



Hawaii's 2014 Juvenile Justice Reform

New Law Will Strengthen Community Supervision and Reduce Secure Confinement

Overview

Facing high costs and poor outcomes from its juvenile commitment policies, Hawaii enacted House Bill 2490, based on the comprehensive recommendations of the Hawaii Juvenile Justice Working Group. The law will reduce secure confinement, strengthen community supervision, and focus resources on practices proved to reduce recidivism. The reforms are projected to cut the number of youth held in the state's secure facility by more than half over the next five years, allowing for reinvestment in proven interventions.

Highlights

Problem

For 2013, the average annual cost of a bed at the Hawaii Youth Correctional Facility (HYCF) was \$199,320, even as 3 in 4 youth released were re-adjudicated as delinquent or convicted as adults of new crimes within three years of release. Additionally, 41 percent of commitments in 2013 were for probation violations or revocations, reflecting the lack of alternatives and underscoring the need to strengthen community supervision.

Findings

The working group's comprehensive review of Hawaii's data found that while commitments declined 41 percent from 2004 to 2013, the average length of stay was 188 percent longer by 2013. At the same time, a growing proportion of juveniles committed for new offenses were adjudicated for misdemeanors (61 percent in 2013, up from 47 percent in 2004), and slightly less than half of all those committed had no prior felony records. The working group discovered that many areas of the state lacked effective community-based alternatives, leaving judges with few options to hold youth accountable and provide them with necessary services.

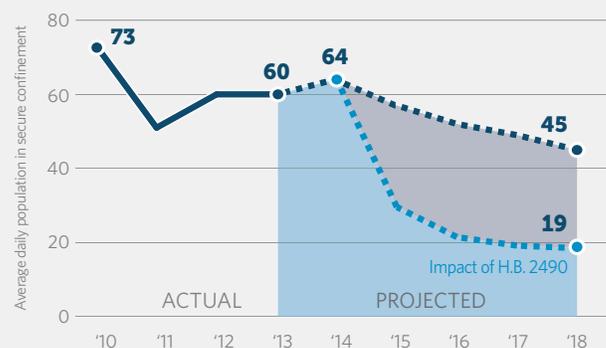
Reforms

The working group developed recommendations to reduce the use of secure confinement, increase proven community-based options, and strengthen probation supervision. H.B. 2490, which contained these recommendations, passed with unanimous support from the Legislature and was signed into law by Governor Neil Abercrombie on July 2, 2014.

Impact

The law is projected to reduce the population in HYCF by 60 percent, enable the closure of two facilities on the HYCF campus, and produce savings of \$11 million in the facility's budget by 2019. It redirects the savings into effective community-based alternatives, and it also provides an upfront investment of \$1.26 million for mental health and substance abuse treatment, delinquency interventions, and implementation of the reforms.

Figure 1
Reforms Projected to Cut Committed Population
Alternatives will reduce youth population in the secure facility by 60%



Sources: Office of Youth Services (historical data); The Pew Charitable Trusts (projections)

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These consensus policies, based on data and research, provide our state with effective solutions to juvenile crime while reducing taxpayer costs.”

Gov. Neil Abercrombie,
Dec. 13, 2013



The goal was to understand and improve our system as a whole, as well as juvenile justice practices on each island, ensuring effective services for at-risk youth no matter where they live.”

State Senator
Suzanne Chun Oakland,
Dec. 13, 2013

Background

Following national trends, juvenile arrests and commitments in Hawaii have declined in recent years, falling 28 percent from 2002 to 2011 and 41 percent from 2004 to 2013, respectively. Costs followed an opposite trajectory, however. The expense of a bed in the state’s secure facility stood at \$199,320 per year in 2013. Despite the heavy spending, three-quarters of all youth leaving the facility were re-adjudicated as delinquents or convicted as adults within three years. Seeking ways to improve outcomes and protect public safety, Gov. Abercrombie, Chief Justice Mark Recktenwald, Senate President Donna Mercado Kim, and House Speaker Joseph Souki established the Hawaii Juvenile Justice Working Group in August 2013. The bipartisan, interbranch panel was made up of 20 stakeholders from across the three branches of state government, as well as law enforcement officials, prosecutors, public defenders, and community service providers.

The working group was charged with developing policy recommendations to reduce crime and recidivism by improving outcomes in the juvenile justice system; leveraging and reallocating resources to maximize the effectiveness of Hawaii’s correctional dollars and placement options; and ensuring that the state’s policies and practices are grounded in data and evidence. The Pew Charitable Trusts and its partner, the Crime and Justice Institute at Community Resources for Justice, provided technical assistance to the group in analyzing state juvenile justice data and facilitating the development of policy options.

