners to serve most of their sentences in prison; reductions in the amount of good time a prisoner can receive while imprisoned; and more conservative parole boards have significantly impacted the length of stay. In a special study by the U.S. Department of Justice on truth in sentencing, between 1990 and 1997, prison admissions increased by only 17 percent (from 460,739 to 540,748), while the prison population increased by 60 percent (from 689,577 to 1,100,850).⁶

Finally, many admissions to prison are actually re-admissions, because individuals have violated a condition of parole, like failing a random drug test. There has been a sevenfold increase in the number of parole violators returned to prison between 1980 and 2000. In states like California, an astonishing 67 percent of prison admissions are actually parole violators.⁷

This essay documents Hawai'i's involvement in mass incarceration over the past few decades, and how these choices continue to impact other aspects of our state's economy, including the provision of other much needed government services, especially vital social services and education. We hope that the data presented here stimulate an important and overdue debate about Hawai'i's response to crime—one that focuses on best practices and proven results, rather than mindlessly tough and costly incarceration.

LOCK 'EM UP, DANNO: HAWAII'S IMPRISONMENT BOOM

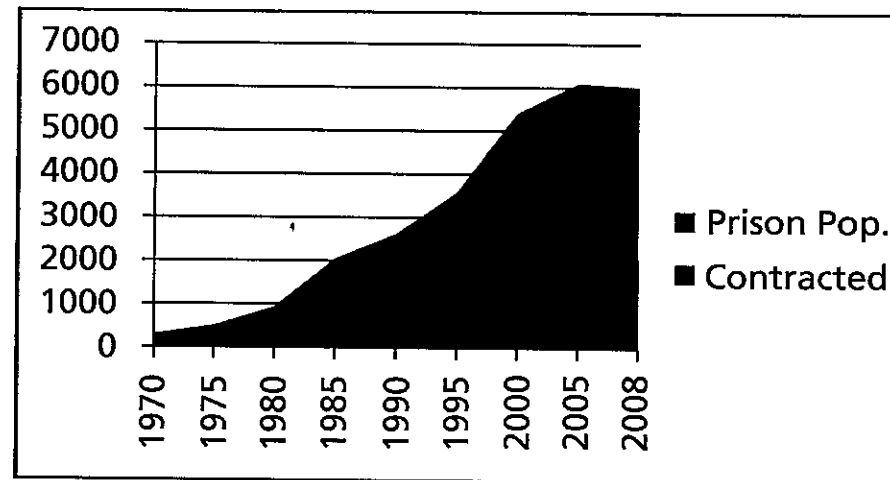
Like the rest of the country, Hawai'i has dramatically increased its reliance on incarceration in the last four decades. Hawai'i now imprisons roughly 6,000 of our citizens (5,955 in 2008).⁸ That is up from 5,053 in 2000—an 18 percent increase (see Table One). Ironically, this increase occurred despite the fact that Hawai'i has seen its crime rate decline to the lowest level in decades.⁹

Hawai'i's prison population has also increased at a faster pace than the nation as a whole, increasing since the turn of the century by 2.4 percent a year, compared to a national average of 2.0 percent. California's prison population, by comparison, increased by only 1 percent per year, and New York's prison population actually decreased by 1.6 percent per year for the entire period.¹⁰

Hawai'i is unique among the states in its reliance on incarceration in mainland facilities, most frequently in prisons run by the for-profit Corrections Corporation of America. Fifty-nine percent of Hawai'i's prisoners (on the mainland) are housed in facilities run by CCA on the U.S. continent, making Hawai'i one of its biggest customers. Those prisoners doing time on the mainland are far away from their families, incarcerated in states like Arizona

and, until recently, Kentucky. A review of Hawai'i's classification system reveals that 60 percent of our Hawai'i inmates doing time in mainland private, for-profit prisons are actually minimum or community custody, meaning they could be housed in minimum security or community custody beds in Hawai'i, instead of thousands of miles away from their homes and families.

TABLE 1: GROWTH AND DISTRIBUTION OF HAWAII INMATES, 1970–2008.



