MOTHERHOOD ON THE MARGINS:
REHABILITATION AND SUBJECTIVITY
AMONG FEMALE PAROLEES IN HAWAI‘I

A DISSERTATION SUBMITTED TO THE GRADUATE DIVISION OF THE
UNIVERSITY OF HAWAI‘I IN PARTIAL FULFILLMENT OF THE REQUIREMENTS
FOR THE DEGREE OF
DOCTOR OF PHILOSOPHY
IN
SOCIOLOGY
AUGUST 2003

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Dedicating this to you, Jay, gives me more pleasure than you can possibly imagine.

In memoriam

Wayne Matsuo
1943-1999

You heard the man say, “when I was in prison, ye visited me,” and really got it.
Acknowledgements

Any task of this proportion requires the work and thinking of many people. I was unbelievably lucky to have the help of the people mentioned here. First, my advisor, Dr. David T. Johnson, who gave this project enormous attention and thought. Thank you for your time, patience, advice, and especially for reading all those terrible drafts. Your guidance made this a better dissertation than I probably deserve. I was also privileged to have the help of Drs. Herb Barringer, Kiyoshi Ikeda, Ruey Ryburn, and Deane Neubauer as members of my dissertation committee. My warm thanks to Dr. Barbara Bloom, a comrade and mentor in the work, who provided all-important guidance from afar.

I want to thank the people I “drafted” as unofficial dissertation advisors: Meda Chesney-Lind, Kathy Ferguson, Peter Manicas, Neal Milner, Robert Perkinson, and Guobin Yang. Thank you for reading my stuff (and telling me there was hope), going to lunch, providing a reality check, and/or just listening to my half-baked ideas.

I want to thank the personnel of the Hawai‘i Paroling Authority, Al Beaver, Lani Rae Garcia, Mary Tiwanack, Tommy Johnson, and Max Otani. My appreciation also goes to the many parole officers here in Honolulu and the neighbor islands for carving out time in their busy schedules to answer questions. Thanks especially to Kathy Shimata, Supervisor, and to the support personnel at the Alakea and Waikamilo Offices. Your kindness and openness in discussing the situation of women on parole made this project possible.

My sincere thanks to the many individuals at the Hawai‘i Department of Public Safety who provided permission and support for this project: Ted Sakai, Director and Marian Tsuji, Deputy Director. My thanks go also to Amalia Bueno and Deanna Espinas, who helped me more than they know. Martha Tourney and Ken Hashi provided official and unofficial data and feedback. Also, thanks to Al Kim, historian of the Department of Public Safety for caring about all of those old books and records. I would also like to thank Warden Jim Kellam for access to the Women’s Community Correctional Center, the social workers, and staff of the facility.

My sincere appreciation to the Director, Lorraine Robinson, and staff of T.J. Mahoney/Matlock Hale. You and the women in your facility are a continuing inspiration to me. (You were so right, Lorraine, this is a blast!). I also want to thank Kat Brady for teaching me so much about activism in Hawai‘i — your community owes you its thanks whether they know it or not.

I want to thank the staff of the Hawai‘i State Archives for their help, especially with the historical portions of this project. Sincere thanks to the librarians and staff at the Hamilton Library: you are the unsung heroines of academia. I may not know all of your names, but I will never forget what you’ve done for me.

I had the amazing luck to have the help of three friends/research assistants who collected data, entered or checked data, and basically did the pick and shovel work that helped make this dissertation a reality: Lia Witek; Meiko Arai; and Antonia Vilela.

Friends and sister travelers have helped so much along the way. I want to thank the Goddess for the “gal pals”: Nancy Marker, Mary Beth Leison, Ivette Stern, Jennifer Grey, Katy Irwin, Lisa Pasko, and Janet Davidson. Whether we were debating some theoretical issue or solving the problems of the world (if only they’d listen!), some of the
best time I spent during this whole thing was with you. Orlando Garcia Santiago provided the tea and sympathy that helped so much. Thanks also to Drew Gould, whose support helped me keep my chin up—and my shoulders back.

More friends have trudged this road of happy destiny than I can mention, but I want to especially thank Mary Jeanne for being a true friend and always taking my side, Terri for being a great listener, and Kathleen for her strength. Peter provided important perspectives and laughter—mahalo!

_Mahalo nui loa_ to Sally Merry from Wellesley College, not just for reading my drafts and helping me think through things, but for introducing me to Hawai‘i in the very beginning. Thanks for all those “death marches” over the volcanic terrain of the Big Island where we talked about domestic violence, Foucault, and those wonderful tamales from Hilo. Melanie Morgan, another Wellesley friend, helped with editing, thinking, and constant support. Thanks also for the many great books you recommended that fed my soul.

Thanks to Gail Brown, my sister, who does more for incarcerated women in an afternoon than I have done in a year: your interest, love, and support has made a difference. Thanks to David Brown for doing your part and for being there.

Naturally, this project would not have been possible without the participation and inspiration of the women who emerged from prison into the free world and told me the stories contained herein. Your generosity, courage, and intelligence humbled and strengthened me.

Finally, thanks to Jay, to whom this dissertation is dedicated. You know the true meaning of the word “helpmate.” I will always be grateful for your love and support during a time when I really couldn’t do without it.
Abstract

This dissertation examines the structure and ideology of late-modern rehabilitative practices and the role they play in the production of gendered subjectivity. The transformative project of modern penality attempts to produce a middle-class subjectivity without providing the middle class context that supports it.

I collected data from the parole case file records of 240 women offenders on parole in the State of Hawai‘i as of May 2001. In addition, I conducted in-depth interviews with 20 female parolees about their experiences before and after prison, with special regard to their parenting experiences. Women parolees in Hawai‘i lack education and job skills. They have high rates of substance abuse which tend to be highly implicated in the offenses for which they were imprisoned. Despite their unconventional lifestyles, most women in this study are mothers and retain very strong commitments to motherhood. Motherhood becomes both a source of motivation and vulnerability for these women. They often find themselves judged as mothers as well as offenders. The rehabilitative strategies enlisted by the prison are aimed at altering the consciousness of these women and producing new selves who are capable of self-governance and making the right choices. But upon leaving prison, women parolees find the material and social aspects of their lives unchanged; substantial numbers have problems on parole leading to their return to prison. This dissertation contributes to the governmentality literature in tracing how penal strategies produced gendered subjects.
# Table of Contents

Acknowledgements ........................................................................................................... v  
Abstract ............................................................................................................................. vii  
List of Tables ...................................................................................................................... x  
Chapter 1: Gender and the Contradictions of Punishment in Hawai‘i ........................................... 1  
  Introduction: Leilani’s Story .............................................................................................. 1  
  Gendered Identities and Governmentality ...................................................................... 7  
  Motherhood and the Power of Penality ........................................................................ 10  
  Late-Modern Penality in Hawai‘i .................................................................................... 13  
  Adopting a New Self: Dilemmas of Structure and Agency ............................................. 17  
  Theorizing Government and Subjectivity ...................................................................... 20  
  The Contradictions of Care and Control .................................................................... 24  
  Penal Programs and the Responsible Self ...................................................................... 26  
  The Productive Role of Penal Power ........................................................................... 32  
  Penal Reform and Gender in Hawai‘i ............................................................................ 34  
  Overview of the Study .................................................................................................. 38  
Chapter 2: Case Studies, Context, and Ethics in Feminist Research ............................................ 42  
  Introduction: What Kind of a Case? ............................................................................. 42  
  Context and Method ..................................................................................................... 44  
  The Research Framework: Data Elements .................................................................. 47  
  The Parole Case Files .................................................................................................. 49  
  Interviews with Women on Parole ............................................................................. 52  
  Institutional Review and Observation ......................................................................... 55  
  Archival Research ........................................................................................................ 56  
  Methods and Ethics in Feminist Research .................................................................... 58  
  Conclusion: Knowledge Production, Power, Policy ..................................................... 67  
Chapter 3: Punishment and History: Gender, Race, and Social Order in Hawai‘i ................. 70  
  Introduction: Penality and Particularism ..................................................................... 70  
  Punishment, Order, and Gender in Pre-Contact Hawai‘i (to 1778) ................................ 74  
  Advent of Western Legal Institutions (1820s) .............................................................. 75  
  The Criminalization and Restructuring of Daily Life ................................................... 78  
  Women and Order in a Changing Political Economy (1870s) ...................................... 84  
  Technologies of Punishment in Hawai‘i ....................................................................... 90  
  The O‘ahu Prison ......................................................................................................... 98  
  Arrest Data .................................................................................................................... 105  
  In Search of Progressivism: The Territory Years ......................................................... 108  
  The Advent of Penal Welfarism .................................................................................... 112  
  Women and Penality in the State of Hawai‘i ................................................................. 115  
  Conclusion .................................................................................................................... 117  
Chapter 4: Women’s Pathways to Prison in Hawai‘i ............................................................... 120  
  Introduction .................................................................................................................... 120  
  Theorizing Gender and Crime ..................................................................................... 124  
  Crime & Offending ....................................................................................................... 128
Previous Offenses ................................................................. 130
Intersections of Family Life and Crime .................................. 132
Substance Abuse ............................................................... 134
Violence, Abuse, and Trauma ............................................... 137
Ethnicity: Being Hawaiian .................................................. 140
Education and Employment ................................................. 146
Children and Social Networks .............................................. 151
Conclusion ............................................................................. 154
Chapter 5: Rehabilitation and the Production of Gendered Subjects .............................................. 159
Introduction: Motherhood, Law, and the Gendered Self .................. 159
"That Voice in Your Head" ..................................................... 161
Motherhood on the Margins ................................................... 168
Troubled Motherhood and Choice as Chimera ......................... 173
Mothers as Penal Subjects .................................................... 174
Parole Board Hearings: The Language of Choice and Responsibility ........................................ 177
Paternalism and Subjectivity in Parole Discourse ....................... 188
The Parenting Class: Promoting Ideologies While Denying Difference ........................................ 192
Cognitive Skills Classes ....................................................... 198
Conclusion: The Productive Hypothesis and Becoming Middle-Class ........................................... 201
Chapter 6: Reintegration: Negotiating Motherhood, Home, and Work on Parole ............................... 203
Introduction: Putting Together a Life on the Outside .................... 203
Release and Reunion ............................................................ 207
Reclaiming Motherhood and Parental Authority ......................... 210
Prison and Maternal Powerlessness ........................................ 214
Children’s Lives ...................................................................... 219
A Room of Her Own? Home On Parole ................................... 222
Nickel and Dimed: Work on Parole ......................................... 226
Problems on Parole .............................................................. 232
Networks of Surveillance and the Documentation of Women’s Woes ............................................. 238
Outcomes on Parole .............................................................. 243
Conclusion: Punishment and Paternalism on Parole ............................. 245
Chapter 7: Women or Children First? The Ideology of Choice and the Structure of Rehabilitation ............................................. 250
Introduction: Rehabilitation, Hawaiian Style ............................... 250
Punishment and Society ......................................................... 253
Motherhood, Government and Penalty ...................................... 255
Life Course Theory, Structure, and Agency ................................. 260
Transformation and the Limits of Freedom .................................. 262
Prison as a Treatment Setting for Women: The Contradiction of Structure and Ideology .................. 267
The State and the Future of the Carceral Family ............................ 269
References .............................................................................. 275
### List of Tables

<table>
<thead>
<tr>
<th>Table</th>
<th>Description</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>3.1</td>
<td>Convictions, by Offense, for the City of Honolulu: 1838</td>
<td>80</td>
</tr>
<tr>
<td>3.2</td>
<td>Honolulu Inferior Court: Convictions for Jan.1 to Dec. 31, 1846, by Gender</td>
<td>81</td>
</tr>
<tr>
<td>3.3</td>
<td>Relative Population of Hawai‘i by Percentage, 1853-1980 (sorted by arrival of ethnic group)</td>
<td>89</td>
</tr>
<tr>
<td>3.4</td>
<td>O‘ahu Prison, Record of Admissions for the month of January 1872</td>
<td>100</td>
</tr>
<tr>
<td>3.5</td>
<td>Registered Prostitutes in Honolulu, 1898-1899. Report of the Attorney General, 1900</td>
<td>101</td>
</tr>
<tr>
<td>3.6</td>
<td>Women Admitted to O‘ahu Prison, 1892-1905 and 1911-1922: Offense Types</td>
<td>102</td>
</tr>
<tr>
<td>3.7</td>
<td>Comparison Rates for Males and Females Arrested in Selected Years</td>
<td>105</td>
</tr>
<tr>
<td>3.8</td>
<td>State of Hawai‘i, Female Inmates (As of October 30, 2000)</td>
<td>116</td>
</tr>
<tr>
<td>4.1</td>
<td>Total Current Commitment Offenses</td>
<td>129</td>
</tr>
<tr>
<td>4.2</td>
<td>Aggregate Previous Offenses</td>
<td>132</td>
</tr>
<tr>
<td>4.3</td>
<td>Client Need for Treatment: Alcohol (Hawai‘i Paroling Authority)</td>
<td>135</td>
</tr>
<tr>
<td>4.4</td>
<td>Inmate Need for Treatment: Other Drug Usage</td>
<td>136</td>
</tr>
<tr>
<td>4.5</td>
<td>Ethnicities of Female Parolees in Study</td>
<td>142</td>
</tr>
<tr>
<td>4.6</td>
<td>Educational Attainment Prior to Incarceration: Highest Grade Completed</td>
<td>147</td>
</tr>
<tr>
<td>4.7</td>
<td>Educational Attainment for Female Inmates in California and National (State) Study</td>
<td>148</td>
</tr>
<tr>
<td>4.8</td>
<td>High School Education: With and Without Native Hawaiian Ancestry</td>
<td>148</td>
</tr>
<tr>
<td>4.9</td>
<td>Employment and Vocational Needs Indicators in the Year Preceding Sentencing</td>
<td>149</td>
</tr>
<tr>
<td>4.10</td>
<td>Status of Children’s Custody upon Mother’s Sentencing</td>
<td>152</td>
</tr>
</tbody>
</table>
4.11 Age Ranges of Children in 2001.................................153
6.1 Initial Living Situation on Release From Prison..................205
6.2 Parenting Women’s Placement Upon Parole........................208
6.3 Women Reuniting with their Children upon Parole ...............209
6.4 Living Situations for Women on Parole Who Move from First Residence...........223
6.5 Working Status or Income Source for Women on Parole..........230
6.6 Problems with Substance Abuse on Parole........................234
6.7 Parolees Sent To Treatment For Substance Abuse During Parole ..........237
6.8 Officer Case Notes, #155..............................................241
6.9 Summary for Parole Dispositions over 6 Months In 2001...........244
Chapter 1

Gender and the Contradictions of Punishment in Hawai‘i

I’ve been pumping [working] about 70 hours a month at the hotel and 80 hours a week over here. When you show your PO your paystubs, I mean, it speaks for itself. And it’s the way you present yourself, the way you talk, the way you dress, and your paystubs.¹

Darlene, parolee, discussing the measure of her success on parole.

I cried all day every day of the week that first week in prison. My life was over. Until today, I still feel that I don’t have my life back. The government got my life and I’m never going to get it back.²

Momi, a parolee who says prison “devastated me.”

Introduction: Leilani’s Story

Thirty-five year old Sherree Leilani Akana left prison in October of 1999 after serving two and one-half years of an indeterminate five-year sentence in prison. She was convicted of second-degree theft for stealing money from the homes of several acquaintances in order to support her drug habit. Upon entering prison, Leilani (as she is known to her family) had six children ranging from three to seventeen years of age. Her extended Hawaiian family somehow absorbed all of the children she left behind. During her incarceration, Leilani’s oldest son lived with his paternal grandparents, while four of

¹ Darlene holds two full-time jobs at a hotel and at a parking facility. At the time we talked, she was making about $2,300 a month. It is not uncommon for Hawai‘i residents to have two full-time, low-paying jobs as a way of coping with the high cost of living in the Islands. These low-wage jobs reflect Hawaii’s service economy.

² Momi was not working at the time of this conversation. In fact, she rarely left the house except to see her parole officer.
the others lived within an extended family unit consisting of her mother, her sister and
Leilani’s boyfriend, who were all involved in the care of her children. A sixth child was
in the care of a maternal aunt.

Leilani served time in the minimum-security correctional center on the island
where she was born before she was transferred to the Women’s Community Correctional
Center on O’ahu. Some time after her arrival there, the women’s facility shipped Leilani
to another prison in Texas and then on to one in Oklahoma. Since 1995, Hawai’i has
been easing its prison overcrowding by sending some of its inmates to correctional
facilities on the mainland. These facilities, it was reported, offered much more in terms
of programming than prisons in the Islands. But the additional programming came at the
cost of putting thousands of miles between Leilani and her family. She received
intensive treatment for her substance abuse problem in the Oklahoma facility along with
classes on substance abuse. She also attended classes to help her become a better mother.
At the various facilities where she was an inmate, she attended numerous Alcoholics
Anonymous and Narcotics Anonymous meetings. Leilani’s peripatetic prison experience
ended with a six-month stay at Matlock Hale, a transitional residential center for female
inmates in urban Honolulu.³ At this facility in Honolulu, Leilani served the remaining
months of her sentence, taking a range of programs including cognitive skills training,
money management classes, vocational training, and a class called “women in recovery.”
She also engaged in paid employment at a job she got through Goodwill Industries. This

³ Matlock Hale, a project of T.J. Mahoney and Associates, has operated this 36-bed facility for most of the
1990s under a contract with the Hawai‘i Department of Public Safety. Women work through a five-phase
program of increasing independence and responsibility. They are required to work full-time during their
stay. After being paroled, some women remain at Matlock Hale to transition into community life.
rehabilitative strategy was designed to help Leilani become a sober, responsible, productive, and law-abiding member of the community.

Leilani's voluminous case file, one of 240 that I reviewed at the offices of the Hawai’i Paroling Authority for this project, contained an enormous amount of data collected by a series of agents in Hawaii’s criminal processing system: law enforcement; probation; three correctional facilities; and the Hawai’i Paroling Authority, the focal point of my study. Her records contain a somewhat typical profile of contemporary penal assessments and interventions by clinicians and disciplinarians, a narrative of 21st century systems of care and control. Leilani was subjected to a range of instruments measuring her needs and calculating the risks she might pose to herself and others. As with the majority of offenders in this study, the assessments filed by parole staff indicated that she occasionally abused alcohol but frequently abused drugs, resulting in serious disruption to her life. The risk assessment went on to note that Leilani was motivated to change despite her past problems with the law which included periods of probation/parole supervision and revocation. Her previous crime of possession with intent to distribute cocaine was noted along with her other records as was her 9th grade education and her poor employment history. In terms of needs, Leilani’s assessment reflected additional deficits in the areas of financial management. And, while she experienced some symptoms of emotional instability, the report went on, these problems were not serious enough to prohibit adequate functioning and her physical health was sound. Leilani’s needs profile indicates that her social network included negative associations. Her life before prison showed minor housing instability. Her score for sexual behavior indicated that Leilani is ‘well-adjusted.’
At a parole hearing in September of 1999, the three-person Parole Board assessed Leilani’s case carefully, posing questions to her, and weighing her demeanor. Having decided that Leilani showed signs of having been rehabilitated, she was deemed ready to return to live in the community—appropriately supervised by her parole officer. She was paroled to Matlock Hale, the same transitional residential facility for women in Honolulu where she had lived for the previous few months.

Within a few months, according to the parole officer’s case notes, Leilani left the facility and was living with her boyfriend and her children in Honolulu. She was working full-time as a retail sales clerk. The following spring, Leilani found that she was pregnant. She and the child’s father married and, in July, she went on maternity leave from work. She was able to collect some cash assistance and food stamps during this period.

At about this point, according to her parole officer’s case notes, things began to go sour. Leilani’s daughter was arrested and placed in juvenile court for arson. The Department of Human Services notified her that she owed them several thousand dollars to reimburse them for payments they made to the foster relative caregiver who took in her children while she was in prison. Worse yet, at about the same time her youngest child was born, the family started experiencing periods of homelessness. Early in the year, Leilani reported to her parole officer that her husband had assaulted her and around the same time she admitted to using drugs. Her husband, who had taken their son to another island, got into trouble with the law for a violent offence.

The wheels really came off the wagon when Leilani moved to another island without permission. It got back to her parole officer that she was living on the beach
there with other individuals who were all using drugs. Hawai‘i Paroling Authority issued a warrant for her arrest. Moreover, when her parole officer got word that Leilani’s youngest child had been seriously injured when left in the care of a young sibling, he notified Child Protective Services about the situation. In response, CPS started an investigation into the case.

The warrant for Leilani’s arrest, issued only a few weeks before her parole term expired, was never served. By the end of September 2001, Leilani had “maxed out” and she was no longer bound by the terms of her parole. However, Leilani’s problems with the State of Hawai‘i are by no means over. She is expected to repay the moneys the state paid out to the foster caregiver of her children during her incarceration. She is under investigation by Child Protective Services. Should her children be taken away and placed in the foster care system, Leilani faces the possible termination of her parental rights under current child welfare and adoption laws. And, finally, her apparent return to drug use is now known to law enforcement, putting her at risk for new charges. For women like Leilani, it is not unusual to pass from one phase of legal surveillance to another just as life appears to be falling apart.

Leilani did well for a while on parole. But the programs she received during prison and the close supervision of a social-work-oriented parole authority have not transformed Leilani’s life in any appreciable way. Indeed, since her time in prison, Leilani’s experience has been a cascade of losses culminating in homelessness and the apparent resurgence of her drug use. Maxing out on parole kept Leilani from becoming one of the 30% of Hawaii’s parolees who, according to a recent study, are returned to

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4 Leilani completed the term of parole required by her offense and sentence.
prison annually for technical violations of the conditions of parole or new crimes (Kassebaum and Davidson-Coronado 2001). Leilani’s case points to the risks and complexities of the reentry process for women leaving prison—even for those who have received treatment and rehabilitation programs.

Under the guise of rehabilitation, the state attempts to alter the consciousness of women in hopes that these new selves will leave prison as rational, choice-making, and responsible individuals. Penal authorities imagine that their reforms will make a difference in the lives women lead after prison and prevent further trouble with the law. However, I found that women’s post-prison existences look very much like their lives prior to prison in terms of economic, social, and family troubles. Little attention is paid to the pathways women travel to prison, journeys that are shaped by abuse, poverty, and the dynamics of gender inequality. I also found that the central role that relationship and family play in the formation of women’s subjectivity makes them more vulnerable to criminalization in some contexts—their relations with drug-abusing men being but one example. But relationship can also be a domain within which the state can exercise its power over women. There is no gendered domain of which this is more true than that of motherhood. For, despite their unconventional life-styles, I found that women parolees remain powerfully committed to their children’s welfare. Regardless of women’s parenting concerns and despite the new notions of selfhood they are exposed to in prison, the structural features of their experience (poor education, alienation from institutions, Kassebaum found that 43% of Hawaii’s parolees were returned to prison for parole failure within 24 months post-release. Hawaii’s rates for parole failure are better than average among States with discretionary parole (parole authorized by a parole board rather than mandated parole contingent on determinate sentencing). The annual failure rate for parolees in 1999 in states with discretionary parole was 46% compared to Hawaii’s annual rate of 30% (Bureau of Justice Statistics 2001).
underemployment, racism, and little social support for child welfare) remain stubbornly in place. My main claim is that the ideology of modern schemes of rehabilitation promises autonomy and the capacity to make better choices—but does little or nothing to alter the array of choices that poor women like Leilani and the other women in my study actually face after prison.

Gendered Identities and Governmentality

This study began with a concern about women like Leilani and their children, for whom the experience of incarceration represents just another in a series of catastrophes. I was motivated by a theoretical interest in how penal agents and institutions like courts, prosecutors, prison regimes, and parole exert control over women through their maternal identities. Modern forms of government, in contrast to those forms that came before, operate through producing selves, subjects, and identities. Modern forms of government, in contrast to those forms that came before, operate through producing selves, subjects, and identities. This is not to say that these selves or identities are determined by government, but that they are “facilitated or fostered” (Dean 1999, p. 32) through the apparatuses of power. I wanted to examine how the meanings of motherhood and feminine gender are conveyed through the practices and discourses of penal agencies—as well as their increasing array of state and non-state partners—as a mode of government. I was interested in how these official messages about how life should be lived might intersect and diverge from women’s real experiences, especially in the sphere of motherhood. In a culture whose normative

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6 This perspective on government derives from Foucault’s later writings (1991a; 1991b), where government was defined as the “conduct of conduct.” Technologies and knowledges (e.g., psychology, medicine) are produced and diffused across multiple state and non-state entities. Government in late modernity rules us through our desires. The phrase governmentality points to the more specific forms or analytics employed among populations (see Dean 1999), or, as Foucault (1991a) specified, the area where the “technologies of domination” meet the technologies of the self (p. 225).
prescriptions for mothering children are so demanding, it is often impossible for anyone to be considered an excellent mother and infernally easy to be labeled a bad one—by others or by oneself. Motherhood is a particularly salient account of feminine identity and I wondered how women negotiate this identity under circumstances that would overwhelm the best of parents.

Motherhood has been described as a set of resources, a “central cultural motif” that symbolically organizes adult womanhood (McMahon 1995, p. 25). It also seems to be a lens through which others will view her. Being convicted of a crime and sent to prison destroys maternal rectitude very effectively, regardless of the quality of a woman’s maternal care. Mothers who go to prison not only face cultural condemnation by intimates and the community, but their motherhood becomes the object of official interest and commentary within the criminal processing system itself. The state conveys culturally acceptable imperatives for motherhood, in both subtle and not-so-subtle forms as it attempts to rehabilitate her as a penal subject. This is not to say that other things are not expected of her. She must be, as the policies of parole mandate, a worker, a responsible citizen, with a range of other qualities held out as positive by society and that are reinforced by penal government.

It was not only the ideologies and meanings associated with motherhood for women in this setting that interested me. I also wanted to explore the material and social realities that structure the lives of women and their children as they struggle to comply with the many demands of the justice system to find work, set up homes, and re-enter the free world as ex-offenders. Women offenders in Hawai‘i (even more than the rest of the nation as my data show) have dismal educational levels and are poorly prepared to
support themselves and their children on their own. They are also quite likely to be from marginalized groups. As with over half of the women in my study population, Leilani is of Native Hawaiian ancestry, a group that is over-represented in Hawaii's criminal processing system. Today's kanaka maoli, as the descendants of Hawaii's native people call themselves, are largely alienated in their own land. This status coincides with poor education, lack of access to mainstream health and welfare institutions, and a host of social problems that often propel them into contact with the law. The cultural and material resources once provided by the kanaka maoli's ties to the land have been largely severed by colonialism, plantation capitalism, and Hawaii's current status as a tourist destination in a globalized visitor industry. Their status as members of a lower socio-economic group have rendered Hawaiian women, like other women of color, quite vulnerable to criminalization (see Carlen 1988, p. 5).

This dissertation attempts to accomplish two complementary tasks. The first is to understand the ways in which penality7 in late modernity assembles a range of technologies8 and apparatuses tailored to produce subjects who are appropriately responsible and law abiding. In other words, I explore what has been referred to as the "conduct of conduct" as a technique of government (Dean, 1999; Foucault 1991a; Rose 1999). The phenomenon of keeping order under late-modern capitalism has been described by a growing literature on governmentality (some of which is outlined below).

7 After David Garland (1990), I use penality as a term for the agencies and institutions of criminal justice, their practices and routines, and laws that make up the totality of the process of legal punishment.
8 I borrow this term and its usage from Nikolas Rose (1999) who defines technologies as: the technical assembly of means of judgment (clinical examinations, tests, examinations, assessments with their associated norms and normativities); the techniques of reformation and cure (pedagogic, physical, therapeutic, punitive); the apparatuses within which intervention is to take place (design of prisons, classrooms, equipment, the connection of these into larger assemblages such as schooling or health visiting).
This way of thinking about power and order draws on Foucault's later work dealing with the management of populations by the state and by agents external to the state. His work on governmentality considers the specific tactics of government organized around security and political economy. He later described governmentality as the way in which technologies of power and domination meet with technologies of the modern self (Foucault 1991a, p. 225). But, with few exceptions, these studies have not been situated in specific research sites. Nor have these and related issues of government been analyzed thoroughly to produce an understanding of how gendered subjects are created (see Carrabine 2000 for one example).

Motherhood and the Power of Penality

Motherhood is a potent nexus for the control of women, laden with strong moral imperatives about human conduct. Women not only give birth to children, but to the social order as well (Armstrong 1998) and are, therefore, of utmost interest to studies of power. I argue that penal strategies have effects on women that are most evident in a very specific arena—motherhood as an account of feminine gender.9

A Hawai‘i judge who has considerable experience in family and criminal courts said to me, “Motherhood! You can overuse it, but you can under use it, too.” For this judge, who presided over hundreds of cases involving parenting women, motherhood creates an opening for intervening in the affairs of addicted and criminal women. He knows that motherhood makes women vulnerable to strategies of social and legal control. The complex motivations and emotions involved in the mother-child relationship are

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9 McMahon (1995) used the phrase “motherhood as an account of feminine gender” in her analysis of working- and middle-class mothers.
always powerful. Indeed, guilt and shame over their perceived transgressions as mothers can be overwhelming for women offenders. Motherhood then may take on an instrumental quality for the law, something that can be used to “reach” the female offender, and as a source of legitimation for what the court might ask or tell a woman to do. This form of moral suasion used by judges and other agents of the penality are used consciously as the basis for appeals to women to conform—or, as I witnessed from time to time, a basis for condemnation.

On a less theoretical and more practical level, this dissertation explores the problematic realities of parenting among women who are under the supervision of the criminal processing system on parole. The expansion of incarceration through determinate sentencing and mandatory minimums associated with the widening scope of the ‘War on Drugs’ has resulted in thousands of women, most of whom are parents from minority communities, being drawn into the criminal processing system (Bloom, Chesney-Lind, and Owen, 1994; Bush-Baskette 1998). Characteristically, these women tend to be marginalized prior to becoming involved with the courts by virtue of their class, race, and gender (Bloom 1996). They are frequently alienated by lack of education, poverty, minority status, histories of abuse, and, sometimes, by psychological impairments. Often, they have a history of trouble with the law as juveniles. For many of these women, motherhood represents their sole legitimate connection with mainstream social roles. For, despite their unconventional lifestyles, women offenders retain very traditional views of gender and their children remain a primary concern during their incarceration (Baunach 1988; Bloom and Steinhart 1993; Bloom 1996).
I examine motherhood as a focus of contemporary strategies of control and discipline for three reasons. One is that parenting is of paramount concern to a majority of female offenders. As such, motherhood is an incredibly robust arena to examine the deployment of the state penal strategies. These strategies and practices must be unpacked to reveal their underlying assumptions about the nature of female gender. Second, being a mother is one of the few mainstream identities female offenders cling to despite their unconventional and troubled lifestyles. Indeed, the bond between mother and child, however distorted it might seem to the observer, is the major source of love and self-respect many of these women experience. That the relationship goes wrong so often is the central source of grief and disappointment in these women’s lives. Finally, female offenders, most of whom are poor women of color, find themselves the dubious beneficiaries of various sorts of “reforms” in social welfare policy, adoption law, and sentencing for drug offenses. In brief, they constitute a population that has been hit hard by neo-liberal politics and the trend toward social exclusion as a part of penal and welfare practices of late modernity. Recent federal laws have curtailed a broad range of entitlements in the areas of housing, welfare, and aid for education to those convicted of drug-related offenses—a policy move that disproportionately affects poor women. Family policies, administered by child protective services, have also become more stringent and punitive. These policies make the termination of parental rights more likely for women offenders, those who have problems with addiction, and those women who are living in poverty. These policy moves prompt us to examine the overlapping systems of control that form the context for the lives of many poor women, especially women who are drawn into the criminal processing system.
Hampered as they may be by their many troubles, most of these women want for their children what every parent wants: a happy, carefree childhood, material comfort and security, a good education, and a chance to have a better lot in life. Like all parents, they envision playing a role in providing these things for their children and being part of their lives. Yet, parenting women who are also offenders almost always have a host of problems that preclude delivering these things—problems that originate long before incarceration causes their involuntary separation from their children. Maintaining relationships under these conditions is fraught with difficulties. And, even the hoped-for reunion with children after incarceration is all too often plagued by difficulty, frustration, and disappointment. Incarceration fosters dependency and, for many women, asserting the parental role with its presumption of authority is one of many trials that newly-released offenders face. They may have used up their parental capital entirely as far as their families are concerned. And, their continued supervision by justice system authorities is hardly congruent with what motherhood is supposed to be.

Late-Modern Penality in Hawai‘i

This account begins with women on parole in the state of Hawai‘i. This state is a diverse society laboring through a painful transition from its past as a colonial economy based on industrial plantation agriculture. This now-archaic structure of modern capitalist production, derived under colonial relations with the United States, is giving way. Hawai‘i has become a sought-after destination in a globalized visitor market; low-paying service jobs have replaced the once unionized labor on the plantations. Its legal institutions are a product of this unique heritage, being largely imported from the
mainland United States and adapted to the management of a culturally heterogeneous and racially stratified work force. After liberal political interests supplanted the old plantation oligarchy during the mid-twentieth century, the Territory of Hawai‘i underwent a transformation that combined modern liberal social ideologies with the paternalist strategies developed under the old regime. Congruent with this political culture, the state retains practices like indeterminate sentencing. And, a strong rehabilitation discourse still drives penal policy to a considerable extent. Hawai‘i stands among the more liberal states in terms of corrections policies, tending to resist many of the harsher measures that constitute a transformation in penal practices in the United States and Britain over the past 30 years—the so-called new penology (see Feeley and Simon 1992, 1994; Garland 2001).

Hawai‘i penal policy is not uniformly liberal. Rather it is a curious blend of old and new forms of criminalization and punishment. The State has adopted legal forms associated with more punitive practices that have long since been in place on the mainland, such as mandatory minimums for certain drug offenses. Yet, it retains indeterminate sentencing by a parole board that is committed in theory and in much of its practice to the concept of rehabilitation of inmates. The vast majority of offenders leave prison on parole, supervised by parole officers who are often trained as social workers. Hawai‘i has instituted a broad range of treatment programs in its correctional facilities, programs that are augmented by community-based services treating addiction and other problems. Hawai‘i boasts a successful sex offender treatment program, several options for transitional living programs for inmates, and a range of interventions that target the problematic behavior of the inmates and parolees. These approaches to rehabilitation
take many forms including anger management, parenting programs, cognitive skills
classes, classes to help victims cope with domestic violence, managing money, and
classes to develop life skills and to manage stress. It should be mentioned that the State
of Hawai‘i operates two drug courts, programs that illustrate the insertion of therapeutic
jurisprudence into the management of offenders. Although most of these programs are
under-funded, they do exist despite the State’s economic problems and lack of economies
of scale.

I began with Leilani’s story because her case embodies many of the neo-liberal
strategies of treating offenders as well as practices consistent with the rehabilitative ideal.
She has been the target of an exhaustive set of technologies based on expert knowledge
about offenders. Attention has been paid to her purported deficits in the areas of
parenting and vocational training. And, according to arguments made in support of
rehabilitation, Leilani has had a better than average chance to become the sort of
responsible, autonomous, rational-choice-making subject who can take her place in a
market-driven, neo-liberal society. What, then, went wrong?

Modern subjectivity, as developed under Western industrial capitalism has been
globalized to a remarkable extent (Merry 2001a). But its reproduction across various
cultures, classes, and ethnic groups through participation in modern economies and
institutions has hardly been complete. The process has left entire groups alienated from
modernist institutional activities. These technologies of the self and the kinds of
subjectivities they produce serve as a boundary maintenance device, sorting those who
can perform the obligations expected of modern subjects in a mostly middle-class
consumer context—from those who cannot. I see the practices of late modern penalty,
especially those techniques of what Rose calls "governing the soul" as crucial to this process (1999) and relevant to the strategies of government utilized by Hawaii's institutions of penalty. I have come to think of the range of technologies of the self that are directed at women like Leilani as closely aligned to the creation of modern middle-class subjects. Those who cannot or will not make the cut can be consigned to what Garland calls the residuum (1985)—those for whom the modern prison is distinctly non-rehabilitative and non-normalizing. For these individuals, prison serves an entirely custodial function. These people, in the modern culture of penality, will join the other undeserving classes (Garland 2001) who are beyond the concern of conservative social policies.

Contrary to contemporary assumptions about the strictly retributist nature of penality today, specifically the abandonment of the rehabilitative ideal, I have found that Hawaii employs a range of interventions into the lives of female offenders even as it administers punishment to them. These interventions and the discourse of agents who administer them are legitimated by the rehabilitative ideal, even though actual rehabilitation may not extend much beyond the level of discourse. Women resist and sometimes embrace these practices as very active subjects—albeit subjects who encounter enormous obstacles and to whom the prison experience represents yet another in a series of losses.

As an inmate, and later a parolee, Leilani was the recipient of a range of programs administered by the State of Hawaii Department of Public Safety and its contracted service providers. The assessment of needs and risks, the numerical summary of her deficits, obsessions, and vulnerabilities so crucial to the practices of contemporary
corrections calls forth mechanisms that are both disciplinary and palliative. The case file sketches her past, present, and assesses her future in terms of both her needs as a penal subject and the risk she might pose to either the corrections system or the community, or, perhaps, to herself. She has been the recipient of treatment regimes for her addiction while cognitive behavioral therapists taught her how to become a responsible, choice-making individual who can act in an autonomous fashion when she leaves corrections supervision. Leilani is the beneficiary of a certain amount of the reform that has responded, albeit in a limited way, to the needs of the female offender for housing and support for her employment in the community. The prison experience has even offered Leilani a means of becoming a better mother through a parenting class. But despite being the beneficiary of a range of treatment and rehabilitation programs in prison and beyond, Leilani appears ready to become a recidivism statistic; in fact, only the expiration of her parole term saved her from an immediate return to prison as a parole violator. But before understanding what went wrong in this case, it is necessary to call into question the nature of this rehabilitation project itself.

Adopting a New Self: Dilemmas of Structure and Agency

Contrast Leilani’s story with those of several other women whom I interviewed. Occasionally, some would remark that prison had done what the rehabilitation advocates hope. More than one woman told me, “prison saved my life.” For some of the women I talked to, incarceration interrupted a downward spiral that included all the troubles that women can experience: drug addiction; living on the streets; violence; sexual victimization; humiliation; and engagement in the type of criminal acts linked to survival
like fraud, theft, and prostitution. These women told me that they had had some transformative experience that changed their lives in very fundamental ways. How are statements like these to be understood, if not explained, given that women are thought to be especially hurt by their experiences in prison? (Indeed, other women reported being devastated by their prison experience.) Are these women experiencing some kind of mystification about the nature of their treatment by the state? Have they bought into the discourses about individual responsibility and self-improvement so completely that they see prison, difficult though it was, as having been a key to new and better identities? Or are they, as people are known to do, simply trying to find some sense of meaning in their suffering as a way of offsetting personal losses? How have they come to believe that the stigma, humiliation, loss of freedom, and separation from children, along with all the other pains of imprisonment, could somehow be a pathway to a better life?

These stories raised quite a dilemma for my research. First, these conflicting truth claims troubled my political opposition to the expansion of the prison as this nation’s institution of first resort in dealing with problem people (Currie 1998). To report that women find anything positive in incarceration at all seemed disastrous from an advocacy point of view. As a feminist, how could I come to grips with such contradictions? To believe that incarceration might be beneficial in any important respect, particularly for the drug offenses that send most women to prison, was contrary to all that I had learned and believed about the coercive nature of state power as exercised on the bodies of women. After the victimization that most women experience in the context of poverty, violence, and marginalization associated with women’s criminality, how could the additional experience of prison be anything other than awful? Foucault called the prison
"that dark, abandoned region" (1979, p. 235) and despite the regimes of reform over the past two centuries, the history of the prison is mostly one of revenge and misery.

Yet, to dismiss the claims of some women that prison transformed their lives while emphasizing the contrary point of view shows a lack of respect for women's agency and their diverse life experiences. I heard and witnessed countless examples of willingness, persistence, and courage on the part of women parolees as they attempted to deal with an often inflexible and unfair system. Women adopted the language of social workers and therapists and avidly used what they learned to reinterpret their experiences. They embraced these modalities in ways that allowed them to move beyond their status as drug users and ex-offenders into lives they valued as happy and meaningful. To reject these narratives of transformation as mere false consciousness would be to betray what these women have presented as the central facts of their identity. If feminist approaches to social science have accomplished nothing else, one hopes that the position of researcher as final arbiter of reality has been somewhat dislodged. I began to interrogate concepts like rehabilitation in what I hoped was a more sociological way, coming to understand a little better the diverse and flexible uses of power by multiple agents. I began to see how such an examination could move us beyond old models of social control to a greater understanding of problems of structure and agency. This led me to a framework that I believed could account for women’s strategies of resistance and engagement, while shedding new light on how state and non-state power operates to shape and define choices and decisions. Importantly, this framework takes account of the structural and material realities of women’s lives. I began to see how Foucault’s work,
despite his pessimistic views on human freedom, permits room for thinking about agency in the ways women adopt the new selves they learn about (see Carrabine 2000, p. 315).

_Theorizing Government and Subjectivity_

Modern notions of keeping order are based on a vision of both state and non-state actors who provide incentives for conformity while providing for self-regulated conduct within a rationalized polity (Rose and Miller 1992).10 The governmentality literature provides the basic theoretical framework for exploring interactions between the law and subjectivity in contemporary penality. It is important to keep in mind that old and new forms of penality reside alongside one another in contemporary systems (Garland 1995; Garland 2001; Hannah-Moffat 2001). And, in fact, the State of Hawai‘i utilizes a mixture of strategies when it comes to women offenders. Hawai‘i has adopted some of the language and technologies of modern assessment of risk and managerial practices for its populations of offenders (see Feeley and Simon 1994). However, in the State’s tradition of paternal care for plantation workers (Beechert 1985; Ikeda 1993; Lane and Ogata 1993; Takaki 1983) and welfarist political culture, Hawai‘i retains a commitment to rehabilitation as a strategy of crime control and normalization. I view these rehabilitative strategies through the lens of governmentality as activities that are central to political power and the production of these selves (Burchell 1991). The application of these technologies offers a redefinition of the self, which may be affirmed or rejected, but is central to the question of self-government (Burchell 1991; Erickson and Haggerty 1997) in neo-liberal society.

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10 Of course, the most powerful means of control remain informal, pluralistic, and spread across many facets of society (Garland 2001).
In *Discipline and Punish*, Michel Foucault (1979) traced the development of techniques of discipline that arose with the birth of the penitentiary. These approaches to correcting offenders were described by Foucault as techniques of power or power/knowledge and involved the monitoring and control of human behavior within a wide-ranging set of institutions within which people must act with coordinated behaviors: schools; workshops; asylums; and prisons. These microphysics of power involved attention to the impact of the gaze of a scientifically-informed and rational state upon the individual in the course of its interactions with her—interactions intended to normalize and correct conduct. The process was intended to produce “bodies that were docile and capable” (1979, p. 294).

Foucault’s earlier writings emphasized the “micro-physics of power” but said little about the relationship between subjects and the state. Many authors have pointed to the dearth of agency in these early writings, but closer inspection gives way to some expression of active human subjects in later writings (Carrabine 2000). In his essay, “Governmentality,” Foucault (1991a) outlines the emerging forms of power in sixteenth century Europe which became more dispersed and differentiated over time, with government of individuals becoming less the province of the sovereign and the church. Government was not only a function of the state or family, but became lodged within the individual (p. 91). Law becomes a tactic in this dispersion of rule and power and in the ability to achieve definite ends (p. 95). Related to these tactics are various technologies of the self, which infuse the practices of state and non-state agents alike.

Ericson and Haggerty (1997) make reference to the production of subjects in their discussion of the risk and institutional classifications. In a discussion that draws upon
both Bourdieu and Hacking, they call attention to the diverse identities that biopower makes available to the modern person and the active way in which individuals volunteer or acquiesce to these selves. Women offenders are instructed to use their agency in making the right choices and are provided with classes, lectures, and exercises along with the more medically-inspired treatment for addiction. These modalities provide a range of incentives for the production of a new self, one that is rational, responsible, and self-disciplined. As the literature on governmentality suggests, these issues of self-management and self-reflection are central to modern forms of governance (Rose 1999).