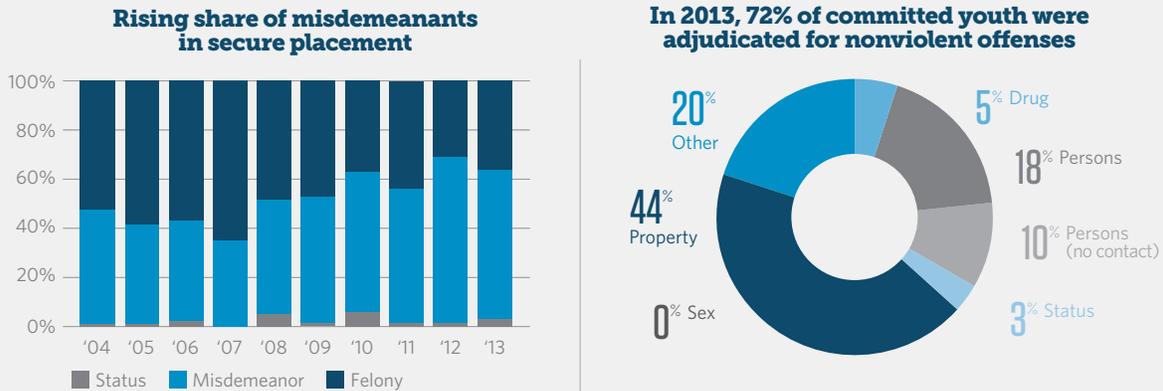
After five months of analysis of the state’s commitment and probation policies, data on probation and committed populations, and other key indicators, the working group produced a set of research-based, fiscally sound policy proposals. It recommended limiting placement in Hawaii’s secure facility to more serious offenders; reinvesting the resulting savings in effective community-based options; strengthening local supervision; and enhancing accountability in the juvenile justice system. The working group submitted its recommendations to the governor, chief justice, Senate president, and House speaker in a final report in December 2013.

Key findings

The working group’s review identified factors that were causing youth to be committed to secure confinement or placed on probation. Specifically, the review focused on the increase in youth committed to HYCF for low-level offenses, the longer lengths of stay on probation and in the facility, and the shortage of community-based intervention options across the state.

Figure 2

Most Commitments to the Secure Facility Are for Misdemeanors or Nonviolent Offenses



Notes: Status offenses are those that would not be crimes if committed by adults. "Persons" refers to violent crimes. "Persons (no contact)" typically involves threats or harassment.

Source: The Pew Charitable Trusts' analysis of data from the Hawaii Department of the Attorney General

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Large shares of misdemeanor and nonviolent youth in HYCF

Misdemeanor offenses constituted a growing share of commitments to HYCF. In 2013, 61 percent of youth sent there for new offenses were adjudicated for misdemeanors, up from 47 percent in 2004.

Similarly, youth committed for nonviolent crimes constituted the vast majority of those sent to HYCF for new offenses: 72 percent in 2013. These offenses include property and drug crimes, contempt of court, disorderly conduct, escape, and resisting arrest. They also include what are known as status offenses, those that would not be crimes if committed by adults, such as truancy and running away from home.

Limited delinquency histories of youth in the secure facility

Many youth committed to HYCF had limited criminal histories. Forty-five percent of juveniles committed over the past five years had no prior felony adjudications. Of that 45 percent, just over half had no prior misdemeanor adjudication or only one.

Fewer youth committed to HYCF, but length of stay increased

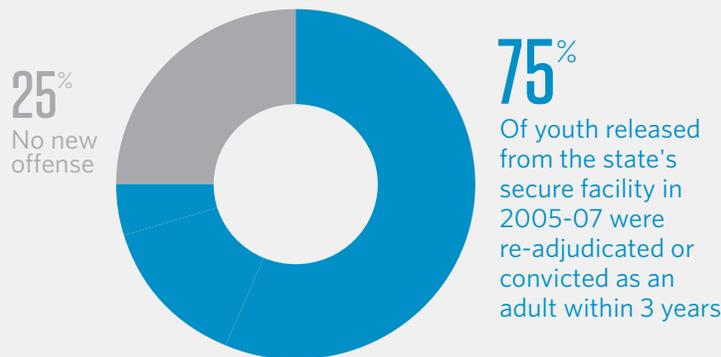
Hawaii data showed that even as commitments declined 41 percent in the past decade, the youth who were sent to secure confinement stayed much longer. On average, lengths of stay were 188 percent longer in 2013 than in 2004—7.2 months, up from 2.5 months.

