

Justice Reinvestment in Hawaii

Analyses & Policy Framework

January 17, 2012

Council of State Governments Justice Center

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- **National non-profit, non-partisan membership association of state government officials**
- **Represents all three branches of state government**
- **Justice Center provides practical, nonpartisan advice informed by the best available evidence**

• Criminal Justice /
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• Consensus Project

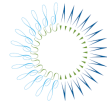
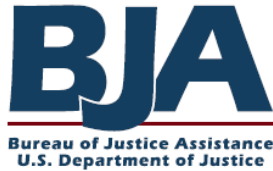
• Reentry Policy
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• Justice
Reinvestment

Justice Reinvestment Assists State Officials in Identifying Policies to Improve Public Safety

Justice Reinvestment

a data-driven approach to reduce corrections spending and reinvest savings in strategies that can decrease crime and strengthen neighborhoods.



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Public Safety
Performance
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Governor, Chief Justice & Legislative Leaders Launch Justice Reinvestment Initiative in June 2011



STATE TO EXAMINE INMATE RETURN POLICY

The study will focus on ending the use of mainland prisons

Jun 29, 2011

Hawaii is preparing a data-driven look inside the criminal justice system to help determine whether the state can stop sending prisoners to mainland prisons.

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Justice Reinvestment Is Directed at Reducing Correctional Cost While Enhancing Public Safety



1. Focus on the people most likely to commit more crime
2. Use programs proven to work & ensure they are high quality
3. Deploy supervision policies and practices that balance sanctions and treatment
4. Target places where crime and recidivism rates are the highest

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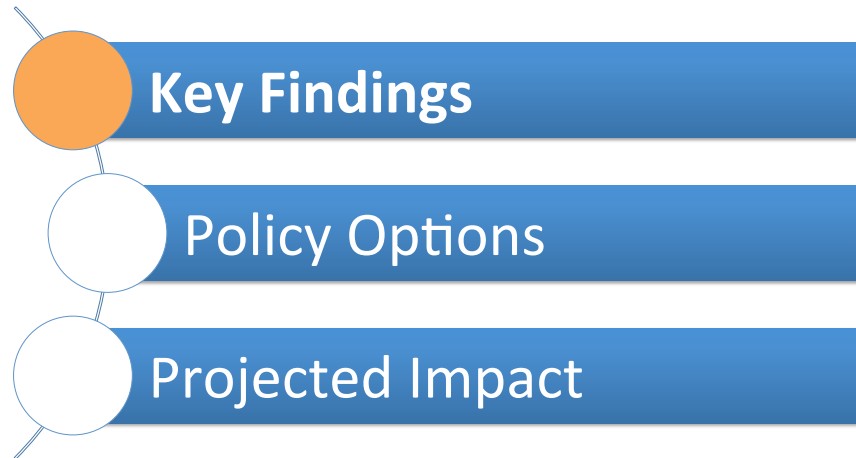
Justice Reinvestment Process

Bipartisan, inter-branch, bicameral working group

1	2	3
Analyze Data & Develop Policy Options	Adopt New Policies	Measure Performance
<ul style="list-style-type: none"> • Analyze data to look at crime, court, corrections, and supervision trends • Solicit input from stakeholders • Map allocation of resources • Develop policy options & estimate cost savings 	<ul style="list-style-type: none"> • Identify assistance needed to implement policies effectively • Deploy targeted reinvestment strategies to increase public safety • Review implementation progress 	<ul style="list-style-type: none"> • Track the impact of enacted policies/ programs • Monitor recidivism rates & other key measures

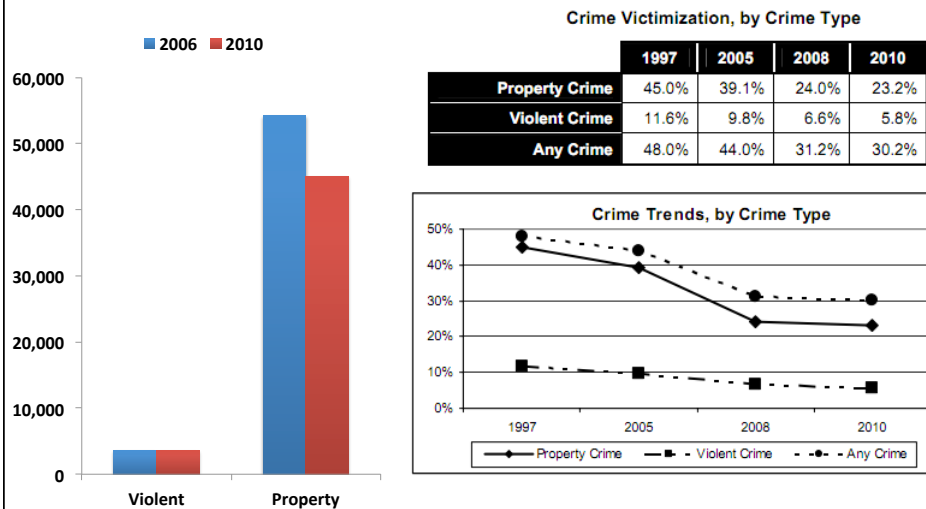
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Overview