For purposes of my analysis, Foucault has provided a useful statement of power and human agency in The History of Sexuality (1990) wherein he describes power as ubiquitous in society. Power operates most effectively not through its repressive function, but in its ability to produce willing subjects. These sources of regulation or the government of conduct exist across a range of social institutions so that the construction of subjects is invisible through its normativeness. Through these processes, which we can understand as technologies of power, identities are constructed that appear natural and true. Subjects are produced from a range of possibilities, and they, in turn produce social action.

Liberal government is founded on the assumption of a rational citizenry which acts in concert with its own self-interests, which are fundamentally those that are important to the state. The state still possesses power that is repressive. But it depends primarily upon power that is regulatory, designed to provide a set of inducements to behavior around a statistical mean for populations—rather than to punish individual deviance (O'Malley 1992). The classification and management of risk has been shifted to
non-state entities and to the individual in a move O'Malley refers to as prudentialism (1992, p. 257). The creation of a prudent self can be induced through programs and activities that are delivered by the state and by privatized or other non-state actors. In subsequent chapters, I will illustrate how the state, with its allied partners—the social welfare agencies—invite women under their control to become prudent choice makers. But the fact that the state has both coercive and regulative powers over offenders under its supervision calls the issue of choice into question. For the women under its control are not invited but ordered to engage in what Giddens calls the “reflexive project of the self” associated with late modernity (1991, p. 5).

The state and its non-state partners provide these attractively-packaged transformative technologies and programs to offenders. Upon examination, this range of subjectivities proves to be uniquely adapted to neo-liberal societies. These strategies of responsibilization (O'Malley 1992) tend to de-center the state as the sovereign power, diffusing the responsibility for the correctional project to non-state authorities and even the offender herself (Hannah-Moffat 1997; Hannah-Moffat 2001). The techniques of self-governance offered by non-state actors in the form of social workers, therapists, and state actors like correctional staff depend on similar sets of political rationalities (Rose and Miller 1992) which are the moral justifications for particular correctional projects. I see these discourses\(^\text{11}\) as the means by which women offenders may seek to become responsible individuals who will make the right choices when they leave prison.

However, these identities may appear too alien and too out of reach for some women to acquire. These new selves are laden with moral assumptions that many

\(^{11}\) After Carrabine (2000), I use the term discourse to mean the "system of thought that informs practice" (p. 316).
women may resist and reject. Moreover, the production of these self-sufficient, autonomous individuals who are capable of making responsible choices assumes the person is operating voluntarily within some general framework of legal rights and freedom—conditions that are not characteristic of prison or parole. I argue that the production of this type of subjectivity among carceral populations is at odds with the dearth of economic and social capital that many of these women have access to. The transformative project of modern penality, in other words, attempts to produce middle-class subjectivity without providing the middle class context that supports it. This is the central contradiction of penality as practiced in Hawai‘i and elsewhere.

*The Contradictions of Care and Control*

Women parolees are instructed in the “practice of a responsibilized freedom” (Garland 1999, p. 25) both during their incarceration and afterwards by parole officers in conjunction with substance abuse treatment centers, child welfare, entitlement, and related social service providers. In this government through freedom, the language of choice runs freely as excuses for bad behavior (“I made bad choices,” i.e., committing crimes), assertions of autonomy (“I can make choices”), and even claims for a transformation of the self through freedom (“Today, I have choices!”). This discourse links the individual’s previous deviant self to a new self who is capable of positive choices. The language of choice, then, is clearly linked to the transformation of identity that these programs hope to achieve—and, moreover, that many of the women themselves hope to achieve.
The pitfall is that these programs, often given under the guise of care, cannot be separated from the disciplinary and repressive mechanisms of the state. The central tenet of governmentality, that of being governed through freedom, ought to draw a distinction between social action (agency) and freedom, as Garland (1999, p. 29) argues. This is not only a theoretical limitation that downplays constraint; it is an empirical reality because the prison is essentially a disciplinary culture. Treatment and rehabilitation programs presume an ethic of care but prison treatment programs are delivered within a culture of control (Bloom, Covington, and Owen 2002; Kendall 1994). By definition, inmates’ and even parolees’ human rights are limited. That those participating in these programs in prison and on parole are doing so on an involuntary basis cannot be ignored. Even the strategies of empowerment that are being promoted by feminist reform programs for women’s prisons have been stymied by the seemingly unalterable reality of prison discipline (Hannah-Moffat 2001).

Contemporary agencies of social welfare and penality provide, with various sources of state and private support, a wide range of interventions for troubled persons. Examples of these interventions are addiction treatment programs, cognitive skills and anger management classes, domestic violence advocacy centers, and parenting classes. These and other service providers proffer a model for both desirable conduct and for a self that is appropriate to that conduct. And, increasingly, these classes and programs are being filled with referrals from courts, probation, and parole. Similar programs are administered inside prisons as well. The following section details three accounts of technologies of government as they exist in related contexts—related because, although both state and non-state agents deliver them, their targets are populations who have come
under legal jurisdiction or who have sought legal help. These accounts are interesting and relevant for what they suggest, albeit not always explicitly, about what Merry has called the “cultural power of law” (Merry 1995a; Merry 2000; Merry 2001a) and its capacity to produce meanings and identities. Linking this back to the principles of governmentality, these scenarios offer insights into the production, by the state and its partners, of new selves who are legally-entitled, responsibilized, and empowered. Mostly unanswered, however, are questions about what participants make of these new selves and to what extent they adopt or resist the state’s invitation to govern themselves.

Penal Programs and the Responsible Self

Garland (1999) describes a program administered by the Scottish Prison Service known as the Personal Development File (p. 24-25). This program involves enlisting the long-term prisoner in what is referred to as “training for freedom”:

... a scheme that enlists the prisoner both as an agent in his own rehabilitation and an entrepreneur of his own personal development, rather than an objectified or infantalized client upon whom therapeutic solutions are imposed (p. 24).

The inmates perform a number of exercises that require basic literacy. This project requires self-examination, journaling, and drills in decision-making. The building of a new self through the Personal Development File program is not grounded in the earlier aims of penal policy of instilling morality and virtue. Rather the process offers a blue-print for and instruction in conducting oneself in prudent, rational ways. To the state, this of course means that the inmate will act in law-abiding ways that conform to the interests of a well-regulated, consumerist society. The program does not attempt to create a more
moral self, rather it proffers a self that is constructed on the basis of self-interested rationality. The rationale of the program is that the inmate must, using these guidelines, "work on himself" to change his self-destructive and unwise ways, thus avoiding prison in the future.

This course, when successfully engaged in, offers the inmate an array of new choices: choices such as where he will be confined and what programs he prefers to participate in during his confinement. Of course, this newly acquired autonomous and choice-making self still operates within a strictly regulated disciplinary system. And the conditions under which he will exercise these new techniques of self-control and "responsibilized freedom" (p. 25) are clearly limited by the state authorities. So although the technologies of government as espoused by the prison authorities are supposed to prepare subjects for living as free selves, the extent of their freedom is very much constrained. "Training for Freedom" is an example of how the disciplinary mechanism of the prison is obscured and packaged as something else entirely.

Works by Kelly Hannah-Moffat (Hannah-Moffat 1997; Hannah-Moffat 1999; Hannah-Moffat 2001) provide an analogous account of the government of female inmates in Canada using the rationale of women's empowerment. Hannah-Moffat documents various penal strategies instituted in the name of reform that have guided women's prisons in the past. These ranged from pastoral forms of power exemplified by the penitentiary to the maternalist doctrines of the reformatory period. These last were based on an ethic of motherly or sisterly concern with instilling feminine values of domesticity and chastity among women offenders (see also Freedman 1974 and 1981; Rafter 1990). Most recently, the Canadian Federal System, influenced by feminist perspectives on
women's offending, instituted a program called "Creating Choices." This program addresses what are considered to be the special, gendered needs of women offenders—ones that are distinct from male offenders. The various activities, policies, programs, therapies, and classes conducted under the rubric comprise what Hannah-Moffat calls an "empowering/responsibleizing" (2001, p. 13) strategy for women offenders.

The feminist critique prompting this reform argued that criminality among women was linked to their biographies—lives that were strongly influenced by female subordination, victimization, and trauma. Feminists had previously demanded that women offenders simply be treated on an equal basis to male offenders—that their access to programs and services should be on par with those that male offenders were receiving already (Hannah-Moffat 2001, p. 134-35). This liberal feminist strategy was implemented in court challenges and met with rulings that agreed conditions in women's prisons were deplorable and oppressive. But the courts could not compel the state to set up and fund these programs and services in women's prisons (p. 137). More radical strategies developed around knowledge produced by feminist research. This knowledge about the woman offender was crucial to demands for and formulation of a "woman-centered model of punishment":

... five new prisons [for women] could operate on principles such as empowerment, meaningful choices, shared responsibility, and respect and dignity, and that by providing a supportive environment they could break the cycle of abuse, neglect and discrimination experienced by imprisoned women (Hannah-Moffat 2001, p. 4).

The interesting thing about this discourse is both its explicitly gendered nature that is, at the same time, quite compatible with strategies of responsibilization and other rationalities of punishment to which O'Malley (1992) and Garland (1997) have referred.
The strategies of change that comprised the empowerment model were intended to produce subjects who had overcome their past victimization to become autonomous, healthy women who could make good choices for themselves and their children.

Both Hannah-Moffat and Garland offer illuminating accounts of these strategies of government and the rationalities of freedom and choice—advanced in a context that really offers neither to its involuntary subjects. What these accounts do not tell us is how participants respond to these new arrays of choices and selves. The following account describes participants in a domestic violence support program and how they actively engage in and, at times, reject the resources for transforming the self that are offered by state and non-state authorities.

Sally Merry’s (1995b; 1997; 2001a; 2001b) various studies of anti-domestic violence programs in Hilo, Hawai‘i illustrate in a sharper way how modernist technologies of the self are delivered, understood, and sometimes enacted. Using a model that examines the culturally productive power of law, Merry shows how gendered selves are advanced by the state with the help of non-state partners to a culturally-diverse population. The state and its partners broker an array of identities and meanings that are an important dimension of the state’s power (Merry 1995). In this small city in Hawai‘i, three competing approaches to handling the problem of domestic violence exist—one a rights-based, feminist model, a second model that is based on religious faith and Christian values, and a third based on an indigenous Hawaiian practice of conflict resolution. These approaches offer different rationalities and modes of understanding spousal battering and its solution based on three diverse perspectives about the nature of
relationships and violence: gender equality and rights; religion and the release of evil influences; and cultural reconciliation utilizing the family.

However, in her analysis of these various rationalities, Merry remarks on the similarities present in the sort of selfhood offered to program participants. She found a striking coordination in the resources of personal transformation made available to individuals. All three programs emphasized personal choice-making and individual responsibility. The programs utilized a vocabulary that stresses feelings in ways that are familiar to the therapeutic discourses of psychiatry and psychotherapy, especially the language of self-esteem. Adopting a specific sort of identity – separate from conventional ideas about social rank and power – was important to the process. Therefore, participants were encouraged to see themselves as Christian, as Hawaiian, or as women with rights rather than members of occupational or social classes. And, even though these identities varied in major ways, this “entrepreneurial creation of the self” (2001a, p. 42) was intrinsic to the process of change for all three cases.

Women in the domestic violence program run by the non-profit agency adopt the new vocabulary of rights-talk that the agency promotes to them. Battered women come to see violence as something that is no longer an acceptable part of domestic relationships. They are taught how to use the courts to protect themselves from male violence. In fact, they come to see violence itself as a basis for terminating a relationship. These are women who are prepared to make claims on their own behalf to courts for temporary restraining orders, who use the law in active ways that correspond to their new thinking about themselves as entitled to live without being beaten. Though
using the law is not without risk, women become subjects who think of themselves as bearing particular rights that extend into their relationships.

Battering men, on the other hand, are sent by courts to the domestic violence program to learn to control their violence. They are taught to see that violence is not a natural means of keeping a relationship; rather it is a reason for terminating a relationship. They are taught a brand of masculinity that eschews violence and controls impulsive behavior—a masculinity at odds with what many of these men have known. Whereas women in the domestic violence program are offered a self with rights and the protection of law, men find themselves labeled as criminal. Their new identity is an altered form of masculinity, one that is non-violent and rational. Nevertheless, some men adopt the language offered by the program and use the skills in some of their interactions, coming to see themselves as men who do not batter women. Others resist and go back to their old ways as soon as they can slip away from the control of the court.

Merry understands this process of change to entail the production of a modernist self from among people who are primarily from marginalized classes. By and large, the individuals, who are often referred by the courts, are from the lower economic levels, are marginally employed, and/or are by virtue of Hawaiian ancestry, alienated from the dominant culture. They are seen by courts and programs as people who cannot control their rage, have few occupational skills and low educational levels, and have drug and alcohol problems. They are people who have “failed to constitute themselves according to the demands of modernity” (2001a, p. 44). But, like the incarcerated women in Hannah-Moffat’s account, their agency is severely constricted by their social and class
position, and by their lack of social and legal resources. Nevertheless, they are urged to adopt selves that are empowered, responsible consumers, and choice-makers.

The Productive Role of Penal Power

Garland’s presentation of the Personal Development File Program in Scotland, Hannah-Moffat’s account of various penal strategies, including women’s empowerment, and Merry’s account of various programs to deal with domestic violence, all suggest the variability of penal strategies in practice across an array of state and non-state institutions. Yet, as Merry notes, these technologies are all remarkably similar in that they seek to offer troubled people a version of the self that is constituted in ways that help him or her to operate effectively as a middle-class subject. The classroom settings, the lesson plans, journaling, daily planners, and program goals all felt very familiar based on language used by program providers, parole board members, parole officers, and prison personnel in the various sites I have observed here in Hawai’i. The tropes of “working on myself” are commonly heard in the meeting rooms of Alcoholics Anonymous (which current and former inmates attend), in cognitive skills classes, treatment centers, and in parole hearings.

With the exception of Merry’s work on the domestic violence program, however, we are not sure what participants make of these new selves. Garland’s account is agnostic with respect to the actual impact that these programs have on this new self; how the techniques are adopted and how they are resisted. And we do not know, although we are led to suspect the worst, to what extent the diverse group of women under Canadian correctional supervision has actually experienced any change in their empowerment. To
what extent, given the limited voluntariness of any prison program, can individuals be 
expected to really incorporate these self-management skills into their repertoire? What 
meanings do they make of these new selves? In what ways do they resist these cultural 
understandings of the desired self? The trope of self-improvement and working on 
oneself resonates throughout contemporary culture across an array of activities including 
everything from working out in gyms and spas to adopting the Twelve Steps. Surely this 
is not unattractive to inmates who are offered the option of a more prudent, successful 
self—one that can avoid returning to prison.

The obvious limitation is that even models of women’s empowerment presume a 
context of legal rights that is not present in the custodial situation. Hannah-Moffat is 
quite explicit about this disjuncture between autonomous, rational, choice-making and the 
lack of freedom inside prison walls. Imprisoned women are, at worst, subject to sexual 
harassment, lock-ups, inappropriate seclusion, abuse, and overmedication. Women on 
parole are subject to a range of surveillance activities ranging from curfew checks to drug 
testing. At best, prison routines are so regimented that the habits of decision and choice-
making are lost to learned dependency about the most basic matters of living. In this 
context, any sort of resistance is considered irresponsible and not empowering:

It is judges, parole boards, correctional officers, and therapists, not the 
prisoner, who ultimately determine which actions are meaningful or 
responsible or empowering. Under a new, self-governing regime of 
empowerment, the authorities can regulate women through the decisions 
the women themselves make, without resorting to overt expressions of 
power. The new technologies steer choices and prevent misbehaviour, 
instead of deterring through punishment (Hannah-Moffat 2001, p. 173).

Of course, women who actually assert themselves by resisting prison authorities and their 
prescribed notions of responsibility and autonomy are subject to the resurgence of
punitive and repressive techniques, until, as Hannah-Moffat writes, "they are willing to participate in their empowerment" (p. 190). The promise of autonomy therefore is limited to those women who can accept new selves, as defined by the state, through the discourse of cognitive behavioral techniques, substance abuse treatment, and the other putatively beneficent technologies of self-government.

*Penal Reform and Gender in Hawai‘i*

Contemporary penality in Hawai‘i blends both rehabilitative and retributive practices. Like many other jurisdictions, the State faces an expanding prison population whose growth has been fueled by the reduction of judicial discretion. The judiciary, which oversees probation functions, along with the Department of Public Safety, has recently adopted a more scientific system to assess and classify offenders. However, the discourse does not seem to be one of assessing the dangerousness of offenders in these early stages of implementation. Rather, in keeping with Hawaii’s commitment to the discourse of rehabilitation, the talk in the preliminary meetings is about how to provide appropriate services to different types of offenders.

Local advocates have sought changes that will affect women offenders. Arguing that women’s pathways to prison differ from those of men, critics have made a series of claims on behalf of women offenders for gender-responsive programs. This is a new rationality for Hawai‘i corrections, one that speaks to the efforts of feminists and others to provide a more feminized version of corrections. At the same time, there is a recognition that the State has not only failed to take the special needs of women offenders into account, but has neglected to offer services and programs that are on par with those
offered to male inmates. At any rate, both public and institutional discourses have
indicated a growing interest and concern for women offenders and, especially, their
children. Persons inside the Hawai‘i Department of Public Safety, joined by community
activists and women’s advocates, have pressed the State to institute programs that
respond to what are conceptualized as the special needs of women offenders.

This interest group made a case for the reform of correctional practices at the
state’s women’s facility and elsewhere in the criminal justice system when the National
Institution of Corrections funded a symposium to inform delegates about the plight of
women offenders in Hawai‘i. I attended all three days of the conference as official
recorder of the proceedings. Entitled “Treat the Women: Save the Children,” the
symposium featured nationally-known experts on gender-responsive programming, the
differences between male and female offenders, and the impact of women’s incarceration
on children and families. Women who had been inmates, sometimes joined by their
children, spoke about their experiences in ways that powerfully moved the audience of
judges, administrators, parole and probation supervisors, prosecutors, and service
providers. Each county produced an action plan appropriate to its own circumstances—
although all shared the injunction that their plan should cost little or no money outside of
current funding. The suggested reforms ranged from programs to assist youth in dealing
with incarcerated parents to hosting a one-day conference similar in content to the
symposium.

Eighteen months later, one of the few concrete outcomes of the symposium was
the opening of Keiki Hale (Children’s House) where inmates at the women’s prison could
visit with their young children, at least the ones who are in foster care, who are brought
by social workers. The brightly decorated, child-friendly visiting area is the only one of its kind in the state. It was funded by donations of materials and work by community members and by inmates. Two sisters, who are both incarcerated at Women’s, painted the murals. It was more than a little ironic, and perhaps simply indicative of the prison’s inevitably repressive impulse, that only one of the sisters could attend the public dedication of Keiki Hale—the second was in lockdown for a rules infraction and could not attend the public reception of her work.

Despite the lack of funding for improvements in programming for incarcerated women in Hawai‘i, there remains a great deal of enthusiasm in some quarters to implement additional treatment programs for women along with more services for women who are making the transition to life in the community after prison. The Hawai‘i Paroling Authority, the site that served as my major research focus, has been explicitly promoting new programs for parolees and there is a special interest in the problems of drug relapse and recidivism among women. The Department of Public Safety has recently expanded the Women’s Community Correctional Center’s successful therapeutic community, contracting with a respected community provider for services. And for the past year, the women’s prison has operated a program that combines therapeutic approaches with work furlough for a number of women, intended to assist inmates in transitioning to lives after prison.

As my study of penality in Hawai‘i progressed, I wondered what the promised reforms might mean for women like Leilani and her children. In Leilani’s case, prison temporarily halted her active drug addiction. She received a range of programs in various facilities in Hawai‘i and on the mainland to deal with her various deficiencies.
Furloughed to a transitional residential center for female inmates, Leilani took advantage of many of these programs including vocational training. But when all was said and done, Leilani's prison term failed to permanently arrest the cascade of losses that are characteristic of women during their progress through addiction and criminal involvement. Leilani ended up victimized by domestic violence, experienced homelessness, and was being investigated by Child Protective Services—all during the course of her parole. Her trajectory suggests further returns to prison and, probably, the loss of her children.

Theorists who use a governmentality framework tend to focus on the "supply side" of power and the ways in which it is deployed. And, though all have as their guiding principle the notion of governing through freedom, not a great deal of empirical work has been done on how these new technologies of the self are understood and what meanings they are actually given by the people who adopt or reject them. Government is inscribed on the practices of contemporary penal practice in the name of freedom, free choice, and rationality. But these technologies of the self are not without moral imperatives that are rooted in notions of gender and class. This study attempts to tack carefully back and forth between these modes of government and the subjectivity they actually produce within the context of lives like Leilani's. Like Merry (2001a, p. 45), I argue that the modes of governing the soul in modernity are not simply the evolutionary products of social transformation. Rather, these technologies of transformation attain dominance in the contested spaces of gender, race, culture, and class. Those people who are not able to constrain their behavior in appropriate ways are diverted to programs like substance abuse treatment centers, anger management, or, increasingly, prison (Merry
In this dissertation, I will focus on how women talk about their engagement with these modes of government and what meanings they make of it in the context of real lives. Perhaps most importantly, I show how the realities of women's lives before prison are not much changed by the structure of rehabilitation.

**Overview of the Study**

My project is a case study of penal strategies in Hawai‘i, in which I examine the ideology and structure of late-modern rehabilitative practices. I use official records, interviews, and observations to examine how power is deployed through the courts, prison, and parole as these institutions attempt to transform the consciousness of the women in their custody. This study exposes the gap between the lives of choice and autonomy imagined for these women by penal practices and the real constraints that they and their children contend with before and after prison.

State and non-state actors attempt to impose an array of technologies of the self upon women through programs, classes, and instructions that focus on a rubric of choice congruent with middle-class participation in the market. But these new selves are gendered as well as class-specific. Motherhood turns out to be a robust domain within which the state can govern women, particularly this group of women who are often perceived at having failed at motherhood. In fact, the patterns of mothering in this group reflect the practices that have evolved as adaptations to social and economic survival—a childrearing style that appears at odds with the dominant ideology of white-middleclass motherhood.
Although women's agency will be in the foreground, I will identify the structural and contextual features that constrain and condition their choices. To understand these contextual features, not only for individual women, but for institutions, some knowledge of Hawai'i as a social setting is crucial. Theory building about late-modern penality, governmentality, and the risk society has often failed to consider local interactions and historical relations. Hawai'i not only serves as a case study but as an argument for thinking about late-modern systems of penality as having both similarities and differences.

This chapter has introduced the theoretical framework and research concerns for this dissertation. The following chapter explains the methods used in this study, the case study approach, and looks at the ethics and constraints involved in doing feminist research on women offenders. I argue in favor of the use of multi-disciplinary methods and particularism in looking at the evolution of penal strategies. My claims include cautions about the hegemony of positivist social science and the “bureaucratic ethics” imposed by institutional review boards. Chapter 3 examines the evolution of corrections in Hawai'i in the context of its history under the colonial control of the United States. The evolution of punishment in Hawai'i resonates with changes in its political economy, developments in the United States, and its own particular problems with achieving control over a racially-stratified work force. Using data from parole case records and interviews, Chapter 4 examines women's trajectories into prison. I refine what is known as the pathways perspective on women's trajectories to prison to include macro-level variables. I show, for example, that Hawaiian ancestry renders women more likely to be criminalized. In addition, I found that social bonds, including intimate relationships such
as marriage, tend to be more complex and problematic for women than the traditional
life-course perspective would suggest.

Rehabilitation practices aimed at changing the consciousness of offenders retain
their support in Hawai‘i among correctional and parole professionals. What, exactly, do
these programs offer in terms of altered subjectivity to women offenders? This is the
subject of Chapter 5. I also look at how the law, through the discourse of corrections
officials, parole professionals, and others, talks to women about the right way to live and
the right way to mother in discourses that rely upon the ideology of choice and
responsibility. Penal professionals in treatment programs and cognitive skills classes
instruct women that they have choices, but the real constraints (as described by Chapter
4) in their lives are denied. Chapter 6 focuses on how women, endowed with these new
forms of cultural capital—as responsible selves ready to make the right choices—emerge
from prison and attempt to cope with the demands of family, jobs, and parole. This
chapter examines the gap between women’s aspirations and the realities of post-prison
adjustment. All too often, they relapse into drug use and return to prison.

Finally, in Chapter 7, I discuss the issue of parenting for women in the context of
neo-liberal economics and neo-conservative family values. I point out the tensions
between the ideology of choice, explicit in rehabilitative programming, and the actual
structure of rehabilitation. Rehabilitation, despite its rhetorical reliance on choice, takes
place in prison—where choice is inevitably constrained. Literature on the new penology
illustrates the overlapping nature of systems of control and how they are spread over
diverse institutions; I examine the ways in which various types of reform—prison, social
welfare, and adoption law—affect parenting women who are also offenders. I speculate
about the future of what I call the carceral family, one that has evolved in the shadow of our nation's increasing reliance on the prison as the institution of first resort in dealing with troubled people.

The political economy of Hawai'i, the disenfranchisement of its indigenous population, and opportunities for women, especially poor women of color, raise questions about the relationship of rehabilitation to the newly transformed selves imagined by the state. Through locating the contradictions of punishment in the larger social structures and conditions of present-day Hawai'i, we arrive at a more holistic version of penalty as social action—one that speaks to both structure and agency. This is the story that this dissertation aspires to tell.
Chapter 2

Case Studies, Context, and Ethics in Feminist Research

What is this a case of?

Howard Becker (quoted in Ragin 1992, p. 6)

Introduction: What Kind of a Case?

My project is a case study of penal strategies in a particular time and place, one that involves the structure and ideology of late-modern rehabilitative practices and the role they play in the production of gendered subjectivity. When I began this investigation, I felt that Hawai‘i had arrived at a unique place in corrections policy and may well represent a very special case. But as the research unfolded, I was not sure what kind of case I had on my hands. Was Hawai‘i really a unique case? A typical case of something? A case of a state holding onto Progressive-era anachronisms in the age of retributist and managerial “new” penality? Empirically, Hawai‘i does not fit easily into categories. And, this may be the theoretical significance of Hawai‘i as a case. What is happening here represents both convergence and divergence with what the other 49 laboratories of correctional policy in the United States are doing. It also provides an argument in favor of looking at penal systems in other places in more nuanced ways as well as a template for theory building.

Across the United States we see an amalgam of correctional practices and policies that reflect late-modern anxieties about the nature of crime and punishment (Garland
2001). On an empirical level, Hawai‘i has some unique features, but saying it is a unique case threatened to force this study into a narrow and atheoretical type of research.

Michael Tonry (1999) notes that categorizing states as either retributist or non-retributist is far from the whole story. Even using his five point framework for comparing the sentencing and correctional practices of states\(^1\) would make it hard to say interesting things about Hawai‘i and would take the project in a less interesting direction. Making claims that Hawai‘i, a State with a liberal-leaning social agenda, is less retributist and more focused on rehabilitation than other states appeared to be an uncomplicated argument at first. The State maintains a structure of indeterminate sentencing and most inmates leave prison on parole, supervised by officers who are mostly trained social workers—the hallmarks of Progressive-era rehabilitation. But such an analysis paves over areas where Hawaii’s penalty is not quite so liberal. And the way in which rehabilitation is structured, especially with regard to women inmates, makes Hawaii’s penalty more about reproducing certain ideologies of choice and individuality than in rehabilitation. Subsequent chapters will expand upon the complexities of these issues and their implications for women on parole, while putting aside the kind of categorizations that might limit this investigation.

It would be surprising if Hawaii’s colonial past and plantation-based political economy did not give rise to a culture of punishment that varied from, say, that of Massachusetts. Yet even statements like this raise complex questions. For example,

\(^{1}\) Tonry’s suggested classification system suggests the following issues should be used in assessing the degree of retributist policies in states: parole release; good time practices; authority and discretion of prison administrators to allow furlough or other types of minimum or partial confinement; scope of mandatory minimum sentencing (including three-strikes and truth in sentencing statutes); and sentencing guidelines. Using this schema, Hawai‘i is both more and less retributive than other states (1999, p. 2).
Hawaii’s first written laws were based on penal codes of early 19th century Massachusetts. And despite the fact that both states today have comparatively liberal social agendas, Hawai’i and Massachusetts have both adopted certain features of the “tough on crime” agenda such as mandatory minimums for certain offenses. Both retain, albeit in different degrees, the indeterminate sentencing structures associated with rehabilitative strategies. Massachusetts allows “good time” credits for incarcerated persons while Hawai’i does not (Bureau of Justice Assistance 1998). In reviewing state policies, I realized that forcing Hawai’i as a case study into an empirical box or type may limit what can be said about the changing dynamics of this place and the cross-cutting directions penality is taking here in the early 21st century. I came to the position that this broader approach opens the way for more theory building and, thus, more potential for making generalizations and future comparative work (see Flyvbjerg 2001, p. 66). Trying to make sense of late-modern penality calls for the strength of particularist rather than global approaches that obscure important forms of diversity. If one is studying the application of rehabilitative strategies, one ought to begin with a system that at least touts rehabilitation, as does Hawai’i, along with the contradictions and ambiguities to be found here.

**Context and Method**

Contextualizing research on penality also opens the possibility of documenting changes and complexities of punishment in ways that shed light on the importance of gender, class, ethnicity, and race. Garland (2001) for example, provides a broad theoretical framework for examining shifts in the relationship between the social and the penal. Nevertheless, his broad-brush approach excludes the important dynamics of race
and gender. Individual and nuanced case studies that highlight tensions of race, gender, and class are needed to understand the ways in which penal power works.

In his treatise on the possibilities of social science, Flyvbjerg (2001) discusses the power of example in social inquiry. He argues that epistemic, or scientific, approaches to knowledge are inadequate in examining what he feels should be the center of social science: the study of values and power. This understanding of social science gives rise to studies of social life and action that are contextualized and historically situated. He writes:

> The minutiae, practices, and concrete cases which lie at the heart of phronetic [related to values] research are seen in their proper contexts; both the small, local context, which gives phenomena their immediate meaning, and the larger, international and global context in which phenomena can be appreciated for their general and conceptual significance (p. 136).

This mode of knowledge building is not the type of causal story that typifies most positivist research, although my study does draw on causal mechanisms and talks about certain issues like recidivism as objective outcomes. This work examines truths contextually, especially in recognizing that subjectivity and notions of what is true for the person are shifting. And, even though the data may be subjective, I acknowledge they have a particular reality. Regardless of the objective truths of any assertions made by participants in research, there are important conclusions to be drawn about social action and subjectivity. This involves looking underneath the claims that are made and paying attention to what they signify.

One hypothetical example comes to mind drawn from an interview I conducted at a woman’s home in the outskirts of Honolulu. Momi, on parole and living with her
boyfriend and her extended family, complained to me about “that ass of a man I live
with.” I know that this description was true for her on a day when she was inconsolable
about her relationship problems. But given another day, perhaps when he ends his
attentions to other women, “that ass” might suddenly acquire a much more worthy
character—which will make Momi much happier. What does this hypothetical
transformation from “ass of a man” to “not-ass of a man” mean? It refers to a certain
type of relationship—not necessarily of Momi to her unfaithful lover, but of Momi’s
relationship to relationship. It tells of a certain type of gendered subjectivity that looks to
a male-female dyad for validation. Pushing it further, one could also talk about the
structure of gendered relationship and how it is historically constituted. Thus objective
truth can, in this instance, be bracketed so that the nature of subjectivity and relationship
can be explored (see for example Giddens 1991).2

This dissertation, which is essentially a case study, draws on a variety of
approaches to understanding the structure and ideology of penalty in Hawai‘i. Good case
studies contain ample amounts of narrative (Flyvbjerg 1001, p. 84). Yet, the case study
approach is not necessarily aligned with specific methods (Ragin 1987). A study that
includes a quantitative analysis of 240 case files of women on parole remains a case of
one thing, but a variety of methods can be used to describe this case. I have taken
advantage of archival methods to document historical developments in this place as well
as methods resulting in long pieces of narrative. I present descriptions of women’s
experiences using different representational methods. In some instances, I transcribe

2 Giddens deals more fully with co-dependence and the nature of relationships in a later work (1992).
Although he refers to women’s role socialization in this discussion, he neglects to historicize or
contextualize it adequately.
parole case files to tell a story about a woman’s progress through parole. I also take advantage of quantification of variables. This study also features narratives in women’s own voices—as well as the voices of judges, parole officials, counselors, and many others. Therefore this dissertation is constituted of a certain blend of voices that gives rise to a holistic version of penalty in Hawai‘i. In the following section, I discuss in detail the particular tasks and methods that were a part of my research strategy.

The Research Framework: Data Elements

My approach to the questions involved in this study of the contradictions of contemporary penality and their implications for women’s lives draws on a range of methods. Having already discussed the use of the case study, I turn to the tasks involved in accomplishing this project. Although I took advantage of both quantitative and qualitative methods, I see them as complementary in this setting rather than dichotomous. Both are effective in describing certain realities, and both have limitations. Although feminist research has sometimes been suspicious of quantitative methods and their privileged place in the academy, in actual fact, we do, as Oakley writes, need to know about things like women’s education levels, employment, health problems, and other factors in order to compare the structural differences between men and women in society (2000, p. 19). I also drew upon qualitative methods in order to shed light on the patterns I was finding in the numerical data and to give voice to the women in my study.

I designed this study so that the quantitative data serves as a backdrop for the body of interview data and narrative. The former makes it possible to explore the similarities among women’s pathways into the criminal justice system and the patterns
they exhibit as they emerge from prison into the community. Without this, my study would be limited to the experiences of the women themselves, reflecting their own consciousness of their situations. Although these narrative accounts are a crucial part of the story, it would not, I felt, be sufficient to account for the problems inherent in the larger structure of penality and the questions I frame about rehabilitation. This is not at all to say that women's own consciousness of their situations was any less important. The subjective versions of reality are important and I give them considerable weight. But there are undeniably limits to what any one of us can say about the overall picture—especially in contexts where individuals are encouraged to blame themselves rather than systems for their troubles. Paul Willis in *Learning to Labor: How Working Class Kids Get Working Class Jobs* (1979) features the voices of the “lads” as they sabotage their futures through delinquency and defiance. But their consciousness alone may be an inadequate guide to understanding structures in which they are so poorly positioned:

Direct and explicit consciousness may in some sense be our poorest and least rational guide. . . . Not only this but practical consciousness is the most open to distraction and momentary influence. Repetition of given patterns, attempts to please the other, superficial mimicry, earnest attempts to follow abstract norms of, say, politeness, sophistication or what is taken as intelligence, can be mixed in with comments and responses which have a true cultural resonance. Survey methods, and all forms of methods relying basically on verbal or written responses, no matter what their sophistication, can never distinguish these categories (p. 122).

The data from parole case files, backed up with hours of observation, reviews of manuals and statutes, and conversations all allowed me to broaden the dimension of my study beyond from individual lives and agency to account for the institutional practices and ideologies that constrain and enable these lives. Structures have their own cultural logic
and getting at it requires a multidimensional perspective. The several sections that follow
detail the strengths and limitations of the data used in this study.

*The Parole Case Files*

The main source for the quantitative data for my research came from individual
case files from the offices of the Hawai‘i Paroling Authority (HPA). My research
assistant, the intrepid and tireless Meiko Arai, and I spent 11 months in 2001 and 2002
reading and coding the case files of 240 women on parole supervision. These case files
represent all of the women on parole in the State during May, 2001. The parole case files
are comprised of a master file and the parole officer’s case notes. The master file
contains a range of data about the parolee. These files bring together reports from law
enforcement, probation, judges and courts, prosecutors, the correctional facilities
themselves, as well as assessments and information filed by the Hawai‘i Paroling
Authority. As the terminus for the criminal processing system, these files represent quite
a biography, one that contains a surprising amount of social data ranging from education
to which relatives have also been incarcerated. There are letters on behalf of inmates by
parents asking that their daughter be spared a prison sentence, often on account of her
children. And, there are letters from the prosecutor’s office, usually pro forma, saying
why the parole board should follow their recommendations for a lengthier sentence.
Initially, Meiko Arai and I spent several days examining representative files, tinkering
with the coding sheet, always being intimidated by the sheer volume of material on hand.
During the long days in the offices of the HPA, Meiko and I discussed cases we read and
spent hours talking to individual parole officers, asking questions and asking them to
comment on atypical cases as a way of shedding light on the overall parole process.

As Daly (1992) notes, these types of data are not without their limitations. Interviews with defendants by law enforcement or probation personnel about details of biographies are prone to certain inaccuracies (p. 285). One of the biggest problems for my study was the inconsistency across variables as reported. For example, I chose not to record marriage data because the information was so inconsistent and, often, the reports had significant gaps. Sometimes the case files mentioned a boyfriend, but it was impossible to tell whether this relationship could be considered equivalent to marriage. On the other hand, general details about children appeared to be reported consistently, including their dates of birth. I gathered data from the needs and risk assessment surveys (conducted by parole officers while women are in prison) for information about substance use, pre-prison work and residence patterns, education, criminal history, and other more subjective data like attitude, sexual behavior, emotional stability, reasoning/intellectual ability, physical health, and social networks.³

In addition to the master files, I examined officers' working files at the main HPA offices on O'ahu. I traveled to the district offices on the Islands of Hawai'i, Maui, and Kauai.⁴ These records provided the main body of data from which the story of women's post-prison adjustment emerges. This task involved coding remarks about employment, residence, programs women participated in while under supervision, and problems on

³ At present, the Hawai'i Paroling Authority has not taken advantage of new technologies of risk analysis, although this is changing. Their risk and needs assessment instruments are still of the second generation variety. See Chapter Five for detailed discussion.
⁴ These parole officers operate mostly in rural areas with far fewer resources than their counterparts on O'ahu.
parole. This body of data reveals the official actions taken, such as the results of drug screens or the issuance of warrants for taking parolees into custody. I also found what was to me a surprising range of disclosures by parolees about their personal lives. Women told their parole officers about their relationships, problems on their jobs, their issues with relatives and children, as well as about their health problems. They talked about miscarriages and hassles with entitlement programs. On the other hand, I found frustrating limitations in the data. For example, records might reveal that Marge found a job at a hotel but might not say how much she was paid. Some officers consistently kept copies of pay stubs, while others did not. Officers recorded addresses but did not always say how many people lived in the household. Working with the data at hand, I was able to say something about the frequency of job change, the level of employment (part or full time), or determine whether the parolee was receiving some type of public assistance. Because changes of address are carefully tracked by parole, as opposed to other information, I could say meaningful things about the degree of housing stability or instability parolees experienced. There was a body of data that I conceptualized and coded as “problems on parole” which were often noted in the working file. These problems represent issues that have a direct bearing on a woman’s parole: positive drug tests; warrants; new offences; arrests; and parole revocations. It should be obvious that other situations, which I found and coded as problems on parole, represent an underreporting of experiences like domestic violence, illness, lack of medical insurance, divorce, break ups with boyfriends, problems with children, and the like. There are things that women will not tell their parole officers, and parole officers do not record everything they are told.
Therefore the case file itself represents a compilation of data about individual lives, a reporting instrument that is purportedly objective but contains filters, subjective judgments, and inconsistencies. Nevertheless, this mode of knowledge production is crucial to the operation of modern penalty. The case file contains both public and private knowledge gathered for the sake of rehabilitation and treatment. The very existence of this data legitimates the structure of rehabilitation strategies. This body of expert knowledge and its disposition remains fundamental to the ideology of the rehabilitative framework. Its contents legitimate the enormous amount of discretionary power exacted upon persons under the control of the correctional system (Garland 2001, p. 34-35).

**Interviews with Women on Parole**

I conducted in-depth interviews with parenting women on parole. These interviews, which ranged from an hour to two hours, provide the narratives for the themes of agency in this dissertation. At my request, the Hawai‘i Paroling Authority forwarded my invitation to participate in the study to parenting women in their caseloads—the same women represented by the case file records. The letter explained the purpose of the study, the protections I would afford participants in terms of confidentiality, and included a post card they could return to me with their phone number. (I asked that they include only their first name and phone number, making the use of last names or addresses unnecessary.) They could also contact me by phone. In this way, HPA was no longer involved in any way with the interview process—they never learned the identities of those women who agreed to talk to me. I offered the women a $20 certificate to be
redeemed for groceries at two local supermarket chains in return for meeting with me. I received 25 responses and ultimately interviewed 20 women. The interviews took place at various locations, mostly private meeting rooms in downtown churches, at the Commission on the Status of Women, in restaurants, and sometimes in women's homes.

Although I used a structured questionnaire, I wanted to be sure that the interview sessions provided the women with the chance to respond freely to my questions. It was clear early on that few people in their lives ever listened to them without giving them some directive or condition. Especially in the early part of the interviewing process, I encouraged women to speak as freely as possible and managed the interview as subtly as I could. I did not want the structure of the questionnaire to dominate the process and push their unique personal concerns aside. In all cases, women permitted me to tape our conversations. I was all too aware of the social distance between me as an advantaged, educated, white female, and the women I spoke with (see for example Owen 1998). But whenever appropriate, I shared things about my life and answered their questions about me. I never presumed that my knowledge about prisons or parole was superior to theirs and often assured them that I considered them the experts. When I thought it was helpful, I shared my experiences about the difficulties in my life that coincided with theirs. For example, when women were contemplating going to college for the first time and worrying about whether they were too old, I talked a little about my experiences as a non-traditional student. In other words, I used a collaborative approach to attenuate some of the hierarchy inherent in the structure of the interview (Oakley 1981; O'Brien 2001).

For the most part, I found women were eager to talk about their situations before, during, and after prison. But one of the things that soon occurred to me was that the
interview process was drawing upon the very technologies of the self that are important themes in my study. Marginalized women whose lives have long been controlled by social workers, law enforcement personnel, welfare staff, and other “helping professionals” in these systems soon learn that the elements of self disclosure are normative and are expected in exchange for “help.” Their habits of speech are filled with the tropes of twelve-step programs and psychology, as they freely discuss issues of sexual abuse, violence, sex work, and other topics they have probably talked to the experts about on countless occasions. This is not to say that impression management did not play a role in these disclosures at times. In terms of the interviews, it meant that women did not guard their comments as one might expect. The privacy that middle-class professionals, for example, might demand were largely missing in these other contexts. As subjects dominated by institutional control, these women became accustomed to disclosure as part of their lives in ways the rest of us are not. These routines of surveillance become part of every day life for women offenders or, as a second example shows, welfare recipients (Gilliom 1997, Gilliom 2001; Schram 2000). I was uncomfortable with this realization and very aware of this additional way in which the social sciences reproduce existing modes of consciousness. My hope that this research would be helpful to women offenders overall assuaged some of this uneasiness.

I also reflected that for many women talking is a means of processing emotion, especially when the listener establishes a context of trust by being respectful and compassionate. While I cannot argue conclusively that in-depth interviews are therapeutic as some have (see Crawford and Kimmel 1999), I believe that these occasions can be a type of affirmation and validation that women who have been incarcerated yearn
for but seldom experience. There is, too, the perspective that describes relationship as being central to women's psychological growth and development (Chodorow 1978; Miller 1976). This is not to essentialize women by characterizing them all in the same way, but to draw attention to a feature of feminine identity that is a common reference point among many women. The interviews I conducted were hardly mistakable for conversations between old friends, but the themes of reciprocity and intimacy that are hallmarks of relationship more often than not emerged between us.

*Institutional Review and Observation*

A third segment of my study involved systematically looking at the institutions involved in supervision of women offenders. This task included reviewing hundreds of reports, manuals, guidelines, and policy pieces from institutions directly and indirectly involved in the governance of women offenders. But more important was actually getting into the "mix" of stakeholders and interest groups that make up the world of penality in the State of Hawai'i. I spent many hours talking to parole officers, professional staff of the Department of Public Safety, attorneys, substance abuse counselors, judges, providers of many kinds of community services, and community leaders. I informed everyone about the nature and goals of my study. I attended "Kid's Day" at the Women's Community Correctional Center, mostly observing the activities around me and chatting with inmates and DPS personnel. I attended meetings of advocacy groups such as the Community Alliance on Prisons and the Women's Prison Advisory Board where I acted as a participant observer. I attended hearings at the Hawai'i Legislature where I testified with others on behalf of improved services for women offenders. I was also present at
the various classes and programs that inmates attend such as cognitive skills and parenting. I attended meetings of the Committee for Intermediate Sanctions as the State developed plans to improve measures of risk and needs assessments for all offenders. My study brought me into contact with other institutions that are important to the fates of women offenders and their children such as the Family Court and the Hawai‘i Department of Human Services. These were not always occasions to conduct formal interviews. Rather they contributed to my overall understanding of the organizational culture and politics of penality in Hawai‘i.