Further analysis showed that lengths of stay did not vary substantially by offense level. For youth released during fiscal 2013, the average stay for misdemeanor commitments lasted just under seven months, while the average stay for felonies was slightly more than eight months.

Figure 3

Weak Outcomes and Poor Public Safety Returns From Secure Confinement

Three-quarters re-offend within 3 years of release



Source: The Pew Charitable Trusts' analysis of data from the Hawaii Department of the Attorney General

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Poor outcomes for youth exiting the secure facility

Using a 2010 analysis conducted by the state, the working group found that 3 in 4 youth released from HYCF were re-adjudicated as delinquent or convicted as adults of new crimes within three years.¹ The working group also found that policies to aid re-entry were lacking in some communities and that local stakeholders and families wanted more information on release and re-entry decision-making.

Disproportionate share of commitments from neighbor islands

Youth from islands other than Oahu made up a disproportionate share of the state's total committed population. The neighbor islands are home to 31 percent of the state's youth ages 10 to 17, and just 29 percent of arrests among that age group occurred there, but they accounted for 46 percent of all commitments to HYCF in 2013.²

Number of youth on probation and types of offenses remained steady as supervision terms increased

Adjudications to juvenile probation declined over the past decade but less dramatically than did juvenile arrests and commitments. Arrests declined 28 percent in 2013, while probation admissions fell only 4 percent.

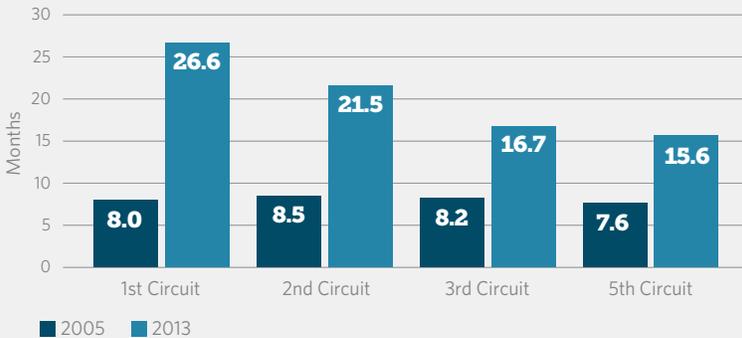
The types of offenses for which youth were placed on probation remained relatively consistent from 2005 to 2013. Approximately 6 in 10 admissions to probation in 2013 were for nonviolent offenses or violations of previous probation terms. Misdemeanors made up a slightly higher proportion of admissions in 2013 compared with 2005: 55 percent and 50 percent, respectively.

During that same period, the average length of time spent on probation increased 154 percent, from 8.1 months to 20.6 months. Although the increase was seen statewide, the margin varied by region, often significantly: Juveniles on the island of Kauai served an average probation term of 15.6 months, while juveniles on Oahu served far more time—an average of 26.6 months.

Figure 4

Increasing and Divergent Lengths of Stay on Probation

Average probation terms doubled or tripled, depending on region



Note: The 4th Judicial Circuit was eliminated in 1943 and merged into the 3rd Circuit.

Source: The Pew Charitable Trusts' analysis of data from the Hawaii Department of the Attorney General

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Access to community-based resources was limited

Juvenile justice stakeholders provided information to the working group indicating that few community-based options existed for delinquent youth across Hawaii, a problem that was particularly acute on the neighbor islands. Stakeholders highlighted the need for better access to mental health and substance abuse treatment, especially early in a youth's interaction with the juvenile justice system, and indicated that eligibility criteria—the standards used by an agency to guide service approval or denial decisions—made it difficult for youth to get treatment even where programs were available.

A survey completed by 73 percent of Hawaii probation officers provided more insight: Ninety-eight percent of respondents said resources for juveniles on their caseloads were inadequate, and 87 percent said necessary services were not available.

The working group identified these barriers as major factors contributing to the overuse of secure confinement for youth whose treatment needs were not met earlier in the system.

“The language is dry and bureaucratic, yet the core message in a new report on juvenile justice comes through with devastating clarity: Hawaii is failing to rehabilitate most offenders because it uses the wrong approach, relying on expensive incarceration even for those convicted of misdemeanors and failing to provide timely access to the drug and mental-health treatment these troubled youths desperately need.”