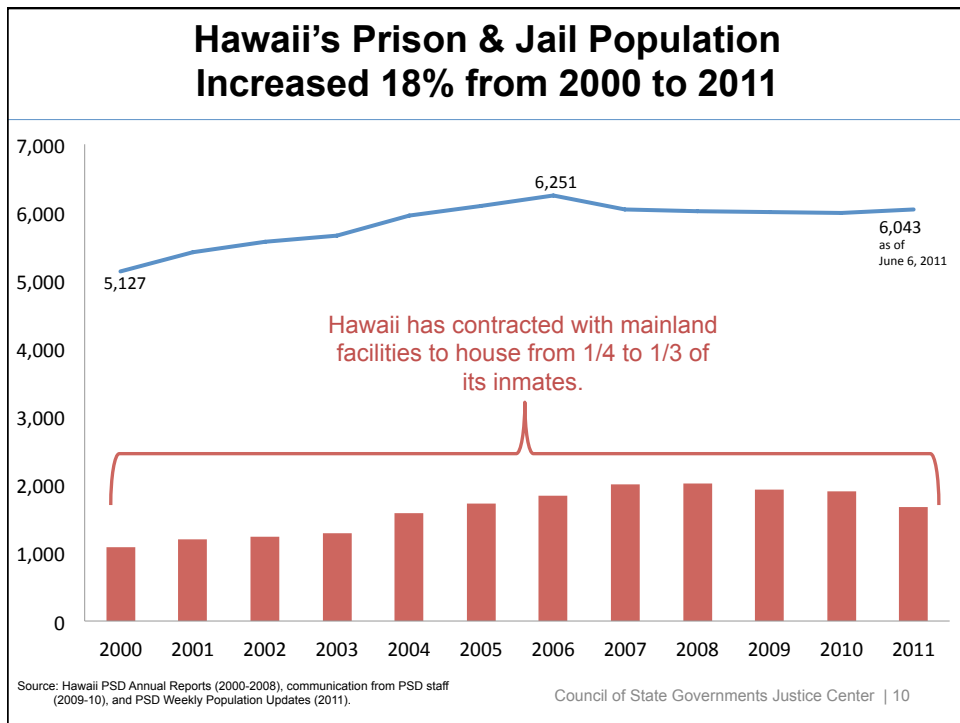
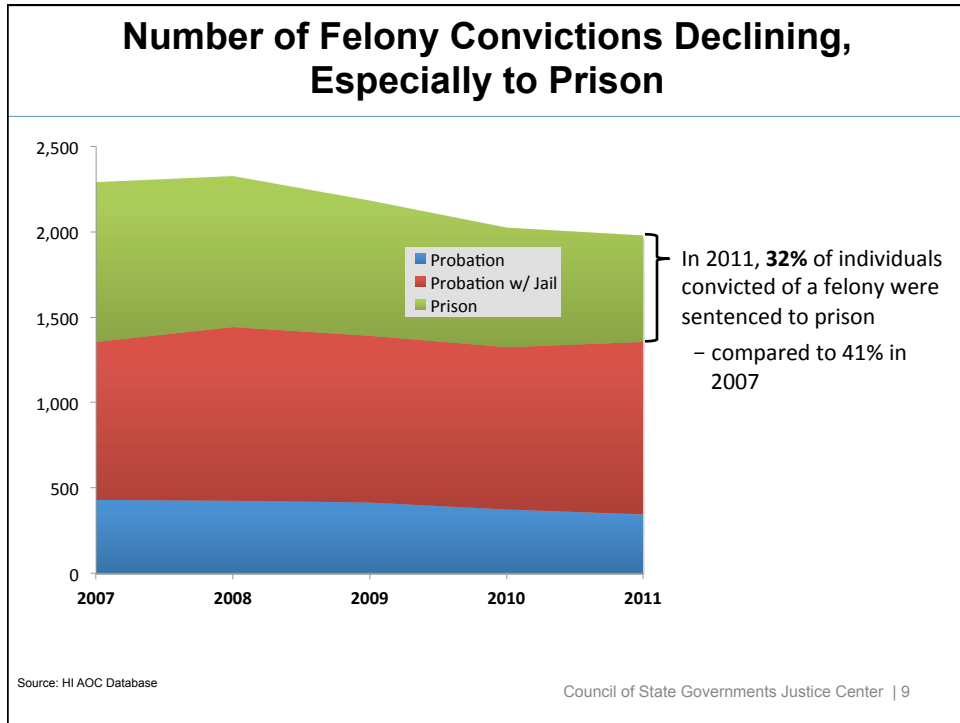
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Crime & Victimization Rates Are Down