Archival Research

My study required a documentation of the history of penality in Hawai‘i, especially with respect to its treatment of women. A thorough documentation of the history of punishment in Hawai‘i has yet to be accomplished and unfortunately remains outside the scope of this study. As a result, it was necessary for me to start with a limited amount of primary source material and the only slightly more abundant secondary material. Since female inmates have historically been present in Hawai‘i prisons in small numbers during most (but not all) periods, it was real pick-and-shovel work most of the time to learn much about them. The work brought me to the Hawai‘i State Archives and to the basement office of the official historian of the Hawai‘i Department of Public Safety. I examined old case files, judge’s notes, attorneys general reports, public records, and private correspondence to tease out the fragments of history in order to pull together some account of women in Hawaii’s jails and prisons. Only through the efforts of a few dedicated historians at the Hawai‘i Department of Public Safety have some very precious
documents been maintained. In these as yet uncataloged collections of materials from jail and prison sites, I found details of the “dark cells” of the Old O‘ahu Prison of the 1880s where inmates (men and women) were sent for breaking the rules. I read accounts of Chinese inmates using opium in their cells and intriguing notes about “needles” confiscated by guards (Acupuncture needles? Syringes?).

The archival data were so fascinating and compelling that it was difficult to place boundaries on the historical portion of the project. The results provide the basis for Chapter Three and set up the historical context of penalty in Hawai‘i. The justification for all of this work lies, again, in my desire to show the particular historical relationships between the social and the institutional evolution of punishment in Hawai‘i. And, as importantly, this place’s contemporary ethnic and cultural make-up require some explanatory background. The political changes that left indigenous Hawaiians without a Kingdom also explain why they are today marginalized in their native land—and over-represented in correctional populations.

Unlike archival research, studying contemporary populations requires another dimension of research concerns—those dealing with research ethics and the relationship of the researcher to those who participate in her study. These concerns are present to a degree with historical research, but really come to the fore in a different way when living beings are concerned. These issues are the subjects of the following section.

Methods and Ethics in Feminist Research

If social science is to say anything about values and power, as Flyvbjerg (2001) argues, the researcher must consider where she stands in relation to these issues. This in
turn raises questions about the role of the researcher in relation to the participants in the research and the methods used to conduct the research. My motivation for this project was a concern about the welfare of women in the courts, prisons, and on parole. As a feminist, I am interested in improving the lives of women, especially those mostly poor women of color who make up the carceral population. As a sociologist, I wanted to examine the ideology and practice of punishment and provide a credible account of what the process of rehabilitation really means for women. This raises issues of method and my relationship to the participants in my research. I see one issue flowing naturally into the other, particularly in terms of the goals of this study and their relationship to women offenders. Since this project concerns itself with issues of some interest to feminist scholars, I want to provide some perspective on current questions of method and ethics.

Authors like Reinharz (1992) and Harding (1987) examined what set feminist research apart from the traditional and mainstream modes of research in the academy. But these differences to me seem to be ones of emphasis rather than simply categorical. Clearly, there had to be more to gendered research agendas than the “add women and stir” approach that uncritically added gender as a dichotomous variable (see Belknap 2001; Daly and Chesney-Lind 1988; Naffine 1987). Feminist researchers may declare that their methods are feminist (Girshick 1999) but I remain uncertain that there is anything inherently feminist about any of these methods alone or in combination. More

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5 I use the word carceral here and in a longer section in the final chapter drawing on Foucault’s use of the term in *Discipline and Punish* (1979). He used the term “carceral system” to describe not only the prison as the concentrated model of power in society, but also in referring to broader disciplinary and repressive mechanisms in society that both correct and reproduce deviance and crime (p. 271). I use the term carceral population and, later, carceral family to summon an image of those who are caught up directly in state mechanisms of punishment and surveillance as *inmates*, *probationers*, *parolees*, and even those who are under the supervision of welfare and child protective services. These families also include children who are subject to a range of problems as a result of their parents’ exposure to prison.
precisely, one might talk about methodology, a term that combines theoretical approaches and method (Harding, 1987, p. 2). These are approaches that work well for any type of critical research, one with feminist or any other type of humanist concern.

Feminist theory and method have made a significant impression only recently in criminology as a result of the work of scholars like Bloom (1996), Chesney-Lind (1997), Daly (1992), Freedman (1981), Howe (1994), Maher (1992), Miller (1998), Owen (1998), Rafter (1990), and Smart (1976), to name some of the more influential work.

Several themes guide theory and method within feminist social science research on crime. These have to do with the issues of reflexivity, representation, and modes of knowledge production. First, the researcher should demonstrate an awareness that his or her social position is relevant to the research project. This consciousness of the political goals of research departs from “orthodox criminology” (Naffine 1987) and reflects the constructed and relativist nature of human knowledge. The natural sciences supposed that the observer could remain disengaged from the object of study and positioned him or her (often the former) slightly or very superior to that object. Feminist approaches to social phenomena approach people democratically rather than from the position of expert knower (Oakley 2000, p. 36). There is an acknowledgement of the role of the subordinated in understanding more completely the mechanics of oppression compared to those who do not experience marginalization (Nielson 1990). This humility needs to be a part of the relationship between researcher and the people she engages during the course of the study. Most importantly of all to feminist research is an informed critique of cross-cutting systems of oppression and a focus on the pervasive role of gender in social life.
Feminist research, particularly in its qualitative dimension, has provided a voice to women, especially those women who are not usually heard from. Women who commit crimes are stigmatized and their perspectives are generally rejected by society. Like welfare mothers, they are expected to remain silent and their experiences, especially in a more punitive social climate, are constructed as unimportant at best and troublesome at worst. Having violated both the norms of womanhood and the law, their right to speak evaporated along with their reputations. And even though a substantial number of first-person narratives composed by incarcerated offenders exists, virtually all of it has been written by incarcerated men. Feminist research often provides this platform for those who are typically silent.

The task of the researcher is to balance the inclusion of women's voices with the knowledge that truth is contingent upon context. I feel that all of the stories women told me are true in that they reflect an important reality—even when the facts are not precisely accurate. The stories women tell are filled with desires and mixed emotions—and even if those emotions and desires are transient, contingent, or even affected they represent an important aspect of reality. The researcher cannot be the final judge of the truth of women's experience (Girshick 1999); but she can report it making clear the difference between the researcher's voice and the voices of women she interviews.

Related to this issue of representation and subjectivity is the fact that all voices are not included in this study. The paroled women who had the time and inclination to be interviewed were likely to differ from other paroled women who did not want to or could not be interviewed. With few exceptions, the women I spoke with were mostly complying with the terms of their parole. For obvious reasons, women who absconded or
were about to be taken into custody were not stepping forward to talk. They probably have a different story to tell. Nonetheless, my interview sample of parenting women on parole represents a spectrum of experiences ranging from those of a white collar offender who was doing quite well on parole to those of women who are probably going to face some element of parole failure. They represented, more importantly, a diversity of mother and child relationships ranging from rather conventional arrangements within a nuclear family to lesbians who may or may not have raised their children themselves.

This leads to the third theme that I feel has been important in feminist research, especially that concerning women and the criminal processing system. Representations and truth telling take place on a number of levels, in ways that mix objectivity and subjectivity. The former has often been linked to quantitative research and the latter to qualitative research. This problem has continued to reproduce the dualisms that have informed social science (Harding 1987). Over the course of doing this research, I came to see these representations of reality not so much as dichotomous but as arrayed along a spectrum of evidence more or less amenable to validation. At first glance, the information from the parole case files might seem to be strictly in the objective category. In fact, these data have been filtered through the reality of the parole officer or probation staff person who makes choices about what to report and how to report it. The advantage of using multiple methods is that evidence from a number of quarters can be qualified and analyzed.

The issue of methods flows naturally into a discussion of treatment of the persons involved in social science research. During the time I was planning and conceptualizing this study, my University—along with many others in the nation—was beginning to
come to grips with current federal regulations on human subjects in research. Federal regulations regarding human studies had been on the books since 1974 and updated by Congress in 1981 as Title 45, Code of Federal Regulations, Part 46, Protection of Human Subjects. During the 1990s, Institutional Review Boards at major universities stepped up their oversight of research conducted at the university level—not only federally funded research—and an office was set up at the Department of Health and Human Services to oversee and regulate federally funded research. Universities extend these regulations to all research conducted under its auspices, regardless of funding source, to maintain their federal certification. A major outcome was that social science and humanities research both came under increased scrutiny by institutional review boards. The fact that many of these boards drew their membership from biomedical researchers operating on a very different model of benefit and risk resulted in frustration for social scientists (Timmermans 1995).

That biomedical research concerns dominated the paradigms of human subjects oversight should be no real surprise. The literature on harm to people committed in the name of science has extensively implicated biomedical research. The history of medical experimentation on humans is filled with egregious examples of the violation of human rights ranging from the Tuskegee syphilis studies in the mid-twentieth century to a death in the course of gene therapy at the University of Pennsylvania. In the latter case, the victim’s father argued that the risk of the experimental procedures had never been adequately explained to him and his son (Shea 2000). Medical experiments on offenders has been common in prisons in the United States throughout most of the 20th century, with inmates being a primary source of research “volunteers” for drug trials in the post
war era. They were offered incentives such as pardons or reduced sentences in exchange for participating in high-risk and sometimes life-threatening research (Hornblum 1997).

While research institutions are guided by complex federal regulations and their own bureaucratic rules, the central themes in ethical research for both medial and behavioral research are inspired by *The Belmont Report* (1979). The Report enshrined the principles of respect for persons, beneficence, and justice as the foundation of ethical research practices. The regulations pertain to both medical and behavioral research. Biomedical research poses a different dimension of risk to the research participant compared to social science research. Many social scientists have resisted the biomedical paradigm of risk and have wondered whether IRBs were in place to protect subjects or police researchers (see review by Timmermans 1995).

Research that is grounded in feminist principles should clearly aim to protect subjects’ autonomy and self-determination as part of respect for persons. Marginalized women face many forms of disempowerment in their daily lives. Research that is disempowering and exploitative would only reproduce these realities. In the case of this research, I used informed consent procedures in line with the University’s guidelines. I not only provided information about my study and the possible risks to participants, but also went over the contents of the consent materials verbally to insure understanding. When composing the consent documents, I kept in mind the possible range of education among this group (Maeve 1998).

Ethical guidelines acknowledge that self-determination is not the same across all people. Some clearly have limited autonomy because of personal or situational characteristics. The mentally ill fall into this category of vulnerable subjects (as do
children) and are considered as needing special protections. The same is true of prisoners and other institutionalized persons whose ability to consent has to be measured against the generally coercive atmosphere they inhabit. In view of the fact that a number of women on parole have serious psychological problems that might affect their ability to understand the nature of this project, I did not include this group (who are in the special services unit) among those contacted for interviews. The mentally ill in corrections are an important group and their problems deserve attention, but I knew that I could not meet their needs in terms of risk protection in this study.

The principle of beneficence is aimed at striking a balance between protection against harm and possible benefits to those participating in the research. This is always a balance because, arguably, any engagement with another person over sensitive issues involves some risk of emotional or psychological harm. This risk of harm has to be examined in the context of the normal psychological stresses and strains of a person’s everyday life. Generally speaking, the comparative stress of talking about the issues that paroled women have faced versus their daily experiences is low. I built in a maximum amount of freedom during the interview process, letting women know they could terminate the conversation at any time and reminding them about this during the course of the interview. Indeed, some women became very emotional and a few cried, especially when talking about their relationships with children. Some cried with gratitude upon reflecting how their lives were changed, even saved. Nevertheless, in these cases women were all determined to go forward and none accepted my offer to end the interview. I was also careful to phrase questions about sensitive issues like abuse in very general ways, allowing women the maximum amount of freedom in responding to
the question, always letting them know that it was perfectly all right to decline to answer.

I assured complete confidentiality in these interviews (as well as in the case file data collection process) by not collecting identifiers. I used only first names in setting up appointments with women. For women who agreed to talk to me again, we set up a code (known only to the woman) so that I could link conversations without the use of names.

Beneficence, especially in this case of behavioral research, operates on two levels in terms of actual benefits to participants. In the case of this research, as I mentioned before, I gave each woman a food voucher for a local supermarket to compensate her for her time in meeting with me. But on a more general level, I explained to women my hope that this study would help expand knowledge about the predicaments of women offenders and their children. Women who talked to me often expressed a concern with their friends who are still incarcerated; many were critical of the system and what it does to families. They felt that this might be a way of expressing their side of the story for the first time. This aspect of beneficence, that of including women’s voices, has to be central to critical and feminist research. It is unclear to me how much weight institutional review boards give this point when weighing risks and benefits, but social science ought to demand that it be given a priority. It is never all right to harm a subject, no matter how important the research, but thought ought to be given about how research results are used and what impact it has on the groups we focus our research on. Though social science researchers cannot always control the ways in which their conclusions are distorted or

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6 I let women know at the outset that they would get the voucher whether or not they proceeded with the interview. In two cases, I gave a woman an extra voucher after the interview because they seemed especially hard up. The issue of paying research participants is controversial. Offering rewards that are excessive can be exploitative in contexts of great poverty. Then, again, too many social science researchers have expected participants to provide their time and energy (and personal stories) for nothing while the researcher earns career advancement. My participants received the vouchers prior to the interview and I explained that the voucher was theirs whether or not they decided to talk with me.
abused, careful consideration of these possibilities should accompany the conceptualization of the research.

The final principle of ethical research is that of justice. This has to do with making sure that the groups involved in research are chosen because of their appropriateness to the study question. The history of research abuses is filled with accounts of using vulnerable people for the sake of convenience and control. I have already mentioned that prisoners have been especially singled out for these immoral reasons (see Hornblum 1997; Rothman 1991). The interests of society are important, but cannot outweigh the rights of the individual and the obligation on the part of the researcher not to harm her. At the same time, justice would seem to imply that we ought to be interested in groups of oppressed people who have been excluded from knowledge production. Women have certainly been excluded from medical trials from which they or women as a whole might have benefited and researchers still omit analysis of data by gender (Marrocco and Stewart 2001). Researchers ought not to shy away from including vulnerable groups, especially the oppressed, and hopefully institutional review boards consider this aspect of justice (and beneficence) when examining research proposals. In my own case, I had to engage the bureaucracy for permission to audiotape my interviews. Eventually, I was given permission after documenting how I would safeguard the participants—but I had to push the issue after some initial bureaucratic resistance. Despite the hassle, I feel it was both critical and just to include the actual voices of women in this study, rather than running their words through the filter of an additional interpretation.
Although some academics have complained of the bureaucratic intrusiveness of institutional review boards and the development of bureaucratized ethics (Shea 2000; Timmermans 1995), these efforts can provide a framework for real ethical protections. However, social researchers, especially those engaged in qualitative or ethnographic studies, must continually participate in the decisions of these boards. The default model for these boards is often a biomedical one, one where the principles of qualitative sociological research are not well understood or appreciated. The gulf between disciplines that see ethnicity as another variable in a regression equation and those academics where identity defies reduction can be wide and often has to be negotiated. Unless critical researchers insist that our perspectives be included as part of institutional review board decisions, we run the risk of losing the power of the voices of the marginalized and oppressed entirely.

**Conclusion: Knowledge Production, Power, and Policy**

This research asks questions about the contradictions inherent in the structures that shape the lives of incarcerated women and how they negotiate their lives after prison. The discussion of the case study at the outset of this chapter points to the value of this approach to theory building and the production of knowledge. This has pointed up the false dichotomy between qualitative and quantitative methods. In the discussion about feminist method, I have spoken of the importance of women's voices while placing emphasis upon other sources of data than consciousness alone for discovering structures.

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7 One institutional review board member told me that my research project would be better if I limited myself to quantitative data.
The social and political position of the researcher is likewise important, although a consideration of these elements is often missing in more positivist accounts, especially in research that purports to be “objective.” Harding (1987) deconstructs the so-called objectivity of the “scientific” researcher and argues instead for a declaration of the position of the researcher viz. the questions asked by the research. I see this as an important moral issue. The questions we ask communicate what we care about because they arise from our personal values and moral commitments. The social critic Neil Postman (1988) argues that social science ought to be understood in terms of “moral theology”:

> The purpose of social research is to rediscover the truths of social life; to comment on and criticize the moral behavior of people; and finally, to put forward metaphors, images, and ideas that can help people live with some measure of understanding and dignity (p. 19).

The word “theology” may be off-putting to some people but it need not be any more objectionable than cosmology or any other schema for assessing truth and morality. Government and policy makers have granted a privileged status to quantitative research in the social sciences. Criminology itself continues to be largely defined by quantitative or positivist analyses. Having produced a study that, in part, takes advantage of these methods, I think quantification is valuable. But limiting research to these methods at the expense of paying attention to power and values can represent a missed opportunity to improve the lives of people. I have seen the results of too many “scientific studies” that have been distorted, suppressed, or ridiculed by the powerful for me to believe that simply presenting the “facts” is enough to achieve improvements in the lives of women offenders. Having these facts is a worthy objective, but an understanding and revelation
of the role of power is crucial to making change. Policy work has typically privileged rational, positivist claims to truth while affirming that these facts speak for themselves (Stone 1997; Tribe 1972). But, this approach depoliticizes the determinants of social problems (Gusfield 1981; 1989; Stone 1997) by overlooking their constructed nature. In the long run, drawing attention to the social processes which undergird claims about truth and interrogating the ways in which claims about truth obscure social relations—especially the dynamics of power—will be more effective in advocacy for women offenders. The following chapter provides a historical sketch of the structural context within which power and punishment have operated in Hawai‘i and their implications for women.
Chapter 3

Punishment and History: Gender, Race, and Social Order in Hawai‘i

Honolulu, December 15, 1838

My Dear Lono,

We send you the five women to work at Makapu‘u, who have been convicted for swimming out to sea for immoral purposes. They have paid five dollars; one from Kahiamoe, one from Alohi, one from Kunane, one from Lopailani and one from Nakuana. They have therefore five days apiece to their credit, and have 47 days more to serve. At the end of the 47 days they are to be released, and you are not to do more than what the law calls for, in order that we might be in the right. You are not to keep them a day longer than the number of days stated. This is our wish to you.

We remain,

Dear Sir:

Your Companions in the Service

Judges Halekauila

Introduction: Penality and Particularism

All the world is not France. So Rothman reminds us in his study of the development of the asylum in Jacksonian America (1990, p. xv). The social historian’s critique of Foucault’s genealogy of the modern prison in Discipline and Punish argues with the philosopher’s disregard of the subtleties of place. And although Foucault’s understanding of the prison as a prism of social power and subjectivity are important to my study, I want to begin from a place of historical particularism. Such a socio-historical analysis sheds necessary light on contemporary social arrangements and suggests how the

1 May (1979).
structure and ideologies of punishment come into being. Systems of punishment should be understood as cultural products (Garland 2001), constituted through historical conflicts and tensions. I argue that the racial ideologies forged during Hawai‘i’s colonial past were crucial in shaping this place’s response to punishment. Race and ethnicity, in turn, interacted with an understanding of women’s roles in productive and reproductive labor to shape how courts and prisons treated women. The latter decades of the 20th century brought an activism that revised the previous understandings of race, reshaping relations of power and penal ideologies. Although these racial ideologies have been recast under a revised political economy, Hawai‘i’s courts and prisons are still dominated by Native Hawaiian and new immigrant defendants.

In this chapter, I show how racial ideologies underscored the evolution of punishment in Hawai‘i. As a result of growing Western domination of the 19th century indigenous kingdom, the native culture was transformed through the imposition of alien religious, legal, economic, and political institutions. Following this initial period of moral reform, the emphasis of penal institutions turned to questions of economy and work. The importation of plantation labor from diverse reaches of the globe raised new questions about social order and how it was to be maintained. A rigid social hierarchy arose in 19th century Hawai‘i, one that was dominated by whites who imposed their own notions of racial superiority upon both immigrant workers and the indigenous population. The evolving system of punishment in Hawai‘i relied on American institutions for its inspiration but responded to these local relations of power and privilege. In regards to gender and punishment, this chapter demonstrates how women were present in courts and prisons in greater numbers during periods of moral transformation than in later periods.
when concerns of labor and economy were dominant. I also found that race and gender intersected in important ways. For women inmates in Hawai‘i, their “small numbers and gender,” (Rafter 1990, p. xxxi) coupled with their racial status meant even greater neglect than that which their counterparts in the United States experienced. Racism and the lack of political pluralism, I found, presented barriers to broadly-based social reform movements—the sort that were organized in the United States around prison reform during the late 19th century. Consequently, the mission of the prison and punishment was to produce workers rather than rehabilitated citizens. And, absent the idealistic notions about white womanhood that inspired women’s reformatories in America, the position of the woman of color in Hawaiian prisons resembled that of African American women who were largely missed by Progressive era reform efforts (Rafter 1990).

In telling the story of punishment in Hawai‘i, several important subtexts emerge that are important to the contemporary ethnic and cultural dynamics of this place—especially with regard to women and family. The extended local family, common to indigenous Pacific and immigrant Asian cultures, is a central aspect of life in the Islands. Hawai‘i’s women, especially non-white women, have long been engaged in productive labor as well as domestic labor. The multi-generational families shared childcare responsibilities, allowing women to engage in paid work. They also extended help to troubled family members, a social resource important to the women in the contemporary part of my study. Lastly, this historical account sheds light on the racial-ethnic make-up of today’s prison population, one that is distinctive from that in much of the United States.
Contemporary Hawai‘i is one of a handful of states that retains an indeterminate sentencing policy for the majority of offenders, most of whom leave prison on parole. And, although mandatory minimum sentencing for certain offenses has been in place in state statutes for twenty years, discretion at the level of judges, prosecutors, probation departments, and the paroling authority tends to be the rule. The discourse of offender rehabilitation and treatment remains vital in Hawai‘i at all administrative levels and in much of the public sector—at a time when the rest of the nation has moved in the direction of retribution, incapacitation, and deterrence. Demands for more punitive approaches to crime, mostly voiced by prosecutors, are echoed to some extent by the public and heard from some politicians from time to time in Hawai‘i. But, with few exceptions, judges, attorneys, parole officers, correctional staff, and administrators with whom I discussed punishment in Hawai‘i have a firm commitment to offender treatment and rehabilitation. Even as the State begins the adoption of new forms of actuarial management of offenders through more advanced classification instruments, the discussions at trainings and workshops are about allocating resources that offer treatment and programs in a more systematic way. As noted in the introduction to this dissertation, women offenders have recently become a focus of programmes of rehabilitation. While this movement has fallen somewhat short at the level of implementation, Hawaii’s commitment to treatment and rehabilitation ideology remains mostly intact. The following account sheds some light on the development of Hawaii’s changing philosophies of punishment and how these regimes responded to broader social and economic concerns.
In traditional Hawaiian law, or *kapu*, severe punishment (often sacrificial death) alternated with mercy in the form of pardons and refuge (Merry 2000, p. 72). *Aikapu*, rules governing food and eating, marked off the boundaries between the male and female in daily life. The sexes ate apart, with food preparation and food houses set up separately. Women were strictly forbidden to consume pig, coconuts, bananas and certain fish by virtue of their masculine connotations in Hawaiian ideology. Infractions could result in death (Kame‘eleihiwa 1992).

Punishment under indigenous Hawaiian rule could be extremely repressive in nature, but at the same time was highly discretionary. The conduct of daily activities and relations among the commoners (who made up the bulk of the population) was largely beneath the notice of chiefs. While *kapu* maintained the hierarchical power of the chiefly class through decrees and widely ranging prohibitions (Kame‘eleihiwa 1992), many of the laws laid out entitlements due the commoner class. Commoners settled problems among themselves and their families through indigenous rituals of resolution (Merry 2000; Kame‘eleihiwa 1992).

As Linnekin (1990) points out, the status of Hawaiian women cannot be assessed as uniformly low or high across the categories of social life (pp. 4-6). While the rationales underlying segregation practices often referred to their defiling influence (Kame‘eleihiwa 1992), at the same time women held a range of powerful positions within the domains of ideology, kinship, production—even fighting in battles (Linnekin 1990). Women’s productive work consisted chiefly of making *kapa* or cloth or weaving mats—both of these highly prized goods in the system of chiefly accumulation of wealth. Men’s
work consisted of agricultural labor and fishing. These divisions of labor, however, were often negotiable with women taking on men’s duties as the need arose (Linnekin 1990).

Responsibilities for childcare were dispersed among the generations within the kin group or 'ohana—which was also the productive unit. Female relatives like mothers and aunts for most practical purposes were barely distinguished from one another. Children were often adopted out—a practice known as hanai—to other relatives who might be older or younger than the parent.² Kamakau (1964) reports that the first-born child was routinely given over to the care of grandparents; this child often received special consideration and training in this context (p. 26). The ranking power of the older generation trumped parental claims but the parents of a hanai child often continued to contribute to decisions related to the child’s welfare (Pukui, Haertig, and Lee 1972).

Family relations and sexuality were understood by Hawaiians in very different terms compared to the West. Most Hawaiian women experienced a sexual autonomy that would have been stigmatized among Western women. As the following discussion shows, many of the efforts of the missionaries were first directed at changing these patterns of reproductive and family life. More importantly, the changes effected upon the Hawaiian family amounted to the necessary precursors to the government of social life by the Western state and the rise of capitalist production.

Advent of Western Legal Institutions (1820s)

Calvinist missionaries who arrived in the Islands in 1820 from Massachusetts found an indigenously ruled culture that was already in transition as the result of more

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² This practice of informal adoption is still common today in Hawai‘i.
than a generation of contact with ships from Europe and North America. Hawai‘i was now a site for ships to take on provisions as well as a source of sandalwood—a commodity crucial to trade links between Chinese and New England merchants (Sahlins 1985). The Islands were ruled by a young king whose father, Kamehameha I, had united the island chains by force, backed up by Western guns. Hawaii’s chiefly elite avidly adopted Western commodities, engaging in exchanges for materials and technologies that were completely new to them (Sahlins 1985). At the time of the missionary arrivals, the kingdom had recently been disturbed by the rejection of the old gods and abrogation of the ‘atkapu and resulting civil war. Ka‘ahumanu, a former wife of Kamehameha I and guardian regent over the young king, played a major role in this transformative moment (Kame‘eleihiwa 1992; Linnekin 1990; Merry 2000).

What Merry (2000) refers to as the “first transition” to religious laws took place beginning in the 1820s, soon after the missionary arrivals (pp. 67-68). These early laws, in the form of oral pronouncements based on the Ten Commandments, played a crucial role in consolidating political authority within the Kingdom and in the establishment of new norms. Chiefly proclamations went forth beginning in 1823 requiring the observance of the Sabbath, while forbidding murder, theft, and fighting. Political tensions in the Kingdom ratcheted upwards during 1820s, between the old order chiefs who wanted to maintain their traditional authority and those who aligned themselves with the increasingly centralized government. The Queen Regent Ka‘ahumanu leaned on missionaries in order to consolidate her political authority, a process that found legitimation in Christian notions of rectitude and law (Linnekin 1990).
Early legal developments in the Kingdom of Hawai‘i reflected to a great extent the institutions and ideologies found in the locations where most of the missionaries and agents of commerce hailed from—New England (Merry 2000). Calvinist society in the colonial era in New England viewed a wide range of minor transgressions as serious offenses—sin was not much distinguished from crime in community life (Rothman 1990, p. 15). The diffuse nature of punishment and the moral authority adopted by religious leaders in Massachusetts eventually evolved into a more formalized structure in the Commonwealth’s systems of justice such as police and courts (Hindus 1980). But the picture in Hawai‘i was complicated by the still-present chiefly authority under a monarchy. Forms of chiefly authority and tradition stood as modes of resistance at first. In essence, the first written laws, published in 1842, reflect this combination of Western law and Hawaiian tradition (Kingdom of Hawai‘i 1842; Merry 2000).

The adoption of Western law by the Kingdom has been explained as a protective measure against foreign aggression, an attempt to gain recognition as a sovereign nation (Kuykendall 1938; Merry 2000) or as a new means, along with Christianity, of achieving a righteous mana or power to replace the traditional but now abrogated kapu (Kame‘eleihiwa 1992). Osorio (1996) points out that another argument for the adoption of Western institutions was that it would allow Hawai‘i to modify its political system to one that represented various interests, commercial as well as indigenous (p. 68). Clearly, the adoption of democratic ideas and a legal structure that was recognizably Western would position Hawai‘i favorably as a credibly autonomous nation on the international stage. By the end of the 19th century, these Western institutions would not only transform
the basis of everyday Hawaiian social relations, but provided a framework for the undermining of Hawaiian sovereignty (Kame‘elehiwa, 1992; Merry, 2000; Osorio, 1996).

The Criminalization and Restructuring of Daily Life

The speed with which the technology of Western law penetrated the political system of the Kingdom was striking (Merry 2000). Even more impressive was the degree to which behaviors that had been quite acceptable in earlier times were now deemed criminal. The impact of Western law on women in these early years of Hawaiian colonialism transformed the meaning of the body and sexuality, creating an unprecedented intrusion into sexual lives and family relations.

The missionaries taught that the body was an occasion of sin and all sensuous practices were prohibited, including hula and surfing. Governance would now inhere in the Christian family, with the father as head and provider and with the mother as the guardian of domestic and moral life. Sexual relations outside of Christian marriage were considered problematic, not only because pleasure was equated with sin, but because this nuclear family was the unit through which society was ordered in Western terms (Merry, 2000; Donzelot 1997). As we have already seen, the organization of Hawaiian family life, especially for commoners, meant that family responsibilities were far more diffused and the regulation of sexuality depended more on rank than on gender. Western law applied new sets of definitions and resulting controls on understandings of the body and upon the most intimate of relations and roles—as well as constructing a new technology of punishment that dealt with women as severely as with men. This process produced
new social and legal subjects as increasing numbers of persons were drawn into courts and prisons.

The newly established legal code opened the door to establishing a novel array of offense categories and their corresponding identities. The criminalization of everyday life escalated after the 1820s in tandem with modernist approaches to the classification and numerical assessments of offenders. As Hacking (1991) notes, statistics and numerical classification of social phenomena became part of the deployment of technological power by the modern state (p. 181). The use of statistics to describe crime and criminals began rather early—the first statistics on crime in Hawai‘i were published in 1839 for the previous year. These included the numbers of adulterers, deserters and mutineers, rioters, and thieves. Also noted were numbers of people convicted for lewdness. Altogether there were nine categories of offenses, with adultery being the most common. In 1838, adultery accounted for well over 50% of the total of 522 convictions in Honolulu (Schmitt 1969, p. 230). Table 3.1 lists the types of crimes and numbers of defendants appearing in Honolulu courts as published in both Hawaiian and English language newspapers (Hawaiian Spectator 1839):
### Table 3.1. Convictions, by Offense, for the City of Honolulu: 1838*

<table>
<thead>
<tr>
<th>Kanawai (Offense)</th>
<th>Ka helu ana (Number)</th>
<th>Percentage **</th>
</tr>
</thead>
<tbody>
<tr>
<td>Moekolohe (adultery)</td>
<td>246</td>
<td>47.1%</td>
</tr>
<tr>
<td>Ho’okomakoma (lewdness)</td>
<td>81</td>
<td>15.5%</td>
</tr>
<tr>
<td>‘Aihue (theft)</td>
<td>48</td>
<td>9.2%</td>
</tr>
<tr>
<td>Ho’opunipuni (perjury)</td>
<td>48</td>
<td>9.2%</td>
</tr>
<tr>
<td>Uha ‘uha (riot)</td>
<td>32</td>
<td>6.1%</td>
</tr>
<tr>
<td>Mahuka (desertion)</td>
<td>30</td>
<td>5.7%</td>
</tr>
<tr>
<td>Wea wea (pimping)</td>
<td>18</td>
<td>3.4%</td>
</tr>
<tr>
<td>Olohani (mutiny)</td>
<td>15</td>
<td>2.9%</td>
</tr>
<tr>
<td>Pepehikanaka (manslaughter)</td>
<td>4</td>
<td>.8%</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>522</strong></td>
<td></td>
</tr>
</tbody>
</table>

* Table modified from The Hawaiian Spectator, Vol. II, No. 2 (April 1839).
** Total does not add up to 100% due to rounding.

Two-thirds of these offenses have to do with sex: non-marital, quasi-sex, extramarital sex, or sex for exchange. Christian marriage had been compulsory in Hawai‘i since the mid-1820s and all other sexual relations outside of this model were criminalized (Schmitt and Strombel 1969). Nearly ten years later, morals charges still dominated the list of offenses. These categories not only created offenses, they sustained categorizations of some women as impure and immoral while others were pure and righteous. An early report by Marshal Sea (The Polynesian 1847a) presented conviction figures for cases tried in the inferior court during the period of January 1st, 1846 to December 31, 1846:
Table 3.2. Honolulu Inferior Court: Convictions for Jan. 1 to Dec. 31, 1846, by Gender*

<table>
<thead>
<tr>
<th>Offense</th>
<th>Men Punished</th>
<th>Women Punished</th>
</tr>
</thead>
<tbody>
<tr>
<td>Adultery, fornication</td>
<td>126</td>
<td>127</td>
</tr>
<tr>
<td>Theft</td>
<td>43</td>
<td>3</td>
</tr>
<tr>
<td>Gambling</td>
<td>35</td>
<td>3</td>
</tr>
<tr>
<td>Reviling language</td>
<td>12</td>
<td>2</td>
</tr>
<tr>
<td>Working on the Sabbath</td>
<td>30</td>
<td>8</td>
</tr>
<tr>
<td>Slander</td>
<td>1</td>
<td>0</td>
</tr>
<tr>
<td>Passing false coin</td>
<td>1</td>
<td>0</td>
</tr>
<tr>
<td>Heathenish practices</td>
<td>3</td>
<td>1</td>
</tr>
<tr>
<td>Rape</td>
<td>2</td>
<td>0</td>
</tr>
<tr>
<td>Furious Riding</td>
<td>6</td>
<td>0</td>
</tr>
<tr>
<td>Interference with Police</td>
<td>3</td>
<td>0</td>
</tr>
<tr>
<td>Street Walking</td>
<td>0</td>
<td>4</td>
</tr>
<tr>
<td>Assault and Battery</td>
<td>7</td>
<td>1</td>
</tr>
<tr>
<td>Drunk and Disorderly</td>
<td>6</td>
<td>0</td>
</tr>
<tr>
<td>Desertion of Husbands by Wives</td>
<td>0</td>
<td>3</td>
</tr>
<tr>
<td>Total</td>
<td>275</td>
<td>152</td>
</tr>
</tbody>
</table>

* Table adapted from the Polynesian, January 9, 1847.

Women, who made up 35% of defendants in the Honolulu inferior court, were just as likely to be convicted for adultery as men and were more likely to be punished for deserting their spouses. Street walking or prostitution cases are only a very small proportion of the total number of cases involving females at about 3%. Women were more likely to be caught working on the Sabbath. They are absent from most other categories of crimes and, in fact, the article goes on to say: “Setting aside the predominant vice of the natives [meaning adultery and fornication], the table of morality is greatly in favor of the females” (Polynesian 1847a, p. 2).

Women were now freed from the kapu rules that formerly regulated many aspects of their lives but the new law constrained women in intimate ways that were potentially even more repressive. Their bodies were subjected to new regimes of dress and sexual behavior. Women were now to be governed through their husbands, in the manner of
civilized nations like the United States (Merry, 2000). Women who acted upon claims for sexual autonomy outside Christian marriage paid a serious penalty under the new law.

Prostitution—the commodification of the sexual body—did not exist until some years after Western contact when the discourse of sexuality was revised within a cash economy. Prior to Western contact, Hawaiian women accepted gifts from social superiors in return for or along with sex. But this behavior was interpreted in Hawaiian terms within a framework of marrying up or 'imi haku. It was a culturally acceptable means of achieving status and material goods, not a matter of immorality. Prostitution was a Western concept imposed upon the behavior of Hawaiian women by Western sailors and missionaries (Linnekin 1990, p. 179-181).

By the 1840s, Hawaiian women brought their persons to the sexual marketplace in exchange for money and began to refer to this practice as selling themselves (Linnekin, 1990). Prostitution in Hawai‘i under Western law was an arena of sexual expression that was routinely condemned but persists at the margins of social life. Indeed, 19th century court records and admissions to prison that I reviewed for this study show far more prosecutions for adultery than prostitution (although there were likely cases where the first charge was used as a catch all). Daws (1968) points out that Western sailors and visitors to the towns of Hawai‘i transferred substantial amounts of cash to the local economy through Hawaiian women and other entertainments. Prostitution maintained its contradictory place in Hawaiian society in the towns and, later, on the plantations. In 1860, a period still considered to be heavily influenced by missionaries, the King signed the Act to Mitigate the Evils and Diseases Arising from Prostitution (Kingdom of Hawai‘i 1860, p. 33). In this early example of governance by harm reduction, the law set
up a registry of "common prostitutes" who had to report to the sheriff and have regular
physicals to determine whether they had venereal diseases. As long as they registered,
followed the rules, and remained within the confines of a specified area of Honolulu, they
could avoid prosecution.

However, the law did much more than create new categories of subjects defined
by their unlawful actions—subjects who were gendered and, later, racialized. It told
women how to be wives and mothers, giving them sets of responsibilities modeled on
those of middle-class, American women. Under the tutelage of missionaries and other
foreigners, the Kingdom of Hawai‘i adopted a written code of laws compiled and
published in 1842 as part of the Constitution. This fascinating document blends old
Hawaiian custom with Western legal forms, conserving many of the dictums of the
missionaries while allowing space for commercial interests to be represented. The 1842
Constitution maintained the traditional authority of the chiefs and kings, but it also
established laws that resonated with “the established customs of civilized Nations” in
effect in the Islands (Kingdom of Hawai‘i 1842, p. 3). The Constitution spelled out the
polity’s organization, rights of both commoners and chiefs, and set up the two legislative
bodies, and a judiciary. The code provided advice to chiefs and governors, and spelled
out the business of females:

This is the appropriate business of all the females of these islands; to teach
the children to read, cipher, and write, and other branches of learning, to
subject the children to good parental and school laws, to guide the children
to right behavior, and place them in schools, that they may do better than
their parents. But if the parents do not understand reading, then let them
commit the instruction of their children to those who do understand it, and
let the parents support the teacher, inasmuch as they feel an interest in
their children, let them feel an interest in the teacher too. But if any
woman do not conduct according to the requirements of this section, then
let her return to the labor of her landlord as in former times, to such labor however as is appropriate to women. The tax officers will look to and manage this business (Kingdom of Hawai‘i 1842, p. 30).

With this, the state formalized a new version of woman as responsible for guiding her children’s moral conduct and education in the Western schools. The female parent was now enjoined by law to reproduce a subject who could operate in this new society with its alien technologies of selfhood. The persons so educated would not only be literate, but responsible beings who practiced self-restraint and self-control. These self-governed subjects, as Merry notes, “prefigured” the latter establishment of capitalist production in the Kingdom (2000, p. 226.) The reframing and specifications regarding “female business” spoke to the reproductive labor women were to perform—within the legally-established context of marriage.

By investing the mother as the legally-recognized female care-giver, the law undermined the traditional childrearing practices of adoption and diffusion of childcare. These traditions had provided relief and support for very young parents and for couples who had more children than they could comfortably care for. These arrangements had served as vehicles by which cultural practices and knowledges could be transmitted by elders to new generations. But the law not only subordinated the pragmatics of child rearing to ideology. It reframed motherhood as a moral identity underwritten by law.

Women and Order in a Changing Political Economy (1870s)

Western law both informed and enabled the transition of Hawai‘i from a Christianized, subsistence-based economy ruled by chiefs to a society whose institutions, including the law, were oriented toward the service of a capitalist plantation economy.
These transitions, as discussed above, also shaped women’s relationship to penality. Under the missionary regime, women were the subjects of moral reform especially with reference to sexuality. As the missionaries lost influence, especially after the 1870s, the courts and the machinery of punishment turned its attention to controlling a multiracial and multiethnic work force.

Sally Engle Merry’s *Colonizing Hawai‘i: The Cultural Power of Law* (2000) analyzed a series of court cases in the plantation town of Hilo, Hawai‘i. This town served as a political and economic center for the island of Hawai‘i going back to the early 19th century. Merry’s work shows how the predominant types of cases before the courts changed between the 1850s and the end of the 19th century. The business of the courts clearly shows the effects of criminalizing various aspects of Hawaiian (and, later, immigrant) ways of life. Legal concerns about the moral life of Native Hawaiians shifted to the task of managing large groups of immigrant workers. With the transition to capitalist agriculture, cases involving violations of the work contract came to dominate the courts’ business, along with the management of alcohol and drug use.

Women’s involvement with the law changed accordingly as governance of populations through sexuality gave way to a greater concern with the regulation of populations through work and sobriety. Women appeared as defendants in the lower and superior courts of Hilo and vicinity. Women appeared in larger numbers in courts during the period when the missionary ethos of moral regulation through enforcement of

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3 These data were produced through Sally Merry’s study of Hawaiian courts as published in *Colonizing Hawai‘i: The Cultural Power of Law* (2000). See p. 146 of the text for more information about the organization and collection of these data. My thanks to Merry for her generosity in making these data available to me.
marriage and sexuality laws was at its height. Their numbers declined in both courts, especially after the 1870s, when governance focused on work. The reduction in their numbers was especially striking in the circuit court which prosecuted a larger proportion of adultery cases. Chart 3.1 illustrates this trend for the period between 1850 and 1893:

As the courts' business shifted from moral regulation to the enforcement of work contracts during the plantation era, women became far less visible. Their lives during the plantation era were largely shielded from the gaze of the law by their position in the private sphere of the household and often in an additional layer of plantation community life. While immigrant women also worked in agricultural labor, they were seldom imported as immigrant workers on their own. Indeed, early immigrants like the Chinese tended to leave their wives and daughters behind, some starting new families in Hawai‘i. Successive immigrant groups immigrated with women (or invited women to join them as did the Japanese). The prospective wives and mothers in the immigrant workforce were viewed by plantation management as a source of stability for potentially disorderly male
workers (Takaki 1983) as well as the producers of new workers. They were legally joined to their husbands in terms of contract law (Beechert 1985; Merry 2000). As a result of regulation by the family, women’s numbers in courts and prisons were drastically reduced.

The 1850s saw major shifts in the understanding of land and work relations. In 1850, the Kingdom had divided up the communal lands previously held by the chiefs, making it theoretically possible for individual Hawaiians to own individual plots of land while also permitting foreigners to buy land. At the same time, the 1850 Masters and Servants Act codified and commodified a new set of relationships between workers and employers. It provided, among other things, for employers to hire a worker for a specified period at an agreed upon wage. The basis of the practice was a legal contract which could be enforced in the courts (Beechert 1985). To some degree, these reforms were envisioned as a means of remaking the Hawaiian into some version of the independent farmer (Merry 2000) or Western worker. But, in fact, they served to open the doors to the institution of large-scale, commercial agriculture. By 1854, the nascent agriculturalists were casting about for solutions to the labor problem, as it appeared the Native Hawaiians had neither the numbers or the “racial qualities” to make up the needed labor force. Chinese were already present in Hawai‘i and employed in sugar production.

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4 The first sugar plantation was established in Hawai‘i in 1835 and the first mill in 1841. The production of sugar was stepped up as the decades passed. When a reciprocity treaty was signed with the United States in 1876, Hawaiian sugar prices were competitive with American domestic sugar and the industry boomed.

5 The indictment of Hawaiians as idle, shiftless, and reluctant workers goes back to the missionaries and was promulgated by businessmen of the Kingdom.
William Lee, president of the Royal Hawaiian Agricultural Society addressed the membership that year, discussing the labor problem:

The great obstacles in the way of an increased produce of this article [sugar], as I have often before remarked, are the want of capital, and the still greater and ever increasing one of labor. Each successive year reduces the number of Hawaiian laborers and whether this diminution can be profitably supplied by the importation of Coolies is still problematical (Lee 1854).