CHARACTERISTICS OF HAWAII'S PRISON POPULATION: RACE AND GENDER MATTER

Over-representation of people of color in the U.S. prison system has long been a problem. Nationally, more than 60 percent of those in prison are racial and ethnic minorities.¹¹ In Hawai'i, it has long been recognized that Native Hawaiians are over-represented among those under lock and key. A look at the data provided by the Department of Public Safety (PSD) reveals that while Native Hawaiians account for about 20 percent of the population, they constitute roughly 40 percent of those who are sentenced felons. Data from 2001 indicated that Native Hawaiian women were slightly more likely than their male counterparts to be over-represented: 44 percent of incarcerated women are Native Hawaiian, compared to 38 percent of men.

The Department of Public Safety also indicates that for many Native Hawaiians who are in prison, it is not their first time there. Consistent with other research on probation and parole as significant back doors to incarceration increases, only about a third of Native Hawaiians doing time are there for the first time.

PSD data also highlight the strain that returning ex-offenders can place on marginalized communities. On the island of O'ahu, a quarter of all Native Hawaiians released from prison return to one community: Wai'anae.¹² Given what we already know about probation and parole revocation, these data suggest that low income communities are hard pressed to provide the level of services, job opportunities, and drug and mental health treatment that those released from prison require. Without these services, they return to prison, often through the back door of parole revocation.

Research following those released on parole in 1996 found that in the next two to three years over half were returned to custody (53.9 percent), with only a quarter returned for new crimes, and three quarters for technical violations of probation and parole conditions—generally for drug relapse, another significant source of prison growth in Hawai'i and elsewhere. In Hawai'i, nearly half of the admissions of women to prison were the result of failed drug tests.¹³ A January 8, 2009, memo to Senator Will Espero from Richard Yen of the Hawai'i Paroling Authority detailed the technical violations and the length of time given for 244 individuals whose parole was revoked between January and December 2008.¹⁴ The total time given for these 244 revokees was 467 years: Maui, 18 revocations—27 years, 6 months; Hawai'i Island, 25 revocations—30 years, 6 months; Kaua'i: 4 revocations—12 years, 4 months; O'ahu: 197 revocations—396 years, 11 months. Nor was this year particularly unusual. Recent comparative research suggests that at nearly 50 percent, Hawai'i has the nation's fifth highest proportion of prison admissions due to parole revocation.¹⁵

The imprisonment boom has also meant increasing numbers of women are actually being sentenced to prison, a number that has increased by 4.2 percent for each year since the turn of the century—a rate roughly double the male rate of increase—until by 2008, women made up 12 percent of the total number of Hawai'i inmates. The majority of Hawai'i's incarcerated population are non-violent offenders, and this is particularly true of the women inmates, with 84 percent of the women, compared to 63 percent of the men, being nonviolent. As a result, 68.1 percent of females and 62 percent of males were classified as minimum or community custody, the least restrictive levels.¹⁶

While we do not have complete current data on the specific offenses of all women in Hawai'i's prisons, it is clear that a considerable proportion are doing time for drug offenses. In 1990, about one quarter (24.7 percent) of sentenced felons were incarcerated for these offenses; a decade later, it was 53 percent. Research on the characteristics of Hawai'i's imprisoned drug offenders found that in one two-year period (2003–2005), prisoners serving mandatory minimum sentences for drug offenses increased by 37 percent.¹⁷

Moreover, research conducted in 1991 indicated that during a two month period, 55 percent of the admissions to the Women's Community Correctional Center (WCCC) were probation or parole violators.¹⁸ More recent data suggests that the percentage of women's admissions produced by parole revocation is likely the same or higher.¹⁹