Source: FBI UCR Crime Statistics 2006 and 2010; Crime & Justice in Hawaii: 2010 Household Survey Report, Hawaii Attorney General (August 30, 2011)

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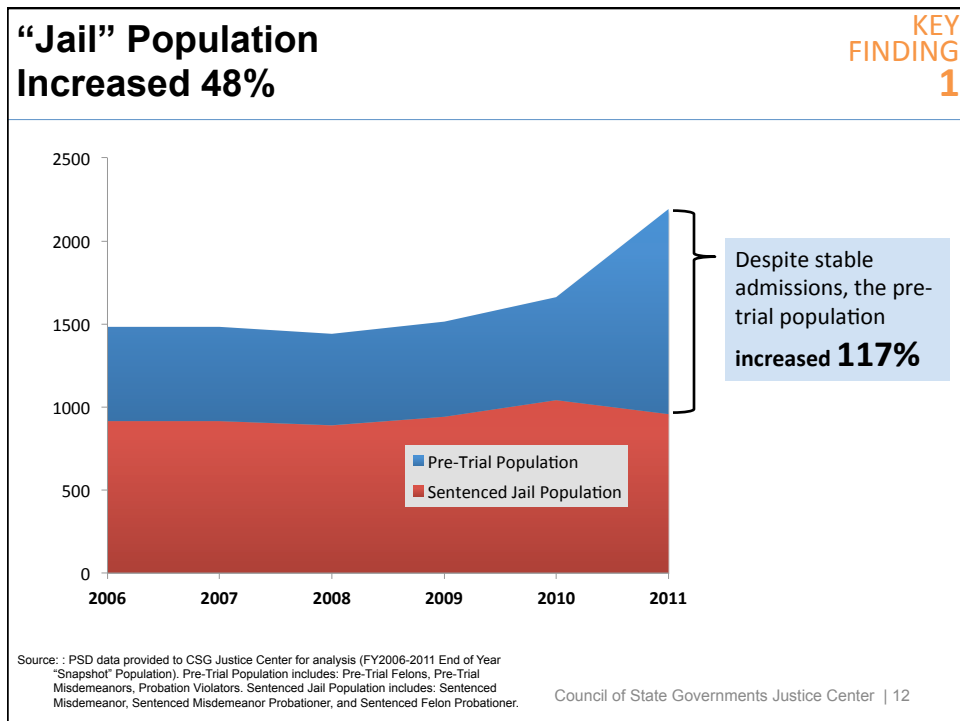


Key Findings

Crime, arrests, and felony convictions have declined...
...but the prison/jail population has not declined, because:

- 1.** Jail population is increasing due to delays in pre-trial process.
- 2.** Increasing number denied parole, due to programming requirements of low risk offenders & bottlenecks.
- 3.** Prisoners are being held longer, and increasingly held to finish their sentence without supervision.
- 4.** Lack of discretion in sentencing low severity drug offenders and long probation terms resulting in poor resource investments.

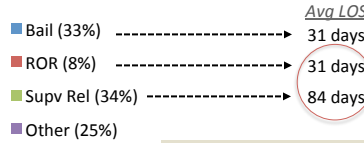
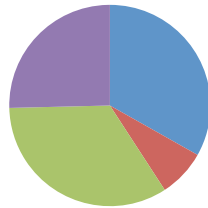
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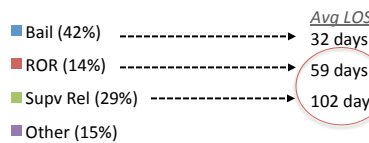
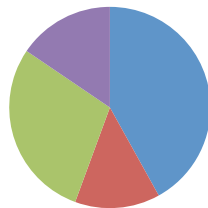
Pretrial Felons Spending Longer in Jail

KEY FINDING 1

FY 2006 Releases (n=2,415)



FY 2011 Releases (n= 1,953)



Release on Own Recognizance (ROR) and Supervised Release (SR) account for 43% of all pretrial felony releases, but it takes three months.