The discontent expressed by Lee about the Chinese laborers was a theme that followed successive waves of immigrants from Asia, Europe, and the United States. As these contract workers arrived after mid-century, plantation owners critically assessed each successive crop of immigrants, and while the major theme was about each ethnic group's suitability as workers, the discourses were always essentialist and racializing. As Table 3.3 indicates, the arrivals of the Chinese were followed by Portuguese, Japanese, Korean, Puerto Rican, and Filipino workers:

---

6 Lee was not only president of the RHAS (a group committed to Hawaii's capitalist agricultural programme), but served in a number of governmental positions, including that of Chief Justice of the Hawaii Supreme Court. He was the chief architect of the newly instituted penal code in 1850 (Merry, 2000).
Table 3.3. Relative Population of Hawai’i by Percentage, 1853-1980 (sorted by arrival of ethnic group).

<table>
<thead>
<tr>
<th>Year</th>
<th>Hawaiian</th>
<th>Caucasian</th>
<th>Chinese</th>
<th>Portuguese</th>
<th>Japanese</th>
<th>Black</th>
<th>Korean</th>
<th>Filipino</th>
<th>Hispanic</th>
<th>American</th>
<th>Indian</th>
<th>Other</th>
</tr>
</thead>
<tbody>
<tr>
<td>1853</td>
<td>97.1</td>
<td>2.2</td>
<td>0.5</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0.1</td>
</tr>
<tr>
<td>1860</td>
<td>96</td>
<td>2.6</td>
<td>1.2</td>
<td>0.1</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0.1</td>
</tr>
<tr>
<td>1866</td>
<td>93.3</td>
<td>3.7</td>
<td>2.1</td>
<td>0.1</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0.8</td>
</tr>
<tr>
<td>1872</td>
<td>90.6</td>
<td>4.4</td>
<td>3.5</td>
<td>0.7</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0.7</td>
</tr>
<tr>
<td>1878</td>
<td>81.9</td>
<td>5.6</td>
<td>10.4</td>
<td>0.8</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>1.2</td>
</tr>
<tr>
<td>1884</td>
<td>54.9</td>
<td>8.2</td>
<td>22.7</td>
<td>12.4</td>
<td>0.1</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>1.7</td>
</tr>
<tr>
<td>1890</td>
<td>45.2</td>
<td>6.9</td>
<td>18.6</td>
<td>14.1</td>
<td>14</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>1.2</td>
</tr>
<tr>
<td>1896</td>
<td>36.2</td>
<td>6.7</td>
<td>19.8</td>
<td>13.9</td>
<td>22.4</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>1</td>
</tr>
<tr>
<td>1900</td>
<td>24.4</td>
<td>6.8</td>
<td>16.7</td>
<td>11.9</td>
<td>39.7</td>
<td>0.2</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0.3</td>
</tr>
<tr>
<td>1910</td>
<td>20.1</td>
<td>7.8</td>
<td>11.3</td>
<td>11.7</td>
<td>41.5</td>
<td>0.4</td>
<td>2.4</td>
<td>1.2</td>
<td>3.5</td>
<td>0</td>
<td>0</td>
<td>0.1</td>
</tr>
<tr>
<td>1920</td>
<td>16.3</td>
<td>7.7</td>
<td>9.2</td>
<td>10.6</td>
<td>42.7</td>
<td>0.1</td>
<td>1.9</td>
<td>8.2</td>
<td>3.1</td>
<td>0</td>
<td>0</td>
<td>0.2</td>
</tr>
<tr>
<td>1930</td>
<td>13.8</td>
<td>12.2</td>
<td>7.4</td>
<td>7.5</td>
<td>37.9</td>
<td>0.2</td>
<td>1.8</td>
<td>17.1</td>
<td>2.1</td>
<td>0</td>
<td>1</td>
<td>0.1</td>
</tr>
<tr>
<td>1940</td>
<td>15.2</td>
<td>24.5</td>
<td>6.8</td>
<td>0</td>
<td>37.3</td>
<td>0.1</td>
<td>1.6</td>
<td>12.4</td>
<td>2</td>
<td>0</td>
<td>0</td>
<td>0.2</td>
</tr>
<tr>
<td>1950</td>
<td>17.3</td>
<td>23</td>
<td>6.5</td>
<td>0</td>
<td>36.9</td>
<td>0.5</td>
<td>1.4</td>
<td>12.2</td>
<td>1.9</td>
<td>0</td>
<td>0</td>
<td>0.3</td>
</tr>
<tr>
<td>1960</td>
<td>16.1</td>
<td>32</td>
<td>6</td>
<td>0</td>
<td>32.2</td>
<td>0.8</td>
<td>0</td>
<td>10.9</td>
<td>0</td>
<td>0</td>
<td>1</td>
<td>1.9</td>
</tr>
<tr>
<td>1970</td>
<td>9.3</td>
<td>39.2</td>
<td>6.8</td>
<td>0</td>
<td>28.3</td>
<td>1</td>
<td>1.3</td>
<td>12.4</td>
<td>0</td>
<td>0.2</td>
<td>1.6</td>
<td>6.4</td>
</tr>
<tr>
<td>1980</td>
<td>12</td>
<td>33</td>
<td>5.8</td>
<td>0</td>
<td>24.9</td>
<td>1.8</td>
<td>1.9</td>
<td>13.9</td>
<td>0</td>
<td>0.3</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

* Table is modified from Nordyke (1989).
These workers arrived as contract laborers during the 19th century, becoming the predominant defendants in criminal cases (Merry, 2000).

*Technologies of Punishment in Hawai‘i*

The development of institutions of punishment in Hawai‘i can be understood as a process of borrowing, especially from the United States, combined with innovation based on Hawai‘i’s particular problems of order. The Calvinists from Massachusetts brought with them a fundamental respect for government and institutions as well as the notion of individual sinfulness (Baltzell quoted in Sherman 2001, p. 39). Ideologically, these Puritans were committed to the same bureaucratic governmental framework that led to the growth of institutions of formal control in the United States.

The Western legal system brought by missionaries and settlers were more than codified regulations. These technologies represented new practices of punishment delivered by a bureaucratically organized system. Punishment was no longer to be arbitrary, rather it was specific and governed by rules. Confinement in pre-contact Hawaiian terms was short-lived and understood as a transition to banishment, commutation by mercy, or death. All this was to change, along with the outward signs of punishment. Punishment now had an architecture to go along with its new ideology.

Forts built by Hawaiians on Western models became the repository for foreign sailors who jumped ship and otherwise misbehaved in the port towns. King Kamehameha I built the first Fort in Honolulu in 1817. It was built at first as a defense facility, with guns and high walls, at a conspicuous site in Honolulu harbor. The Hawaiians soon realized that the fort had a dual purpose; not only would it keep invaders out but could be...
used to keep people in (Greer 1968). In May of 1822, the Fort began to serve as a custodial facility for disruptive European and American sailors who were the first prisoners.

Confinement and other forms of Western punishment expanded over the next decades. Under the newly instituted Western legal regime during the 1840s, adultery, fornication, and theft were the most prevalent crimes (Greer 1968, p. 8; Merry 2000). Fines were a common sanction for lesser crimes with imprisonment, flogging, or being sent to work on the roads as "alternative sentencing" for those who could not pay their fines. Drunkenness was punishable by a fine of six dollars. Property was acceptable in lieu of cash, and for want of either, the miscreant could be given twenty-four lashes, imprisoned or subject to work on the roads for a month (Kingdom of Hawai‘i 1842). These laws applied equally to men and women, with women being consigned to prison work making cloth and weaving mats.

Hawaiian justice still maintained some of its idiosyncratic qualities and was far from being thoroughly rationalized. Practices like banishment were still in existence and enforcement of the law was still inconsistent across the islands (Merry 2000; Murton 1984). In the 1840s, Hawaiian authorities attempted alternative punishments like public shaming. The Polynesian of July 14, 1844 reports what it calls a "novel punishment":

On Saturday last the Governor sent a company of prisoners through the streets escorted by a file of soldiers and attended by a crier, who called the attention of the populace, by asking of them if the conduct of the prisoners had been right. It appears that they had been apprehended for knocking out their teeth, tattooing themselves, and indulging in other practices of heathenism and the Gov[ernment] took this method of exposing their
shame to their fellow countrymen, a punishment that will be quite as efficacious, we doubt not, as bodily chastisement (*The Polynesian* 1844).¹

Public shaming suggests the influence of puritanical missionary ethos—one comfortable with both social and corporal punishment (Sherman 2001)—but not one provided for in the formal law. But the main direction of penality in the Kingdom was away from such innovations (which through their public nature had the potential to create more disorder) and toward the increased bureaucratization of punishment.² An infrastructure to go along with the new penology was in place on all four major islands by 1845, and most offenders found themselves working on public roads projects. Indeed, the Kingdom owed much of its early road system to the efforts of those convicted of adultery and fornication, as a number of contemporary commentators observed. Given the fine of $30 for *married* adulterers who were barely involved in the cash economy, many performed a sentence of eight months of roadwork (Merry, 2000, p. 248). Indeed, Marshal Sea notes that most fines were paid off by the natives not in cash but in labor (*The Polynesian* 1847b).

Evidence suggests that conditions at the Fort were bad, although others (mostly the whites who held government posts) complained that punishment was not harsh enough to stem the tide of fornication and theft around the Kingdom (*The Polynesian* 1847b). Prisoners were flogged routinely, confined in irons, denied food, and treated in a

¹ *Kamakau* (1961) refers to this practice in his account of the death of Keōpūolani, when her daughters and Kamehameha I himself had themselves tattooed and had their teeth broken as expressions of grief.
² Kamehameha III signed a new law establishing the Executive Ministry in 1845. It is of importance to consider that the missionaries and their now naturalized foreign associates had not only presented these technologies of modernity to the Kingdom; they were actively running them. Many ministers in service to Kamehameha III fell into this category. The position of Minister of the Interior was given the responsibility for prisons and houses of correction in the Kingdom. At the same time, he was tasked with setting up a system of rules and regulations for running the prisons and jails. The position of Marshal was created; he was responsible for the oversight of all prisoners and reported to the Minister of the Interior.
manner that was cruel enough to get the attention of the British Commission, which had taken temporary control of the government at one point in the 1840s (Greer 1968, p. 21). The Commission ordered that no one be put in irons unless charged with a very serious crime and that male and female prisoners should be kept in separate cells and not allowed to mix (p. 21). Interestingly, in view of the complaints about the treatment of prisoners, there was a lot of coming and going at the time; prisoners left for work details and visitors entered freely enough to make it seem to have the reputation of a social center. This practice was also called into question and curtailed in the 1840s.

These practices of seeming permissiveness existed alongside the abuses that seem to have always been an integral contradiction in penal facilities. In Hawai‘i, the response to such problems was further bureaucratization. In 1844, R.C. Wyllie3 recommended to the King that the fort be torn down and a real prison be set up, while building a conventional fort at a separate location. Further, he recommended that foreigners and natives be separated, while maintaining separate quarters for men and women. He argued that the new facility should be spacious, airy, and clean and that offenders also be separated according to whether their offenses were serious or minor. These reforms were never implemented and abuses at the Fort continued. The American consular representative launched official protests in 1845 about the treatment of foreign prisoners, especially regarding “food, cleanliness, beds, health, and morals” (Greer, 1968, p. 23). In response, the American born Attorney General John Ricord instituted a commission to inspect the prison and report. It was only a gratuitous gesture, however, since Ricord’s position was that prisoners ought to behave themselves and thus avoid sanctions like

3 R.C. Wyllie was the British-born Minister of Foreign Affairs for the Kingdom between 1845 and 1865.
lock-ups. At any rate, conditions were found to be just as terrible as reported, expressing special concerns about the women’s quarters. According to Greer, the panel of foreign representatives wrote:

Most impressive was the Hawaiian women’s cell. Dirty, loathsome, offensive—unhealthy. . . In one place was a puddle . . . where that of water or other fluid, which decency forbids naming—was emitting an offensive stench so strong we were compelled to retire. The women furnished their own food through friends or ‘endured the utmost hunger.’ Several prisoners, said Reynolds, a British merchant, alleged that more than one female without friends had died of starvation. If the prisoners were sick, nature took its course (Greer 1968 p. 23).

Ricord rejected the report as not really representative of the prison but had prisoners questioned about conditions. In the end, Ricord reluctantly agreed to endorse a number of reforms related to sanitation and housing, including that men and women be segregated. But it was clear that he felt prison should be “at all times an object of repugnance to offenders” (in Greer, 1968, p. 24).

The jailhouse was rebuilt in August of 1846 within the Fort, after additional complaints were made both by concerned foreigners and by officials like the Marshal—this time about poor conditions and the sloppy manner in which the prison was administered. Security was lax, there was theft of prison food by watchmen, and there were many escapes (Greer, 1968, p. 28). It was widely reported that women confined at the Fort for fornication (prostitution) were allowed to leave at night to work off their fines aboard ships. Officials denied these rumors, but Hawaiian men were subsequently sent to work on the roads and women were sent to work in a separate locale (p. 30).

Throughout the 1840s and well into the 1850s, the government struggled to deal with the problems at the Fort while containing costs. A one-dollar fee was charged for
confining foreigners or for others committed by the courts for reasons other than penal service (e.g., insanity). But, by 1850, it was recognized that the prisons all over the Kingdom were in disrepair and many were unsafe. No part of the government’s public works was in such poor shape as the prisons, a Report of the Prisons stated. And in 1852, the Legislature acted to have the Fort removed—although a new facility had yet to be erected (Kingdom of Hawai‘i 1852, pp. 7-16).

The answer to these problems was seen as further expansion of the prison in both an architectural and a bureaucratic sense. These developments reflected those in the United States where systems of punishment were undergoing something of a transformation. The rationalization of punishment was viewed as extremely important by innovators in the United States. Its social organization generated the growth of professionals, institutions of various kinds, and new fields of knowledge (Garland 1990). Once this process of penal development was put into motion, it generated its own dynamic of growth through cycles of reform followed by the erosion of reform (Rothman 1980). Correctional theorists of the early 19th century argued about the most effective means of rehabilitating criminals. Experts during the 1830s argued on behalf of a system based on social isolation from criminal others and working in silence. Others rejected the isolation model, arguing that congregate working arrangements were the best means of changing behavior. Work, however, seemed to be the foundational concept in both models. And, indeed, labor was the consistent basis upon which punishment was organized in Hawai‘i. To an extent only imagined in the Northern United States and attained usually only in the South, Hawaiian prisons were to be financially self-supporting, whatever their reformative potential was.
To some extent, this development was grounded in the weak financial resources of the Kingdom. Documents and reports consistently decry their lack of money to fund improvements. But the racialization of the prison population always played a role in the organization of the prison and its aims. For the largely Asian and Hawaiian population was considered by the emerging plantation aristocracy as a labor force, in contrast to souls to be saved and persons to be reformed. Under the political and economic ethos of the 1870s through the days of the Territory, reform of inmates meant returning them to productive lives as low-skilled workers. Like the plantation prisons of the American South, confinement of the dangerous races (the Chinese and Japanese) and the potential rescue of the less criminally inclined classes (Native Hawaiians) to lives of labor was the main objective. This goal was to be accomplished in the most economical way possible.

Like many of the carceral institutions in 19th century America, the Kingdom’s jails and prisons were custodial in nature, with manual labor their major disciplinary regime. Hawaii’s offender population during the 19th century, most of whom were native Hawaiian, served as a public works resource. By the mid-1840s, there were 300 Hawaiians working off their fines (mostly on road projects) at a rate of 12.5 cents per day on O’ahu, the funds used to pay off the inmates’ fines. The scope of work performed by inmates increased throughout the 1850s, with native Hawaiians performing a range of tasks from cutting stone for buildings to gathering *maile* (a fragrant native plant) for the King’s birthday (Greer, 1968).

The broad system of fines for offenses levied on a population with little access to cash ensured an ongoing supply of labor for road and other public works. This coerced labor served the Kingdom well in terms of offsetting the costs of prison—especially
when offenders were contracted to private concerns. In some ways, this practice resonated with the mobilization of the Hawaiian workforce within the traditional system of conscripted labor under the chiefs. But prison labor needs to be seen in the broader context of the total reconfiguration of labor as the Kingdom moved further into capitalist production. Work—even penal labor—became commodified under the law. Labor that had once been part of a bilateral obligation between chiefs and commoners was reconfigured by the prison as a sanction rather than a contribution to communal life.

Convicts were used to build jail facilities in Hilo and on the islands of Kauai and Maui during the late 1840s and 1850s. Prisoners on O'ahu built the new penitentiary in 1857. Private business and government agencies used convict labor. Males did manual work on plantations while women wove mats, thatch cord, and made sugar bags. Rates of payment increased from 12.5 cents per inmate per day in the 1840s to 75 cents per day for businesses to lease inmates from the government in the 1880s. Government agencies received somewhat better rates of 62.5 cents per convict per day at that time. Indeed, the cost of supporting a prisoner in 1880 for an entire year was a mere $4.64 (Murton 1984).

Penal labor also sustained the division of labor by gender, establishing the boundaries between male and female work along the lines of private, domestic work for women, and public, physical work for men. The notion of separate spheres for women and men offenders was perpetuated as Hawaii’s penal system evolved, with penal power signifying gender in ways that resonated with gendered arrangements in society. Female criminality was strongly associated with transgressions of sexual morality. Women were subject to criminal law but their prison experience was distinguished from that of male inmates by the tasks they were forced to do, as well as the inferior conditions they often
endured. The following section provides a glimpse into the practices of penal structure and practice in Hawai‘i, especially as regards the fates of women who were confined as criminals in Hawai‘i’s penitentiary—the O‘ahu Prison.

The O‘ahu Prison

Construction began on the O‘ahu Prison in 1855 and was completed in 1857. The structure was built at a new site, west of the Fort along the old shoreline in the Iwilei area of Honolulu. Calls for the overhaul of the entire prison system had become increasingly more urgent since the 1840s. A Marshal Metcalf suggested that a new prison with forty-five cells be constructed along the lines of the penitentiary model, where inmates would work at projects during the day and be confined separately at night—a design derived from an American model in use at around this time. Metcalf went on to say that a separate facility for women should be constructed to ensure separation between the sexes (Marshal’s Report, 1850, quoted in Merry, 2000, p. 105-106). What they constructed in the 1850s was a good deal less, a facility that incorporated none of Metcalf’s suggestions. Provisions were made to separate men and women in the facility but, in fact, no separate prison was established for women until nearly the end of the 20th century.

Even before the new prison was occupied, the bureaucratic framework for the running of the prison was being constructed. A set of prison regulations was drawn up and signed by the King in 1857 (Kingdom of Hawai‘i 1857). If, as critics had claimed, discipline was slack at the Old Fort, all of this was to change. Formal rules now guided what prisoners wore, restricted talking and laughing, and demanded a certain comportment that resembled the penal regimes in use in the United States. In theory, this
was to resemble the silent system developed in Pennsylvania. Bells regulated the waking and movements of the population; movements of prisoners were to be conducted in silence and inmates were to walk in lines. This strict regulation of the body in motion was a fundamental part of modern penal systems and represented one more way in which the bodies of the wrongdoer were controlled, even down to the smallest movement. Violations of prison discipline were punished by flogging, confinement in irons, and other penalties including solitary confinement in the “D.C.” or Dark Cell for a period of time. However, as Merry points out, how well these rules were enforced is an open question.

Women were confined at the O‘ahu Prison throughout the 19th century and into the 20th, albeit in small numbers. The pattern of female admissions at the O‘ahu Prison reflects the rates of women’s appearance in the Hilo District and Circuit Courts, with larger numbers of women admitted into the prison during the 1850s and 1860s, followed by declining numbers toward the end of the century. For purposes of this project, I inventoried existing records of the O‘ahu Prison at the Hawai‘i State Archives and the Hawai‘i Department of Public Safety. Notes from the daily log of the O‘ahu Prison for the month of August 1859 show that of forty prisoners admitted that month, there were eleven Hawaiian females, twenty-six Hawaiian males, and two Chinese males. Only one foreign (white) male was admitted. The average age of females was twenty-six while the average age of Hawaiian males was thirty. The two Chinese males were in their mid-

4 These data were collected from the Hawai‘i State Archive collection as follows: Minister of the Interior, 1859-1915. “Records of Prisoners’ Descriptions, O‘ahu Prison.” Department of Public Safety, Honolulu, Series 298 Records of Prisoners Received and Discharged, and Series 299, Records of Prisoners’ Descriptions, 1859-1915. The volumes of records for the O‘ahu Prison at the Hawai‘i Department of Public Safety are not cataloged at the time of this writing, but are the object of a conservation and history project recently undertaken by the Department. My thanks to Al Kim, Chair of the DPS History Committee for allowing me to access these records.
twenties while the sole Caucasian was thirty-eight years old. The information on individuals is sparse, in addition to descriptions of the bodies (especially tattoos which appeared on both sexes); the record lists the age and sex but not the offense. Males are identified by the Hawaiian term "kanaka" whereas females are identified as "wahine"; whites and other foreigners are identified by race, "haole" (white foreigner) and Chinese (sometimes "Pake"). Women made up 28% of the total admissions for that one month.

Thirteen years later, O'ahu Prison records indicate that women were still being admitted in small but significant numbers. The more elaborated records indicate the occupation of the inmate along with sex, age, and occupation. A page in the daily log (Table 3.4) for January 1872 shows the following admissions to the prison:

<table>
<thead>
<tr>
<th>Name</th>
<th>Age</th>
<th>Occupation</th>
<th>Offense</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rose, wahine</td>
<td>30</td>
<td>Laborer</td>
<td>Adultery</td>
</tr>
<tr>
<td>Kekai, wahine</td>
<td>22</td>
<td>Laborer</td>
<td>Adultery</td>
</tr>
<tr>
<td>Kailipala, wahine</td>
<td>22</td>
<td>None</td>
<td>Adultery</td>
</tr>
<tr>
<td>Kealoha, wahine</td>
<td>19</td>
<td>None</td>
<td>Adultery</td>
</tr>
<tr>
<td>Kaaumana, wahine</td>
<td>17</td>
<td>Prostitute</td>
<td>Prostitution</td>
</tr>
<tr>
<td>Makahau</td>
<td>19</td>
<td>Laborer</td>
<td>Master and servant law</td>
</tr>
<tr>
<td>Kaaic, wahine</td>
<td>16</td>
<td>Prostitute</td>
<td>Prostitution</td>
</tr>
<tr>
<td>Hannah Lono, wahine</td>
<td>30</td>
<td>Prostitute</td>
<td>Larceny</td>
</tr>
<tr>
<td>Kauhoohua, wahine</td>
<td>27</td>
<td>None</td>
<td>Leaving husband</td>
</tr>
<tr>
<td>Mariana, wahine</td>
<td>14</td>
<td>Prostitute</td>
<td>Affray (has been a prostitute for 6 months)</td>
</tr>
<tr>
<td>Kahalawai</td>
<td>17</td>
<td>General laborer</td>
<td>Larceny</td>
</tr>
</tbody>
</table>

The punishment of female crime in the 1870s still focused on the regulation of sexuality, although some women were involved in property crimes. By the 1880s, however, women are being confined less and less for the crime of prostitution. Since 1860, the Kingdom, concerned with sexually transmitted disease, enacted a system of registered prostitution in Honolulu (under the Act to Mitigate of 1860) that permitted prostitution within a geographical area near the Chinese section of downtown Honolulu. The Attorney
General's Report (Attorney General 1900) report spells out the numbers and nationalities of the prostitutes, showing the increase between 1898 and 1899:

**Table 3.5. Registered Prostitutes in Honolulu, 1898-1899. Report of the Attorney General, 1900.**

<table>
<thead>
<tr>
<th>Nationality</th>
<th>Number of Prostitutes in 1898</th>
<th>Percent Of Total in 1898</th>
<th>Number of Prostitutes in 1899</th>
<th>Percent Of Total in 1899*</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hawaiian / part Hawaiian</td>
<td>31</td>
<td>19.7</td>
<td>19</td>
<td>7.1</td>
</tr>
<tr>
<td>Japanese</td>
<td>115</td>
<td>73.2</td>
<td>226</td>
<td>84.0</td>
</tr>
<tr>
<td>French</td>
<td>8</td>
<td>5.1</td>
<td>20</td>
<td>7.4</td>
</tr>
<tr>
<td>British</td>
<td>2</td>
<td>1.3</td>
<td>2</td>
<td>.7</td>
</tr>
<tr>
<td>American</td>
<td>1</td>
<td>.6</td>
<td>2</td>
<td>.7</td>
</tr>
<tr>
<td>Total</td>
<td>157</td>
<td></td>
<td>269</td>
<td></td>
</tr>
</tbody>
</table>

*Total percentage does not add up to 100 due to rounding.

The formal regulation of prostitution may explain why few women were prosecuted and imprisoned for this offence in the waning years of the 19th century; as long as women submitted to the registration process and stayed within defined geographic areas, they would not be arrested. Other sexual behavior that violated marriage or family norms was still treated seriously, with convictions for offenses like adultery continuing well into the 20th century.

Female inmates were fairly rare among the thousands of admissions to O'ahu Prison in the waning years of the Kingdom and well into the years of the Territory, beginning in 1898. The following table illustrates the patterns of women's admissions during the period of 1888 to 1905 and 1911 to 1922. There is a five-year gap in these logs, but the remainder of 29 years of admissions point to a number of interesting practices regarding women. I discovered records for a total of 45 women admitted to O'ahu Prison during this period out of several thousand persons,5 a decidedly small

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5 The aggregate number of admissions for these years was unavailable. The overall figure contains duplicates due to some overlapping admissions along with the house population. I was able to verify unduplicated females by checking the relatively small number of women identified in the list of the 3,767 records I reviewed.
proportion of the total. The log books undercount the number of women imprisoned, but are the only sources for conviction data for women. (I provide aggregated arrest data for this period in the following section.) Data in these records included names, admission dates, offenses, gender (if female), sentencing, commutation time, time served, and conduct reports. Records also indicate when women were paroled or, as in a few cases, released to other institutions. Women were confined at the O'ahu Prison for a variety of offense types, particularly those having to do with public order and crimes associated with marriage and family relations. Table 3.6 illustrates the patterns of offending among female inmates at O'ahu Prison:

<table>
<thead>
<tr>
<th>Crime Category</th>
<th>Number</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Violence</td>
<td>4</td>
<td>9</td>
</tr>
<tr>
<td>Property Crime</td>
<td>4</td>
<td>9</td>
</tr>
<tr>
<td>Marriage/Family</td>
<td>7</td>
<td>16</td>
</tr>
<tr>
<td>Alcohol</td>
<td>5</td>
<td>11</td>
</tr>
<tr>
<td>Gambling</td>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td>Disorderly Person</td>
<td>6</td>
<td>14</td>
</tr>
<tr>
<td>Vagrancy</td>
<td>3</td>
<td>7</td>
</tr>
<tr>
<td>Soliciting/Prostitution</td>
<td>3</td>
<td>7</td>
</tr>
<tr>
<td>Public Order/Miscellaneous</td>
<td>11</td>
<td>25</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>44</strong></td>
<td><strong>100</strong></td>
</tr>
</tbody>
</table>

Only limited conclusions can be drawn from this sample of 45 cases of women admitted to O'ahu Prison. One is that women tended not to be involved in crimes of violence—the sort resulting in sentences of over a year in prison. Their representation in property crimes is exceeded by a number of crimes involving order and vice. Crimes against marriage and the family included incest, polygamy, and adultery. As an example, a

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6 Information on ethnicity has to be inferred from the name on the record. Many Hawaiians at the time were using only one name, but since there was a certain amount of intermarriage between Hawaiians, Chinese, and whites, this pattern cannot be relied upon implicitly. The names of those of Filipina and Hispanic ethnicities cannot be reliably distinguished, either.
woman identified as “Lilia” (a Hawaiian name) was incarcerated for incest in April of 1893 and sent to a maternity home in August of that year. She was returned to prison in September to finish the rest of her one-year sentence. No mention was made of the fate of the infant.

Women were confined at O‘ahu Prison for behaviors usually used to control and manage the idle, the stranger, and the troublemaker—crimes not usually associated with female behavior. These laws have a long association with controlling persons who avoid the regulation of work or, more often, are marginalized targets of exclusionary practices. Women, whose productive and reproductive roles are mainly closeted within the domestic sphere, are not often associated with vagrancy charges. But at the turn of the 20th century, we see women sentenced for up to a year on such charges. The vagrancy and disorderly persons statute cast an extremely wide net around a variety of habits of disreputable persons, ranging from lack of employment to practicing palm reading. Hawaiian cultural practices figure prominently in the list of proscribed behavior (Republic of Hawai‘i 1897). In addition, persons who kept bad company, hung around places of amusement or other public places, were found at houses of “ill fame,” and a variety of other suggestive activities could be fined from ten to five-hundred dollars, imprisoned for up to a year, or both. As Table 3.6 notes, women were in fact caught up in these public disorder offenses—most of whom, as suggested by the names in the O‘ahu Prison logs, were Hawaiian and new immigrant women.

The other public order and miscellaneous crimes included minor offenses like lewd language. In 1897 a woman named Haole was incarcerated for practicing “kahunaism,” a reference to native Hawaiian medical and religious arts. Women also
committed offenses having to do with selling liquor and gambling. It should be noted that many offenses were subject to fines and that women were incarcerated in lieu of paying these amounts—as well as court costs which were levied against all Hawai‘i offenders). This meant, of course, that people of means paid their fines and court costs, thus avoiding some or all of their prison time. Most women, charged with relatively minor offenses, served a year or less in prison, less commutation time for good time served. Few women received misconducts in prison, although they were, like men, confined to the “D.C.” or dark cell for infractions such as the following for Kamanu:

October 18, 1894. Put in DC [dark cell] for talking to outsiders through the window and for continual falsifying at 4:20 pm. Released from DC at 6:20. Locked in her cell for fighting and teasing Mary Trask, sick woman (Hawai‘i Department of Public Safety Record 1894-1898).

In another case involving the same beleaguered Trask, Mary Akai was assessed penalties resulting in 15 days subtracted from her commutation time:

February 11, 1894. Locked up in her cell on bread and water for carrying tobacco to room and encouraging Mary Trask to smoke in cell. February 12, 1894, released from confinement at 8 a.m. December 30, 1894, loses 7 days off good behavior; March 31, 1895 loses 8 days of good behavior (Hawai‘i Department of Public Safety Record 1894-1898).

No aggregate numbers were available to make gendered comparisons between the criminological data on males and females, but indications are that they were required to work at productive labor from which the prison could profit. Written policies are largely silent with respect to women and their treatment in prison, but this is probably a meaningful silence in that incarcerated women had become an anomaly by the 1890s with far fewer women appearing in courts compared to earlier times.
Arrest Data

The arrest rates of women across the Islands remained low throughout the end of the Kingdom Period and into the early days of the Territory. The Attorney General's Reports provide aggregated data for arrests arranged by gender and race, but generally do not sort these categories by crime. The data in Table 3.7 provide some perspective on the ratio of male to female arrests for specified years. Specific data on conviction rates and sentencing by gender were, unfortunately, unavailable for this period.  

Table 3.7. Comparison rates for males and females arrested in selected years.*

<table>
<thead>
<tr>
<th>Period</th>
<th>Females</th>
<th>Males</th>
<th>Total Arrests</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Number</td>
<td>Percent</td>
<td>Number</td>
</tr>
<tr>
<td>1882 – 1883</td>
<td>385</td>
<td>6.9</td>
<td>5,225</td>
</tr>
<tr>
<td>1886 – 1888</td>
<td>769</td>
<td>5.8</td>
<td>12,406</td>
</tr>
<tr>
<td>1890 – 1892</td>
<td>854</td>
<td>4.9</td>
<td>16,554</td>
</tr>
<tr>
<td>1894 – 1895</td>
<td>791</td>
<td>5.3</td>
<td>15,041</td>
</tr>
<tr>
<td>1898 – 1899</td>
<td>824</td>
<td>4.5</td>
<td>18,176</td>
</tr>
<tr>
<td>1903 – 1904</td>
<td>853</td>
<td>4.6</td>
<td>17,557</td>
</tr>
</tbody>
</table>

* See Attorney General Reports: 1884; 1888; 1894; 1897; 1900; 1905

This discussion of institutional developments in Hawai‘i would not be complete without some mention of other carceral institutions that developed in Hawai‘i during the 19th century. The development of institutions to deal with troubled people took place in Hawai‘i in fashions similar to the United States, at least at the outset. During the rule of Kamehameha III (1825-1854), the Hawaiian Kingdom looked outward to contemporary institutional practices in Europe and the United States. In 1850, two young princes of the Kamehameha family line traveled to England, visiting the Greenwich Hospital, the School for Boys, Newgate Prison, and even the notorious Bedlam Asylum. Arriving in  

7 Conviction rates were high during the last part of the 19th century. Indeed, the Kingdom’s Marshall reported to the Attorney General in 1890 that of 17,408 arrests over the period, there were 13,177 convictions, a rate of 76%.  

105
the United States, the princes (both of whom later became sovereigns) toured the Massachusetts General Hospital, the public schools, and custodial institutions including a youth correctional facility in Buffalo (Talmadge 1989). Within two decades, the Kingdom added a youth correctional facility and an asylum to its growing system of state disciplinary institutions.

For much of the 19th century, girls like Mariana, the fourteen-year-old girl shown in the O‘ahu Prison roster for 1872, (Table 3.4) were confined along with adult women and men in the prisons and jails of the Kingdom. But in 1865, the Hawai‘i Legislature established an industrial and reformatory school for delinquent youths. In 1866, the school was being operated under the Department of Public Instruction, housing fifteen boys and two girls. Within two years, nearly a hundred boys and seven girls lived in the home. However, by 1870, the girls division was closed due to lack of funds and girls like Mariana were confined in other institutions—like jails and prisons. The training school for girls was not reestablished until the early years of Territory rule, sometime between 1902 and 1904 with a population of 35 girls (Hawai‘i Department of Institutions 1949).

The O‘ahu Insane Asylum was constructed in 1866. Previously, the insane had been housed along with other prisoners at the Fort and, later, the O‘ahu Prison—or, if not violent and overly troublesome, within the confines of family. Section 230 of the Civil Code provided for the court to commit individuals to prisons or jails for insanity or “lunacy,” with the estate of that individual to be responsible for payment to the jurisdiction for the upkeep of the family member so confined (Kingdom of Hawai‘i 1859). Between May 1859 and May 1862, the Honolulu Police Court committed thirteen
males and seven females to the O'ahu Prison for insanity. Ultimately, some of these individuals went on to be housed at the Asylum, while others died or were discharged from prison (Talmadge 1989, p. 82). The O'ahu Asylum, initially housing fewer than 30 patients, increased its population throughout the 19th century. The dominant managerial philosophy was work therapy and job training, with men performing agricultural and other physical labor while women were occupied with sewing and other domestic work. Occupation was seen as basic to the “restoration to health of an insane mind” (Kingdom of Hawai'i Board of Health 1870, p. 18) by officials.8

Like their counterparts in the United States, women were arrested and imprisoned in smaller numbers compared to men during the 19th century—and for much of the 20th century. However, unlike their incarcerated sisters in the mainland United States, they went unnoticed by reformers during most of this time (Freedman 1974; Rafter 1990).9 Indeed, the Progressive era prison reform movements and their precursors are strikingly absent in Hawai'i given the diffusion (or imposition) of other practices between Hawai'i and the United States. This absence of progressive reforms of prisons and institutions of punishment raise questions. Again, the answers reside at least partially in the racial

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8 The modern deinstitutionalization of patients confined in mental hospitals was reexamined and reframed as transinstitutionalization when it was understood that this population was essentially being moved from one institution to another (from mental hospitals to jails and prisons). The step toward moving the mentally ill from the prison to the asylum was considered quite an advancement. It may be that the opening of the asylum provided a way of diverting women from prison to the medical sector. The permeability between the prison and the asylum in Hawai'i is illustrated in Talmadge's “Roster of Insane Patients, Inmates and Prisoners” wherein some patients are admitted from prison into the asylum. The case of Pualolo, a Hawaiian woman convicted of murder in 1892 and confined at O'ahu Prison, also appears in Talmadge's (1989) list of O'ahu Asylum inmates as an admission in 1898. The percentage of female inmates (based on the Asylum roster) is significantly lower than for males, who make up 86% of the 417 inmates on the roster between 1866 and 1900. Nevertheless, at a rate of 14%, female asylum inmates are present in much larger proportions compared to those in prison at roughly the same period. In 1900, women made up nine or roughly 6% of the 149 inmates at O'ahu Prison (Attorney General 1900).

9 Although as Rafter (1990) notes, the reform of women's prisons in the United States followed racial lines as well; reformatories designed with women in mind tended to ignore black women.
organization of Hawaiian society, the loss of Hawaiian sovereignty, and the place of the
prison in Hawaii’s distinctive political economy.

In Search of Progressivism: The Territory Years

The reforms inspired by the meeting of the National Congress of Penitentiary and
Reformatory Discipline in 1870 shaped the proto-progressive approach to prison reform
in the United States. Crime was reconfigured as a “moral disease” (Rothman 1980, p. 31)
and reformatories arose in response. The innovations in the institutions themselves were
supplemented by sentences of indeterminate length with systems of classification for
prisoners. Recommendations in the Sheriff’s Report (included in the Attorney General’s
report of 1895) include movement toward a system of indeterminate sentencing for
individuals among whom the “end sought in punishing” could be achieved (Attorney
General 1897). However, the wide spectrum of reform-minded principles in the United
States took place in an environment where democratic principles, however distorted by
political interest, were operative (see Hindus 1980 for a comparison between
Massachusetts and North Carolina; Talmadge 1989). Hawai‘i, on the other hand, was
entering a period where corporate plantation interests abolished the indigenous
government. A handful of Caucasians with ties to America subsequently established an
oligarchy that controlled the political economy of Hawai‘i from roughly 1893 to the
1950s.

Known as the “Big Five” (Alexander and Baldwin; American Factors; Castle &
Cooke; Theo H. Davies; and C. Brewer and Company), these Republican landowning and
business conglomerates retained power by co-opting the remnants of the Hawaiian
leadership and through the general coercion of the racial ethnic workforce of the plantations. The resulting social and political hierarchy was built upon a largely Asian immigrant workforce, with little if any access to education or political power. Suffrage had been extended to those who had been citizens of the Hawaiian Republic. Voting was not only limited to males, but to those who had been born in the Kingdom or Republic. It excluded the foreign-born unless they had been naturalized previously (Beechert 1985; Cooper and Daws 1985; Daws 1968). The other major strategy of control, aside from the courts (see Beechert 1985) was a system of racial segregation and competition that organized the plantation. Workers from various ethnic groups lived in segregated camps with a wide divergence of wages and conditions based largely on race. Racism pervaded the institutions of government that were likewise concerned with racial divisions. Upon becoming a Territory, Hawai‘i was forced to abolish the contract system—one that held workers in a form of indenture backed up by law. With its dissolution, thousands of Asians and non-whites became part of the free labor force and non-workers became subject to prosecution for vagrancy. The Report of the Attorney General for 1902 linked the process of criminalization to civilization:

\[
\ldots \text{while at first our Jails were temporary home of many criminal and vagrant Porto [sic] Ricans, the number has decreased as they work out their short sentences, and come out better and more industrious men. At the same time the few who are bad are being gathered in as “long term” prisoners. The Porto Ricans are improving as they become civilized and the younger generation will probably be all right (Attorney General 1903, p. 32).} \]

\[10\] Terror was used as an alternative for other troublemakers. In 1899, a Japanese storekeeper on the island of Hawai‘i named Goto was lynched by men with connections to the plantation. They were arrested but escaped justice by jumping bail pending appeal of their sentence (Beechert 1985, p. 115).

\[11\] The discourse about the “Porto Ricans” is relatively benign upon their arrival in the Islands during the early 20th century. However, as each new group of workers (from the Chinese in the 1860s to the Filipinos), each new wave of optimism is followed by a racialized sort of disappointment as the groups appear far more troublesome than upon their arrival. The Attorney General Reports I reviewed for this
Work was the primary means of organizing and controlling the penal population for both the Territory of Hawai‘i and the United States. However, while movements toward prison reform were initiated as part of Progressivism on the mainland (at least in the Northern United States), the structural conditions of Hawai‘i demanded that the prison become a moneymaking endeavor. Racism shaped the meaning of rehabilitation, limiting its ends to returning workers to production. But as prisoners, they would have to work for their keep. In 1915, 75% of inmates worked on private and public labor projects outside the prison. Work camps were established throughout the 1920s and 1930s across the Territory. And during the mid 1930s, the correctional system made a profit of $116,000 (Murton 1984, p. 5-6).

The Republicans, firmly in power until 1954, established a spoils system of blue-collar government jobs for the Hawaiian and part-Hawaiian workers wooed away from an early “Home Rule” party by promises of employment and other perks (Cooper and Daws 1985; Daws 1968). As Talmadge (1989) notes, these policemen, fire fighters, prison guards, clerks, and other municipal workers supported the established order until they became part of the Democratic Party in the 1950s. But power for most of the Territorial period was concentrated among the corporate elites and access to even lower levels of power was barred to most of the working population.

Such a milieu was hardly conducive to reform movements in general. Ethnically organized fraternal and benevolent societies were established, but like the early labor movements in Hawai‘i (Beechert 1985; Daws 1968; Cooper and Daws 1985), their project are filled with vilification, especially of Chinese and Japanese, during the late 19th century and into the 20th.
efforts tended to be community oriented. The Hawaiian Home Rule Party, for example, worked on behalf of prisoners in the jails—but only for those who were Native Hawaiian (Daws 1968, p. 295). As Rothman (1980) notes, the cadre of personnel who served as reformers in Progressive-era United States were drawn from the "world of the college, the settlement house, and the medical school" (p. 5), groups that would only appear in number in Hawai‘i after World War II. Racist ideology even affected the nascent women’s suffrage movement in the Territory. Given the political concerns over racial conflicts in Hawai‘i, even the local women’s suffrage leaders were told to check their demands for the women’s vote, lest the pool of voters be expanded by increased numbers of non-white females (Grimshaw 2000). The racial solidarity of whites trumped the advancement of women’s rights and Hawai‘i women did not vote until 1920. It should therefore be unsurprising that female inmates in Hawai‘i remained unnoticed, a very small and undeserving group.¹²

These observations seem unsurprising in light of research about women’s prisons in the United States. But, on further inspection, ideologies about women offenders developed in a very different way in colonial Hawai‘i. They were unaccompanied by the sentiments attached to rescuing women that Freedman (1974) tells us launched the reform movements and reformatories for women in 19th century United States. Indeed, the developments in Hawai‘i are far more congruent with Rafter’s (1990) arguments about black women inmates whose treatment remained custodial and punitive. Race remained central to penal power in Hawai‘i. Progressivism as understood and experienced in the

¹² At the end of 1940, there were only 11 women out of 629 serving time at the O’ahu Prison (Hawai‘i Department of Public Safety 1940).
United States was a result of citizen social movements combined with institutional responses. The fact that these social movements were motivated by moralizing as an expression of status concerns (Gusfield 1963) or as part of the growth of professionalism (Kunzel 1993) does not undermine the arguments about Hawaii’s lack of Progressivism in the early part of the 20th century. Rather it emphasizes the contrast between a pluralist, if still racist America, where democratic action was possible, with a colonial state where political action was highly centralized and controlled by elites. Even in the later part of the 20th century, with the advent of a more welfarist approach to penal government, reform would be highly centralized by the state and the approach to rehabilitation more ambiguous.

The Advent of Penal Welfarism

In 1939, the Hawai‘i Department of Institutions took control of the O‘ahu Prison and work camps across the Territory. Their 1949 Report comments on these developments by recapping Hawaii’s misguided past treatment of prisoners:

The general principles governing the administration of “The Fort,” later to become “O‘ahu Prison,” differed only slightly from the almost universal attitude then prevailing in the so-called civilized world in the treatment of felons. This medieval concept of retribution and revenge prevailed into the 20th century and has only in relatively recent years given way to the modern concept of rehabilitation (p. 13).