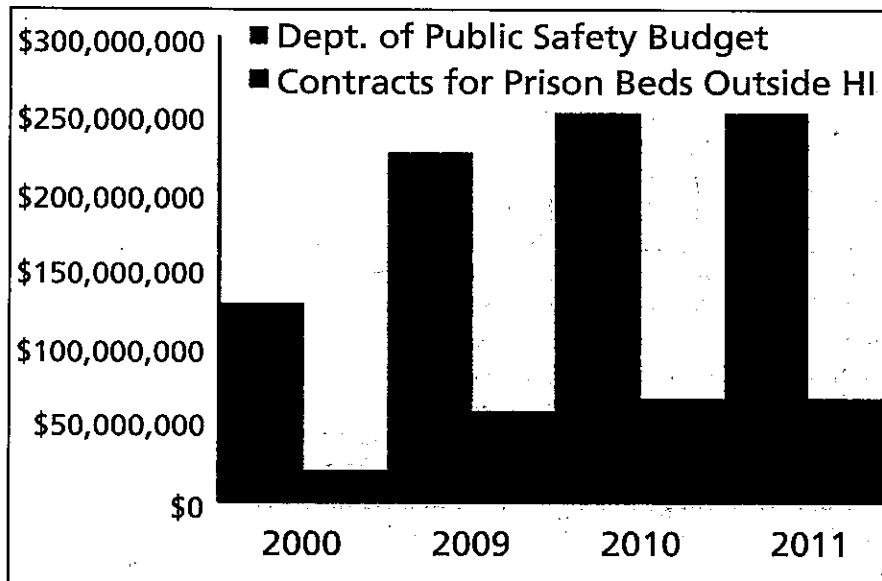
Women held in facilities with male guards are also at increased risk of sexual abuse, a problem that has long haunted Hawai'i's women's prisons. This problem was dramatically illustrated recently when 168 Hawai'i women inmates were returned home from a private prison run by Corrections Corporation of America, Otter Creek Correctional Center in Wheelwright, Kentucky—one of that state's poorest districts. A total of twenty-three allegations going back to 2006 were being investigated, and at least five corrections officials at the prison, including a chaplain, had been charged with having sex with inmates in the last three years. Four were convicted. In addition, three rape cases involving guards and Hawai'i inmates were recently turned over to law enforcement authorities. The Kentucky State Police said another sexual assault case would go to a grand jury soon. Kentucky is one of only a handful of states where it is a misdemeanor rather than a felony for a prison guard to have sex with an inmate; in Hawai'i, these would have been felonies. According to Hawai'i corrections officials, the Hawai'i women had been incarcerated in Kentucky, far from homes and families, solely to save money.²⁰

CLASSROOMS OR CELLS FOR HAWAI'I?

Speaking of money, let us not forget cost in this discussion of Hawai'i's imprisonment practices. Corrections spending has long been the fastest growing segment of state budgets. According to CBS News, taxpayers are paying an estimated \$40 billion a year for prisons.²¹ Feeding and caring for an inmate costs about \$20,000 a year on average, and construction costs are about \$100,000 per cell. Incarceration does not come cheap. The Pew Center on the States noted that between 1987 and 2007, the amount that states spent on corrections doubled.²²

In Hawai'i, spending on incarceration has soared in recent years, despite the economic problems that have been haunting the state. Since the turn of the century, the corrections budget has increased by 87.5 percent (from \$128 million in 2000 to \$225 million in 2009). During the same time, the money spent to send prisoners to private prisons increased by 192 percent, from \$20 million to \$58.4 million. As it stands now, 26.0 percent of PSD's general fund operating appropriations goes toward incarcerating prisoners outside of Hawai'i; this is up from 15.6 percent in 2000.²³

TABLE 2: HAWAII'S IMPRISONMENT EXPENDITURES, 2000-2011.



Where did the money that fueled Hawai'i's and the nation's imprisonment boom come from? Higher education has been a clear loser in the nation's choice to fund bars not books. The Pew study documented that between 1987 and 2007, corrections budgets rose by 127 percent (meaning they more than doubled), while higher education funding increased by a far more modest amount: only 21 percent.²⁴

The State of California provides a fairly clear study of this budget shift over time. In 1980, arguably the year that mass incarceration began, California spent 9.71 percent of its budget on public higher education and 2.83 percent on corrections. Fast forward to 2009, and the figure for higher education is 5.81 percent and for corrections 10.93 percent.²⁵ Proportionately, corrections budgets quadrupled in California, recently prompting that state's Republican governor to call for a shift away from those priorities: "spending 45 percent more on prisons than universities is no way to proceed into the future."²⁶

As the California data indicate, there are clear trade-offs here. Colleges and universities, in turn, had to pass the cost of higher education along to taxpayers, in the form of steep tuition increases. Consider that the University of Hawai'i at Mānoa increased its tuition 20 percent for both in-state and out-of-state students in 2006, achieving the dubious distinction of increasing our tuition more than any other public university in the country that year.²⁷

The public does not generally link corrections costs and college tuition, but it should, because every dollar spent on cells takes money from other important government services, including access to an affordable public university education. The nation also loses in this trade-off. At a time when our country clearly needs to invest in education for our citizens to face the challenges of a new century, including rising competition abroad, college educations have become increasingly unaffordable for average families in Hawai'i and elsewhere.