Source: PSD Releases Data from FY2006-2011

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Pretrial Felony Release Trends: Hawaii Compared to Other Large US Counties

KEY FINDING 1

Analysis of Felony Cases Filed and Type of Release from Jail During Pretrial Status*

County	Non-Financial		Money Bail		No Pretrial Release	
	% of Tot	Jail LOS	% of Tot	Jail LOS	% of Tot	Jail LOS
Honolulu, HI	27%	71 days	30%	37 days	41%	216 days
Maricopa, AZ	39%	4 days	13%	18 days	8%	137 days
Los Angeles, CA	13%	5 days	17%	8 days	63%	74 days
39 County Average		14 days		12 days		121 days

Of the 39 counties in the study, 32 manage to release defendants under non-financial conditions in less than 15 days.

Across the board, Honolulu had the longest average stay in jail for those ultimately released during the pretrial stage.

* Based on Bureau of Justice Statistics Court Processing Statistics Project (May 2004 felony case filings).

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FY 2011 Pretrial Release Trends by Island

KEY FINDING 1

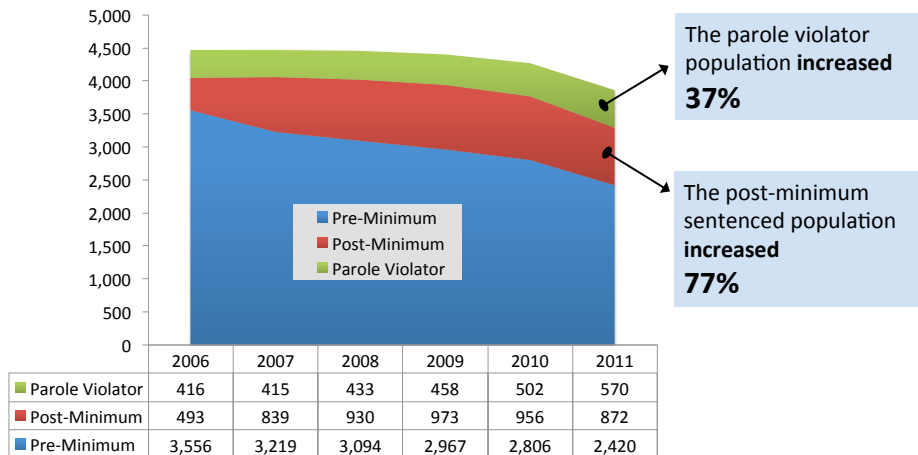
Pretrial Release Type (Felony)		Oahu	Maui	Hawaii	Kauai
Total Felony Pretrial Releases		1,160	352	300	138
Bail/Bond	% of tot PT rels	38%	47%	52%	40%
	Avg LOS	35 days	29 days	20 days	51 days
Supervised Release	% of tot PT rels	28%	42%	26%	8%
	Avg LOS	111 days	119 days	40 days	60 days
Own Recognizance	% of tot PT rels	22%	0%	2%	6%
	Avg LOS	60 days	na	28 days	62 days

Source: PSD Releases Data from FY2006-2011

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Overall "Prison" Population Declined by 14%, but...

KEY FINDING 2

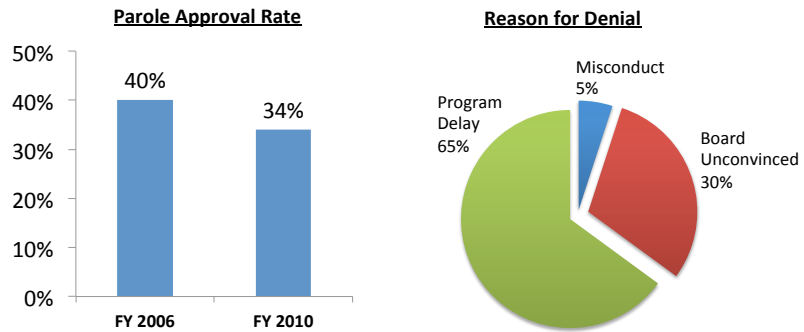


Source: PSD data provided to CSG Justice Center for analysis (FY2006-2011 End of Year "Snapshot" Population). Pre- and Post-Minimum Offenders include those sentenced for a new conviction or a probation revocation.