Along with this self-congratulatory tribute to “modernism,” the Department goes on to admit that O‘ahu Prison was “late in getting started” in adopting the scientific principles of modern penology with its focus on treatment of felons (p. 27).
The attention to rehabilitation and interest in the roots of criminality that began in the late 1930s roughly corresponded to a growing worker resistance to Hawaii's power elite. A series of major strikes by plantation and other workers acted as a wake-up call to the business interests that controlled Hawaii's political economy. As already mentioned, the plantation hegemony had lost its most powerful means of legally controlling workers when immigrant contract labor was outlawed upon annexation (Beechert 1985). The rigid racial and ethnic hierarchy established on the plantations as a means of controlling workers was being increasingly met with shows of worker solidarity across racial boundaries. Plantation management met these displays with repressive measures. At the same time, however, they began to develop a new strategy of paternalism designed to improve living and working conditions on the plantations as a means of pacifying worker resistance. Following serious labor unrest in 1909, the plantation interests (organized under the umbrella of the Hawai'i Sugar Planters Association) turned to a form of welfare capitalism, which Beechert calls "necessity-paternalism" (1985, p. 192). The demands of the now free-labor force and the problem of retaining families on plantations were problems that could no longer be addressed solely by violent repression or the courts and prisons. A new consciousness that aligned workers as workers bridged to some extent the racial and ethnic barriers. Workers began to see themselves as "locals" and to develop a sense of identity that reflected their common interests, a sort of panethnic consciousness (Okamura 1993, p. 243). Workers came to rely heavily on workplace paternalism as an entitlement; a theme that began to shape their relationship to the state as well.
The Territory status quo was thrown into crisis by larger numbers of non-white, increasingly educated voters, especially a now-empowered force of Japanese (and other) veterans returning as heroes from World War II. And in 1954, the "democratic revolution" turned the political structure on its head (Daws 1968). The change from paternalism was reconfigured, in many social domains, to one of liberalism. In some institutional contexts, especially in crime control, the process came to be shaped by techniques of social engineering as Garland (1985) notes took place elsewhere in the West.

The growth of plantation paternalism, worker class-consciousness about their relationship to the state, and the rise of social work provided the framework within which Hawai'i developed its social welfare policies in the 1930s. This process was intensified when the long-disempowered Democrats took control in the 1950s and 1960s. The family became more important as a mode of government as the boundaries of the plantation world grew more permeable to outside forces and access to public life became generalized outside the plantation camps. A more modern family arose, one that featured women in roles that mingled the private, domestic life of family, with a public life of paid work.

Women's status in this more modern family system should be considered in the light of Donzelot's (1997) notions about the family as a hybrid of the private and the social. In this arrangement, the state uses the family as a conduit of order:

The mechanism was the same . . . to ensure public order, the state relied on the family for direct support, trading indiscriminately on its fear of discredit and its private ambitions. All this took place according to a very simple scheme of collaboration, with the state saying to families; 'You will keep your people within the rules conforming to our requirements, in
return for which you can use them as you see fit, and if they go against your injunctions, we will furnish you with the support necessary to bring them back to order.’ (p. 50).

Women as mothers occupy a critical place in this structure—they were now charged with maintaining their family’s respectability as the more established immigrant groups joined the expanding middle class. And the layer of plantation control was removed as a buffer between the family and the state. In subsequent chapters, I will say more about what these transformations have meant for women. But the fact that Hawai’i’s families were no longer so isolated in work camps in rural areas under the domination of plantation structures was crucial to the shaping of civic life and social policies in Hawai’i. The family now had a more direct relationship to the state, but these families still retained their local structure. Extended multi-generational families were and still are common, with care for children being shared among family members. Given the high proportion of women who have always worked outside the home in Hawai’i, it is no surprise that Hawai’i’s liberal social agenda in recent decades brought positive changes to women’s lives. Hawai’i became one of the first states to enact the Equal Rights Amendment and abortion rights. A member of its Congressional delegation, Patsy Mink, introduced Title IX legislation that prohibited gender discrimination in education. Nevertheless, things remained largely unchanged for women in Hawai’i’s prisons.

*Women and Penality in the State of Hawai’i*

In 2000, there were over 500 women incarcerated in the prisons and jails of Hawai’i, with a significant number in prisons in Oklahoma. Table 3.8 provides the numbers of Hawai’i women incarcerated throughout the State and in Oklahoma in 2000:
Table 3.8. State of Hawai‘i, Female Inmates (As of October 30, 2000)*

<table>
<thead>
<tr>
<th>Facility</th>
<th>Number of Female Inmates</th>
</tr>
</thead>
<tbody>
<tr>
<td>Women’s Community Correctional Center</td>
<td>263</td>
</tr>
<tr>
<td>Maui Community Correctional Center</td>
<td>48</td>
</tr>
<tr>
<td>O‘ahu Community Correctional Center</td>
<td>78</td>
</tr>
<tr>
<td>Hawaii Community Correctional Center</td>
<td>19</td>
</tr>
<tr>
<td>Kauai Community Correctional Center</td>
<td>18</td>
</tr>
<tr>
<td>Central Oklahoma Correctional Facility</td>
<td>79</td>
</tr>
<tr>
<td>Total</td>
<td>505</td>
</tr>
</tbody>
</table>

*Hawai‘i Department of Public Safety, October 2000.

As in the rest of the United States, this represents a substantial change in the rate of women’s incarceration. In 1975, there were 16 women in the jails and prisons of Hawai‘i, most of whom were in county-level facilities. By 1985, there were over 100, representing an increase in the prison population of 538% (Chesney-Lind 1990). Women were held at the O‘ahu State Prison in the 1960s. Baro, who noted that Hawaii’s female inmates might be the most “transient prison population in the United States,” reports that during the next two decades, they were moved between the O‘ahu Community Correctional Center and other facilities on and off O‘ahu (1990, p. 57). The story of the female inmate in Hawai‘i is also one of neglect, abuse, and scandal. Baro reports systematic sexual abuse of female inmates during the 1980s, coupled with egregious overcrowding that resulted in a suit against the State in 1985 (Baro 1990). The federal consent decree that resulted from this suit, brought on behalf of a female inmate, Agnes Spear, was in force well into the 1990s.

The last few decades have brought about more interest in the reform of Hawaii’s prisons, including women’s status as inmates. As the introduction to this dissertation pointed out, a coalition of community advocates with interested parties working inside State government have been working to achieve improved conditions for women inmates.
and parolees. Specific groups such as the Community Alliance on Prisons and the Community Advisory Group (Women’s Prison) have been working to achieve programs that are more gender responsive. During 2002 and 2003, bills have been introduced in the Hawai‘i Legislature to require parity between men’s programs and those for incarcerated women.

Conclusion

Three themes arise from this discussion of the evolution of penality in Hawai‘i with critical implications for the relationship among the domains of society, punishment, and gender. One is that the courts and prisons here still retain the stamp of racial stratification imposed upon colonial Hawai‘i. The racialization of corrections is, of course, more than evident in any American jurisdiction. But Hawai‘i provides a case study of how strategies of punishment, constrained by racist sentiments, produce a certain penal subjectivity. In the 19th century, the expected result was that the inmate would return to his place as a worker. When inmates were considered to be inferior ethnic laborers rather than citizens, attempts at rehabilitation and reform were constrained by a ruling elite with occasional impulses toward paternalism. In addition, the conditions of racial competition and segregation fostered by the plantation oligarchy thwarted real democratic pluralism until after the Second World War. Until then, the prison was expected to be financially self-supporting like the plantation prisons of the American South.

Second, this discussion shows how increases in women’s incarceration are linked to periods of intense moral reform. The law shows women how to be wives and mothers,
something that appears much more clear and obvious in the Hawaiians laws of the 1840s than it does today. During periods of reduced interest in reforming the family (as during the intensification of capitalist agriculture in Hawai'i), women’s numbers in criminal courts declined. The contemporary increase in women’s incarceration appears just at the time that national policy has turned its attention to the “problem” of single-parent families and the reform of welfare. The war on drugs, commonly understood to have fueled the expansion of women’s incarceration, has also been enabled by a moral discourse justifying more punitive approaches to crime control where women are concerned.

Finally, in comparing some of the dynamics of gender in Hawaii’s past with the United States, this chapter has also made a credible case against universalizing women’s experience—women’s subjectivity cannot be understood without an appreciation of historical and cultural contexts. Hawaii’s women have always been engaged in productive labor. Only an elite few have historically been held to the idealized notions of femininity historically imposed on white, middle-class women. In addition, local families of Hawaiian and Asian ancestry have maintained the extended family wherein childcare is a communal responsibility. In addition, these families, like African American families, provide a generational response to the problems of troubled individuals. However, the centrality of the family has always been both a bane and blessing to women. I learned from women parolees in my study that their families offered important support for them and their children. However, these families were all too often the places where women were abused or where they engaged in drug use. These factors become important in discussions of women and family in the subsequent chapters of this work.
The following chapter describes the structural constraints that women involved in corrections face. Using the life course or "pathways" perspective, I explore how women's biographies interact with structural factors to make them vulnerable to criminalization.
Chapter 4
Women’s Pathways to Prison in Hawai’i

Rehabilitated? I’ve never even been habilitated!

Former inmate at an AA meeting.

Introduction

This chapter describes women on parole in Hawai’i, examined in the context of change and continuity. The State is undergoing a painful transition from a mainly rural, plantation-based economy to one based on its identity as a sought-after destination in a globalized visitor market. This transformation has resulted in massive economic, cultural, and social dislocations, and accompanying uncertainties which differentially affect segments of Hawaii’s population. The impact of these changes has been hardest felt by Native Hawaiian and newer immigrant groups from Asia and elsewhere in the Pacific. Indeed, the colonial transformations that ultimately alienated the indigenous people of Hawai’i from their land have been ongoing for over 200 years. I explore the multiple aspects of marginalization faced by women in this study, and argue that punishment, and its implications for gender, cannot be understood aside from these broader concerns of culture, society, and history.

Rehabilitation remains a dominant discourse in Hawaii’s corrections system. In order to understand the nature of this rehabilitation enterprise, I examine not only what women offenders are being rehabilitated to but what they are being rehabilitated from. Feminist research emphasizes that female offenders’ lives prior to prison are crucial to
understanding how girls and women become involved in crime in the first place (Gaarder and Belknap 2002, p. 491). This chapter not only looks at what women on parole supervision in Hawai'i are like, but where they came from in terms of life situations, what their problems have been and are, and what resources or forms of capital they bring with them to their experience of incarceration and its aftermath. The assumptions underlying rehabilitative ideologies need to be unpacked and assessed against the real lives of women. This chapter examines the life events and processes that placed the women in my study on their trajectory to prison and how their biographies intersect with various forms of marginality.

In keeping with recent developments in feminist methods, I combine quantitative data from the case files of women on parole as well as narrative data from in-depth interviews conducted for this study. I begin with a brief exploration of the growing literature on women’s offending and the arguments for placing gender at the center of criminological theorizing. To organize the discussion of my data, I depend upon what recent studies have referred to as the pathways perspective on women’s offending. This perspective focuses on the events in women’s lives that condition their entry into crime. I explore the important macro-level matters that, in turn, shape the life events of these women, with a particular emphasis on the lives of indigenous Hawaiian women.

Research on women and crime has, at long last, begun to overturn criminology’s almost exclusive emphasis on the male offender. And, more importantly, thoughtful studies by a number of scholars have contributed to an understanding of deviance and

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1 See Daly (1992 and 1994), Owen (1998), and Oakley (2000) for discussions of the use of multiple methods in studying women offenders. Daly (1992) suggests that research on women offenders take advantage of diverse sources of biographical data.
crime as gendered activities (Anderson and Bennett 1996; Belknap 2001; Braithwaite and Daly 1998; Chesney-Lind, 1997; Daly 1994; Maher and Daly 1996; Messerschmidt 1988; Schur 1983). This movement toward using gender as a central concern in the research about crime has, along with notions of culture and power, brought a new and more sociological dimension to criminological theory. This analysis requires a theory of gender as a complex outcome of historical, cultural, and social factors that give rise to what it means to be female—as well as how gender orders social action and structure in fundamental ways (Daly and Chesney-Lind 1988, p. 504).

The work conducted by feminist researchers on women and crime has contributed to and expanded the analysis of crime as a complex behavioral outcome, conditioned by macro-level factors. From this research we learn that adjudicated populations (i.e., criminal offenders) come to the attention of the law not solely by virtue of their vices, but as a result of a range of personal, social, economic, and political vulnerabilities. It is important to appreciate the role of historical and cultural change in shaping who comes under the gaze of the law and why they do. The transition of Hawai‘i from traditional rule to Western law and jurisprudence, with its early missionary-inspired obsession with sexual morality, brought large numbers of Hawaiian women and men under carceral control during the nineteenth century. As the previous chapter showed, women’s reproductive and productive roles changed as a result of the very same transformations that brought so many Hawaiian women into nineteenth-century Hawaiian courts. Later, the numbers of women in the courts and prisons were substantially reduced as society and

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the family adapted to the capitalist formations of plantation agriculture and modernist governance, formations that were less focused on sexual morality than on maintaining an orderly workforce.

At the end of the twentieth century, Hawai'i, along with the rest of the nation, saw explosive growth in women's incarceration. This trend was not initially analyzed to reveal the vulnerabilities of women offenders. The emancipation hypotheses linking the emerging female crime problem with the women's movement were simplistic, ignoring the fact that women were still committing the same types of property and social order crimes they had always committed. (See Anderson and Bennett, 1996, p. 36, for discussion.) The beneficiaries of the expanded field of social and economic opportunities won by second wave feminism tended to be white women, not the women of color who make up most inmate populations here in Hawai'i and the nation. As my data show, the individual biographies of the female carceral population in Hawai'i (84% of whom are non-white) hardly reflect the experiences of the emancipated woman. Rather, the expansion of social, cultural, and economic capital that accompanied the growing equality of opportunity for some women as a result of more expanded educational, economic, and social rights, missed this group almost completely. Women offenders in Hawai'i were far more affected by the increasingly punitive criminal processing policies and cutbacks in social welfare of the 1980s and 1990s than by legislation that expanded rights and opportunities to other women.

Women in my study were far more likely to be imprisoned for low-level property crimes and drug offenses than any other cause. Their major thefts and other property crimes were often in the service of their drug addiction. And, their criminality often took
place in the confines of relationships where they played highly dependent emotional and economic roles under the influence of abusive, drug-addicted spouses and partners. They were more likely to come into contact with law enforcement as a result of collecting welfare benefits they were not entitled to rather than armed robbery or heading criminal syndicates. Nationally, the dismantling of social welfare policies, with the erosion of entitlement programs that benefit women and children, accompanied more punitive moves in penalty: mandatory minimums for drug offenses, three strikes laws, and the reduced judicial discretion which has come to dominate late-modern crime control. These trends, coupled with changes in the labor market and other economic sectors, increased the exposure of poor women to criminalization, making them more likely to be incarcerated.3

Theorizing Gender and Crime

Newer theories, especially feminist versions of the Life Course Development Model, highlight the links across stages of youthful development, delinquency and adult crime. Sampson and Laub’s Crime in the Making: Pathways and Turning Points Through Life (1993) examines the interplay between structural and individual level variables over the life course, wherein life events mark processes of continuity and change. This genre examines the effects of social bonds that arise from affiliation with the institutions of family, school, and work. Sampson and Laub (1990) see social bonds, like marriage or employment, as important to explanations of changes in offending

3 Hawai‘i has resisted, where possible, many of the provisions of welfare reform. For example, the State has sought waivers to the stipulations that otherwise prohibit some felons from receiving welfare and other benefits.
behavior, especially desistance from delinquency and crime. Subsequently, Laub and colleagues (1995) said simply that: “... close emotional ties and mutual investment increase the social bond between individuals and, all else equal, should lead to a reduction in criminal behavior” (p. 95). The life events, including the forging of social bonds, are not at all separate from the larger world of culture, political economy, and history. And, as I will argue, they are highly gendered.

Work by Elder (1985) examines the role that historical and cultural transitions play in shaping life events of individuals. This perspective, this convergence of social action and structure, blends well with depictions of social transitions described in accounts of deindustrialization of urban centers and consequent dislocations of African American families by Wilson (1987). The sorts of social, cultural, and economic transformations that I referred to earlier and those that have occurred more recently in Hawai‘i have certainly conditioned the life events of women in this study.

Feminist scholars have adopted concepts from life course development theories to talk about women’s pathways to crime and incarceration. Owen and Belknap (2002), Belknap (2001), and Gaarder and Belknap (2002) have begun to pull together a framework for understanding the gendered life course events that propel women into delinquency, crime, and ultimate involvement with the criminal processing system. These accounts, provided in the women’s own voices, offer the opportunity to analyze the events in women’s lives that place women at risk for offending.

The pathways perspective as used in recent feminist research on crime balances attention to macro-level issues such as race, gender, and class with elements of personal action or agency. This framework pays significant attention to relations of power, arguing
that women experience multiple forms of marginality (Bloom 1996; Owen 1998). Their alienation from mainstream institutions like school and work opportunities constrains the choices that girls and women make from day to day in order to survive. The survival strategies adopted by girls who have been abused and live in drug-ravaged, poor communities are likely to be criminalized (Chesney-Lind 1997).

Studies of incarcerated women have demonstrated the ubiquitous nature of abuse and trauma (especially sexual exploitation and assault), chaotic family lives, personal losses (of family and children), involvement in violent relationships, and drug use. All of these conditions, highly structured by gender, are central to women’s involvement in crime. Male offenders clearly experience many of these problems, but these factors are less clearly related to criminality and offending among males than females. Men’s lives are far less likely to be defined by sexual abuse, exploitation, and violent victimization by a loved one.4 Nor are their major life events marked in the same way as women’s by pervasive sexism and patriarchal oppression (Owen 1998, p. 3).5

The pathways approach shows that the life events and the social controls shaping outcomes for women are highly gendered, a perspective missing in Sampson and Laub’s early work. Maeve (2000), for example, describes how women’s sexual victimization and experience of violence “emerge as life-shaping events” in the lives of incarcerated women (p. 474). In connection with these traumas, Maeve continues, sexual and other forms of self-destructive, risk-taking behavior follow as a result. Chief among these

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4 Harlow (1999) reported in her study of state prison inmates that 57.2% of female inmates had been physically or sexually abused in the past. As for men, 16% reported these types of victimization. Abuse and victimization were more likely to continue into adulthood for women than for men.

5 Although, as Stanko (1993) shows, men’s experiences with violence are also complicated by age, sexual preference, class, race, and institutional factors such as occupation. Researchers should also investigate the meaning of violence and how it varies for men and women.
reactions to trauma is using drugs and alcohol to suppress or medicate feelings of anxiety, tension, and sadness.

The family setting and the dynamics of intimate relationships have a special and sometimes paradoxical meaning in the lives of female offenders. Theories that call attention to social control and women’s offending have been supported by studies of how conventional families constrain girls’ freedom and limit opportunities for delinquency (Bottcher 1995). Troubled families, however, may hurt girls even more than boys. Chesney-Lind and Shelden (1998) argue that a troubled home life plays a more crucial role in producing girls’ delinquency compared to boys. The condition of the family cuts both ways in the lives of girls and women who become involved as offenders in the criminal processing system. Families and intimate relationships can also be crucibles for the formation of addiction, delinquency, and crime. So, rather than affording protection, families may well be the source of victimization and abuse that give rise to offending among women. And, as my discussions with the women in my study show, women are often introduced to drug use and related criminal activities through the significant others in their lives—often the very people upon whom they are economically or otherwise dependent.

I begin this profile of women in my study with an examination of the immediate reasons for their incarceration: the crimes for which they were convicted. I then move to what pathways theory highlights as the precursors of female crime. I present data from parole case files and from interviews that I conducted with women parolees in the course of my research. These findings provide the foundation for my arguments later in this dissertation that ‘rehabilitation’ in the context of prison and parole falls far short of
ameliorating the obstacles in these women’s lives—and therefore does little to change the likelihood of reoffending.

**Crime & Offending**

To an extent greater than for men, women’s substance abuse is linked to their involvement in the criminal processing system. Women are more likely to come to criminal courts as a result of drug and property offenses compared to men (Chesney-Lind and Sheldon 1992; Owen and Bloom 1995a; Owen and Bloom 1995b). The Bureau of Justice Statistics reported that in 1996, women in state courts across the nation were 8% of convicted violent felons, 23% of property crime felons, and 17% of convicted drug felons (Greenfeld and Snell 1999). However, the reality of the situation is that many defendants who become incarcerated are ultimately charged and convicted of two or more crimes. And for many Hawai’i women offenders, similar to other jurisdictions, current commitment offenses include property and drug crimes for which they receive concurrent sentences. However, crime statistics often only include the most serious offense which tends to privilege one type of offending over another. To achieve a fuller perspective on women’s offenses, I examine all the offenses for which women in my study were serving time. This aggregate (all conviction offenses, all counts, and levels) is more revealing than simply looking at the most serious conviction offense. This mode of reporting offenses often reveals the interplay between drug and property offenses—the two most predominant sorts of crime women commit—more effectively than looking only at the most serious offense.

Hawaii’s criminal statutes assign indeterminate maximum sentences by felony level, designated A through C in order of most to least serious. In general, commission
of the most serious crimes, "A level felonies," results in a maximum sentence of 20 years. Convictions of B and C level felonies result in maximum sentences of 10 and 5 years respectively. In accord with Hawaii's intermediate sentencing policy, the time that an inmate serves is usually a proportion of the maximum sentence as determined by the Hawaii Paroling Authority during the minimum-sentence setting process. Exceptions have entered into Hawaii's sentencing system through mandatory minimum requirements which have been attached to certain of these statutes—mostly offenses involving crystal methamphetamine. Table 4.1 displays the data for the current conviction offenses for this group of 240 women on parole:

<table>
<thead>
<tr>
<th>Table 4.1. Total Current Commitment Offenses</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Offense Level</strong></td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td>Felony A</td>
</tr>
<tr>
<td>Felony B</td>
</tr>
<tr>
<td>Felony C</td>
</tr>
<tr>
<td>Total</td>
</tr>
</tbody>
</table>

* Due to rounding, total percentage does not add up to 100.

These women were convicted of a total of 762 crimes. In looking at the patterns of offending within the aggregate universe of conviction offenses, it is clear that the majority of women in this study were incarcerated for crimes involving property (48%) and drug offenses (44.5%). Very few crimes involved violence or crimes against persons (5.6%), and crimes having to do with public order and the like (1.8%) were uncommon. A large majority (78.5%) of all offenses fall into Hawaii's Felony C category—those offenses resulting in a maximum sentence of five years. In terms of serious crime, very few conviction offenses (3.5%) were Class A Felonies (involving 20 year sentences)

---

*Hawai'i Law §712-1241 promoting a dangerous drug in the first degree, for example, requires mandatory minimum sentences for the possession, distribution, or distribution to a minor of any amount, or manufacture of methamphetamine (or its derivatives).*
while only about 18% involved Class B Felonies. As in other jurisdictions (Maher and Daly 1996), Hawai‘i women offenders involved in drug offenses tend to be low-level users and distributors—indeed none of their drug-related crimes fell into the Class A Felony category. And only about 8% fit into the intermediate Class B Felony category.

As already noted, the length of sentences and time served in Hawai‘i corrections is driven by the most serious offense, for which some mandatory minimum sentences for crystal methamphetamine apply. The median length of time served for this group of women on parole was 26 months. In looking at the data from the perspective of length of time served and sentencing based on the most serious crime, most women (46.3%) are incarcerated for drug offenses, with property offenses a close second at 41.7%. Violent offenses rank a distant third (9.6%) while the remainder amount to about 2.5%.

Previous Offenses

In applying the life course perspective to women’s offending, quantitative data can reveal relevant patterns from women’s lives, patterns that, it should be kept in mind, represent turning points in individual biographies. Slightly over a third (36%) of women in this study had a juvenile record. As in many other jurisdictions, it is relatively easy for girls to come into contact with the juvenile courts. Since the case files I reviewed do not explain the nature of the juvenile offense, it is not possible to assess their seriousness. But as Chesney-Lind has demonstrated (1981 and 1997), girls find their way into the juvenile justice system for far less serious offenses compared to boys. Girls are policed within the family differently from boys, with families often looking to courts as a way of controlling incorrigible girls. Chesney-Lind has reviewed studies that show girls are more likely to
come into contact with the juvenile courts for status offenses than boys, who are more likely to be adjudicated for delinquency. Underneath girls' status offenses, more to the point, are experiences of traumatic and chaotic home lives from which girls attempt to run away. More serious offending, Chesney-Lind (1997) shows, often arises as girls attempt to survive on the streets (pp. 12-31).

Sometimes there is evidence of more serious juvenile offending among the population in my study. The parole case records that I reviewed indicate that four women attended school at the Hawai‘i Youth Correctional Facility, suggesting that a few had some significant involvement with the juvenile courts. But, again, the seriousness and meaning of this involvement is unclear. Women with juvenile court records were slightly more likely to have previous offenses as adults prior to their current commitment offenses, but not significantly so. Therefore, a significant pattern of continual adjudications or convictions from childhood through adolescence and into adulthood is not typical for this group as a whole.

Half of the women in this study had been convicted of an offense (felonies or misdemeanors) prior to their current commitment. Based on my examination of previous offenses listed in parolee case files, I found that patterns of previous offending are not unlike those of current offending, with one exception—that of drug cases. Drug offenses account for a lower proportion of previous offenses (16%) compared to current commitment offenses (44.5%). Previous property offenses (49.9%) and current convictions for property offenses (48.8%) were all but identical. The largest single source of previous involvement with the law is in the area of misdemeanor property

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7 Of 85 women with previous felony offenses, 50 also had a juvenile record. The relationship was not statistically significant.
crimes (35.1%) and in other sorts of misdemeanors (22.9%) like prostitution and public
order offenses. All are shown in Table 4.2 below:

### Table 4.2. Aggregate previous offenses

<table>
<thead>
<tr>
<th>Offense Level</th>
<th>Violent</th>
<th>Property</th>
<th>Drug</th>
<th>Other</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>N</td>
<td>%</td>
<td>N</td>
<td>%</td>
<td>N</td>
</tr>
<tr>
<td>Felony A</td>
<td>1</td>
<td>0.3</td>
<td>0</td>
<td>0.0</td>
<td>1</td>
</tr>
<tr>
<td>Felony B</td>
<td>2</td>
<td>0.5</td>
<td>11</td>
<td>2.8</td>
<td>2</td>
</tr>
<tr>
<td>Felony C</td>
<td>3</td>
<td>0.8</td>
<td>33</td>
<td>8.4</td>
<td>16</td>
</tr>
<tr>
<td>Out of state felony</td>
<td>1</td>
<td>0.3</td>
<td>0</td>
<td>0.0</td>
<td>4</td>
</tr>
<tr>
<td>Other III felony</td>
<td>4</td>
<td>1.0</td>
<td>14</td>
<td>3.6</td>
<td>14</td>
</tr>
<tr>
<td>Misdemeanor</td>
<td>30</td>
<td>7.6</td>
<td>138</td>
<td>35.1</td>
<td>26</td>
</tr>
<tr>
<td>Total</td>
<td>41</td>
<td>10.4</td>
<td>196</td>
<td>49.9</td>
<td>63</td>
</tr>
</tbody>
</table>

Very few women (10.4%) had records for crimes against persons and most of these were
non-serious misdemeanors (7.6%) for issues like making threats (referred to as second
degree terroristic threatening in Hawai‘i statutes) and minor assaults.

**Intersections of Family Life and Crime**

Women offenders’ biographies are far more than their criminal records or
“jackets” suggest; their lives add up to more than the failures documented in their files.
What else can we take away from data on this group that will expand our pictures of their
lives? If most of the women in this study (85%) are mothers, what can we make of the
experience of childbearing and rearing for this group? After all, the conventional life
course development perspective, which is grounded mainly in the experience of males,
would seem to indicate that the assumption of adult responsibilities would represent
turning points away from crime. Law-breaking behavior, and drug use in particular, do
not preclude adhering to conventional gender roles like domestic chores and childcare.
The women in my study often tell about childhoods that included domestic chores and the
care of siblings, routines that continued into adulthood as they began to have their own
children. In many cases, these otherwise traditional feminine adult roles merged with drug use and status offenses. On average, women in this sample who had a previous offense came into the criminal processing system at age 23. Of parenting women in the sample (85%), 71% had already had at least one child at the time they were first sentenced. These women had a relatively late entry into the criminal processing system and many had already taken on adult responsibilities for children. These are events that life course theory suggests might spell a cessation to delinquency and offending for males. But for women who continue on the trajectory to prison, childbearing and domestic ties do not seem to preclude continuing drug use or other types of offending.

My interviews with women on parole suggest two versions of lifestyle that are important to unraveling these apparent paradoxes. One is a pattern where drug use and delinquency begin in adolescence and continue on into adulthood. This pattern converges with most life course theory research of continuity in offending. And, in fact, a number of women say that they ceased their drug use and drinking during pregnancy and during their children's infancy, sometimes resuming that lifestyle as children got older. However, a second group of women explained that their drug abuse began in the context of marriage or relationship with a significant other—often with the father of their children—when they already had adult responsibilities. Momi, who had the first of her children when she was 16, tells a story that is typical of the second pattern:

I was in my 20s, my youngest one wasn’t in school yet. I think maybe she was three or four when I started [doing drugs]. But, that’s the thing, because of him. But it’s not like he pushed me to do it. It was because I wanted to lose weight and to try to please him by losing weight. But it really made no difference because the person he was married to was six feet and over 200 pounds, so it really don’t matter how they look. But the
way he used to treat me and the way he still treats me is that I cannot do anything [that's] . . . enough to please him.

This pattern of later onset of serious drug use, methamphetamine in this case, is unexpected, given that the onset of street drug use tends to precede the adoption of adult roles. These findings that run counter to expectations suggest that intimate relationships can be potential risk factors in the evolution of drug problems for women. And, that marriage and relationships with intimates may be turning points in the lives of these women toward—rather than away from—breaking the law. This may be especially problematic for women who are economically dependent or dependent in other ways and for whom autonomy is a very complex issue. Therefore, the pathways perspective also needs to consider the aspects of traditional gender roles and the degree of autonomy that women can exercise within relationships that are often marked by dependence, abuse, and victimization.  

Substance Abuse

For the majority of the women in this study, drug and alcohol problems have conditioned their entry into the criminal processing system. The Hawai‘i Paroling Authority assesses inmates for substance abuse problems, using a scale that differentiates alcohol and drug usage. Data for this population of female parolees indicate that the majority of this group have experienced significant alcohol and drug

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8 It should be noted that these patterns exist in same-sex as well as heterosexual relationships. These cases, about which little is known, may be especially problematic because of the extent to which lesbian relationships are stigmatized and their problems concealed.

9 These assessments are not as specific as more clinical assessment instruments used by substance abuse treatment specialists.
problems and that many require substance abuse treatment. Table 4.3 details these measures of need for alcohol treatment:

<table>
<thead>
<tr>
<th>Assessment</th>
<th>Frequency</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>No interference with functioning</td>
<td>70</td>
<td>32.7</td>
</tr>
<tr>
<td>Occasional abuse with some disruption of functioning</td>
<td>66</td>
<td>30.8</td>
</tr>
<tr>
<td>Frequent abuse with serious disruption, needs treatment</td>
<td>78</td>
<td>36.4</td>
</tr>
<tr>
<td>Total</td>
<td>214*</td>
<td>100%</td>
</tr>
</tbody>
</table>

* Data missing in 25 cases

Slightly more than two-thirds of this population (for whom assessments were available) experienced some disruption or severe disruption of their lives as a result of alcohol use. Over a third of these women had problems so severe that they required alcohol dependence treatment.

In conversations with women in this study, I came to an understanding of their alcohol and drug problems as overlapping, with polydrug patterns of substance use being more typical than not. Pharmaceuticals prescribed by physicians played a role in these accounts as well. Kassebaum and Chandler's (1994) study found that polydrug use was the norm for newly sentenced felons in Hawai‘i prisons. They found nearly universal alcohol and marijuana use, along with extensive use of cocaine, crack, heroin, crystal methamphetamine (ice), and other drugs. Heavy polydrug use was more common among females than the males in their sample. These findings resonate with other studies that find that the link between addiction and property crime is stronger among female than male inmates (Chesney-Lind and Sheldon 1998; Owen and Bloom 1995b).

Serious drug use is typical of the women in my study, with 80% of those for whom data were available experiencing serious disruption of their lives due to their addiction. While data are not collected by the Hawai‘i Paroling Authority on the specific
drugs used by parolees, the women I interviewed had patterns of drug use that were similar to those found by Kassebaum and Chandler, with methamphetamine ("ice"), being especially common. Table 4.4 shows that the majority of these women require treatment for their drug problems:

Table 4.4. Inmate Need for Treatment: Other Drug Usage

<table>
<thead>
<tr>
<th>Assessment</th>
<th>Frequency</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>No interference with functioning</td>
<td>17</td>
<td>7.9%</td>
</tr>
<tr>
<td>Occasional abuse with some disruption of functioning</td>
<td>26</td>
<td>12.1%</td>
</tr>
<tr>
<td>Frequent abuse with serious disruption, needs treatment</td>
<td>172</td>
<td>80.0%</td>
</tr>
<tr>
<td>Total</td>
<td>215*</td>
<td>100%</td>
</tr>
</tbody>
</table>

* Data missing in 25 cases

The stories women told me about their drug use show a good deal of variation, with some repeating refrains. Two stories represent addiction and drug use as matters of late onset in the context of family life. Anna’s drug use had a relatively late onset; she was in her early 30s. Her husband was, she said, ‘a local boy’ and wanted her to stay home when her kids were young. He was very controlling, and when she took a job as a waitress, he constantly complained about her working. Her husband began selling drugs and they both began using, starting with him. Their marital troubles became so bad that she left the family and began running the streets. She picked up a prostitution charge this way.

Darleen, on the other hand, held off using coke during her pregnancy and after the birth of her child allowed her husband to introduce her to smoking crack. She didn’t know about addiction – her family had problems with alcohol but drugs weren’t part of their lives.

Early onset of drug use was also evident among the women in my study, often occurring in the context of the family. Betty’s childhood was rendered chaotic by her parents’ alcoholism and drug use. She was raised in a home where she could smoke
marijuana and drink from the age of 12. “It was okay, it was the normal thing,” she explained. She characterized her home as broken and dysfunctional. She said that she “grew up with this mentality” and that drug use and drinking were condoned, even for a child of 12. Thus while families can serve as sources of support, they may also serve as means by which addiction and other problems are transmitted.

Violence, Abuse, and Trauma

Angela lowered her hand from her mouth to respond to my question about the violence in her life before prison. She told me that she’d been abused “plenty,” adding, “it’s part of the deal, right?” When asked who abused her, she replied, “who didn’t?” Angela told me she’d been beaten by lovers, friends, strangers, dates and New Orleans cops. Sometimes she sought legal protection from attackers and sometimes she didn’t. She called the police one time here in Hawai‘i when an acquaintance held a knife to her throat. He ended up going to jail. Later on, she was raped and reported it, but she didn’t follow through with the case. Angela avoids smiling and often shields her mouth when talking to conceal her missing front teeth. The other marks of her abuse are less apparent. She receives therapy now for the effects of the many traumatic experiences she had while living on the streets; this is the first time that she has received any counseling.

Gender violence, especially trauma due to childhood sexual assault, has now been established as a precursor to adult drug use and offending among women (Gilfus 1992; Gilfus 1999). Victimization is being recognized as an event in women’s lives that accelerates women’s trajectories into offending (Gaarder and Belknap 2002).
Often, the mediating link between histories of abuse and adult offending appear to be drug use and involvement with prostitution. Indeed, as Stein (2001) points out in her study of Hawai`i women in an inmate work furlough program, street life and prostitution are associated with ubiquitous violence, "part of the deal," as Angela told me. Women who break the law themselves occupy an especially marginalized position that affords them little protection against violence and sexual assaults. Nor do they have much recourse when violence occurs.

Laura, the mother of six children, told me that her husband was a very abusive man who beat her. But her calls to the police did not result in help. She said that she did not know her rights and that the police never told her about temporary restraining orders. She commented that because she and her husband were known to be involved with drugs, that the police didn't feel that she was worthy of help. They discounted her calls for help because of the addict label she carried.

It is not uncommon for young women from disruptive family backgrounds to enter into adult relationships that are fraught with violence. Betty, whose troubled family of origin has already been described, experienced such a transition from adolescence to adulthood. This mother of four reports that her future husband began hitting her during her first pregnancy. She told me that lots of mental, emotional and physical abuse followed. There were many trips to the hospital as a result. Her husband threatened her repeatedly, sometimes with a gun. She described what she felt were a number of near-death experiences from this violence. She felt that the continual abuse made her "weaker and weaker." She talked about living with continual violence and the impact of the abuse on her spirit:
In order to bring my strength back from being broken from just everything—it's hard. To build yourself up again is hard. You start believing all of the things he says.

Living at the margins, as Laura’s story illustrates, often precludes getting effective help from the police or other mainstream helping institutions. Indeed, the law often fails to protect women who are leading conventional lives. And, it is not uncommon for the perpetrators of the violence to be, themselves, the police.

Trauma related to sexual abuse and violence during childhood and adolescence has begun to be well documented among women offenders. And its link with drug addiction continues to be validated by biographical and life course research on women offenders and addicts (Gaarder and Belknap 2002). But trauma continues well into adulthood for many of these women and sometimes it arises as a result of their gendered responsibilities for children. Sometimes the first brush with the authorities arises when women come under the gaze of child services and lose their children through court actions—a common problem for incarcerated women. Termination of parental rights, now even more common since the passage of the 1997 Adoption and Safe Families Act, is a singular source of grief for women. Motherhood is extraordinarily powerful as a motivating force in the lives of women, and women offenders are no exception. Their maternal lives are, however, rendered much more complicated by their marginalized statuses and unlawful life styles. They often cannot depend on families for help, nor are they particularly successful at securing help from agencies like substance abuse treatment

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10 Two high-profile murders of wives by their police-officer spouses occurred in Hawai’i over the past decade.
facilities. Of course, there are few facilities that offer treatment services to pregnant or parenting drug addicts along with their young children.\textsuperscript{11}

Compared to what is now known about the nexus of abuse, trauma, and addiction, very little is known about how the loss of children through the termination of parental rights affects women’s trajectories through life. Angela, whose son was born in 1993, viewed her pregnancy as a turning point. She got off the streets and stopped taking drugs for a time. This changed when Angela was manipulated to sign over the custody of her son to her mother. She attributes her descent back into addiction to the loss of her child. This loss, she said, “really caused me to bottom out.” That event prompted a return to drugs and a cascade of losses culminating in her arrest. She told me that she used to think that she probably would not have become an addict had it not been for this loss. “Well, at the time,” she added, “I didn’t understand the disease [of addiction].” Nevertheless, the birth of Angela’s child was an important motivator in Angela getting off the street. The loss of the child became an enduring source of pain, one that was linked for her with a return to and exacerbation of her drug problem.

\textit{Ethnicity: Being Hawaiian}

The life course perspective includes structural effects that position individual life events and turning points in causal stories of delinquency and crime. However, much like gender used to be, the roles of ethnicity and culture still remain an under-theorized part of this perspective. But there is, in the work of Elder (1985) and a number of

\textsuperscript{11} Hawai‘i has one residential treatment center that accepts pregnant women or mothers with children. In fact, they can only accommodate one child under the age of two years for each mother accepted into the program.
feminist writers looking at the pathways approach, an understanding of how individuals’ life events are positioned by larger structural factors like race and class which affect the likelihood of their coming before criminal courts. The “triple jeopardy” (Bloom 1996) of race, gender, and class are, of course, cultural and historical outcomes that have an important bearing on women’s trajectories into crime—and their fates once they enter the criminal processing system. Contemporary Hawai‘i still bears the legacy of its ethnically stratified plantation past, a system that dominated this society well into the twentieth century. As a result of its colonial history, kanaka maoli (as Native Hawaiians refer to themselves), as well as newer immigrant groups, dominate the ranks of the poorer classes—and correctional institutions.

Statistical data on cultural, racial, and ethnic identity in Hawai‘i are limited as to how well they can describe the lived experience of people and the dynamics of identity in this place. Identities are always layered, shifting from context to context, and one runs the risk of reifying human identity when attempting to describe these realities statistically. Ethnic and cultural identities are inherently multidimensional; these characteristics of experience cannot be effectively reduced to numerical assessments. However, there are aspects of Hawai‘i’s diversity that are salient to this population of women offenders and their lives. And, numerical data are a way to begin talking about these realities. In describing ethnicity, I have used what have become standard conventions in official data for describing diversity in Hawai‘i. Distinguishing Hawaiian ancestry is particularly important in this context because the State’s indigenous

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12 Racial and ethnic identity in Hawai‘i in daily speech is referred to as “nationality” — an interesting acknowledgment of the plantation heritage of many Hawai‘i residents. Local people routinely list a number of ancestries in response to the everyday question (which has nothing to do with citizenship): “What nationality are you?”
population is over-represented in the criminal processing system. Using a convention common in official statistics in Hawai‘i, Table 4.5 illustrates the ethnic mix of the women in this study:

<table>
<thead>
<tr>
<th>Ethnicity</th>
<th>Frequency</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hawaiian and Part Hawaiian</td>
<td>125</td>
<td>52.5</td>
</tr>
<tr>
<td>Caucasian</td>
<td>38</td>
<td>16.0</td>
</tr>
<tr>
<td>Asian/Other Pacific Islander</td>
<td>35</td>
<td>14.7</td>
</tr>
<tr>
<td>Other</td>
<td>40</td>
<td>16.8</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>238</strong></td>
<td><strong>100</strong></td>
</tr>
</tbody>
</table>

* Data missing in two cases.

In the 2000 census, about 20% of the population in Hawai‘i claimed some Native Hawaiian ancestry (United States Census 2000), but carceral populations routinely reflect the group as present at more than double this rate. Nearly 53% of women parolees in this study are Hawaiian or Part-Hawaiian. Caucasians, on the other hand, at 24% of the overall population, are under-represented in this group at only 16%. The overrepresentation of Native Hawaiians in the carceral population is consistent from study to study: Stein (2001) reported that women of Hawaiian ancestry made up 61% of her sample of inmates at a work-furlough program in Honolulu. Kassebaum and Davidson-Coronado's (2001) study of both male and female parolees in Hawai‘i found that 45% were of Hawaiian ancestry. In July of 2000, 33% of Hawaii’s 2,319 female probationers were of Native Hawaiian ancestry as were 40.2% of Hawaii’s 542 adult female inmates.\(^\text{13}\) Persons of Native Hawaiian ancestry not only make up the largest category of offenders in this study, but are over-represented in terms of poverty indices, major life-style diseases, and a range of other problem categories across the spectrum of....

\(^\text{13}\) Female offender population statistics are from the Hawai‘i Adult Probation Division, Circuit Court and the Hawaii Department of Public Safety [see Hawai‘i Symposium, 2000].
social distress (Blaisdell 1993). There is considerable consensus among scholars of Hawaiiana that the impact of colonialism, racism, and extensive alienation from aboriginal culture and lands have severely damaged the life chances of the indigenous population (Blaisdell 1993; Blaisdell 1996; Merry 2000; Trask 1993).

The difficulties of women of native ancestry were themes in a number of the interviews that I conducted. Malia, one of the very few women incarcerated for a violent crime, wants to establish a claim for land from the Hawaiian Homelands program, a long-standing Federal and State program whose beneficiaries are those individuals with more than 50% Hawaiian ancestry. Documenting this blood quantum issue is a long and arduous process, requiring genealogical research at the State Archives among records going back for more than a century. With her 11th grade education and lack of relevant skills, Malia feels overwhelmed at the prospect and wishes she had some help to establish her claim. Other women of Native Hawaiian ancestry, having no basis for land claims, will have to rely on meager work experience, family resources, or marginal state assistance for their survival.

Like the women in Bloom’s study of incarcerated women in California (Bloom 1996), Hawaii’s female offender population is marginalized by race, gender, and class. For women of Hawaiian ancestry, another layer is added to this “triple jeopardy” of vulnerability and marginalization: that of being a colonized indigenous people. Native peoples are present in larger than expected numbers in carceral populations in Canada,

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14 Congress established the Hawaiian Homeland program in 1920, setting aside 200,000 acres of land to lease to full or nearly full-blooded Native Hawaiians. (The program establishes a minimum qualification, known as the “50% blood quantum.”) Over the past 75 years, the Territory of Hawai’i, followed by the State, have failed to settle more than a handful of Hawaiians on the undeveloped lands, selling and sometimes leasing the lands to non-Native Hawaiians.
the United States, Australia and other nations where indigenous ties to ancestral lands and ways of life have been interrupted by capitalism and urbanism. Hawaiian cultural capital, with its metaphors of aloha, reciprocity, and respect, was frankly overpowered in a social field dominated by Western models that prioritize economic values and materialist ideologies (Kame'eleihiwa 1992, 317-318; Trask 1993).