The good news is that a number of states, including California, are re-considering these "choices." The Sentencing Project noted that in 2009, state legislatures in at least nineteen states enacted policies that have the potential to reduce prison populations and/or promote more effective approaches to public safety. A number of states like Minnesota and Rhode Island scaled back the scope of mandatory drug sentences; seven states amended probation and parole policies to expand good time and earned time programs resulting in reducing prison sentences; and two states, California and Illinois, created incentive programs for local jurisdictions to reduce probation revocations.²⁸ Prison admissions in the U.S. have also leveled off, growing at the slowest pace in this century.²⁹

Unfortunately, Hawai'i's policy-makers and leaders have not taken such an innovative stance. There is talk, though, of building on the promising results of HOPE Probation, which provides probationers with access to drug treatment and emphasizes swift, short-term jail time instead of costly re-incarceration.³⁰ House and Senate Resolutions requesting the Hawai'i Paroling Authority to establish HOPE Parole have passed the 2010 Hawai'i Legislature. More robust challenges to the current reliance on costly and unproductive incarceration should be tops on any new Governor's agenda. Specifically, a new governor could safely reduce Hawai'i's incarcerated population by implementing the existing tiered furlough system. Other promising policy changes could include placing individuals with violent histories who have been granted parole on electronic monitoring; returning all community custody individuals who have completed their programming to Hawai'i; and mandating that technical parole violators cannot be returned to prison.

With the state budget in a crisis, and with crime rates dropping, a new Governor could and should safely implement all these modest changes without any new legislation. The vast sums of money now being paid out to private incarcerators could then be shifted to far more productive and pro-social uses, like restoring funding to public education (both lower and higher) and strengthening the very tattered social service safety net.

supported by economic analysis. For-profit and non-profit entities all have the "same problem of inducing their employees to work toward the organizational goals." See Herbert Simon, "Organizations and Markets," *Journal of Economic Perspectives* 5.2 (1991): 28, as cited in Joseph E. Stiglitz, *Freefall: America, Free Markets, and the Sinking of the World Economy* (New York: Norton, 2010): 198.

3. The best model may be a strong undergraduate degree in a subject other than education, combined with a graduate degree in education. This model, used for doctors and lawyers, creates a public expectation of excellence, and justifies salary increases as well as increased demands on teachers. I dedicate this suggestion to the hundreds of gifted law students who have told me that they would rather be teachers, if only teachers could make what lawyers make.
4. Principals are the pivot point that could turn around the entire system. We need leaders who are willing to fire bad teachers, who will create energized school cultures. Credible leaders in neighborhood schools will capture the amazing alchemy of Hawai'i's generous talent pool. The baby boomers looking for meaning in the next chapter of their lives are waiting for a strong principal to put them to work as volunteers.
5. This is not a ridiculous dream. The children who come from families in distress are typically failing in school. To teach them, we have to provide what their families cannot. The Maya Angelou public charter school in Washington, D.C. has beds for children who have no safe place to go home to on any given night. Using the philosophy that it is the school's job to provide students with what they need to keep learning, the Maya Angelou school has taken children from the juvenile justice system and sent them on to college.
6. For discussion of studies supporting early childhood education and wrap-around social services, see Mari Matsuda, "On Causation," *Columbia Law Review* 100.8 (Dec. 2000).
7. Consider tax incentives and college scholarships for public school families, and creation of class-integrated magnet schools along the model of the successful UH laboratory school. Studies show that class integration brings up performance of low-income students without harming performance of high-income students.
8. Pushing through all of these demands requires organizing parents, students, and teachers together to fight for them. That is an unbeatable coalition, using the same formula that won Hawai'i's democratic revolution: there are more of us who are hurt by lousy public schools, and we vote.
9. Evaluation models exist that ask whether the school culture is supporting the development of critical thinking, and whether the students exhibit actual competencies measured by what they can do, not how they perform in time pressure tests.
10. Start with public recognition. Publicize and celebrate our public school successes: the students who have gone on to excel at the top colleges, the stunning poetry slams, history day entries, Hawaiian language accomplishments, professional May Day performances, and the many hidden moments of brilliance in our public school lives. We should also reward master teachers and model schools, and have others visit them to see what they are doing right.

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