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Parole Approval Rate Declining

KEY FINDING 2



Source: PSD End of Year "Snapshot" Population Data, FY2006-2011; HPA Annual Reports; Analysis of Sample of Parole Board Decision Summaries

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Increase in Parole Violator Population Due to Longer Length of Stay

KEY FINDING 3

Admissions X **Length of Stay** = **Population**

HPA # of Parole Violators			Avg. # of Months			# in Prison Population		
FY 2006	FY 2010	'06 - '10 % chg	FY 2006	FY 2011	'06 - '11 % chg	FY 2006	FY 2011	'06 - '11 % chg
364	220	-40%	19.0	28.3	49%	416	570	37%

Source: HPA Annual Reports; PSD Annual Release Population Data from FY2006-2011; PSD End of Year "Snapshot" Data, FY2006-2011

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Increasing Number of People Released From Prison Without Supervision

KEY FINDING 3

Sentenced Felon Releases

Type of Release	FY 2006		FY 2011	
	# Rels	% High Risk	# Rels	% High Risk
Parole	557	11%	595	23%
Max Out	121	12%	247	41%
Other	53	15%	26	46%
Total	731	12%	868	29%

Number of high risk prisoners maxing out without supervision increased from 15 to 101.

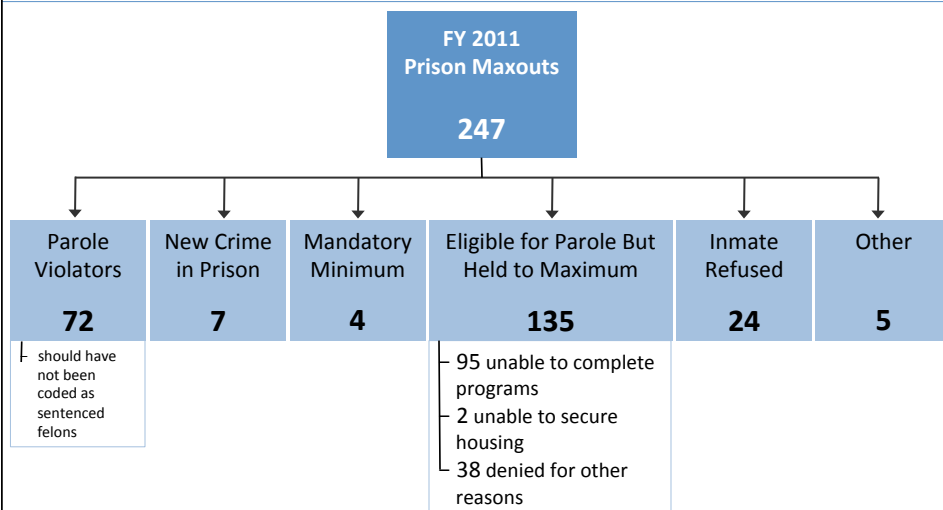
- **61%** of *max outs* were rearrested within 3 years of being released.
- By contrast, only **35%** of *releases to parole* were rearrested within 3 years of being released.

Source: PSD Annual Release Population Data from FY2006-2011; ICIS Database. Re-arrest analysis examined both felony and misdemeanor arrests recorded for those released in FY2008, and examined a three year follow up period.

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Detailed Breakdown of Sentenced Felons Maxing Out

KEY FINDING 3



Source: PSD Releases Data from FY2006-2011; follow-up analysis on FY 2011 sentenced felon maxouts by HPA.

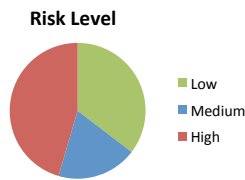
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Statute Requires Prison Sentence for 2nd Felony Drug Possession Offense

KEY FINDING 4

Prisoners Incarcerated for Low Severity Drug Possession/Use Offenses as of 6/30/2011

Offense	Total	Low	Medium	High
Promoting a Dangerous Drug 3	220	71	47	102
Prohibited Acts Related to Drug Paraph.	187	73	31	83
Subtotal	407	144	78	185



☐ 55% of the those incarcerated for the above offenses are low or medium risk.

☐ 26% have no more than 2 prior felony arrests of any offense type (includes current offense for which they are incarcerated).
 – Current law requires incarceration for minimum term upon 2nd felony drug conviction.

Source: PSD End of Year "Snapshot" Population Data, FY2006-2011; ICIS Database

Exceptionally Long Probation Terms

KEY FINDING 4

In Largest US Counties...

83% of the felony probationers in largest US counties receive terms of **3 years or less**.

In Hawaii...

95% of felony probationers in Hawaii are ordered to terms of **more than 3 years**.

☐ 60% of the felony probationers receiving terms of more than 3 years are low risk.