The resources that culture provides for individual identity are often difficult to articulate. Kepuhi's story illustrates a particular feeling about cultural identity that can be described as a way of knowing, one that was lost with adulthood:

But spiritually I've lost that too. It's kind of hard to explain. Say like, I know something or I would feel something or I would sense something and I've lost that. Or see something, nobody else can see it now. You know what I mean?

Kepuhi described two instances of knowing things about people and events that, as a child, she should have had no means of knowing. These intuitive feelings were essential to her Hawaiian identity, giving her a sense of connection to the past and to a reality that Western empiricism denies. She describes these as spiritual gifts linked to being Hawaiian. In one case, she recalled seeing a man who turned out to be a relative who had passed away. In another case, her special knowledge prompted her to warn her family against a certain land transaction. Young Kepuhi could not possibly know that this would be a problem but it turned out later to be a bad decision. Accounts of such experiences are met by many Westerners with derision, but to native peoples, they are crucial cultural resources that link them to their past and to one another. Looked at in this way, Hawaiian ethnicity and culture are not risk factors for crime. Rather, in the post-colonial context, alienation from indigenous culture and the loss of resources it affords is
an important, and often unanalyzed, factor in the overrepresentation of native peoples in corrections populations. The loss of traditional means of subsistence, relationships, spirituality, and identity in modern contexts of poverty and institutional alienation may well be a better explanation for problems like addiction, violence, and the other significant problems Native Hawaiians face. Trask (1993) points out that the American colonization of Hawai‘i, through its imposition of alien values and economics has simply taken its toll on Hawaiians. Their loss of sovereignty and the concomitant material and cultural losses that went with it, Trask argues, resulted in a deep psychological oppression manifested in crime, suicide, and aimlessness (p. 18).

Nancy, a 48 year-old woman of Hawaiian ancestry, describes her disconnection from the worlds of school and work. “I’ve had problems, ever since I was young, I work and then I don’t work and then I work for a couple of years, you know?” She has little in the way of skills and when I met her she had recently left prison with a little gate money. She is taking antidepressant medication for her post-traumatic stress disorder. Nancy told me that she was molested as a child but never told anyone until she was an adult—she did not think her parents would understand. She is trying to stay clean and sober and attends Alcoholics Anonymous and Narcotics Anonymous meetings. She looks to these meetings for a sense of community now—realizing that old associations from the past can get her into trouble. Yet, associating with the cohort of women who were her friends in prison is prohibited by the terms of her parole: “You know, I hate to say it, but for two and a half years, that was my family. That’s all I knew. It’s kind of sad, but . . . .” To some degree all women who were incarcerated have experienced alienation. But for women of Native Hawaiian ancestry, there is the additional dimension of alienation from
other Hawaiians who are likely to be having the same problems of drug use and other legal troubles.

Some Hawaiian women are able to find community and renewed sense of purpose through programs that support Native Hawaiians. A program that offers a range of services to Hawaiians under the Office of Hawaiian Affairs provides help for former inmates. Betty has been successful in obtaining help from this organization and told me about the range of services that she and her daughter have taken advantage of—including vocational services. “It’s all free. All for being part-Hawaiian!” This particular program and others like it, however, may be threatened by political challenges to Hawaiian-based entitlement programs.

Education and Employment

Studies of women involved in the criminal processing system routinely find that their subjects are poorly educated and lacking in basic job skills and experience. Hawaii’s female offenders share these characteristics, and in some respects, educational achievement is even worse for these women than in some national studies. Not only do these conditions bode ill for economic survival and family stability, but deficits in these areas may shape the length of time women spend on parole. Continuous full-time employment is a basic requirement for anyone hoping to gain an early discharge from parole in Hawaii.15 Adequate employment and income are basic to establishing

15 Standard terms of Hawai‘i parole include actively seeking and retaining employment. To qualify for early discharge from parole, individuals must demonstrate a record of “prosocial attitudes and employment” for a period of time based on their total sentence. For example, a parolee with a 10-year sentence must adhere to employment and attitude guidelines for at least three consecutive years. In practice, this means full-time employment. In addition, parolees must pay any outstanding restitution
households where women can reunite with their children. As O'Brien notes, inadequate income combined with the demands of a comprehensive parole plan sets a woman up for failure upon leaving prison (2001b, p. 27). Attaining what O'Brien refers to as “environmental sufficiencies” (p. 27) in an environment of diminished social welfare support for women means that ex-inmates will have to depend on themselves for financial resources or upon family members who are themselves strapped by the high cost of living in Hawai‘i.

To begin with, educational attainment is generally very poor for women in my study. Table 4.6 shows educational attainment for this group of women:

<table>
<thead>
<tr>
<th>Education Level</th>
<th>Frequency</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Grade school</td>
<td>14</td>
<td>6.0%</td>
</tr>
<tr>
<td>Some high school</td>
<td>111</td>
<td>47.6%</td>
</tr>
<tr>
<td>High School/GED</td>
<td>86</td>
<td>36.9%</td>
</tr>
<tr>
<td>College Degree/some college</td>
<td>22</td>
<td>9.4%</td>
</tr>
</tbody>
</table>

* Data missing in 7 cases.

In fact, women parolees in Hawai‘i fare even less well than women in state prisons as a group when it comes to educational attainment. While a handful of women in my study had some college prior to incarceration, only two had college degrees. One woman had four years of college and a second had an advanced college degree, an MBA, prior to her incarceration. Nearly 54% of the study group had not graduated from high school; nor had they obtained their GEDs prior to their incarceration. In contrast, the Bureau of Justice Statistics reported in 2001 that 44% of women in state prisons lacked a high school diploma, while 39% had a high school diploma or equivalent. About 17% of orders from the court (Hawai‘i Administrative Rules, Chapter 700, Title 23, January, 1991). According to the “letter” of the regulations, education is not considered a substitute for full-time employment in securing early release from parole.
women in state prisons had at least one year of college or more. (See Greenfeld and Snell 1999.) Overall, female offenders in Hawai‘i fare less well in all of these categories of educational attainment compared to women offenders nationally.

Owen and Bloom’s study (1995a; 1995b) of California’s female inmates found that 24% of their sample had less than a high school education, while 26% graduated from high school or had a GED and nearly 26% had some post-high school education (college or vocational school) (Owen and Bloom 1995a). Hawai‘i’s basic educational statistics for women offenders (in terms of finishing high school or getting a GED) are inferior to both California and the nation, especially when it comes to post-secondary education. Table 4.7 provides data on these comparisons:

Table 4.7: Educational Attainment for Female Inmates in California and National (State) Study*

<table>
<thead>
<tr>
<th>Education Level</th>
<th>California</th>
<th>All State Prison Inmates</th>
</tr>
</thead>
<tbody>
<tr>
<td>Grade school</td>
<td>7.4%</td>
<td>7%</td>
</tr>
<tr>
<td>Some high school</td>
<td>16.6%</td>
<td>37%</td>
</tr>
<tr>
<td>High School/GED</td>
<td>26.2%</td>
<td>39%</td>
</tr>
<tr>
<td>College Degree/some college</td>
<td>25.7%</td>
<td>17%</td>
</tr>
</tbody>
</table>


Fewer than 10% of Hawai‘i women in this study had any post secondary education compared to 17% across the nation and nearly 26% in California. In addition, I found that educational attainment has a strong relationship to ethnicity among these parolees. Table 4.8 shows the relationship between graduation from high school and ethnicity for this sample:

Table 4.8. High School Education: With and Without Native Hawaiian Ancestry (n=231*)

<table>
<thead>
<tr>
<th></th>
<th>Less than 12 years of Education (no GED)</th>
<th>Completed High School (or GED)</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hawaiian Ancestry</td>
<td>58.4%</td>
<td>48.1%</td>
<td>53.7%</td>
</tr>
<tr>
<td>No Hawaiian Ancestry</td>
<td>41.6%</td>
<td>51.9%</td>
<td>46.3%</td>
</tr>
</tbody>
</table>

* Information on education was missing for 9 cases (<4%).
Women with some Hawaiian ancestry are less likely to have graduated from high school compared to other women in this study. In looking at overall educational attainment for women, Hawai'i compares very favorably with other states, ranking 11th in the nation in 1990 (United States Census 1990). Thus, the educational statistics for women in this sample reflect a departure from this economic indicator for women in our state. The pathways perspective suggests looking at this pattern of early separation from school as another of the turning points in the trajectory of women who get into trouble with the law. Moreover, women of Hawaiian ancestry are even more marginalized in this respect compared to other women.

Given these dismal educational statistics, the data collected by the Hawai'i Paroling Authority as part of their assessment of employment-related skills offer few surprises. In the year before sentencing for their offenses, few women had any substantial employment. The assessments also showed that fewer than 50% had adequate educational/vocational skills. Table 4.9 summarizes other indicators related to employment and training:

<table>
<thead>
<tr>
<th>Indicator</th>
<th>Frequency</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Satisfactory or secure employment</td>
<td>53</td>
<td>24.8%</td>
</tr>
<tr>
<td>Unsatisfactory or unemployed (but has job skills)</td>
<td>123</td>
<td>57.4%</td>
</tr>
<tr>
<td>Virtually unemployable (needs job training)</td>
<td>38</td>
<td>17.8%</td>
</tr>
</tbody>
</table>

* In some cases, assessments are not conducted depending on a variety of factors mostly having to do with population movement and timing. Data were missing in 26 cases (10.6% of sample).

Making a living on parole is crucial to setting up a household and stable living situation. Those of us with secure housing probably take for granted the extent to which our residences, our homes, structure our lives and make access to other resources possible. Our intimate relationships, safe or dangerous, take place in the context of the home which
ought to offer a refuge from the vagaries of the outside world. Stable housing is important to children’s attending school and qualifying for needed services. O’Brien (2001, p. 25) notes that home has both metaphorical and concrete aspects for women offenders leaving prison and that the quality of home in both these regards is crucial to successful reentry into society. Clearly, these subjective and objective factors overlap.

Financial instability precludes attaining secure housing and women’s economic dependence increases the potential for living in an unsuitable familial environment. Economic dependency is a common reason that women remain in violent households or in households plagued with family troubles and conflicts. Problems with housing are a primary concern for women leaving prison, but these difficulties frequently existed in life before incarceration. The Hawai’i Paroling Authority assessment data that I reviewed for this study indicate that over a third of this group had unsuitable living arrangements in the year prior to incarceration. This assessment reflects the more concrete aspects of home and the dwelling itself. More subjective aspects of safety and security are not measured by merely having a structure to live in.

Several months after I interviewed Donna, the paroled mother of a 15-year old son, I ran into her in downtown Honolulu. She was upset about her current situation. She had had a fight with her boyfriend, who accused her of using drugs because she returned home late the night before. She denied doing drugs but he did not believe her. He was threatening to put her and her teenaged son out on the streets. Distraught at this possibility, Donna wasn’t sure where to turn next. Her concerns were both emotional and economic—and she has a son who is dependent upon her for his support. Donna told me at our first meeting that she wanted to attend cosmetology school after leaving prison but
her parole officer had quashed the idea, telling her instead that she was expected to work. Policies like these leave women like Donna less skilled and less self-sufficient economically than they might otherwise be—and dependent on the good graces of intimates. The fates of women on parole and their children are shaped extensively by such links to social and economic capital, links that often rest on the few tenuous social ties women are able to build with family, friends, and lovers. This final section of the chapter presents data on these women as mothers of children.

Children and Social Networks

Nearly 85% of the 240 women on parole in Hawaii in 2001 are mothers to some 576 children. The data in most penal records for women offenders is scant in this area, especially when considered with reference to the centrality of children to women’s lives and the official ideologies that emphasize children’s welfare in other state contexts. My interviews with women parolees indicate that their biggest concern during and after prison was the welfare of their children, a finding consistent with a range of studies (Baunach 1988; Bloom and Steinhart 1993; Enos 1998; Enos 2001; O’Brien 2001a).

While official records do not track the whereabouts of minor children throughout the mother’s incarceration, they do provide brief details on these children, their ages, custody arrangements, and gender at the time of sentencing. Table 4.10 displays custody data for these children:
Table 4.10 Status of children’s custody upon mother’s sentencing.

<table>
<thead>
<tr>
<th>Child Status or Custody</th>
<th>Frequency</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Child is no longer a minor</td>
<td>174</td>
<td>30.2%</td>
</tr>
<tr>
<td>Lives with subject’s mother or both maternal parents</td>
<td>136</td>
<td>23.6%</td>
</tr>
<tr>
<td>Lives with subject’s spouse or partner</td>
<td>82</td>
<td>14.2%</td>
</tr>
<tr>
<td>Custody unknown</td>
<td>77</td>
<td>13.4%</td>
</tr>
<tr>
<td>Other adult relative</td>
<td>53</td>
<td>9.2%</td>
</tr>
<tr>
<td>Foster care system</td>
<td>42</td>
<td>7.3%</td>
</tr>
<tr>
<td>Other (e.g., Subject’s friend)</td>
<td>12</td>
<td>2.1%</td>
</tr>
<tr>
<td>Total</td>
<td>576</td>
<td>100%</td>
</tr>
</tbody>
</table>

These data should be read as snapshots of child custody status at a given point in time. The reality is that children move around a great deal in response to pressures faced by adult caregivers who can no longer maintain homes for them while their daughters or sisters are incarcerated. It was not uncommon, according to mothers I interviewed, for children to live with various relatives and to change living situations during their mother’s incarceration. Children may enter foster care after living with a relative or leave the system as emancipated minors. The custody status of children should be viewed as dynamic and subject to change; their mothers’ situations are far more static by comparison.

These data also suggest something about the social networks of this group of women. Relatively few Hawai‘i women (7.3%) were forced to turn their children over to the foster care system at sentencing. Studies have found that the rate for children of inmate mothers going into foster care varies from 7.3% (Bloom and Steinhart 1993) to over 26% in some areas of the country (Johnston 1995b). Enos (1998; 2001) found that foster care placement varied by race. White women, she found, were less likely to have relatives or friends to take their children than African American women. Based on her interviews, she found that white women were more likely to have severed ties with their families than African American families. The local Hawai‘i family system, or ‘ohana,
like the African American family system, has traditionally served as a buffer in times of trouble, taking in the children of incarcerated relatives.

As I mentioned in connection with the pathways approach to women's offending, women in this study, with a median age of 38 years, began child bearing at a relatively early age. My interviews showed that early pregnancy, although seldom the only cause, was associated with leaving school. In 2001, the median age for their oldest offspring was between 17 and 18 years. The overall median age for all children is 20.5 years. Children ranged in age from one year to 45 years of age, reflecting the variance in reproductive histories and ages for women in this group. Table 4.11 shows the age ranges for children of the women in the study.

<table>
<thead>
<tr>
<th>Age Ranges</th>
<th>Frequency</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Age 1-5 years</td>
<td>48</td>
<td>10%</td>
</tr>
<tr>
<td>Age 6-12 years</td>
<td>156</td>
<td>32%</td>
</tr>
<tr>
<td>Age 13-17 years</td>
<td>110</td>
<td>23%</td>
</tr>
<tr>
<td>Age 18 or older</td>
<td>171</td>
<td>35%</td>
</tr>
<tr>
<td>Total</td>
<td>485</td>
<td>100%</td>
</tr>
</tbody>
</table>

* The ages of 91 children were unknown or not listed in the case files.

Official records say little about the history and quality of maternal relationships with children. The case files do contain records of official actions or contacts with child protective services. Nearly 24% (48) of the 203 mothers in this study had been involved with Child Protective Services. In other words, there were references to such investigations in their case files. In addition, Hawai'i or some other state jurisdiction terminated the parental rights of nearly 17% of mothers in this study. These investigative or termination proceedings involved one or more children.
Conclusion

The rate of female incarceration in Hawai‘i has increased exponentially during the latter part of the twentieth century (Hawai‘i Symposium on Women Offenders 2000; Stein 2001). Offending for women is more likely to involve drug and property offenses, rather than crimes against persons. Women’s patterns of offending, as my Hawai‘i data indicate, are deeply embedded in patterns of drug and alcohol use, accompanied by property crimes. The trajectories propelling women into breaking the law are all too often linked to victimization within intimate relationships.

The conventional life course perspective, while powerful, shares an androcentric weakness with other criminological theories in that it fails to see crime as gendered social action. Nor, regarding female offenders, is sufficient notice taken of unequal power relationships that produce unexpected patterns of criminality among women. Bottcher (2001), for example, notes that events throughout the life course are informed and structured by gendered divisions of labor. She notes that girls take on child raising responsibilities earlier than boys, and usually age out of delinquency earlier than their male peers (pp. 918-922). The accounts that Hawai‘i women give about the onset of their troubles with the law, however, show that the influence of adult relationships, such as the drug addiction of a spouse, can precipitate a late onset into drug use and offending. It is not only the trauma that women experience as girls that prefigures their involvement with delinquency and, later, crime. But traumatic events throughout the life course may propel women into drug use and related types of offending. The loss of a child, especially the termination of parental rights, has been largely unexplored as part of the cascade of losses these women experience as adults. Given that contemporary adoption policies put many
incarcerated women in danger of losing their children, the implications for women who are punished a second time (by both imprisonment and the termination of their parental rights) are dire in terms of staying out of prison after release.

During the 1970s, feminists from the University of California at Santa Cruz entered the California Institute for Women prison with a new program, based on providing inmates with a liberal education. At first glance, this extension program for university credits was not exceptional. What was revolutionary was that their program had an analysis—a political analysis that placed women at the center of economic, cultural, and social structures that the feminists claimed shaped their trajectories into prison. Its objective was, as Duguid’s (2001) account goes, to ‘habilitate’—that is, the program sought to “change the consciousness, self-image, and ‘politics’ of the students in order that they may re-enter society as individuals qualitatively different from the way they were at prison entry” (p. 108). The prison, predictably, discontinued the program within a few years. At the heart of this project, and Duguid’s analysis, was the notion that rehabilitation merely hopes to return people to their pre-incarceration state. Given what this chapter has revealed about the pathways of women to prison, it should be unsurprising that many inmates, as Duguid’s analysis predicts, return to prison.

The pathways perspective as described in feminist writings is useful for reasons aligned with Duguid’s arguments about the nature of corrections. Looking at children and adults over the life course strongly suggests that human development is not static, that life events do shape and reshape trajectories from childhood to adulthood. This perspective offers a critique of other criminological theories that rely on explanations of individual level factors, especially those linked to self-control. As Garland recently
argued (2001): “Social controls, situational controls, self-controls—these are the now dominant themes of contemporary criminology and of the crime control policies to which they give rise” (p. 15). The pathways perspective is linked to these control theories insofar as they look at the importance of social bonds in dissuading people from crime, but the feminist perspective especially offers a contrast to what Garland calls the “darker vision of the human condition” (p. 15) inherent in theories based on individual self-control. Theories of deviance and crime that link these behaviors to fixed characteristics that are either inherent (as in the case of biology) or unchanging individual deficits (lack of self-control) serve, as Garland argues, to justify punitive approaches to crime control. This static view of human development has important implications for corrections policies because it serves to rationalize punitive policies like long periods of incapacitation. The pathways perspective of women’s offending does hold out the possibility of changing one’s life. And, in fact, some of the women I met have had transformative experiences, which I describe in the following chapter.

The structural elements that theorists such as Elder (1985) find important to shaping life events are embodied in feminist versions of the pathways perspective. I have argued that structural factors, of which history and ethnicity are part, have made it more likely that women of Hawaiian ancestry will come under the gaze of the law. Hawaii’s female inmates, more than others in the nation, are likely to have serious educational deficits. Merely returning women to their pre-incarceration state will do little to alter their lives in any significant way.

Prison can no longer be the institution of first resort in dealing with the effects of social and economic inequities. The pathways perspective and the data from my study
suggest that earlier intervention to prevent alienation from schools and other conventional institutions is critical for girls, especially girls of Hawaiian ancestry. But so-called welfare reform has reduced supports for families and children at the same time as Hawaii's economy has faltered. Women and children have fewer options in dealing with domestic violence. And, decreasing judicial discretion in the era of the drug war has led to more women being sentenced for drug-related offenses.

The focus of rehabilitation upon the individual rather than upon structure draws attention away from the dismantling of social welfare programs. Strategies of responsibilization (Hannah-Moffat 2001; Garland 1996) which make offenders themselves responsible for their rehabilitation, place women in a precarious situation. Treatment programs for women in prison and even the expansion of prison educational and employment training and opportunities are probably laudable objectives. However, these supports and resources need to be provided far earlier in women's lives before the onset of the events that lead to women's engagement with the legal system. Most importantly, changes needed to restore the political and cultural sovereignty of the Hawaiian people are a paramount concern in altering the status and pathways of native women. As Betty's case shows, people of Hawaiian ancestry benefit from programs that serve the Hawaiian community and in some measure help them deal with the legacy of historic injustices. (Alienation from the world of school as this chapter has shown is just one example.) Understanding and attenuating the social, cultural, and economic inequities that affect girls and women early in life will be far more effective modes of dealing with the incarceration of women than even the best practices of penal intervention.
The following chapter examines structure and ideology of late-modern rehabilitative practices in Hawai‘i and the role they play in the production of gendered subjectivity. I point out the contrasts between what the law tells women about motherhood and their actual experiences of mothering. Contemporary rehabilitative practices focus on issues like individual choice and responsibility. But the structure and resources of rehabilitation do not improve the material or social resources that enable women in prison to make real choices or to attain effective control over their lives when they leave prison.
Chapter 5
Rehabilitation and the Production of Gendered Subjects

*I don’t get it, why do they keep on having these kids?*

Hawai‘i Parole Board member

*He’s my world.*

Parolee, talking about her cheating boyfriend

Introduction: Motherhood, Law, and the Gendered Self

The question above, addressed to me during a break in that day’s hearings, concerned an inmate whose parole had just been revoked by the parole board. During her brief release, the parolee had been using drugs and found herself pregnant. Questions like that of the parole board member express a genuine frustration over the fates of inmate women and, especially, their children. The uncertainties and anger expressed over these cases are understandable given the importance of children’s welfare and normative assumptions about motherhood. But these sentiments also resonate with public condemnation of the welfare queen, the crack baby, and other icons of public concern associated with childbearing in late modernity. Such comments also embody a range of conflicting notions about the nature of gender, race, class, and deviance—as well as motherhood.

In this chapter, I examine some of these specific strategies as they are deployed by prison and parole agents to govern the conduct of women who are under their supervision, especially with respect to motherhood. Penal practices and rhetoric used by the correctional sector, specifically the prison and parole agencies, are representations
about how women ought to live their lives. Garland (1990) describes penal institutions as cultural agents, a theme developed in a longer, more recent work (see Garland 2001).

Penal practices and discourses, whether as broad public statements or through the minutiae of daily speech and interactions, convey powerful messages about the nature of the self, identity, and action. These communications, even the most utilitarian-seeming ones, are packed with powerful moral imperatives. And while these expressions draw on ideologies that are internal to this bureaucratic system, they also are reflective of the culture at large. Individual actors in bureaucracies cast and recast these messages although some deviate from the 'script' for reasons of strong sentiment, ineptitude, overwork, or individual psychological motivations.

Penality, though bounded by culture and organized as a rational bureaucracy, does not speak with one voice. Nevertheless, the institutions of punishment constitute a powerful site of cultural production—and the production of subjectivities:

In its routine practices—as well as in its more philosophical pronouncements—penality projects definite notions of what it is to be a person, what kind of persons there are, and how such persons and their subjectivities are to be understood (Garland 1990, p. 268).

The ideology held out by legal agents to mothers under their control generally adheres to dominant cultural narratives about motherhood. These notions present a real contrast between what motherhood and female gender are supposed to be compared to the realities of the “troubled motherhood” experienced by women convicted of crimes. For women who have little in the way of social, cultural, or economic capital, the contrast between what is acceptable conduct for mothers and their actual experience of motherhood on the margins is sometimes an unbridgeable chasm.
"That Voice in Your Head"

Sitting in Anna Maria’s kitchen, we were talking about how hard it is for women in prison to handle feelings over having “failed” at being mothers, especially when their children are not doing well and are having problems. We talked about how women feel responsible for the pain in their children’s lives and the guilt and shame involved. Sometimes it drives imprisoned women to the brink of suicide. Anna Maria told me that when the court terminates an inmate mother’s parental rights, the prison routinely placed them on suicide watch. She continued to talk about that “voice in your head” that kept telling her how she had done everything wrong and failed at being a mother. Then, again, she reflected, her own children had been affected in different ways by their mother’s problems before and after prison. So, I asked her, when children do have problems, why do women feel that they alone are to blame? Reflecting, Anna Maria told me, “it must be something from the culture.”

How do women acquire and develop their ideas about their lives as women and mothers? In her book Engendering Motherhood, McMahon (1995) writes about the experience of motherhood and the role it plays in the development of identity. But I was interested in how women who had been in prison think about this process, or at least the context within which their ideas about motherhood developed. Human memory, as highly elastic and productive as it is, presents a problem in exploring identity formation because we always see the past through the present. But I wanted to be able to say something about how women as girls perceived their futures. And, I also felt that whatever answers were made would be meaningful glimpses into women’s self-
conceptions. Taking issues of memory into consideration, I asked women to think back to
when they were young—"small kid time"—as it is commonly referred to in Hawai‘i.

I began with a general question about their girlhood recollections of options and
aspirations they might have had for adult lives. I asked about whether they had always
planned on having children and what things they thought they might do for work or a
career. I was not surprised to learn that in all except three cases, women did not recall
having any dreams or even thinking about careers in adult life. Of the three women who
recalled something, one knew she would go to college and hoped to be a social worker.
The other two mentioned conventional working-class occupations: flight attendant and
hairdresser. However, it was interesting that roughly the same small number had any
concrete ideas about their lives in the future as mothers.

Gayle is one of the atypical cases who had plans for the future as a little girl.
From a local Portuguese family, she had been a well-behaved girl, living in a working
class neighborhood in urban Honolulu. It was her aspiration to become a flight attendant
but as she told me: "I got a little wild in the 10th grade," and problems at home led her to
move in with a girlfriend’s family. She told me that her father was an alcoholic and she
got beat up a lot at home. She had not been too sure about the family and children part of
her life although she recalls not wanting to get pregnant in high school. In fact, she
delayed having her children until she was in her early twenties. Her problems with drugs
began after her children came along.

Terri, now an energetic woman in her early forties told me that as an adolescent,
she had never thought about a future career and had only vague ideas of what family life
might be in the future. "I never thought about it really." She assumed that she would
marry and have kids after she left home where she was unhappy because she was not
getting enough love. She got involved in relationships that were abusive, saying that
these affairs were really substitutes for the love she wanted.

Women recognized to some extent that their childhood experience belonged to a
different time, when there was a taken-for-granted quality about what working-class girls
would do when they grew up. They seemed to be talking about the absence of aspiration
rather than the presence of motherhood as a life undertaking. Betty, another woman who
had few notions as a child about what her future might be like, talked about launching her
daughter into some sort of career, noting that “today, teens have to know what they want
to do at a young age.” As for herself, she feels that motherhood provides a sense of
identity and that her deep feelings about it flow from “some instinct,” as she puts it.

Women built notions of what motherhood and being female are all about not just
from their own mothers but also from other adult women in their lives. I asked women to
reflect on a person who represented what an ideal mother was like, preferably someone
from their childhood. For Anna Maria, as for 15 of the 20 women I asked, this mother
figure was not her own mother. In her case, this figure was an older sister who assisted in
the care of the eight other children in the family. “There was nine of us and both my
parents had to work.” The “othermothering” (Collins 1994) that began for her during her
childhood continued even after she was incarcerated and needed help. “She’s [this older
sister] the one who took care of my little boy while I was locked up.” When asked what
made this sister a good mother, Anna Maria replied, “She’s just very patient and
understanding and caring, just a very loving person.” The othermother figure is often
described this way, as an older woman who is nurturing, who listens, and provides
comfort in these highly-stressed family situations. But in these working-class families, she may also be a worker, too. Gayle’s grandmother, who provided the othermothering function in her family, worked hard as a domestic during Gayle’s early years.

The mother figure also tends to embody moral qualities, pointing the way to proper female behavior. Elaine’s grandmother, a pious Samoan woman, had very high moral standards—which Elaine linked to being what a good mother is about. “She taught me everything she knew that was good . . . about everything.” These older women represent stability and caring in what are often chaotic families that have few other resources.

Othermothers also provide the tangible things that working class families need like childcare so that both parents or single parents can work. Like the minority families Stack and Burton (1994) write about, these expanded networks of kin help poor women manage work and family. In the worlds of parenting women who get into trouble with the law, she is a figure that is often missing. As I discuss later, the othermother’s absence from the lives of women in my study is a real detriment to these families.

Violet was the one woman in my sample who came from a middle-class background. She was the one “white collar criminal” in the group, having been convicted of numerous counts of fraud. The daughter of a respectable family of Asian ancestry, she now feels that materialistic values and the pressure to get ahead fostered in this cultural background led to her criminality. She did not imagine herself as a mother when she was growing up, although she recalls wanting a job where she could “help people.” Instead, she felt pressured into entering a business career. Her daughter was born when Violet was nearly 30, married, and had a good career. Her mother figure was what she wished her
own mother had been but was not. Her ideal mother would be someone accepting and compassionate, someone who would listen, in contrast to her mother who was judgmental and critical.

Working class girls like Kepuhi received far less guidance in their lives than their middle-class sisters. Unlike many of the other women I interviewed, and certainly in contrast to the sample of 240 as a whole, she liked school and did well there. But Kepuhi’s school experience was not fostered in the way that Violet’s was. She describes having a positive attitude toward school but had no concrete idea about what might come after:

Yeah, I liked school. My senior year, my friends only had two classes and I had six. Because I knew, I told myself, I'm not going to learn anymore once I leave high school. Unless you go to college.

Some women discover aspirations somewhat later, but without some kind of support and encouragement, they have difficulty staying the course. School can be a source of positive identity for some, but women like Kepuhi are sometimes still ambivalent about being “good students.” Kepuhi did go to college, admitting she did not “know the ropes.” She continued,

At that time, I was so dumb, I didn’t know I could apply for financial aid or whatever. I was paying it on my own, I was working part time. I went to Kapiolani [Community College] when it was over here on Pensacola. I was going to college and I finished the first year. I thought I was “all that,” ‘cause at that time I was in college.

College proved too demanding and after one year, Kepuhi, then 19, went to work. An unexpected pregnancy almost immediately ended that job, which she described as a good one at a bank. As the previous chapter pointed out, school separation during high school is common in this population (especially for Native Hawaiian women) as is lack of work.
experience. Women in this study who went on to higher education are the exception. Motherhood is something that seemed to “happen” to them during the transition to adulthood, arising from an unexpected pregnancy. Few women framed their first pregnancies as choices. But once it happens, it changes everything.

The thoughts women expressed about motherhood as a future role also appeared vague and ambivalent. Women recalled thinking very little about motherhood while they were growing up, just as they had few ideas about what a future might be like in terms of work. Their own family lives were often problematic due to violence, abuse, and addiction. Yet, with the exception of a Lesbian who described herself as a “tomboy,” none recalled ever rejecting the idea of family life entirely. (Despite this woman’s commitment to loving other women, she gave birth to a son in her 20s.)

But out of this lack of strong commitment to motherhood at an earlier age, these women with children all have strong ideas about motherhood today and what it means to them. Motherhood is not as much about the inculcation of ideology as a process of identity transformation. Women bring cultural elements and experiences of motherhood and what it should be into adulthood. They recall figures from their past, often not their own mothers, who represented personal and culturally validated ideas of what mothers should be like. But it takes experience to translate these elements into being a mother.

Motherhood is more than a social role and involves much more than socialization. Women grow into their motherhood. Women forge motherhood from their personal experiences or life events. These identities vary by the racial, class, and cultural contexts within which women operate, as well as from individual biographies. Although society reveres a rather specific, universal and essential view of motherhood, we should probably
talk about “motherhoods,” as the key to various forms of subjectivity that arise from experience. McMahon (1995) examines motherhood among groups of working- and middle-class women as a negotiated identity, a social process that constructs a gendered social self over time and is situated in specific social locations shaped by race and class. Indeed, experiences of motherhood are ideologically linked to a woman’s location in the social structure. Motherhood has been described as a cultural moment in which the self may be transformed and identity irreversibly altered (Davis-Floyd 1992). Both groups of women McMahon studied describe going through a moral transformation in the course of becoming a mother, but differed in the accounts they provided about the nature of this transformation. Middle-class women emphasized the psychological elements of the changed selves they accomplished through having children. Working-class women also described motherhood as a moral threshold, although one that signifies limitation as much as possibility in an adult world. They reported becoming adults as a result of having children and being forced to grow up. As for middle-class women, McMahon says they report seeing motherhood as another in a range of achievements. The question for them is not one of growing up but in timing motherhood to accommodate other achievements. By contrast, working-class women are apt to view motherhood as the central experience of female adulthood, one that is to be sought while one is young. Other authors (see Luker 1984 for example) have examined how the meanings of motherhood are conditioned by social status. But until recently little consideration has been given to studies of poor women with the range of problems that criminalized mothers have.
The picture is rendered more complicated when motherhood occurs in a context of poverty, drug addiction, and violence. If one believes that motherhood is socially constructed, one might expect that women who depart from conventional images of female and maternal rectitude would be unconventional about motherhood too. The interesting thing is that, despite their many problems, these women all retain a powerful commitment to their identities as mothers. Their anguish arises from the disparity between the way they have lived their lives and what they had expected of themselves as mothers. At some point in the past, well before their incarcerations, these women lost control over the context and conditions associated with conventional motherhood ideology.

Motherhood on the Margins

In Chapter 4, I discussed the class backgrounds of the women in this population. Unskilled, with little education and not much in the way of social capital, their prospects to rise above their lower and working class backgrounds were poor. For many, early childbearing interrupted educational and career plans. Based on the interviews I conducted, these women tended to begin their families under less than desirable circumstances—at least in middle-class terms. I was interested in learning about how they managed motherhood given these conditions. During our conversations, three important themes arose that seemed important in shaping how women negotiated motherhood. Social isolation, violence, and addiction were features of women’s lives before and during the time they were parenting. These themes were apparent from the

1 Chodorow’s (1978) arguments in favor of a universalist motherhood ideology were derived mainly from the biological aspects of reproduction.
case files of the 240 women on parole, explicitly in terms of addiction. And, implicitly, illegal activities represent an intermediate barrier to being engaged fully in society and drawing on social resources. These factors overlapped with one another, creating a tricky landscape for women to navigate. Their missteps in this environment of rapidly diminishing choices often were the factors that led them to prison.

First, I found that social isolation was typical and women had few resources to turn to for help. When I say that these women tended to have lost control over the context of motherhood, it should be understood that this is a process that began before children came along. Disconnection from mainstream institutions like education is common. Using drugs and engaging in illegal activities heightens this disconnection. Even if a woman is not using drugs herself, her association with a drug-using partner may also isolate her from others, including family members who do not approve of what she is doing. Of course, her family of origin itself might be socially isolated and cut off from mainstream institutions. Alienated from a range of resources by poverty or unconventional lifestyles, the entire family may be on its own. I spoke with several women whose immediate families appeared to be left to their own marginal devices. These were the families within which violence and abuse were occurring regularly. Nancy joined one such family at an early age, marrying into it at 16. She felt she grew up with them. She told me, “the way that him and his family raised me, I thought that’s what life was, criminal activities. I just thought everybody does it. And then, that’s all I could see after. I felt like that’s where I belonged, actually.”

Isolation continued when women began their own family situations, on their own or living with a partner or spouse. For 18 of the 20 women I spoke with, the families
they started were living precariously. And to a great extent, even the married ones were
carrying almost the entire responsibility for the welfare of the children. Noting that the
extended families so common here in Hawai‘i often assist young couples with new
babies, I asked women whether anyone helped them when their children were small.
Paroled for roughly a year at the time of our interview, Malia was living with her two
teenaged children. An older, married son lives with his family. She told me that she
raised her children alone in public housing. Her husband would help with the kids from
time to time, but he worked a lot and he was also involved with drugs, so she could not
depend on help from him. Born in American Samoa, Vailima worked and took care of
her family until she herself got married. At first, married life was easier but then hard
times came and she had trouble taking care of her children. She says her husband did not
really care. She stayed in Samoa until her mother died. She told me that she decided she
no longer needed her husband since he was no help with her children. She left Samoa
and came here to Hawai‘i to be with her sister. She got a job and saved enough money to
bring her children here. She had to struggle. Her help came from the state in the form of
welfare and public housing. But they were still in dire straights. Her woman friend
offered to help her out by offering to set her up selling drugs, which eventually landed
Vailima in prison.

Violence and abuse, a second reality that characterizes these mothers’ lives, has
its onset during childhood and tends to follow these women into their adult lives. Tactics
of fear and intimidation are normative in these settings, combined with actual violence.
This contributes to the complex of trauma syndromes that affect abused women.
Sometimes the physical discipline used by their caregivers crossed the line into abuse and
at other times the abuse is intentionally aimed at terrorizing and injuring the girl or woman. Alicia told me that she got "lickin's" at home from the uncle who raised her after her mother’s death. She feared him because he was so strict and she thought he was abusive at times. Alicia got involved with a violent boyfriend and the trauma continued. From time to time, she needed medical attention. This continued throughout the relationship. “I never got a TRO,” (Temporary Restraining Order) because, she explained, “at the time, you don’t want him to go, right? It’s like, how am I going to take care of my family?” These kinds of painful dilemmas become the normative framework that governs daily living.

I describe in various sections of this dissertation the extreme levels of violence that shape women’s lives. It affects their children’s lives as well and, therefore, the activities associated with motherhood. Violence attenuates women’s autonomy in little and large ways. It is one of the things that interfere with their being able to care for their children effectively. Choices get very confusing when the need for safety has to be calculated against the possible cost of homelessness. Women in violent relationships all suffer from social isolation to some extent; the isolation is imposed as part of the strategy because it heightens the perpetrator’s control.

Addiction to drugs and alcohol are nearly ubiquitous in the lives of the vast majority of incarcerated women, as Chapter 4 pointed out. The group of women I spoke with (except for the one described as a white collar criminal) all had experiences of trying to manage motherhood while involved with drugs or alcohol. Sometimes, as in Donna’s case, the loss of control over reproduction comes as a result of drug use and all the chaos
that goes along with it. Donna had been using drugs from an early age and when her son came along, it was another in a series of unplanned crises.

In talking about the choices drug-addicted women make, Kepuhi told me that mothers who love their children “don’t really go to prison, they put their children first.” But, acknowledging how life happens, she says, “sometimes things come up and this changes.” Like other women who have children and have a few social resources left, she placed her children with her father when she was using drugs. So, while she admitted she was putting these other things first, she still felt that her children were well taken care of. But women who have no one else to take their children sometimes take them to live with them on the street. Donna had her young son living with her in her car. Ella took her two children with her to the streets of Honolulu, where they lived “hand to mouth” for several months in and out of the homeless shelter. Their motivation to keep their children with them was reinforced by the knowledge that the other likely alternative was their removal by the state. (Donna, in fact, had her son temporarily removed because they were living in her car.) Even when desired, help with a drug problem can be hard to find. At the time, there was only one substance abuse treatment center in Hawai‘i, where women could enter treatment and keep their child with them.

*Troubled Motherhood and Choice as Chimera*

When these overlapping issues of isolation, violence, and addiction also take place in an environment of spotty economic resources, the questions of autonomy and choice become more than complex. Possible alternatives become dilemmas as women have to choose from rapidly deteriorating sets of options. I talked to women who
attempted to care for their children and be mothers within cycles of violence and addiction. Some shifted their care-giving responsibilities to others, when these others were available. Some took their children to live on the streets with them when they were forced out of their homes. What does the concept of choice or social action mean for subjects whose alternatives have all become so bad as to be indistinguishable? This language of choice through which inmates are supposed to be empowered (presented in a setting where women are even more powerless) is only another in a series of continuing ironies.

Systems of regulation and discipline stand out most vividly when normalizing routines and practices are threatened by nonconformance. The "maternally unorthodox" woman, McMahon argues, "provides the shadow images that shape the dominant meanings of motherhood and thus how motherhood is experienced in practice" (1995, p. 264). The most salient illustrations of the maternally unorthodox are found in the recent discourses about "babies having babies," the "unwed mother," "crack babies," the "welfare queen," and the "female offender." These types are constructed in opposition to the dominant ideologies of motherhood specifically and womanhood more generally. These unconventional types of women accept the compulsory aspect of childbearing for their gender, but they fail to exhibit the constellation of traits and behaviors that being a "good" mother in Western industrial society requires. They may be judged as selfish and motivated by personal desires for pleasure as opposed to being responsible, rational, and self-sacrificing. Their marital arrangements may be chaotic or non-existent or even non-heterosexual rather than ordered by the conventional two-parent nuclear family structure. Their living arrangements may be considered antithetical to raising children. Indeed,
they may be separated from their children through incarceration. They may have given birth to children during their teens rather than waiting for a more secure stage of life. Failing to achieve some financial stability, they may have engaged in childrearing anyway, ending up on welfare.

All of these behaviors are viewed as violating in some way the tenets of good motherhood and are marked, either formally or informally, as dubious and subject to sanction. The focus, however, always tends to be on the mother herself and her choices, with little consideration being given to the structural contexts within which these women have to operate. The law, as Patricia Hill Collins argues, tends to decontextualize motherhood (1994, p. 45). In the following section on parole hearings, I examine the structure of these performances and illustrate the ways in which control is extended over women via the issue of motherhood.

_Mothers as Penal Subjects_

By the time women offenders have achieved parole, they have undergone a series of processes within the criminal processing system related to their criminal conviction. Parole is the terminus for a very long series of such interactions. Parolees have already encountered law enforcement investigation, arrest, meetings with attorneys, booking, arraignment, detention, trial or adjudication, and, perhaps, probation. Their eventual incarceration brings women into another series of processes including various sorts of classification, minimum-setting hearings, assessments for programming, evaluations, security actions (including disciplinary or misconduct actions with the usual reports), reclassification, interviews by social workers and parole officers, hearings by the parole
board, and the formulation of conditions for parole. In addition, they are also subject to
the daily disciplines of custody itself and interactions with staff on work sites, in classes,
and in the cellblock. Once on parole, the former inmate is routinely subject to
surveillance by drug testing and parole officer inquiries, curfew checks, counseling, and,
perhaps, more programming.

All of the programming, court-ordered counseling, probation requirements,
programs and treatment in prison and after release have their modes of information
gathering and knowledge production. All produce voluminous case file records, but
something else is being produced as well: a penal subject upon whom the law exercises
power. It is a process of signification, communicating both directly and indirectly not
only what one should do but what kind of person one should be. For parenting women,
this process communicates what kind of mother she is and, very often, judging her
against the type of mother she should be without consideration of the circumstances that
remain out of her control.

Based on my observations of this process, there are three crucial ways in which
these everyday interactions with the law exercise this signifying power. The first and
most obvious is the surveillance and knowledge gathering process. This produces
information about areas of the individual’s life and interprets these data within the
framework of medical, criminological, and psychological knowledges and discourses.
But various sorts of common knowledge or emic categories are at work as well. There
are the parolees, for instance, who are referred to as ‘low functioning,’ by parole officers.
Not much is expected, either in the way of misbehavior or conformance, from them.
They are not judged harshly but are met by system workers with an air of resignation.
These sorts of working folk categories in practice overlap with more official classification systems. And it is in these ambiguous spaces that the moral judgments about women as mothers may be given full expression. The inquisitional and knowledge producing process also conveys the areas of subjectivity that are important and those which are not so crucial and can be ignored. But the greater the programmatic intervention into offender’s lives, the more areas of experience are subject to investigation and interpretation. This provides an enormous potential for the production of subjectivity as certain areas of life are marked off as important and others not so critical. Motherhood occupies a master status in this process.