Honolulu Star-Advertiser editorial, Dec. 18, 2013



[This is] a statement that we care about our kids, that our kids belong to all of us, and that we, as a community, have a responsibility—a moral duty—to help them, and that incarceration is simply not the only answer.”

Judge R. Mark Browning,
working group chair,
Dec. 13, 2013

Legislative package: House Bill 2490

The working group developed a set of recommendations that were incorporated into H.B. 2490, which the Hawaii Legislature passed by votes of 50-0 in the House and 24-0 in the Senate. Gov. Abercrombie signed the bill into law July 2, 2014. The legislation provided an initial investment of \$1.26 million to fund mental health and substance abuse treatment—practices that have proved to reduce the likelihood of recidivism in youth—and to finance implementation of the reforms. H.B. 2490 is projected to reduce the population in secure confinement by 60 percent, which would save an estimated \$11 million in the HYCF budget over the next five years and allow investment in effective community-based alternatives. The policies contained in H.B. 2490 advance priorities in three areas:

Reduce the use of secure confinement and protect public safety

Limiting space in expensive secure facilities to the most serious juvenile offenders will help Hawaii produce the greatest public safety benefit from the juvenile justice system. In addition, providing certain youth adjudicated for low-level crimes with the opportunity for early interventions will ensure that they are held accountable and that resources are put to their best use. The law:

- **Targets placement in the secure facility to serious offenders** by specifying which offenses qualify a youth for commitment to the facility. H.B. 2490 allows the court to commit youth adjudicated for felony level offenses or violations or revocations of probation and those committed from a specialty court on a court order. The legislation also requires the court to enter a finding of fact for all juveniles placed in HYCF detailing the reasons that each youth poses a public safety risk.
- **Clarifies and strengthens parole and community re-entry practices** by requiring HYCF to develop re-entry plans for all committed youth who are not serving a concurrent probation term, providing stakeholders and families with advance notice of release and codifying the criteria used to determine parole eligibility.
- **Expands short-term interventions for less serious offenders** by clarifying probation officers’ authority to divert certain youth from court to community-based alternatives. The law also expands the use of informal adjustment—the opportunity to avoid adjudication and enter into a separate agreement for services or, at times, restitution—by requiring its use for status offenders and establishing consistent criteria for its use in certain other cases.³ The legislation also codifies administrative monitoring policies so that youth have opportunities to avoid further case processing when appropriate.

“ This measure is not only for the benefit of Hawaii’s youth. In fact, everyone benefits when public safety can be strengthened and when children are given the tools to reach healthy and productive futures.”

Representative Mele Carroll, floor remarks, March 4, 2014

Strengthen community supervision and probation practices

Effective community supervision will allow Hawaii to maximize the public safety return on taxpayer investments in juvenile justice. By grounding probation practices in data and research, the state can better hold lower-risk youth accountable while reducing recidivism. The law:

- **Requires the use of a validated risk and needs assessment of offenders** before disposition to guide decision-making, establish supervision levels, and assist with referrals to programs or services.
- **Funds proven practices to reduce delinquency**, including critically needed mental health and substance abuse treatments, and emphasizes best-practices training for probation officers.
- **Provides consistent structure for youth on probation**, such as use of definite terms, home visits, and individualized case plans.
- **Authorizes the use of sanctions and incentives** to hold youth accountable and encourage compliance with probation conditions.
- **Allows youth who adhere to probation rules to earn early discharge** by permitting judges to reduce terms by 30 days for each calendar month of compliance. This encourages positive behavior and allows probation officers to focus on youth in need of greater attention and supervision.

Sustain effective practices and cultivate stakeholder collaboration

Regular collection and analysis of data and outcomes are necessary to continue improving and maximizing public safety returns. By increasing avenues for collaboration across agencies, H.B. 2490 allows for efficient system management and case planning, enhancing decision-making and resource allocation. The law:

- **Requires enhanced data and outcome reporting** from across the juvenile justice system to ensure accountability to youth, families, and communities and to help monitor effectiveness.
- **Creates a Juvenile Justice Oversight Advisory Council** responsible for guiding implementation of the reforms, analyzing and assessing outcomes, and providing feedback to the Legislature.
- **Improves the timeliness of referrals for services** by initiating a referral to the Department of Health when a substance abuse or mental health need is indicated and allows judges to suspend delinquency proceedings to provide eligible youth the opportunity to participate in treatment.
- **Establishes an “interdepartmental cluster”** comprising representatives from relevant agencies to facilitate collaboration and case planning for high-need youth.