Source: HI AOC Database

Across Risk Levels, Offenders Are Spending Longer on Probation

KEY FINDING 4

Felony Probationers by Risk Level				
Risk Level	FY 2006		FY 2011	
	June 30 Pop	Avg Mos on Supv	June 30 Pop	Avg Mos on Supv
Total	16,079	49	18,542	61
Low	13,695	55	14,703	68
Medium	959	26	1,771	42
High	1,425	25	2,068	39

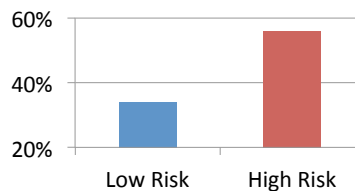
□ FY 2011 probationers with an open case had been on supervision an average of 61 months at year-end

– compared with 49 months for FY 2006

✓ 25% increase in LOS

- FY 2008 probationers tracked for 3 years after original placement show that high risk probationers have much higher recidivism rates than their low-risk counterparts
 - **34%** (low-risk) vs. **56%** (high-risk)

3-Yr Rearrest Rates



Source: AOC Probation Placement Data from FY2007-2011; ICIS Database; Dept. of AG CJIS Database

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Restitution, Victim Notification, & Safety Planning

- Current statutes only require people to pay ten cents to victims for every dollar they earn behind bars, even if they have hundreds and thousands of dollars in their accounts.
- Victim notification has become a system that people rely upon for information yet funding has not been identified to sustain the state’s notification program.
- Helping victims develop a safety plan is a core service many states provide as part of a comprehensive approach to reentry, yet Hawaii does not have resources or personnel to provide this support.

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Overview

- Key Findings
- Policy Options**
- Projected Impact

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Hawaii Justice Reinvestment Policy Framework

<p>I Increase Efficiency</p> <ul style="list-style-type: none">• More timely assessment• Earlier determination by courts about pretrial release• Greater flexibility for accepting bail payments	<p>II Reduce Recidivism</p> <ul style="list-style-type: none">• Base programming requirements on knowledge about what works• Focus resources on high-risk offenders• Use swift, certain, and proportionate responses to supervision violations	<p>III Ensure Accountability</p> <ul style="list-style-type: none">• Strengthen public safety by ensuring all felons supervised upon release from prison• Improve accountability and consistency of restitution collection by PSD• Enhance reentry through victim safety planning
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I Increase Efficiency	<p>1-A: Reduce delays in pre-trial process.</p> <ul style="list-style-type: none"> ❑ Require bail report and supervision assessment be available to court within three working days after booking in a PSD CCC facility based on objective assessment of risk for re-offense, failure to appear, and suitability for supervision in the community. <p>1-B: Reduce obstacles to paying bail.</p> <ul style="list-style-type: none"> ❑ Require courts and PSD to coordinate in providing expanded methods of paying bail 24/7. <p style="text-align: right;">Council of State Governments Justice Center 27</p>
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II Reduce Recidivism	<p>2-A: Strengthen probation supervision by focusing resources during initial period of supervision.</p> <ul style="list-style-type: none"> ❑ Cap length of probation at 3 years for Class B/C felony offenders. ❑ Provide incentive time credits for successful probationers to free up resources to focus on probationers in need of additional monitoring. <p>2-B: Require Parole Board to base programming requirements and release decisions on objective risk assessment.</p> <ul style="list-style-type: none"> ❑ PSD must ensure that risk/need assessments, criminal history, and computation of pretrial credits be provided to Board no later than 45 days after admission to PSD facility (post-adjudication). ❑ Add additional full or part-time parole board members to avoid delays in parole process. <p>2-C: Prisoners who qualify as low-risk for recidivism should be released to parole at the minimum sentence date established by the Parole Board unless the offender commits a serious misconduct.</p> <ul style="list-style-type: none"> ❑ All offenders shall receive assistance while transitioning back into community, but that assistance should not delay the release of low-risk offenders. <p style="text-align: right;">Council of State Governments Justice Center 28</p>
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II Reduce Recidivism	<p>2-D: Limit term of incarceration for violating the conditions of parole to no more than 6 months.</p> <ul style="list-style-type: none"> <input type="checkbox"/> Offender may be incarcerated for longer period if they abscond or are charged with a new crime. <input type="checkbox"/> Apply a model of swift and certain sanctions to address violations more cost-effectively. <p>2-E: Allow judicial discretion in sentencing 2nd time felony drug possession offenders to prison or probation.</p> <ul style="list-style-type: none"> <input type="checkbox"/> Similar to existing law for 1st time felony drug possession. <input type="checkbox"/> All other things being equal, incarceration of this population leads to higher recidivism rates. Therefore probation (as well as prison) shall be an option. <p>2-F: Raise felony theft threshold from \$300 to \$750.</p> <ul style="list-style-type: none"> <input type="checkbox"/> Current threshold in Hawaii is among the lowest in the US. Average level across 50 states is above \$1000. <input type="checkbox"/> Reduces felony cases/convictions. <p style="text-align: right;">Council of State Governments Justice Center 29</p>
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III Ensure Accountability	<p>3-A: Ensure a minimum period of parole supervision to prevent prisoners being discharged to the community without any supervision whatsoever. Length of supervision shall be determined by maximum sentence discharge date less 18 months for Class A felons, 12 months for Class B felons, and 9 months for Class C felons.</p> <ul style="list-style-type: none"> <input type="checkbox"/> Period of supervision will be used to assist offender in transitioning back to community and maintain safety plan standards for victims. <p>3-B: Require PSD to collect 25% of all inmate deposits/accounts (instead of current 10% on just wages).</p> <ul style="list-style-type: none"> <input type="checkbox"/> Collected monies shall be used to satisfy outstanding restitution orders. <input type="checkbox"/> Develop a victim liaison within PSD to assist with safety planning and other vital services. <p style="text-align: right;">Council of State Governments Justice Center 30</p>
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Hawaii Justice Reinvestment Policy Framework