Second, agents within the criminal processing system, as a result of this process of knowledge production, order programming or intervene along the lines indicated by inmates’ deficits as determined by medical or psychological knowledge. Sometimes this is done based on an actuarial management of risk model; sometimes it is still done less systematically. In practice, much depends on available resources. The type of programming ordered, parenting classes for example, conveys information to the offender about the nature of her deficits. While inmates have some control over the programming they experience, the question of autonomy and choice in prison are highly complex. Even when programming is not ordered as a condition for eventual release, there are all kinds of pressures on women to engage in certain types of activities and classes. For the most part, the degree of agency a woman can exercise in prison and on supervision is highly conditional, despite the continual emphasis on choice.

Finally, within every interaction, there is a less formal or less official message that is delivered to the subject. The potential for these messages to be given to women
offenders is immense given the sheer volume of contacts with individuals like social workers, agents of control, administrators, counselors, and staff. All of these interactions represent points at which normalizing messages can be given. These messages may be given in the context of formal operations or informal discussions. This constant process of knowledge production and the simultaneous communication of norms represents a very powerful mode of subjectification. This process combines with the more straightforwardly normalizing messages provided by actual programs like substance abuse treatment ("don’t use drugs"), parenting classes ("talk to your children, don’t hit them"), and cognitive skills training ("think of the consequences of your behavior"). This might be thought of as a general level of exposure to a normalizing process that is related to what Ewald calls ‘social law’ (quoted in Rose and Valverde 1998, p. 544). My observations at parole board hearings, conversations with parole officers, and interviews with the women parolees themselves shed light on these processes.

Parole Board Hearings: The Language of Choice and Responsibility

For purposes of this study, I attended two types of parole hearings: hearings for parole release approval and parole revocation hearings. Parole hearings to determine the candidate’s suitability for parole and parole revocation hearings occur monthly at the Women’s Community Correctional Center on O‘ahu. As many as 20 women may come before the board on hearing day. The three-person board, which includes the chairman of the Hawai‘i Paroling Authority, conducts both types of hearings. ² To determine whether an inmate is ready for release, the Board reviews the inmate’s case files which contain an

² The Hawai‘i Paroling Authority conducts a third type of hearing, the purpose of which is to set minimum prison sentences. These hearings are not analyzed here.
exceedingly wide range of information about the inmate’s history, both criminal and social. They review her parole plan, records from programming, work, treatment, her disciplinary reports, and any other documentation present in the files. Sometimes there are letters of support and commitments to house or employ the parolee. One inmate even presented the Board with some artwork she had done in prison. The timbre of these hearings ranges from supportive and congratulatory to condemnatory and harsh. The three-member panel occupies the seats at the head of an arrangement of three long tables, with the parole candidate seated, consequently, at some distance from her inquisitors. Social workers from the prison sit in chairs lining the walls of the rather long room and a secretary tapes the proceedings and takes notes from a distant corner. Parole officers, present for revocation cases, sit in chairs along the opposite wall from the social workers.

Any of the board members may press questions upon the inmate. The subject matter is free flowing and apparently unrestricted. The majority of candidates for parole tend to waive legal counsel at these meetings. When they have an attorney, he or she is usually from the public defender’s office. Even when counsel is present, the attorney tends to act more as a facilitator before the Board rather than legal adversary in the proceedings.

Very few have private attorneys. Women who are participants in a community furlough program are often accompanied by the program’s caseworkers who generally testify about the candidate’s good progress. Should the inmate be part of the in-prison furlough program or therapeutic community, a caseworker from one of those programs is often present as a sort of advocate.
As might be expected, revocation hearings are far more legalistic in tone and content. *Morrisey v. Brewer* (1972) required that parolees facing the revocation of parole be given all the elements of due process, including legal representation. These hearings are conducted by the same three-person board of the Hawai‘i Paroling Authority. The procedures are far more scripted and formal, with parole officers testifying about the case and documents that are entered into evidence. The parole officer and the officer’s supervisor submit a formal report to the Board as to why revocation of parole is being proposed. The report briefly outlines the commitment offense and provides a history of the inmate’s parole. The majority of the revocation hearings are related to technical violations of parole, violations that are largely drug-related. The grounds of the argument for revocation are often made on the basis of the parolee’s unwillingness to change, despite being given every chance. The defendant parolee is given the opportunity to plead guilty or not guilty, or guilty with an explanation. The parolee may have a new charge but, due to reasons of discovery associated with the upcoming offense adjudication, its details are set aside, although the arrest on the new charge is noted in the record. By the time a parole officer has recommended revocation, he or she can generally show that every opportunity to help the individual has been taken. If the case is made by parole officers, social workers, or an attorney to retain the individual in the community, by entering a residential treatment program for example, a successful argument must be made as to how the intervention is likely to make a difference in the subject’s overall rehabilitation (as in Simon 1993, p. 122).

The hearings use the rhetoric of rehabilitation as a point of departure for dealing with both the candidate parolee and the parolee who faces revocation. Women face the
Board, seeking freedom through strategies that rely on tropes of change and transformation. Typical is the statement by the following parole candidate to the Board:

Now I have direction and focus. I am completely different. Before I was irresponsible, lost, and self-sabotaging. Prison gave me the chance to give up my painful past. I know I have choices. You [the parole board] saved me.

The Board uses these tropes in response, either in lauding the inmate for her success or in harsh and condemnatory terms when she fails to live up to expectations (or if they suspect that she will not). The tropes most commonly uttered in this setting are choice, responsibility, and change. Women appearing before the board requesting parole nearly always represent themselves as now knowing how to make the correct choices. They seldom make exculpatory claims based on the victimization they have undergone. They tend to avoid claims for consideration based on their generally disadvantaged backgrounds, even though this is the real experience for most. In her ethnography of a parole office in California, Mona Lynch (2000) also found that parole officers used the language of choice and responsibility to criticize parolees who attempted to offer a “situational explanation” for their troubles (p. 53). Parolees explain their crimes and misbehavior as “bad choices.” This is sometimes not a good strategy because it permits the Board to respond by offering alternative moral explanations. This is especially true when women ground claims for parole in motherhood, a strategy that often works out badly when the woman has made “bad choices.” When women do speak of their victimization or sufferings, they are at the same time careful to avoid blaming others, taking responsibility for their crimes and bad behavior. They try to make a case for themselves as responsible individuals who have learned from their mistakes. Many make
claims using the language of transformation, often noting specific experiences in the prison setting that have precipitated this new self.

This script is so normative that when individuals depart from it, the contrast is very evident. Women occasionally resist the language of responsibility and change or fail to make a convincing case for themselves through a lack of what might be called “hearing capital.” Sometimes the Board is skeptical of a woman’s claims and challenges her during the hearing. Once this happens, that is, once the ground rules are resisted or challenged, the rhetoric changes rapidly to that of moral condemnation and character flaws, not faulty rationality as the language of cognitive skills would suggest.

The resistant inmate or the unconvincingly repentant inmate is not the only case where the rehabilitation script falters. A subject who cannot engage effectively in the script or represent herself in ways that conform to her role as supplicant presents another type of challenge. Women inmates with serious mental illnesses appear before the Board and while some are able to engage the process in a meaningful way, others are not. The Board members, who are obliged to deal with all persons who come before it, are obviously uncomfortable with having to conduct these hearings under these circumstances. After one such woman left her hearing (having performed in a vague and hazy manner), the Board members shook their heads, one stating that the woman seemed over-medicated. In these cases, the Board shows the inmate a good deal of sensitivity and kindness. The Board manages to enforce the form of the hearing, but it is

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3 “Hearing capital” is the capacity to use the tropes of the hearing to one’s own advantage in the context of the situation. Some women, for a variety of reasons, just lack an understanding of the hearing as an essentially adversarial legal process. Some are not prepared, either by other inmates, counselors, or attorneys for what is expected of them. Sadly, some women suffer from cognitive impairments, mental illnesses, or are over-medicated which prevents them from being able to deal with the situation realistically.
substantively meaningless. The mentally ill offender, now a common presence in penal
forums, presents a challenge to a system that purports to be rational and focused on
producing autonomous, choice-making subjects. The inmate with serious mental illness
threatens the contemporary objectives of penality, illustrating the weaknesses of
rehabilitation practices that purport to produce a responsible, autonomous, rational self.

The tenor of the parole hearings arises from the claims the board makes to be a
community gatekeeper. That is, their mission is to scrutinize the would-be parolee for the
level of risk her freedom places on the community. The female inmate is not generally
identified as a violent threat to the community (although a few of the hearings I attended
mentioned previous violence on the part of the candidate for parole). She may represent
a more general threat, for example, if she resumes her drug-using career. This might lead
to her selling drugs, stealing, or prostituting. The parole candidate may even be assessed
as a threat to her children and family by causing them pain and anguish. In the service of
this mission of protecting the community, there are no aspects of the parolee’s life that
are out of bounds for exploration. Privacy is a right that was relinquished to the criminal
processing system at the very beginning. The offender is objectified through the
surrender of her private boundaries. The Board sifts through the raw material of the
inmate’s life in the process of determining her release.

The entrée for this discussion is the inmate’s prospects for residence and
employment. Housing and jobs are vetted by the parole officer and reported to the board.
If these are not satisfactory for any reason, the chance at parole might be forfeited until

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4 This individual is most often met by denial, abuse, over-treatment, or, in many cases, no effective
treatment at all. She not only poses a challenge to the rationalistic practices of the bureaucracy, but a moral
and ethical one as well. We are far from coming to grips with any of the challenges posed by her presence
in the penal system.
the inmate has adequate housing and a job. The conversation then frequently turns to the

 caliber of the parolee's relationships with people on the outside, especially if any flaws
 have been found in the residence or employment plan. Members of the parole staff and
 board have detailed dossiers on the people who form the social network of the parole
candidate. They know, for example, about the boyfriend on parole; the female romantic
 partner who lives in an unacceptable part of town; the ex-husband who is a drug dealer;
 the father who has been in prison in the past. All of these relationships are discussed and
 the board often identifies problems with these individuals. Hawai'i parole rules prohibit
 affiliation with other parolees or felons; when these individuals are spouses or family
 members (as is frequently the case), the situation is complicated. Women are cautioned to
 stay away from their former partners who are incarcerated or on parole. They may be
 prohibited from living in households where known drug addicts live, even if these people
 are their siblings and their only sources of social support.

 Women's relationships are important to the Board and these relationships are seen
 as vulnerable points in the woman's life, risk factors that threaten success on parole. A
 board member told me during a conversation that paroled women were particularly
 vulnerable to predatory males, that men actually target them, and that women become
 pregnant as a result of these relationships and get into other sorts of trouble as well. A
 board member asked about a parole candidate's husband who was involved with her in
 some of her crimes. "Hold onto your life," she told the parolee, "you're in charge of it."

 Same sex relationships may present problems, too. The board never makes
 generic statements about the nature of same-sex relationships, though the fact that these
 relationships often (although not always) are initiated within the prison brings the non-
affiliation rule into play. In these cases, the Board cautions the parole candidate to stay away from her romantic interest. Occasionally, arguments are made by the parolee counselors on behalf of women continuing friendships with women they have bonded with in prison. For example, former residents of the prison therapeutic community may want to associate with one another on the outside since their friendships may be a source of positive support. Board members and parole officers are often skeptical about these claims and most prefer that their parolees associate with non-felons.

Relationships with children are common themes in board hearings—although this is mostly very tricky ground for the parolee. Children and relationships between the women and the children's fathers are discussed extensively. Parole candidates are questioned about their plans for reunification with their children. The board already knows where the children have been placed during the mother's absence and sometimes parole board members know details about the problems children have been having. The board may bring up past problems with the children, especially if the child has been in contact with the law. One parole candidate, who had been in prison for a decade, was being released to live with her sister. When a board member makes note of the fact that all three of her children are in the system (incarcerated), the woman admitted that this is how her behavior had affected them. The Board did not disagree.

Parole candidates are admonished to focus on their families, especially their children, when they leave prison. They are often asked about the children's fathers. When these fathers are in prison, the women are often quick to repudiate the relationship,

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5 The standard terms and conditions of parole in Hawai'i state: “You shall not, without prior approval of your parole officer, associate or be in the company of any person convicted of a criminal act, including anyone under the active supervision of the Hawaii Paroling Authority” (The Parole Handbook 1991, p. 19).
saying that they and their children want no contact with him. Board members sometimes
cautions the women to stay away from these criminal men. “Watch who you love,” they are
told.

The belief that relationships with children and their fathers are risky areas for
women leaving prison gains legitimation through the narratives of parole failure
presented to the board by returning parolees. As Chapter 6 will discuss, most women
return to prison not for new offenses, but for technical violations of parole. Their stories
of failure on parole also depend on the trope of choices—bad ones in these cases—and
often are grounded in relationships gone wrong or the woman having too many
overwhelming responsibilities. The complexities of their lives on parole find expression
in their descriptions of trouble adjusting to conventional life. They encounter not success
but a cycle of losses as one hard-earned resource or tenuous relationship after another
slips away or has to be abandoned. As one woman testified at her revocation hearing, she
had a tough transition with working and caring for her children after leaving prison. She
finally quit her job and left her children in the care of her family. An administrative
hassle with welfare and child support escalated and she lost one of her children to child
protective services. Then she and the other children joined her boyfriend in a rural area
of O‘ahu, where they lived in a shack they built themselves. Speaking on her behalf, the
public defender representing the woman at the hearing said, “her main priority was to be
a mother but she failed. There was too much going on.” Indeed, by the time of the
hearing, all of her children were under the supervision of the Department of Human
Services in foster care. Her parole was revoked for the balance of her sentence.

185
Women make claims to the parole board for special consideration based on their children's welfare and their own identities as mothers. These claims are seldom given much credence by the Board. An inmate and her attorney appeared before the board for a hearing to set a minimum term in prison, cases usually set aside for a separate day. The attorney requested that the woman be permitted to enter a substance abuse treatment program with her son rather than remain in prison. (This treatment program is the only one in Hawai‘i that accepts women with a child.) The woman hoped that she might reunite with her two-year-old son through the treatment program. The State’s child protective services were threatening to terminate her parental rights and would certainly do so if the woman were incarcerated. Her son had been in foster care for some time already and the deadline to reunite with the child was fast approaching. The strategy to reunite at the treatment center was her only hope to avoid the legal termination of her parental rights. The parole board denied the request, saying that the woman would have to be incarcerated for a minimum term. The woman was told that she had ample opportunities in the past to “clean up her act” and that she was not a “fit mother.” “You blew motherhood long before this hearing,” the woman was told. Weeping, the inmate told the board that she was taking cognitive skills classes and that she would do “whatever it takes.” Nevertheless, the board denied her request for an early release.6

Both the parole board and the women who appear before it use the language of individual choice and responsibility. Women attempt to portray themselves as prudent actors who make good choices and who are responsible citizens and mothers. The tropes of morality are subordinated to this language of rational choices, although issues of right

6 Research suggests that women perceived as “bad mothers” may actually be treated more harshly in legal forums (Snyder-Joy and Carlo 1998).
and wrong often come to the fore when motherhood and other relationships are at stake. The board recognizes that women love, but that women love too much sometimes. This trait of women is the basis for cautions to be careful whom they love—to make rational choices. Women become caught in this disjuncture between the conventional gendered imperatives to be nurturing and loving—but being calculating and prudent at the same time. These conflicts bring to mind Luker’s (1996) discussion of teenage mothers and the competing contemporary values of “rationality and morality, of family and the marketplace, of rights and obligations” and the cultural conflicts caused by the troubled motherhood of teenaged girls:

Teenage mothers and their babies reflect and illuminate these cultural and social wars because they pose so pointedly the contradictions inherent in our ways of thinking about them. To the extent that we view young mothers as young women, we want them to be sensitive to the needs of others, altruistic, committed to relationships and to nurturing the next generation. Yet to the extent that we see them as poor women, we want them to be careful, forward-thinking, attuned to the market, and prepared to invest in themselves, not in others. We want them to be both more and less selfish, in a society that is constantly redefining what ‘selfish’ means. And because they are women, their lapses from ‘good’ behavior are seen as enormously threatening (p. 6).

These reproductive and intimate concerns are dramatically heightened in the lives of incarcerated women. At the very least, women’s claims to be good mothers, despite their criminal offenses, are suspect. At worst, there is the belief that motherhood and criminality are not compatible at all.7 The parole board and parole administration seem to have settled the conflict between women’s reproductive work and their role in the marketplace. Employment is still viewed as the major ordering and disciplinary force for both

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7 Courts have consistently ruled that incarceration itself is not grounds for the termination of parental rights; parental fitness has to be judged by the totality of the parent-child situation (See Baunach 1988). After the passage of the Adoption and Safe Families Act in 1996, however, the time constraints placed on family reunification have made termination in cases of parental incarceration substantially more likely.
male and female parolees. Women parolees are expected to work. However, under limited conditions, mothers of young children may stay home to care for them—if they have financial support from family or can qualify for what are, in the era of welfare reform, extremely low-level, restricted benefits.

*Paternalism and Subjectivity in Parole Discourse*

The description of the wide-ranging surveillance of women's lives earlier in this section and the proliferation of instruction given by the parole board and parole officers makes for a powerful form of paternalistic control in the name of rehabilitation. There is probably no area of life that the woman inmate can reasonably claim as her own and even her interior psychological life and most intimate relationships are targets of assessment and evaluation. In its search of these disparate areas of women's lives, the paroling process attempts to identify risky residences and relationships. Women, whose emotional natures make them vulnerable to exploitation, are told to be careful about their intimate lives. ("Watch who you love.") And, although women parolees are expected to be workers, their work lives are seldom examined for relevant pitfalls. Apparently, the threat of pregnancy in the context of a codependent relationship is riskier to the community than the problems that plague employees at work: dangerous working conditions; dead-end jobs; sexual harassment; and unequal pay. Women's relational lives are far more scrutinized for problems than their work lives.

Penal practice, as conducted in Hawai'i, has adopted the idea that unremunerated reproductive labor is less satisfactory than paid employment in a regular job, assumptions that reflect those of contemporary welfare policy. The discipline provided by
participation in the workforce has long been seen as a central means of normalizing the offender (Simon 1993). This principle, of course, flowed from the way punishment has been organized around the needs of male criminals and assumptions about masculinity. Contemporary penality in Hawai‘i has adopted these disciplinary practices in dealing with women offenders, who often have childrearing duties. Being conducted, as it is in the private, domestic sphere, this reproductive labor resists the scrutiny of the parole officer. There are no payroll slips to turn in, no employer to call for a status report, and few standards of accountability. Reproductive labor resists strategies of responsibilization in ways that regular paid employment does not. Having women participate in the workforce permits penal authorities to remove the barriers between public and private life for women. The formerly private domain of family life, already assaulted by the probing of social workers and penal staff, is eroded while at the same time, the female inmate’s work life takes up more and more of the social space in her life. The carceral family, like the other members of the poorer classes who receive welfare, has no significant rights to privacy. Privacy in modern life is reserved, albeit less securely these days, to the middle and upper classes.

What subjectivities are reproduced through these processes and interactions and how do these practices square with the realities of women’s lives? The first is that women are emotionally vulnerable, subject to victimization by criminal men. The reality is that many of these women are associated with men who are or have been in prison. Indeed, in these poor, local communities ravaged by drugs and crime, prospects are poor for finding law-abiding men who are adequate providers for families. Unemployment rates in these communities are extremely high and the heightened law enforcement
scrutiny means more men are incarcerated or otherwise under legal supervision. The parole board views women as emotionally dependent, codependent in contemporary jargon sometimes used by counselors, prison officials, and parole staff. Yet, the reorganization of family life in Hawai‘i with the proliferation of female-headed households has outpaced changes in the nature of intimate relationships between men and women.

Conventional ideas of what it means to be masculine or feminine and the economic and emotional aspects of the love bond are still important to this first theme. The theme of authoritarian masculinity is still very much a reality, even though this masculinity no longer gains legitimation in providing economically for a household. Despite this, women cleave to these relationships much as they did in the days when a different economy made the traditional model of a male-headed household more attainable. These relationships are and have been troubled by violence and abuse and the Board members and others in the system expend a lot of energy in disparaging them. As Merry (1997) found in her study of domestic violence in a small town in Hawai‘i, economically disadvantaged men have historically used force to maintain their connections with lovers and wives (p. 299). Merry reported that many women want to maintain these connections with men, who are often the fathers of their children, for a variety of complex reasons—despite the threat of violence. The law, Merry notes, often pressures women to sever these connections in return for legal protection—or to comply with instructions from parole.

Women are cautioned to be careful about their intimate lives with men or with other women, to watch whom they love. The parole board has a depth of knowledge
about the nature of relationships in women's lives. And the board often advises women about relationships. It has the power to keep a woman confined if the individuals in her proposed parole residence are inappropriate; even family members who have criminal records may present problems. This advice giving, admonitions to have only 'healthy relationships' that will not cause them to resort to crime, constrains women within its paternalistic bounds. On the other hand, women are expected to work, but the paternalism so evident in advice and commands about relationships is not evident here. Women are to participate in the marketplace, but their work lives are subject to far less documentation and discussion.

Second, the law sees the reproductive lives of these women as problematic. Much of the discussion about inmate’s children is grounded in the discourse of child welfare—but one that reflects broader cultural notions that mothers are responsible for everything that befalls their children. The law, through its mandates to the parenting women under its supervision, holds out the construction of essential motherhood, even though by coercively separating women from their children, it has played a central role in diminishing the conditions and context of motherhood. Indeed, by confining mothers for long sentences, often in prisons some distance away from families, penal institutions have completely undermined this relationship. The law sees this form of maternity as suspect and often judges them as mothers at the same time as it judges them for their criminal offences. The following section pursues the theme of penal interpretations of motherhood in the context of the parenting class.
The Parenting Class: Promoting Ideologies While Denying Difference

The law speaks to women in a variety of forums about their motherhood, ranging from custody proceedings in divorce cases to the actions of child protective services to broader messages about mothering arising from welfare reform. For example, marriage incentives held out to poor women in order to qualify for better welfare benefits provide a pretty clear message about what the structure of family life should be. The penal authority itself can make indirect pronouncements about the mechanics of parenting—through parenting classes which may be mandatory for parenting women under penal supervision or those being investigated by child protective services. The content of these classes, always stressing choice and rational decision-making, provides a model of what effective parenting, good parenting, is about and how to do it. Parenting classes, which are sometimes presented as a stand-alone program and at other times as part of a more comprehensive treatment program, are given as a corrective to the faulty governance of children by parents.

The modern family evolved, as Donzelot argued (1997), as an entity that could collaborate with the neoliberal state—with social work providing a buffer between the problems of families and children on one hand and, on the other, the judicial machinery of the state (p. 97). The inmate families challenge this structure. Parenting classes are not necessarily only for abusive or neglectful parents—they are for parents whose techniques may be faulty, whose skills are substandard, and whose children are perceived to be at risk because of this. Incarcerated mothers are generally assumed to be poor parents and, indeed, many of their children experience significant problems with gang involvement, drug use, school failure, and psychiatric problems. But parenting classes seldom address
the contextual factors that produce these outcomes. Like other late-modern attempts to
govern and render penal subjects responsible, parenting classes address features of
individual character and esteem as sites for action rather than social and economic
contexts. It is difficult to see how better parental techniques alone would help women
come to grips with the serious issues plaguing them and their families. So what are
parenting classes for women offenders all about?

Parenting styles have long been known to vary by social class and, more recently,a wealth of ethnographic material has pointed to how cultural factors shape parenting
behavior. For example, Kohn's work (1963, 1969) maintains that lower socioeconomic
status parents mobilize more authority in seeing that their children pay attention to the
consequences of particular situations. By contrast, parents in the middle and upper classes
train their children to generalize norms across varying situations and emphasize
autonomy and self-direction. Lower or working class parents stress conformity and
dependence on social norms rather than the autonomy expected by middle or upper class
parents. Parenting styles, then, reflect the social-structural conditions within which
individuals are expected to operate. Parenting classes, like other strategies of late modern
penalty and, indeed, other mechanisms of producing subjects, reflect the latter, middle or
upper class mode of parenting. They stress talking to children, making them aware of
choices and teaching them to generalize according to abstract, internalized principles.
These norms of childrearing are the precursors for the sort of cultural capital that
Bourdieu argued middle-class parents want to provide to insure their children's success
(See Willis 1977, p. 128). Parenting classes, intended to rehabilitate the inmate and her
family, tend to smooth out the structural situations within which families operate.
Momi, whose case I discussed in Chapter 4, is the never-married parent of six children ranging in ages from 11 to 21 at the time of our interview. Momi grew up in an urban neighborhood of Honolulu, populated mostly by poor and working-class local people and immigrants. Momi’s incarceration for a drug offense took her to Texas and Oklahoma, putting many miles between her and her children. Momi, who identifies herself as Hawaiian, found the messages implicit in the parenting classes to be ineffective and ludicrous given the harsh realities of her life: poverty and a generally troubled intimate life. She finds it impossible to employ the parenting “skills” she learned in prison:

Like me, I don’t know how to express too much love. I can express plenty emotion, like crying, I can do that! [laughs]. And hate, I can do that, but love . . . I can’t sit down with my kids and talk to them and ask them what’s the matter with them, what’s going on with them, what went on with their life . . . without their saying something and triggering me and I get all pissed off. I don’t know how to do that kind of thing.

I asked her about whether the parenting classes helped her with her children’s troubles:

[Laughs] No! Because what they [the people teaching the classes] don’t understand is that’s the white man’s way of thinking; they don’t deal with local kids. They don’t teach us nothing about raising local kids. I mean, all this stuff we learn is for the haoles [colloquial for whites]. And that’s just it. That’s nothing wrong, but you [meaning whites] send your kid to a time out or you sit down with them. Us local people, we don’t do that! You don’t find too many Hawaiians who’ll do that. No, but I stuck with the class, I have a certificate. But I just can’t do that! [what the class taught her].

I ask whether there’s any way they could change the parenting class to make it more relevant to local people:
You have a local teacher that was born and raised in Hawai‘i then, yeah! But I took it in Oklahoma and Texas with the haoles. I don’t know if they have a parenting class in Hawai‘i. I don’t know . . . You just can’t bring in a haole and try teach local people, people from Hawai‘i what they should do with their kids because, like, I mean [they say], “You don’t spank your kids, you know, you take them to time out.” Hey, man, when I was growing up and you do something wrong, you lick ‘um! That’s just how you do it! What is time out? You time out, you send your local kids to time out, they don’t listen to you! They come back right out and they do the same thing and they laugh at you. Like my daughter! I send her to the room and I say, “You punished,” but she doesn’t listen to me. She’s right out of the house. You know, I can’t beat ‘um because I hurt so much and all the trips that I going through right now, that if I was to hit my daughter for all of the shit she pulled, I would end up back in prison. So I don’t touch ‘em.”

I asked her what she does then, how she handles it:

“You do the verbal abuse, the white man’s way, you verbal abuse and that’s abuse. But, hey, what you rather have me do, verbal abuse her, swear at her, or beat the shit out of her? So I tell her, no you stay the fuck in your room. But she don’t listen. And I keep telling her, one day, one day you’re going to get it. I cannot take this. Like me and my son, not too long ago, my son and my niece, they pissed the hell out of me. ‘Cause of the phone or something. I was outside, ‘cause I was waiting for the father to come back and he [my son] snapped, I mean, he totally snapped. I walked through the door and he was yelling and crying—because he’s like me, when he gets mad he starts crying. And he started knocking things off the counter. And I snapped. I grabbed him and we was wrestling. I didn’t hit him or anything, but his nose, it bleeds really easily, and when I grabbed him, it started bleeding. And I couldn’t handle. I didn’t hit him or anything. But we ended up on the floor and I held him for a little while. And he turned around and he spit at me, he went spit his blood at me [crying a little]. And I just stayed there for about two minutes, holding him down. And I started crying. I got up and left. I walked down to W____ street and the bridge over there by the canal. And I just sat there for about half an hour, thinking about life. And I walked home. Actually, I waited to see if that ass of a man would come because the kids went and called him and told him that me and my son was fighting and he never show up. [cries a little].

What Momi wants is a means of controlling her children without breaking the law. Her motivation is to keep them safe from running with the gangs who are all over her
community. Talking to them, explaining things, getting them to understand her and trying to understand them in return (or sending them to their rooms) is the "white man's way." No culture endorses the abuse of children, but cultural factors shape what is appropriate and what is inappropriate discipline. Relentless bickering and talk that is considered pointless and provocative are behaviors that are considered abusive and alienating in local culture. More importantly, however, parenting classes cannot ameliorate the realities of Momi's life: poverty, living in a gang and drug-ridden community; and what she terms the destructive effect of prison on her. She told me that while prison might be "good" for some people, her experience of prison devastated her.

However, we are not only governed by discipline and coercion, but by our desires and aspirations as well (Rose 1999). Women may adopt the discourses of the parenting classes. Some parolees are, despite very different cultural backgrounds, able to adopt the guiding principles of middle-class parenting. Vailima was born and raised in a rural village in American Samoa. Her mother continually threatened and beat her, terrorizing her. The Samoan way of life, Vailima explained to me, did not incorporate what she called the "talking way" of dealing with problems. It was not acceptable to ask for help and physical discipline was well within parental privilege. Vailima, however, learned about more relational ways of dealing with her own children during prison and believed that these methods are superior to what she learned in her rural village. She reflected on how the child-rearing practices of American Samoa differed in her present home in Hawai‘i:

How I was teaching them [her children] wasn't enough. I made a mistake in telling them to keep their mouths shut if they couldn't win but fight if
they could win. It’s different here in Hawai‘i. They needed different tools here.

Vailima told me that she has learned to talk to her children. If she has a problem, she communicates. “Some moms abuse the kids and the kids don’t understand what’s going on.” She wants them to understand why they’re being punished. Obedience is a good thing, she says, but she explains to her children why she does what she does. Kids need to understand. “You need to be consistent,” she says. In reality, though, this transformation in orientation and subjectivity has not transformed the externalities of Vailima’s life. Her 18 year-old daughter is incarcerated as is her 23 year-old son. Not working at the time of our interview, she was being supported by her family and hoped to return to her pre-prison job as a parking lot attendant.

Parenting instruction classes are provided across a variety of carceral and child welfare sites in the United States and other Western nations. Family court judges and child welfare workers order parenting classes as a condition of maintaining or regaining custody of children. Incarcerated women may be mandated or encouraged to take parenting classes while in prison or on parole. Parents whose conduct has been ascertained as “maltreating” all too often live in poverty-stricken, high stress communities and experience a violence that permeates both home and community life. These families lack adequate housing, live in milieux where drug addiction and gangs are rampant, and where resources like education, medical care, and employment are scarce (Murphy and Bryant 2002, p. 385). Federal law now restricts a range of benefits from housing to welfare payments to those convicted of drug-related crimes (Allard 2002). Incarcerated women, who may or may not have mistreated their children, have very
similar problems and it is not unusual for offenders to be under the supervision of both child protective services and penal agencies. Parenting classes are laden with assumptions about the nature of motherhood, framed in terms that are constitutive of middle-class, white subjectivities. These practices prepare women to produce children versed in the techniques of self-management and restraint—in communities that are alienated from mainstream institutions. Some women may adopt these practices and incorporate them into interactions with children. Others who cannot or will not adopt these practices may face continued alienation and exclusion. The following section addresses a final site through which women are governed and subjectivities produced. Cognitive skills approaches are widely used in Hawai‘i and elsewhere in the corrections system. They do not necessarily target motherhood, but are congruent with parenting classes and the overall objectives of producing responsible subjects.

Cognitive Skills Classes

According to a curriculum recently used by the Hawai‘i Paroling Authority, there are 36 “thinking errors” associated with criminality. Taken from Yochelson and Samnow’s The Criminal Personality (1976), these cognitive errors range from showing insight as a means of manipulating the “change agent”—one’s parole officer for example—to building up an opinion of oneself as a good person. In reviewing the list, I could find few thinking errors not present among graduate students, politicians, or fundamentalist Christians I have known. To be fair, the social worker who conducted many of these classes for Hawaii’s parolees notes that everyone has this flawed thinking to one degree or another—but according to her the criminal takes it to extremes.
Cognitive skills classes break this thinking down through instruction, self-reports, and discussions of typical “offender” scenarios. One of the curricula manuals (and there are at present a number of versions in use here and internationally) lists a generic description of what cognitive skills building is all about:

Our target population is criminal offenders, and the specific behavioral goal is to change their criminal behavior. Our approach is not “therapy.” Instead, we teach offenders a set of well-defined and specific skills. We teach them to identify their habits of thinking that directly connect with their criminal behavior. We help them to see and appreciate the scope and consequences of their present ways of thinking. We teach them techniques for controlling and changing these habits of thinking. We help them to see that they can, in fact, change. And finally, we leave the choice to them (Bush and Bilodeau 1993, p. 1-2).

The rhetoric of cognitive skills accomplishes a number of ideological and bureaucratic goals. First, these practices establish the individual as responsible for her own rehabilitation and make this transformational move a “choice” incumbent upon the person herself. These practices, as Duguid (2000) argues, fit well with penal practices in late modernity which seek, albeit in a conflicted and inconsistent way, to create carceral subjects (or, objects to use his terminology) who are prudent and rational decision-makers, endowed with choice.

These classes are easy to standardize and deliver. They do not necessarily require the services of outside experts; they can be provided by existing staff. This suits the need of correctional bureaucracies anxious to expel the academic experts and psychologists left over from the rehabilitation era. In other words, as Duguid points out, corrections staff can provide services less expensively and outsiders, who do not necessarily agree with the conduct of the administration, can be kept out of the institution (p. 193). These programs also fit well with theories of offending that depict offenders as persons with
poor self-control. Indeed, along with the more or less ubiquitous rhetoric of choice in parole hearing and similar contexts, I have often heard staff or board members accuse an inmate or parollee as having criminal thinking. It is common for board members to use this as a basis for condemning the behavior of a parole candidate, a gambit that attempts to—but does not quite—conceal moral judgments about the offender. The construct of criminal thinking, given all of its 36 possible elements, makes it virtually impossible to refute as a label. And, hidden by the gloss of psychological development, is the aspiration that improving cognitive development will be linked to increased moral development—and staying out of trouble.

Though not expressly designed for parenting women in prison, cognitive skills classes are even more inscribed onto a range of penal practices from substance abuse treatment programs to special classes for parolees. Cognitive behavioral skills, like parenting classes, provide a means of governing conduct through choice. Like parenting classes, the cognitive behavioral framework draws attention away from the structural inequalities of gender, race, and class and to the individual as the site of change (Kendall 2002; Rose and Miller 1992).

In her review of cognitive skills programs, Kendall (2002) notes that the original research on these techniques was developed among populations of white male offenders and that the models used are largely drawn from moral assumptions that are associated with white, middle-class life (p. 193). Her review points to the work of Hannah-Moffat and Shaw whose deconstruction of the programs offered by Correctional Service of Canada illustrate the culture-bound nature of its class, race, ethnic, and gender assumptions (Hannah-Moffat and Shaw, quoted in Kendall 2002, p. 193).
Conclusion: The Productive Hypothesis and Becoming Middle-Class

In this chapter, I have examined some of the assumptions that rehabilitative strategies like cognitive skills and parenting classes embody about the nature of the person. In my discussion of the parole board hearings, I have found the same language of personal choice, autonomy, and responsibility as featured in these classes. These strategies or approaches to handling women inmates and parolees convey assumptions about culturally preferred selves. I have argued, as have Rose and Miller (1992) and Rose (1999), that these subjectivities or selves are aligned with consumerist goals of late-modern society. They assume a homogenous world rather than the diverse, culturally plural world of Hawai'i with its alternative families and range of values.

Moreover, in drawing attention to the invasive and paternalistic way in which agents of parole interrogate women's intimate lives, I have presented another way in which power operates. Women may resist or comply with these ideas of how they should be—as mothers or workers. While women sometimes come to believe that prison has been a life-changing experience for the better, there is no question that behind the paternalism, instruction, and moral suasion, the repressive power of the prison remains.

To the extent there are comprehensive themes in these mixed penal strategies, they reflect a move toward producing middle-class subjectivity among a population that has largely never possessed the economic, social, or cultural resources of the middle class. These techniques often ignore culture or any of the other structural factors that shape women's experience of motherhood. Mechanisms of power operate not just

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8 Foucault (1990) describes the productive aspects of power.
through coercion and blatant control (although these techniques are present) but also through inducements that are emotionally and politically inscribed on the desires of individuals (Rose 1999). The desires of women to be rejoined with children constitute important sites where the state's power can be deployed. But are these transformed selves up to coping with the difficulties of life after prison? In the following chapter, I examine the contrast between the worlds imagined by the purveyors of rehabilitation—where rational, autonomous choice-makers succeed in remaining crime free—and the real worlds that these women confront upon their emergence from prison.
Chapter 6

Reintegration: Negotiating Motherhood, Home, and Work on Parole

What we take for granted, they don’t have.

Parole Officer on the Big Island describing the lives of most of his parolees.

Kristy never fully explained why she decided to move in spite of her ambivalence. It may be a marker that she did not feel in control of her life, but instead that life was something that happened to her.

From Homeless Mothers: Face to Face with Women and Poverty (Connolly 2000, p. 7).

Introduction: Putting Together a Life on the Outside

Armed with whatever programs, treatment, or training they picked up during their stays in prison, women emerge to meet the free world on parole. In Chapter Four, I described the pre-prison material and social realities of the women in my study. Using both individual biographies and data from parole case files, I discussed the themes of material deprivation, lack of social capital, cultural alienation, violence, and addiction that shaped the lives of the majority of these women prior to prison. Childhood troubles often broadcasted into difficulties with school, employment, and relationships. The worlds of school and work were, more often than not, additional sources of frustration and marginality. The meager jobs offered in Hawaii’s service economy afforded a precarious existence even for those with job skills. Attempts to become part of conventional life through childbearing and adult relationships were often warped by drug
use, poverty, homelessness, and violence. Indeed, these intimate relationships with spouses or partners during early adulthood, rather than forging ties to conventional life (as life course development theory suggests) often became routes into law breaking—despite the demands of childbearing and childrearing. In Chapter Five, I examined the ideologies of motherhood and personhood that are inscribed upon the practices of penal rehabilitation for women. The context within which these women constructed motherhood stood in contrast to the way the law told them they should behave. Nor did the structure of rehabilitation permit situational explanations to serve as excuses: women learned that they had made bad choices and were taught how to make better ones. These techniques of discipline were long on instruction about choices and responsibility, but short on how to translate these ideological and cognitive resources into social and material attainment.

The new vocabulary of choice and empowerment embodied by modern penal practices, however, was accompanied by the traditional techniques of shaming and condemnation. Women who resisted the new terms of subjectivity could, and were, reminded about their apparent flaws as mothers. The rehabilitation project as implemented in Hawai‘i, I concluded, attempts to produce a middle-class subjectivity among the mostly working and lower-class women of color who find themselves caught up in the criminal processing system. In the present chapter, I expose the disparity between the ways of being women are supposed to acquire in prison and the realities women face on parole. When women leave prison on parole, they find themselves in a variety of settings in the community. Table 6.1 shows the various domestic,
programming or institutional settings that house women upon their release from prison in Hawai‘i:

<table>
<thead>
<tr>
<th><strong>Table 6.1. Initial living situation on release from prison</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Living Situation on Parole</strong></td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td>--------------------------------</td>
</tr>
<tr>
<td>Living in (her) own place</td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td>Lives with spouse or partner</td>
</tr>
<tr>
<td>Lives with adult relatives</td>
</tr>
<tr>
<td>Lives with adult friends</td>
</tr>
<tr>
<td>Lives in program setting or</td>
</tr>
<tr>
<td>clean and sober house</td>
</tr>
<tr>
<td>Total</td>
</tr>
</tbody>
</table>

*Does not add up to 100 due to rounding.

Most women (73.3%) are paroled to households rather than program or institutional settings, whether or not they have children. They live in their own apartments, with spouses or partners, with adult relatives, or with friends. However, very few of these women (2%) have the wherewithal to set up in their own places; most live with partners or other intimates. Although family bonds are often sufficiently flexible to absorb women after their incarceration (having cared for their children during this separation), material deprivation and lack of resources make a necessity of these family virtues. The economic costs of punishment are thus shifted to the families of former inmates in ways that often go unnoticed in calculations of the cost of prison expansion. The economic responsibilities associated with punishment are, in this way, shifted to non-state parties and the individuals themselves, just as theories of responsibilization predict (See Garland 1996; Hannah-Moffat 2000; O'Malley 1992).

In addition, a combination of public agencies and private non-profit as well as for-profit organizations pick up the costs associated with housing women after prison. Much of this funding is channeled from state to agency providers through grants and contracts.
A number of women (26.7%) are discharged from prison into clean and sober housing (such as Oxford Houses\(^1\)), residential substance abuse treatment centers, structured living facilities, and to Matlock Hale, a transitional living situation that houses women on furlough from prison and a few women on parole.\(^2\) Women who are suffering from psychiatric illnesses (often complicated by addiction) may be sent to a treatment or structured living facility while a few others go to privately-run care homes in the community. Institutional settings or those that offer programming are in short supply in Hawai‘i and there are even fewer such services available on islands other than O‘ahu. A not insignificant number (14 or about 6%) of women were discharged into the Hawai‘i Paroling Authority Mental Health Unit’s supervision. This unit consists of two parole officers and a psychiatric social worker who oversee these cases. Most of these women (11) were discharged to a treatment or structured living program/care home setting with the remainder living with intimates in households. Most of the individuals in program or structured living settings receive some sort of public entitlement funding, often supplemental security income (SSI) or general assistance welfare payments. The state provides funding for residential substance abuse treatment, although these “beds” are limited.\(^3\)

Of the majority of women who set up or join households (rather than institutional settings), only 14% rejoined a spouse or partner on the outside or had their own

\(^{1}\) Oxford Houses of Hawai‘i provide clean and sober housing for people in recovery from addiction. Most of these are conventional multi-bedroom homes run by the residents themselves under the auspices of the Oxford House organization. Residents must be self-supporting and abide by the rules of the house. Oxford Houses do not provide programming or structured living per se.

\(^{2}\) Matlock Hale is described in Chapter One.

\(^{3}\) The Alcohol and Drug Abuse Division of the State Department of Health pays for beds or slots in substance abuse treatment centers. These facilities treat people from the community as well as those who are referred from penal agencies.
accommodations (2%) as mentioned before. The majority (56%) went to live with friends and relatives who could take them in on a long-term basis or temporarily. As Chapter 5 noted, one of the major tasks of parole officers is to vet these residences prior to the woman's release on parole. They investigate whether those living in these households are offenders and make sure that the residence is free of drug use and alcohol abuse. The location and custody of parolee's children are not, in themselves, determining factors as to where a woman will be released. And although the status of a woman's children may be discussed during the parole hearing, the immediate risks to parolees as ex-felons (exposure to criminal others for example) are the primary considerations that determine where women go after prison. As the following section shows, fewer than half of the women with dependent children live with their children right away after leaving prison.

Release and Reunion

Parole case files show a variety of living arrangements for parenting women upon release from prison. Of 240 women in this population of female parolees, 202 (84%) had living children at one time. Of these, 188 had at least one and sometimes several children under the age of 18, with the remaining 14 having one or more adult children. Table 6.2 reports the data on parenting women and their release status and whether or not they have dependent children:
Table 6.2. Parenting women's placement upon parole.

<table>
<thead>
<tr>
<th>Living Status Upon Release</th>
<th>Parolees with Dependent Children</th>
<th>Parolees with Adult Children</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Number</td>
<td>Percent</td>
</tr>
<tr>
<td>Living in (her) own place</td>
<td>3</td>
<td>0.8</td>
</tr>
<tr>
<td>Living with spouse or partner</td>
<td>32</td>
<td>17.0</td>
</tr>
<tr>
<td>Lives with adult relatives</td>
<td>87</td>
<td>46.3</td>
</tr>
<tr>
<td>Lives with adult friends</td>
<td>19</td>
<td>10.1</td>
</tr>
<tr>
<td>Lives in program setting or clean and sober house</td>
<td>47</td>
<td>25.0</td>
</tr>
<tr>
<td>Total</td>
<td>188</td>
<td>*</td>
</tr>
</tbody>
</table>

* Percentage does not add up to 100 due to rounding.

Only three parenting women in this population had the resources to set up their own households after prison. During their incarceration, women may visualize having a place for themselves and their children, a vision that sometimes includes the spouse or partner from the past, but this was uncommon.