Hawaii Juvenile Justice Working Group

R. Mark Browning, senior judge, Family Court of the 1st Circuit (chair)

Representative Mele Carroll, House District 13 (chair)

Barbara Yamashita, deputy director, Department of Human Services (chair)

Edmund D. Acoba, district judge, Family Court of the 5th Circuit

Representative Henry J.C. Aquino, House District 38

William Bento, supervising attorney, Office of the Public Defender

Senator Suzanne Chun Oakland, Senate District 13

Senator Will Espero, Senate District 19

Blair Goto, deputy attorney general, Department of the Attorney General

David Hipp, executive director, Office of Youth Services, Department of Human Services

Representative Aaron Ling Johanson, House District 31

Keith Kaneshiro, prosecuting attorney, City and County of Honolulu

Jaque Kelley-Uyeoka, deputy CEO, Hale Kipa Inc.

M. Stanton Michels, M.D., administrator, Child and Adolescent Mental Health Division, Department of Health

Paul T. Murakami, judge, Family Court of the 1st Circuit

Capt. J. Pedro, Honolulu Police Department

Mitch Roth, prosecuting attorney, County of Hawaii

Steve M. Shiraki, Ph.D., administrator, Student Support Branch, Department of Education

Lorenn Walker, J.D., M.P.H., public health educator and restorative lawyer, Hawai'i Friends of Justice & Civic Education

Marsha Yamada, juvenile client and family services administrator, 2nd Circuit

Organizations That Endorsed H.B. 2490

- Office of the Governor
- The Judiciary, State of Hawaii
- Department of the Attorney General
- Department of Human Services
- Office of Youth Services
- Department of Health
- Office of Hawaiian Affairs
- Office of the Public Defender
- State Council on Mental Health
- Office of the Prosecuting Attorney, County of Hawaii
- Department of the Prosecuting Attorney, County of Maui
- Office of the Prosecuting Attorney, County of Kauai
- Office of the Mayor, County of Kauai
- Office of the Mayor, County of Hawaii
- Hawaii Substance Abuse Coalition
- Hawaii Friends of Justice and Civic Education
- Hale Kipa
- Hawaii Youth Services Network
- Community Alliance on Prisons
- Salvation Army-Family Intervention Services
- Olomea Inc.
- Mental Health America of Hawaii
- EPIC Ohana



Guiding our troubled youth toward becoming productive adult citizens will have an exponentially positive impact on joblessness, homelessness, crime, and the costs of our state's array of social services, including halting the cycle of child abuse and domestic violence."

David Hipp, executive director of the Office of Youth Services, March 5, 2014



Gov. Abercrombie signs H.B. 2490 at the state Capitol ceremony on July 2, 2014.

The full working group report is available online at :
<http://governor.hawaii.gov/wp-content/uploads/2013/12/JJRI-Working-Group-Final-Report-Final.pdf>

Endnotes

- 1 David T. Mayeda, "Hawaii Youth Correctional Facility Recidivism Study," Department of the Attorney General (August 2010), <http://ag.hawaii.gov/cpia/files/2013/01/HYCF-Recidivism-Study-2005-2007.pdf>.
- 2 Department of Justice, Federal Bureau of Investigation, "Crime Index: Definition," accessed April 28, 2014, http://www2.fbi.gov/ucr/cius_02/html/web/offreported/02-ncrimeindex01.html; Office of Juvenile Justice and Delinquency Prevention (OJJDP), "Easy Access to FBI Arrest Statistics: 1994-2011," accessed April 15, 2014, http://www.ojjdp.gov/ojstatbb/ezaucr/asp/ucr_display.asp. The FBI defines index arrests as "the most serious and most commonly reported in the nation, including murder and non-negligent manslaughter, forcible rape, robbery, and aggravated assault and the property crimes of burglary, larceny-theft, and motor vehicle theft." All arrest and population data provided by OJJDP are actively updated, and findings are based on data available in August 2013.
- 3 Under this and other Hawaii laws, youth alleged to have committed non-status offenses are eligible for informal adjustment at the discretion of intake officers, using these criteria to inform their decision-making. Informal adjustment may be provided only if the youth and his or her parent or guardian consent, and only after the youth admits to the allegations.

For further information, please visit:

pewtrusts.org/publicsafety

Contact: Lesa Rair, communications officer

Email: lrair@pewtrusts.org

Project website: pewtrusts.org/publicsafety

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