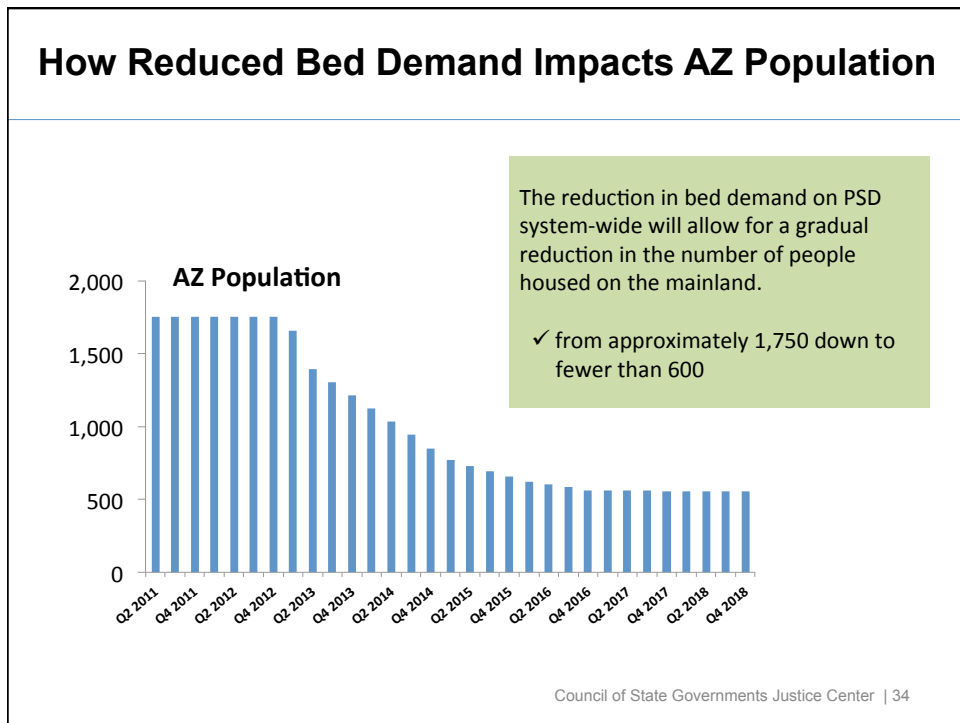
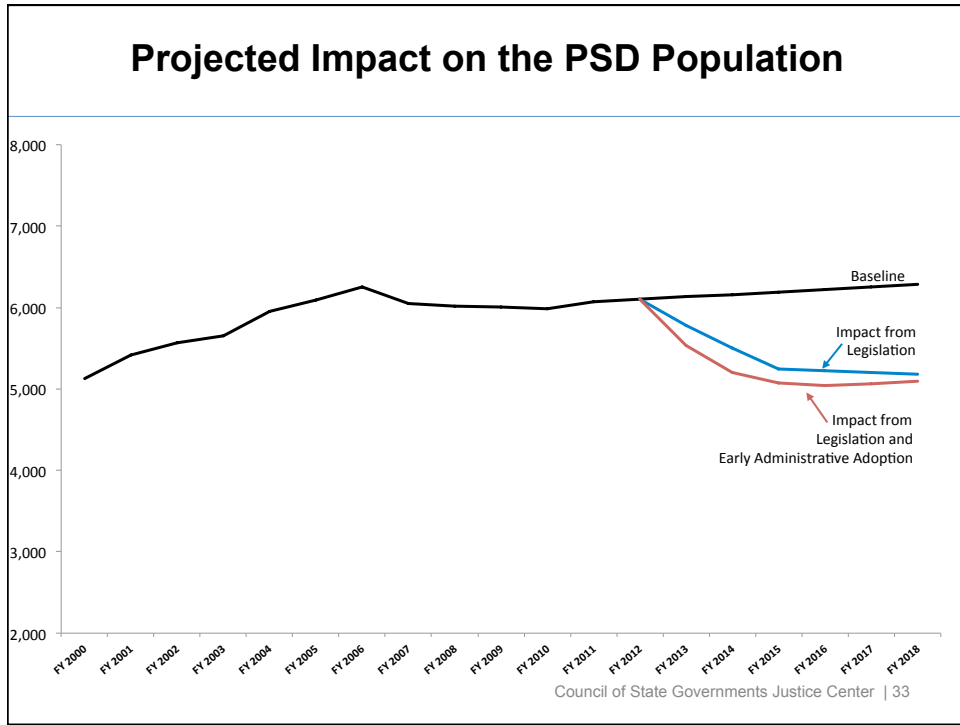
I Increase Efficiency	1-A: Reduce delays in pre-trial process.	1-B: Reduce obstacles to paying bail.	
II Reduce Recidivism	2-A: Focus probation supervision.	2-B: Risk assessments to inform parole.	2-C: Parole low-risk at minimum sentence date.
	2-D: Limit certain parole violations to 6 months.	2-E: Discretion in 2 nd time felony drug possession cases.	2-F: Raise felony theft threshold.
III Ensure Accountability	3-A: Ensure a minimum period of post-prison supervision.	3-B: Increase victim restitution collection from prisoners.	

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Overview

- Key Findings
- Policy Options
- Projected Impact

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Estimated Cost Savings Generated

	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018
Average Reduction in Bed Demand						
Full Year	410	794	1,051	1,162	1,191	1,195
1 st 6 mos	299	702	1,013	1,143	1,189	1,195
2 nd 6 mos	522	885	1,089	1,181	1,193	1,195
Savings Based on Average Cost per Day of AZ Contracted Facilities*						
Full Year	\$9.8m	\$19.5m	\$26.5m	\$30.1m	\$31.6m	\$32.5m
1 st 6 mos	\$3.6m	\$8.7m	\$12.9m	\$14.9m	\$15.9m	\$16.4m
2 nd 6 mos	\$6.2m	\$10.8m	\$13.6m	\$15.2m	\$15.7m	\$16.1m

* Assumes a 2.5% annual increase in cost per day above FY 2012 rate of \$65.77.

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Bottom Line

	FY 2013	FY 2014 FY 2015	FY 2016 FY 2017 FY 2018	Cumulative 6 Year Impact
Gross Savings	\$9.8m	\$46.0	\$94.1m	\$150.0m
Reinvestment	\$7m	\$14m	\$21m	\$42m
Net Savings	\$2.8m	\$32.0m	\$73.1m	\$108.0m

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Estimated Annual Reinvestment Required

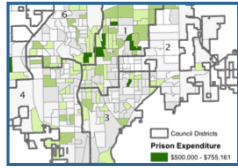
Area of Focus	Specific Item	Amount
Pretrial	PSD Intake Services to Conduct Assessments Quickly	\$300,000
	Judiciary (24/7 bond payment)	\$300,000
Evidence-Based Practices	Probation (training unit; CBT/SA programming)	\$500,000
	PSD Risk Assessment & Programming	\$500,000
	PSD Community-Based Programming	\$1,700,000
	PSD Research and Planning	\$400,000
	RES Re-Entry Office	\$300,000
Parole	Parole Determination	\$300,000
	Parole Supervision	\$700,000
Victims	Notification, Safety Planning, Restitution, Accountability	\$2,000,000
Total Annual Reinvestment Budget		\$7,000,000

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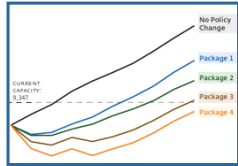
Next Steps

Dates	Activity
January 17	<ul style="list-style-type: none"> • Working Group Meeting (detailed policy option rollout) • Press Conference
TBD	<ul style="list-style-type: none"> • Bill Introduction • Hearing Schedule
Following Enactment	<ul style="list-style-type: none"> • Potential for Phase II Technical Assistance with Implementation and BJA Grant Funding

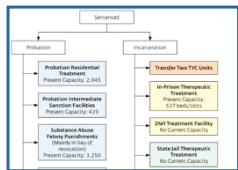
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Thank You



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