Sometimes the long-anticipated reunion with children was delayed. Of the 188 women with dependent children (aged 17 and under in 2001), 89 or 47.3% reunited with children immediately. Some women went to live with adult children, along with some younger children in a few cases. The case file records are sometimes incomplete with respect to parolees' children, but my review indicates that 132 women lived with their children just prior to their incarceration while 67 did not.4 The parenting situations of many incarcerated women had been troubled for some time prior to their incarceration. This is likely to be so among women who have long criminal histories and/or serious psychiatric diagnoses. Parole case files report that 32 (17% of parenting women) women lost their parental rights to some or all of their children as a result of state investigations and court proceedings. (This does not include the number of women who voluntarily

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4 The pre-prison child custody situation for three of the mothers was not clear from the case files.
surrendered their parental rights to relatives or others.) Women lost their children to the state as a result of neglect, violence, and drug addiction. Table 6.3 shows the patterns of child/parent reunion among the various placements noted above, indicating whether children are dependent or adult:

Table 6.3: Women reuniting with their children upon parole.

<table>
<thead>
<tr>
<th>Women reuniting with children</th>
<th>Dependent Children</th>
<th>Adult Children</th>
</tr>
</thead>
<tbody>
<tr>
<td>Living in (her) own place</td>
<td>2</td>
<td>0</td>
</tr>
<tr>
<td>Living with spouse or partner</td>
<td>24</td>
<td>1</td>
</tr>
<tr>
<td>Lives with adult relatives</td>
<td>56</td>
<td>4</td>
</tr>
<tr>
<td>Lives with adult friends</td>
<td>1</td>
<td>0</td>
</tr>
<tr>
<td>Lives in program setting or clean and sober house</td>
<td>6</td>
<td>0</td>
</tr>
<tr>
<td>Total</td>
<td>89</td>
<td>5</td>
</tr>
</tbody>
</table>

* Percentage does not add up to 100 due to rounding.

Delaying reunification can be helpful, giving a woman time to make adjustments for herself and to prepare to take up the work of childrearing again. But the cultural imperative to reunite with children is strong and caregivers have often become exhausted and expect women to resume their parental responsibilities as soon as possible. Terri, the mother of six adult and adolescent children, was able to get some time to adjust before reuniting with her kids. This was a choice on her part, based on guidance she received from a counselor in the prison's therapeutic community. She might have had a longer transitional period, but the reunion happened suddenly when her mother began to have trouble with one of Terri's adolescent sons. And, at about the same time, the grandmother felt she was unable to care for a second son. Soon after, her daughter arrived in the household. Terri felt completely overwhelmed and unready to cope with the three adolescents. She pointed out that they were all experiencing various forms of
transition at the same time. She told me that she often wondered whether she would be able to meet her children's financial and emotional needs. She was afraid that she was going to fail to be a successful parent.

Actually, few women were in a position to manage the situation as well as Terri, who received support from an able counselor and had relatives to continue to care for children after prison (as well as an aunt who provided cheap housing). Nor is it the norm to see the careful planning and thinking that went into Terri's decision. Of course, despite the planning, things developed more quickly than anticipated. Terri seems to be managing well and is proud to have placed her daughter in a special charter school that teaches Hawaiian culture and values.

*Reclaiming Motherhood and Parental Authority*

It is not just the structural context of these relationships that is crucial; the emotional content and the nature of the parental role are critical, albeit harder to get at than the mere facts of reunion. Bonds of affection are not necessarily severed when women go to prison, despite the difficulties separation poses for relationship. Reestablishing a parental relationship that has been damaged by separation and residual conflicts going back years is overwhelming. Even when ties of affection remain strong, asserting parental authority poses a series of challenges.

Maile had been away for five years, incarcerated in a prison in Oklahoma where she never got to see her children. She described her homesickness and told me that the prospect of reuniting with her children “meant everything” to her during this separation. Yet she admitted being afraid, too. She had been away a long time and life had gone on

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5 Since 1995, Hawai‘i has been easing its overcrowding situation by sending prisoners to mainland correctional facilities.
in some ways for her. But this was true for a far greater extent for her three children who were aged 11 through 19 when she was first sentenced. After all, the children had been going to school, learning about the world, forming relationships outside the family as well as with other family members. Maile’s sister served as the principal caregiver during this time, taking on the tasks of motherhood in her absence. When Maile entered the household after prison, she loved how her children hugged and kissed her—but then watched as their attention returned to their own activities. She felt like an outsider.

Ties of affection remained, but she felt that her authority as a parent was gone. What was she to be now in the lives of her children? Her sister, who was up to date on each child’s activities and progress in school, was the one the children went to with questions or when they needed something. Maile’s sister knew which papers had to be signed, who the children’s teachers were, and what each child was supposed to be doing and when. Maile watched herself evolve into an ancillary figure that merely provided services like laundry and cooking. It was her sister who continued to serve as liaison with the outside world of schools and children’s activities. Paroled women like Maile are fortunate to have this level of support from relatives, but they may still feel peripheral to these households that were cobbled-together out of necessity and distress.

Women are centrally involved in two transitions when they rejoin community life: their own process of reintegration and the transitions of their loved ones. Betty, who joined her three younger children after prison, told me that her transition has been hard. Her children, aged 10 through 15, had to change schools in order to come to live with her. She recalls that there was crying, fighting, and screaming in their household as this readjustment process unfolded. She accompanied her daughter to school for an entire
week just to make sure the girl stayed at school for the day. For her part, Betty’s daughter wanted her mother to know what she was going through as the child of an ex-offender. Even now, Betty says her days can be stressful. Like other working, single mothers, she talked about coming home and being grouchy about the house’s being in a state of disorder and she “yells about it.” “But they know,” she explains, “it’s all in a normal day.” She is one of the few parolees in this study who is attending school. She is finding it hard to hold up her own end with the “young smart ones just out of high school.” For women on parole, then, successful reintegration means getting to put up with the stresses and strains of parenting teenagers, going to classes, being tired of messy houses, and working low-wage jobs. It means taking up the reins of 21st century parenting—with all its complexities—with the added dimension of being watched by the law.

The idea of parental authority as an aspect of maternal identity is ingrained in these essentially working-class families. Discipline and its functions like monitoring, accountability, advising, and handing out sanctions are as much a part of motherhood as love and caring. For women whose incarceration occasioned long-term separation, this aspect of motherhood, like others related to emotional bonding, is likely to become fragmented. Conviction, incarceration and absence have eroded parental authority, in both its moral and practical dimensions. Mother remains a loving figure, but her stature as a moral leader in the home has been irrevocably damaged in very public ways. She has lost the moral rectitude that is culturally central to motherhood. Moreover, she may no longer serve as liaison between her children and the outside world of schools and activities, even if she was able to do so before prison.
The issue of child and parental relationship after prison is further complicated when parents involve their children in crimes. Women suffer a great deal of guilt and shame as a result of their children being in the wrong place at the wrong time, or, worse, when children become complicit in elements of the crime. Nora's offense occurred in 1995 during a period when she was caught up in the crazy dynamics of the drug scene.

Someone owed her money for a drug debt and the person began to avoid Nora after the payment became very delinquent. Whenever Nora and her boyfriend went to collect, the debtor was never home. Out of frustration, they decided to break into the woman's house.

Nora told me:

One night, me, my boyfriend, and my youngest son, I think he was 12 at the time, went there. Me and my ex-boyfriend were drunk. And it was like, “she has to be home this time! This is the last time.” And she wasn’t and like two dummies we broke into the house and took things out of her house as collateral until she pays.

The pair had Nora's son climb through the window and he opened the door to the house. But the neighbors called the police and all three were arrested—her son was taken into custody as an accomplice. The boy was released but sent later to juvenile court where he was given a term of probation—unfairly, Nora argued, because she and her boyfriend told him to enter the house. The involvement of children in their parent's legal entanglements often comes as a result of their dependence on a mother who has very little control over her own life. Johnston found that roughly one in five children were present when their mothers are arrested. Of these, half were between the ages of three and seven (Johnston 1995b). This situation of children being with the mother at the time of arrest (and sometimes implicated in her offense) reflects not only the dependence of children upon their mother, but often reflects the chaos and faulty dependence in the woman's
own life. At the time of the crime, Nora was involved with a very abusive man. In fact, she told me, it was only when he was incarcerated that she was safe from his violence and threats. Thus the broader context of the family and relationships with significant others come into view as factors that distort a woman's parental behavior.

Prison and Maternal Powerlessness

The erosion of parental capital begins before prison, but incarceration serves to intensify children's troubles while leaving mothers in no position to help. Gayle explained to me about problems she has been having with her daughter, who was 14 at the time of our interview. Gayle wants parenting classes now to help her with the problems she has with her daughter. "Girls sometimes push," Gayle sighs. She tells me that during her incarceration, her daughter, who had been living with Gayle's ex-husband, was placed in a home for children with behavior problems. Gayle feels that her incarceration precipitated these troubles, and says, "I know she had trouble because I wasn't there." Another former inmate told me that many incarcerated women became grandmothers for the first time in prison. There does appear to be an intersection between daughters' risky behaviors and the progressive nature of their mothers' troubles with drugs and the law. This makes sense when one considers that daughters' lives are subject to the same issues that have shaped their mothers' pathways to involvement with the law. Although little research has been conducted in this area, polls by the U.S. Department of Justice Bureau of Statistics and U.S. News and World Report show that substantial numbers of girls in correctional custody have mothers who had been arrested or imprisoned (Luke, 2002).
A mother's incarceration often sets in motion some of the same events that speed girls and women along a pathway to prison. The intersection of women's incarceration with the life course development of daughters and sons needs to be understood as an interactive process, rather than simply a matter of emergent adolescent problems resulting from poor parental control. Daughters are subject to many of the same stressors, risks, and receding choices that shaped their mothers' pathways to prison. Women perceive that an essential part of mothering daughters means protecting girls from problems like delinquency, school separation, and early pregnancy. But this cannot be effectively done from behind bars—although women like Gayle will try any means to do so. But even women living in the poor communities of the free world face serious odds in attempting to protect their daughters and sons from danger. Incarceration erodes women's confidence that they can perform one of the most essential tasks of motherhood: protection of children in a dangerous world. Caregivers on the outside may step forward to fulfill this role. However, this is an aspect of maternal identity that a mother is really never able to relinquish. More than anything else, this is the basis for the anguish that was obvious among women I interviewed and that endures far beyond their time in prison.

Conflicts with caregivers over children and communication failures while women are in prison are major problems reported by the women I interviewed—and in the literature on incarcerated women (Baunach 1988; Bloom and Steinhart 1993; Johnston 1995a and 1995b). Among the women I talked to, communication with children was a critical issue and essential to maintaining emotional bonds with children. Communication with children while in prison through letters, phone calls, and visits
strongly shapes women’s parenting after prison. Women wanted to know how their children were faring on the outside, but being aware of their powerlessness to intercede at a distance, they could be deeply disturbed by hearing of their children’s problems. Often, women felt that the emotional turbulence was due as much to the ways the message was being conveyed as by its content. One woman, incarcerated here in Hawai‘i, arranged to call her child at school in the counselor’s office. The child’s grandmother had been providing this inmate with inaccurate and slanted reports of the child’s problems in school in ways meant to provoke her. However, not all women can manage the situation as well from prison; very few have such sympathetic school contacts to rely upon.

Caregivers frequently have unresolved issues with the mother of their wards and, stressed by their added burdens, may express hostility toward the inmate. Women told me that caregivers, understandably frustrated over their troubled charges, would use phone time with the inmate to berate her over her children’s problems. This is a typical experience, where the caregiver gives upsetting news in a way that gets the woman ‘all twisted up,’ as one woman phrased it. She generally is powerless in prison and cannot provide any real solutions, other than trying to talk to the children or write them (methods used by Gayle).

Nancy was one of the few women with a husband to care for her two younger children during her almost four years of incarceration. But the problems she left behind in terms of her children were worsened by the separation and continue to overwhelm her even on the outside as she strives to be successful on parole. Before prison, her heroin addiction took her out on the streets, in part, Nancy says, to spare her children from witnessing her life-style. Nancy’s arraignment for committing an assault, she told me,
was a nightmare that devolved upon aspects of motherhood as well as the criminal case.

The anguish of this event was still fresh in her voice:

That judge told me, he said, ‘you should have thought about your kids before you went away, while you were out there committing these crimes.’ That’s what he told me because I said, ‘what am I going to do with my kids?’ He looked and saw my ten-year-old girl holding my three-month-old baby. He said, “you should have thought about your kids while you were out there committing that crime.” And they took me right from the courtroom.

All I asked was to let me get my kids to my . . . let me call my sister. Just give me an hour that’s all I needed for my kids. Just to have somebody come get them. [But] they took me right then and there. [Crying now.] But it wasn’t really the judge’s fault. He was right. I wasn’t thinking of them when I was out there using. He was right. So I had no right to sit there and use my kids as an excuse.

Nancy did not want the state to get custody of her children and subsequently made her husband, who was not the children’s biological father, their legal guardian. Having no other options and not wanting to lose her children to foster care or risk having them separated from one another, Nancy felt she had no choice, even though, as she explained, her husband had no “blood relation” to her daughters.

I didn’t lose my rights; I never got involved with CPS. I voluntarily did it [gave custody to her husband] because I didn’t want the state to grab them. Because I knew that once the state found out I was incarcerated, this man [her husband] has no blood relationship, that the state would come and take them.

Nancy admitted this custody situation was fraught with problems. She told me, crying a little as she spoke, that her husband verbally abused the girls and that these fights sometimes escalated to hitting and punching—to the point where neighbors complained.

In prison, she was not fully aware of the struggles at home. On parole, she is now in the predicament of living in a dependent relationship with the same husband who abused her
children because she signed their custody over to him. To regain custody, she will have to go back to family court. Until then, she works two jobs so that she can eventually get her own place and leave the relationship. Meanwhile, she is faced with trying to keep her daughters safe in this troubled household. Though Nancy’s actions are hard to justify from a conventional cultural (and possibly legal) perspective, her decisions do make a kind of sense. The cultural logic of motherhood compelled Nancy to retain her social claims to her children, through signing over her parental rights to an unqualified man. She retains a belief that she can manage, at least temporarily, to control and even prevail over this situation through determination and hard work.

Many women like Nancy force themselves to quell their immediate anxieties in hopes that a more secure future can be forced into being by their own efforts and choices. Their actions, however, are often stymied by the social and economic realities that impinge upon their best efforts. Nancy is attempting to renegotiate a maternal identity that is grounded in providing materially for her daughters, with a special focus on providing a safe household. Her plan for the present is to continue to work 80 hours a week at her two low-wage jobs so that she can afford a down-payment on a house. She cannot afford (in economic terms) to consider breaking up the relationship with this husband because he contributes financially to the household, and therefore, his presence is critical to her long-term goal. Thus, the deferral of gratification (that worthy trait always being proselytized to the poor) toward this long-term goal becomes an ironic solution to the problems of the present for these women.

Negotiating motherhood after the prison, then, is a complex, tortuous route for which many women are largely unprepared. The motherhood that once seemed a natural
right to most women is redefined as a privilege that can be revoked through forced separation or through the actions of family courts. Even when legal barriers to reclaiming parenthood are absent, the opinion of affected relatives and children about the worthiness of the woman to return to her maternal status is frequently a controlling factor. She is often faced with continuing problematic relations with relatives and partners in order to sustain her parenting obligations—while trying to comply with the conditions of her parole.

Children’s Lives

Women emerged from prison to find that their children had been in trouble with the law, had problems with drugs, early pregnancy, were doing poorly in school, or basically were not doing well. They often felt they needed to do something about these situations—a central aspect of being a mother—but what? They often see their children navigating the same path that led to their own troubles with the law. Alicia worries about her 18-year-old daughter who was using drugs when Alicia first came home from prison. At this point, even though the drug use seems to be in abeyance, she says:

Right now I can tell that she’s not doing drugs but she’s not doing anything productive with her life. She lives with her aunt and boyfriend, but she doesn’t have any income and the boyfriend doesn’t have any income. And she’s doing the same thing that I was doing.

Alicia wishes that her daughter could find something to do, especially because she feels this idleness makes the young woman vulnerable to the drug activities going on in the rural community where she lives. She would like her daughter to get some vocational counseling. She worries about her son, too, whose problems are less obvious but troubling to her nonetheless. When I asked Alicia what services her children might
benefit from, she was not sure what I meant. No one she knew ever got any family
counseling and she asked me about it. When I described family counseling to her, Alicia
thought it would be appropriate for her children:

Probably my daughter [would need counseling]. I think my son, too.
When I see him now, we talk a little bit but he still doesn’t open up. I
think that he has had harm in that he doesn’t talk about his feelings. I
think he should have someone to go to share what he really feels about me
not being there, you know, all this time.

Women I spoke with in this study all wanted their children to do well, whether they had
custody of their children or not. Several noted that the rewards of motherhood include
watching their children grow and accomplish things in life. These women suffer damage
to their identities as mothers when their children fail to do well. And, they tend to blame
themselves while overlooking the truth that both they and their children grew up in
circumstances where disadvantage and trouble shaped family life.

Not only are women’s personal resources in aiding their children slim, but they
were strikingly unaware of sources of outside help that might assist their children. And,
in fact, it did not seem to occur to many of them that outside help might be available. I
asked every woman I spoke with what sort of services might be helpful to their children.
Although one woman was utilizing a family peace center in Honolulu, they were almost
always puzzled over the question and the possibilities for help did not seem at all
apparent to them. I came to see that this reticence reflected many things: guilt,
inexperience with helping agencies, or feelings of helplessness. But from a social
perspective, what seems significant is women’s basic alienation from these social
institutions and a lack of connection to the world of schools and other community
resources. It is also clear to these women that asking for help may mean additional
stigma and even formal surveillance they can ill afford. Given the condemnation and shaming many women experience through their contact with the criminal processing and social welfare systems, their reluctance is well founded.

Women who do seek help for their children find that resources like treatment are limited and that they are faced with having to go to law enforcement for help. Anna Maria’s 21-year-old daughter has been diagnosed with schizophrenia and uses drugs. Like other parents in this situation, she has run the gamut of help seeking for her daughter, from substance abuse treatment centers that offer dual-diagnosis programs to more focused mental health day-treatment-services. She reported that her daughter has been “kicked out of these programs” and Anna Maria is frantic. As a last resort, the family called the police and the young woman is now on probation as result of threatening her little brother. Anna Maria is in the position of trying to protect the younger child while attempting, with little success, to find help for the older one. She feels both children need her protection, although in different ways. She sees the boy as a child who needs the care and protection that children need from a mother. She sees the young woman as an adult, but one with severe problems that make her the moral equivalent of a child, in need of continued care and protection. Anna Maria cannot do much more than watch as her sick child navigates the Scylla and Charybdis of inadequate mental health care systems and jail.

Anna Maria had to shepherd her older sons safely through their own brush with the law a few years ago. When their father’s house was raided for drugs, the case that precipitated her own incarceration, she managed to keep her adolescent sons from being arrested. Interceding with the law to keep children out of the system is a necessary part of
managing risk for these mothers for whom keeping sons out of the clutches of the police is a significant part of childrearing. This is a form of knowledge that is essential for mothers because the risk of criminal justice involvement is so great for young men of color. For white, middle-class women, parenting concerns generally consist of speeding sons and daughters along the path to the right schools and jobs, always keeping the focus on the future. The lives of more advantaged children are not without trouble, but for them the idea of a risky present resides along with the trust in a good future of education, jobs, a comfortable family life, and social mobility. But for mothers such as those in this study, a different worldview is necessary. Their children’s futures are continually imperiled by the threats of living in poor communities of color. In these contexts that are so fraught with the dangers of drug use, violence, and gang involvement, the risk of getting involved with the police is ever present.

A Room of Her Own? Home on Parole

Housing is a central need for women on parole and one of the most difficult to achieve in terms of affordability and stability. Housing stability can be viewed as correlated to other dimensions of stability in a woman’s life. While people move for positive reasons (to be married, take a job, or to place children in a better school for example), frequent changes may signal problems: conflicts with other household members; money problems; lack of local job opportunities; and, in some cases, evading one’s parole officer. The Paroling Authority tracks offenders’ housing movements and reserves the right to vet a new residence just as it did with the first residence the parolee lived in upon discharge from prison. Furthermore, the impetus for changing residence
may even come from the parole officer, especially when the parolee needs residential treatment services—or when the woman is returned to prison for any reason. And, when women emerge from prison or treatment, the entire process of vetting the residence has to be repeated. There is often the risk that the old residence will no longer be suitable for the parolee’s changed conditions. This would be true, for example, if the parolee had been using drugs with significant others in her household.

Parolees move around a lot after their initial placement. At the beginning of May, 2001, this group of women had been on parole a median average of 17 months.6 Approximately 65% (n=155) of women had at least one change of address after their initial residence. Recall that more parolees lived with relatives (46.7%) than alone (2.1%), with spouses (14.6%), or with friends (10.0%) or in program settings (26.7%) when they first left prison. Table 6.4 describes what for most parolees is significant residential instability considering that the median length of time on parole is a mere 17 months:

<table>
<thead>
<tr>
<th>Living Situation</th>
<th>No Occasions</th>
<th>One time</th>
<th>2 – 3 Times</th>
<th>4 or More Times</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lived alone</td>
<td>202</td>
<td>29</td>
<td>12.1</td>
<td>9</td>
</tr>
<tr>
<td>Lived with spouse/partner</td>
<td>204</td>
<td>30</td>
<td>12.5</td>
<td>5</td>
</tr>
<tr>
<td>Lived with adult relative</td>
<td>193</td>
<td>31</td>
<td>12.9</td>
<td>14</td>
</tr>
<tr>
<td>Lived with adult friends</td>
<td>220</td>
<td>16</td>
<td>6.7</td>
<td>3</td>
</tr>
<tr>
<td>Lived in a program setting or Clean and sober house</td>
<td>202</td>
<td>32</td>
<td>13.3</td>
<td>6</td>
</tr>
<tr>
<td>Entire household moves together</td>
<td>191</td>
<td>25</td>
<td>10.4</td>
<td>23</td>
</tr>
<tr>
<td>Other</td>
<td>216</td>
<td>14</td>
<td>5.8</td>
<td>4</td>
</tr>
</tbody>
</table>

After parolees have had a chance to get their feet on the ground, so to speak, they often want or need to change residences. Continuity within the original household is not the

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6 Data on changes in housing includes their time on parole up until May 1, 2001 with an additional observation period of 6 months added for extra time depth.
rule. In only 10.4% of cases did women move along with the entire household. For the most part, women who moved sought a variety of arrangements that differed dramatically from their initial placements after parole. A few (12.1%) managed to get their own homes or apartments at some point during their parole, but some (3.8%) in this category had to move a number of times. And although many parolees live with relatives after prison, far fewer (46.7% compared to 12.9%) do so when they make changes after that initial placement. The number living with spouses or partners does not change as much (14.6% compared to 12.5%) but this also represents earlier relationships that are “exchanged” for new lovers or spouses. There is still a proportion of women who do not live in conventional households, but enter programs where they live after their initial living situation. This is generally a signal that the woman is experiencing some type of serious problem, usually substance abuse, and/or has no social support. She may be experiencing psychiatric problems as well. The remaining category, women with other placements, consists of those women who go to homeless shelters, are taken into custody and are therefore “living” in prison, or have absconded at some point on parole. These women have even more serious problems and they are at high risk for continued trips to prison.

Social isolation and lack of personal resources, as components of social capital, may even delay a woman’s release after she completes her sentence. Just prior to prison, Rochelle was basically homeless. Her adolescent son was in the care of her mother on another island. Rochelle’s housing prospects were so grim that her departure from prison had to be delayed until housing could be found. Rochelle had to actively engage the system in order to make her release happen:
I was paroled on the basis that I needed a residence. When they picked me up, I was homeless so I needed a residence when I came out. So like I say, when you’re inside and you have no money, you have no family sending you nothing, right? And it’s just you, then how you get money to get a place to say, “I have a residence to go to”? You can’t and that was the catch. I needed someplace to be verified as my residence, that they were accepting me. Most places, they need money down to hold a spot for you. Yet, how you gonna do that when you stuck inside and you can’t even make calls out? Except your phone time, but that’s in the evening. So that was my dilemma and that’s why I stayed in there a few more months extra.

Rochelle had to become adept at facing frustration and figuring out how to make the system work:

I called up Joe C. who’s in charge of the Oxford Houses in Hawai‘i. And I talked to him and told him that I got his number from a friend that knows him. I told him about my situation and he said I have to make an appointment. And I told him, ‘how am I gonna make an appointment if I stuck here and how am I supposed to get out of here?’

Eventually, Rochelle was able to engage the prison administration to push her paperwork through so that she could enter the Oxford clean and sober house. The warden, she noted, was “inspired” to discharge her because of the facility’s chronically overcrowded situation, which Rochelle described as a “hot seat” issue. On a Friday, Rochelle herself walked her paperwork through, getting signatures and making copies so that she could leave on Sunday. Rochelle explained that inmates’ relatives often take the steps necessary to help inmates with housing—either providing it themselves or, as she told me, putting down deposits, or making other arrangements. Women like Rochelle, who have no one on the outside, have a difficult time just managing to walk out the gate after completing their sentences.
Nickel and Dimed: Work on Parole

Women on parole are faced with gathering and managing their family's resources. Even when receiving support, often involving in-kind exchanges of housing and food, women on parole, with few exceptions, know that they have to work. There are almost always expectations on the part of family members that parolees will contribute materially to the households where they live. In addition, many paroled women owe some type of compensation to the state crime fund. The Department of Human Services also holds women accountable to reimburse the state for welfare payments made to their children while the woman was incarcerated. Nancy said, "they're (DHS) coming after me now to repay what the family got while I was in prison." Living arrangements for this group may involve bonds of affection, but also involves economic considerations along with parenting concerns.

The job search after prison poses dilemmas for these women. Few have job skills or job experience. Filling out the job application, with its questions about arrests and criminal history, presents a problem: what to do about that conviction and gap in work history? The conventional wisdom suggests leaving that particular application question blank, as suggested by knowledgeable women. Then, should she get a job interview, she can discuss the matter with the prospective employer. Some manage to hide the information altogether, but then live with the possibility of being fired down the road should their deception be discovered.

Alicia is a 35-year-old woman of Hawaiian ancestry, who had only one legitimate job about ten years before going to prison. She was a long-time welfare recipient prior to

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7 From Barbara Ehrenreich's (2001) account of women in low-wage jobs.
going to prison. After her release, she was able to transition at the women's residential furlough facility where she had been prior to her parole. After several months, Alicia left the facility and moved in with an older female cousin. She is very involved with her children but does not live with them. She explains that she has “major wreckage from the past” and now has to pay out about $500 a month for things like restitution and an old school loan. She is also paying child support for the support of her 17-year old son who lives with his paternal uncle. After leaving prison, her first job was at McDonalds, where she found the work extremely hard and the pay too low to make ends meet. Alicia feels the job-hunting process itself is intimidating and tells me that former inmates are afraid to begin job hunting: “You feel like, you shouldn’t apply because you’ll be turned down. I’m like that, I don’t want to go and apply because I’m not going to get it anyway.” She recalls being afraid of being rejected. She now works for family members who have a business selling local specialty foods and she works cleaning their church in exchange for rent.

Like several other women I interviewed, Anna Maria is also paying child support—retroactive payments for the support of her son while he was in the care of a relative during her incarceration. She owes the Department of Human Services over $1,000 and has to pay them $90 a month. She also has to pay his medical bills, an additional $175 a month. She reunited with her children after prison and she supports two of those children now; the others are grown and on their own. She is employed as a parking lot attendant making $600 to $800 a month. Her second job as a telephone interviewer at a research company in Honolulu can bring in another $800 to $1,000 a month, but this income has not been steady. Anna Maria felt she had a great advantage in
living at the women's furlough facility prior to being paroled. She was able to find a job while residing in this 30-bed facility in urban Honolulu and this eased her transition to the outside world a great deal. This, coupled with her family's support, have proven indispensable to Anna Maria's being able to manage economically on parole—along with her own willingness to work two low-paying jobs.

Other women are positioned even less well to participate as economic agents in the community for a variety of reasons beyond experience and skills. The median age for this population is 38 years, so health and age considerations are a reality for many who simply lack the vigor required to perform the types of service economy jobs that are available to them. Nora, who was born on the mainland, is the mother of three children aged 19 to 23; she lives with her son, his wife, and her nephew. Nora had been on parole for a little over a year, but has been unable to hold a job. She appears older than her age of 45 years and told me that she suffers from arthritis and disabling headaches. She was unable to physically manage part-time work as a parking lot attendant and the part-time janitorial work she managed to pick up was also beyond her capacities. She lost both these jobs due to taking too much sick time:

I'm trying to get on welfare now but I'm having problems. They said that I had to go to a psychologist, that Rehab of Hawai'i, because I have arthritis in my knees and they said the arthritis isn't severe enough to where I can't work. [They say that] I can get a sitting-down job. And then they sent me to a psychologist because I'm getting these headaches to the point that sometimes I can't even think. And it's all behind my eyes, and I get nauseated and I throw up and what not. That's why I got fired from both jobs because I call in sick too much. And I have no medical to go to the doctors and they both [her bosses on these jobs] wanted doctor papers in order for me to return in order to keep my job but I didn't have any medical and the welfare's giving me a hard time now. They sent my psychologist report and my doctor's papers to the [review] board, so it's up to the board. [This board determines eligibility for general assistance.]
But it’s been like three weeks already! And I haven’t heard nothing from them. And I keep calling my worker, my first initial worker and she keeps telling me ‘it’s up to the board, I can’t do nothing.’ She [the worker] told me I can’t go to the doctor unless it’s life or death, unless it’s going to threaten my life. So I’m stuck in limbo. At least if they’d give me medical I could go to the doctor and get a paper saying I can’t work because of my headaches. They get real bad; sometimes I can’t see the pain is so severe.

Her parole officer, though sympathetic, has not been able to help Nora. Everyone in Nora’s household is strapped. If not for her son and his wife, she and her nephew would “be starving.” With the nephew’s income, they pay the rent and the phone bill and this is all they can do. Nora added, “as far as food and stuff, I go up to the church up in Kalihi. They pass out [food] every Thursday.”

Nora’s problems are the same as those encountered by the working poor so well described by recent accounts of low-wage workers and welfare mothers (Edin and Lein 1997; Ehrenreich 2001). Their passage through hard times is marked by successive and sometimes concurrent low-wage jobs supplemented by “off the books” work like babysitting. Part-time work offers no benefits and often applies stringent conditions to their workers. The working poor with health problems are often barred from what Nora describes as “sit down jobs” in offices by their lack of even rudimentary office skills.

The major difference between the majority of paroled women in this study and the regular working poor is that parolees are required to hold jobs or prove their inability to

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8 Churches in Honolulu, especially the evangelical denominations in the city, play a role in offender reintegration in welcoming these individuals as parts of their congregations.
do so. They are also subject to additional forms of surveillance and control. For these women, failure to work may be a violation of parole and can keep them on parole longer.  

How do most women manage to make it economically on parole? As the housing picture shows, they receive a lot of "in-kind" help from relations and friends. They also work rather hard themselves at staying employed and at finding new jobs when the old ones disappear. But their work situations, like their housing situations, are often tenuous and subject to change. To a great extent, their jobs are low-wage work characteristic of a service economy. A review of the case files shows that while women on parole struggle to remain employed, their work life is apt to be interspersed with unemployment and payments from welfare and disability income. Only a few are ever totally supported economically by others; support from a husband is a rarity. Again, these data shown in Table 6.5 apply to the median 17 months that women in this population have been on parole:

<table>
<thead>
<tr>
<th>Working Status or Income Source</th>
<th>No Occasions</th>
<th>At Least One time</th>
<th>2 – 3 Times</th>
<th>4 or More Times</th>
</tr>
</thead>
<tbody>
<tr>
<td>Engaged in full-time work</td>
<td>105 43.8</td>
<td>84 35.0</td>
<td>45 18.8</td>
<td>6 2.5</td>
</tr>
<tr>
<td>Engaged in part-time work</td>
<td>140 58.3</td>
<td>58 24.2</td>
<td>32 13.3</td>
<td>10 4.2</td>
</tr>
<tr>
<td>Experienced job loss/unemployment</td>
<td>158 65.8</td>
<td>64 26.7</td>
<td>18 7.5</td>
<td>0 0.0</td>
</tr>
<tr>
<td>Applying for welfare/SSI* (not working)</td>
<td>226 94.2</td>
<td>35 14.6</td>
<td>1 0.4</td>
<td>0 0.0</td>
</tr>
<tr>
<td>Receiving welfare</td>
<td>184 76.7</td>
<td>49 20.4</td>
<td>7 2.9</td>
<td>0 0.0</td>
</tr>
<tr>
<td>Receiving SSI</td>
<td>224 93.3</td>
<td>16 6.7</td>
<td>0 0.0</td>
<td>0 0.0</td>
</tr>
<tr>
<td>Supported by others</td>
<td>227 94.6</td>
<td>13 5.4</td>
<td>0 0.0</td>
<td>0 0.0</td>
</tr>
<tr>
<td>Attending school and working</td>
<td>217 90.4</td>
<td>22 9.2</td>
<td>1 0.4</td>
<td>0 0.0</td>
</tr>
<tr>
<td>Other source of income</td>
<td>229 95.4</td>
<td>10 4.2</td>
<td>1 0.4</td>
<td>0 0.0</td>
</tr>
</tbody>
</table>

*Supplementary Security Income is granted in cases of physical or mental disability

9 Work is a standard condition of parole, although exceptions can be made in the case of disability. Parolees are expected to "seek and retain employment" and they must gain approval from their parole officers prior to changing employment.
Recall that the mandated employment status for parolees is that of full-time worker. Yet during women's parole periods, only about 35% (n=84) attained this objective even once. Of these, approximately 19% (n = 45) had two to three different full-time jobs—and a few women (6) had four or more different full-time jobs. Women on parole may also work part-time, sometimes combining these jobs—positions that generally have no benefits and are often temporary. Just over 24% (n=58) of women on parole reported working part-time at some point. Over a quarter of the women (26.7%) experienced job loss or unemployment at some time during their paroles. These were women who had been working and were unemployed while looking for work. Few, if any of these, would have been employed long enough to be eligible for unemployment insurance payments.

Another category of unemployed women (14.6%) was noted as being out of work at some point while undergoing some kind of application process for welfare or disability income. As Nora's experience shows, claimants can spend weeks or months without an income while waiting for their applications to be processed. Like other states in the era of welfare reform, Hawai'i has been removing people from its welfare rolls. And, in most cases, the Paroling Authority actively discourages parolees from receiving welfare, although some women with very young children received TANF (Temporary Assistance to Needy Families). However, there are occasions when women on parole receive public assistance from TANF, general state assistance (an extremely restricted category of help), or SSI payments for disabilities. Women in the latter category are those, for example, who are in the mental health unit or those whose physical or psychological disabilities make them unable to work. Just over 20% of women were reported as receiving welfare payments (either TANF or other funds) while about 7% received SSI payments at some
point during their paroles. There are women who, at times, receive full financial support from their relatives or a spouse—but these few (about 5% or 13) women are exceptions.

The demands on women who are on parole are stringent, but some do find the time and energy to attend school. About 9% (n=22) were reported as having attended school on parole at least once. Some women attended vocational or technical classes such as computer work or data entry while others attended college classes. All of these students were working either full- or part-time during this period. The final category of women was reported to be receiving funds from other sources (4.2%) at some point. For example, a few reported receiving child support while others received social security.

The majority of the women in this study, as Chapter 4 explained, had very little in the way of job skills or experience prior to prison. Their experiences in prison did little to ameliorate these situations. The Women's Community Correctional Center offers fewer vocational opportunities than the men's prisons on O'ahu. And, when classes of some kind are offered, they are frequently canceled as a result of security personnel shortages or funding. Ironically, the picture is somewhat better for women who were sent to the women's facility in Oklahoma. This facility offers far more in terms of programs and classes than women in Hawai'i receive. Thus this “prison abroad” program provides more meaningful programming at the cost of painful separations from families.

Problems on Parole

None of the women I spoke with reported any great difficulty in complying with the reporting demands of parole. Reporting to their parole officer once a month or even more frequently was never described as being a real problem. But this has to be qualified
within the context of the woman’s life on parole. As Anna Maria (the mother of the schizophrenic child) put it, “As long as you’re doing what you’re supposed to be doing, it’s ok.” I always kept in mind, however, that the women who were having problems with drugs or other illegalities were not likely to be spending time being interviewed (although one woman did discuss her ongoing problems with drug use on parole with me). The parole case file data, which will be discussed below, shows that the experiences of a substantial number of women on parole have not been such clear sailing. In addition, women like Anna Maria may well feel that, compared to dealing with some of the other serious problems in her life, her performance on parole is a less important issue.

Women may not feel particularly burdened by the reporting and other requirements of parole, but since their residences are subject to inspections at any time, they often have to worry about the other people in the household. Problems of a family member or difficulties being experienced by others in the household can and do bleed over into the life of the parolee. For example, parolees are supposed to live in a drug-free, or clean and sober environment. What happens when their loved ones, especially their children, are using drugs? Malia likes her parole officer, but she worries about her parole performance and staying out of trouble. Her current difficulty is that there is drug use going on in her home: her sons drink and her niece is doing drugs as well. This is a problem on at least three levels: her concerns about the welfare of her children and her niece who may be going down the same path she did; the possibility that her parole officer might find drugs on the premises; and the personal temptation that drugs still pose for her. She worries about this now saying that she does not want to go back to prison “if I make a mistake.” She feels that being on parole keeps her focused on staying clean and
sober. She told me that that if she did not have the parole, she might be messed up with drugs and “be out of it.” This experience has helped her put a stop to her drug use, “because I didn’t know how to do it on my own.” But this approach does not work for everyone as Table 6.6 shows. Notes from parole case files show that approximately 25% of parolees either tested positive for drug use during parole or admitted to their parole officer that they had been drinking or using drugs:

<table>
<thead>
<tr>
<th>Problems with substance abuse on parole</th>
</tr>
</thead>
<tbody>
<tr>
<td>Parolees: Positive Drug Tests or Admission of Drug Use/Drinking</td>
</tr>
<tr>
<td>No occasions reported</td>
</tr>
<tr>
<td>1 – 2 Occasions reported</td>
</tr>
<tr>
<td>3 or More Occasions reported</td>
</tr>
</tbody>
</table>

Why do parolees take the unusual step of admitting their drug use or their drinking to their parole officers? Obviously, they realize that they can be tested for drugs (although alcohol use is not subject to this verification) and that lying about it can make their situation more serious. In the context of the parolee-parole officer relationship, compliance and working out problems sustains the view of the relationship for both parties as cast in the mold of social worker-client. Once the “conning” begins, the law enforcement function of the officer’s role is almost sure to be activated. What generally triggers an arrest warrant and possible parole revocation is a combination of factors, especially when parolees stop contacting their parole officers. This factor, in combination with drug use or on-going criminal offending (indicated by a new arrest, for example), is the trigger for ramping up control over a parolee. I will say more about the issue of revocation later, but clearly drug testing has eliminated one subjective aspect of the parole officer’s work. But in this population, a positive drug test in itself was never
the sole cause of revocation. The vast majority of revocations involve drug use in combination with other violations.

About 20% of parolees either had positive drug tests or admitted drug use on one or two occasions during the course of their average 17 months on parole. Another 5% had three or more such drug/alcohol episodes noted in their case files. To a great extent, parole officers respond by attempting to get women into substance abuse treatment, utilizing residential substance abuse treatment facilities, outpatient treatment modalities, and visits to psychologists. They also rely heavily on sending women to meetings of Alcoholics Anonymous and Narcotics Anonymous and requiring verification in the form of slips that are signed by meeting secretaries.

The goal of living a drug-free life, a central tenet of parole supervision, is far from being met by this population of women. Indeed, like the women heroin addicts studied by Marcia Rosenbaum (1981) in the 1970s, the journey through various treatment modalities may become part of the drug scene itself (p. 105). Life becomes a series of events where chasing drugs blends with trying to avoid the consequences of drug use: hitting jackpots (as drug-related disasters are known in the recovery community); detoxing; getting treatment; aftercare; easing back or relapsing suddenly into the drug life; and then attempting to manage or control consumption. Being incarcerated only interrupts the cycle for some women who resume drug use after prison. Kepuhi is an example of a woman whose drug addiction was never really arrested by the prison experience. As soon as we sat down to talk, she began to tell me about her recent problems on parole. Her story illustrates the contradictions of the drug-testing regime for both offenders and parole agents. Kepuhi told me that she had recently had her fourth
dirty urinalysis since leaving prison 18 months ago. She was convinced that the test, taken a number of days after her “chemical indiscretion”\textsuperscript{10} should have been negative. She told me that verification tests are available for an additional cost of $20. In fact, she had even considered paying the additional money for the confirming test, but she just did not have the cash. Her problem, as she interpreted it, was not that she had used drugs but that the test was faulty in some way. Her parole officer suggested that her body might metabolize drugs more slowly; hence the positive test. Kepuhi clearly would like to understand how the testing works so that she can attempt to manage her drug use to avoid a “dirty piss test.” She does not really understand the testing and is entertaining a good deal of denial about her ability to manage her drug use while on parole. At this juncture, her parole officer wanted her to go into substance abuse treatment, which she is unwilling to do. With a full-time job, evening classes, and her childcare responsibilities, she does not have the time, she says, to go to outpatient treatment three times a week. She dislikes Alcoholics Anonymous and Narcotics Anonymous meetings and she gets tired of listening to all of those stories. “Why can’t parole give people more time to change?” she asks me. “After all, you can’t expect a person to be an addict one month and clean the next.”

Kepuhi is one of a substantial number (25%) of paroled women in this study who were caught or admitted using drugs after prison. Parole officers identify relapse as a major contributor to re-offending. They order parolees to treatment at rates that nearly match the documented rates of substance abuse. A review of the case files indicates that

\textsuperscript{10} Barbara Ehrenreich recalls in \textit{Nickel and Dimed} worrying that a “chemical indiscretion” might interfere with her getting a Wal-Mart job. The problem then becomes one of timing, not drug use per se (2001, p. 125).
20% of women were sent to some kind of substance abuse treatment during their parole.

Table 6.7 shows patterns of substance abuse treatment for this population of parolees:

<table>
<thead>
<tr>
<th>Sent to Substance Abuse Treatment</th>
<th>Number of Women</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>No occasions</td>
<td>192</td>
<td>80.0</td>
</tr>
<tr>
<td>1 - 2 Treatment Episodes</td>
<td>43</td>
<td>18.0</td>
</tr>
<tr>
<td>3 or More Occasions reported</td>
<td>5</td>
<td>2.0</td>
</tr>
<tr>
<td>Total</td>
<td>240</td>
<td>100.0</td>
</tr>
</tbody>
</table>

Drug use, generally in combination with other technical violations like non-reporting or failure to provide the parole officer with a current address, is the greatest precipitator of a return to prison for this population.

The parole case files note that some women on parole are arrested for new offenses, often related to drug use. Over the 17-month average parole window on this population, 22 women (9.2%) were arrested by law enforcement for a new offense. In keeping with its rehabilitation philosophy, the Hawai‘i Paroling Authority clearly attempts to direct its parolees to substance abuse treatment in order to forestall recidivism. However, this is the terminal end of a process where women’s long-standing drug use has been addressed inadequately, if at all, during prison. Case file records show that only 9.6% of this population received substance abuse treatment in the therapeutic community of the Women’s Community Corrections Center. This program, some 9-12 months in duration, is the gold standard of prison treatment for incarcerated women in Hawai‘i. Only 23 women in this population underwent treatment there. An additional 39.5% received a less intensive modality of treatment designed for inmates who are not as seriously drug dependent. Some 10.8% of women (26) received a combination of drug treatment modalities in the Oklahoma prison. Recall from Chapter 4 that over 80% of
women admitted to prison were assessed as having very serious drug abuse problems, with an overlapping 36% having alcohol abuse problems. It is clear that some women inmates are not receiving treatment in proportion to the severity and scope of their addiction during their incarceration. And given that 25% were caught using drugs calls into question whether these problems are being dealt with effectively.

Women on parole continue to be involved in drug use and need continuing aftercare on parole. Continuing aftercare treatment for substance abusers after prison has been shown to be critical to their success on parole (Hiller, Knight, and Simpson 1999). As it is, the system waits until drug use has been detected to send women to treatment. This approach has been insufficient, leaving parolees to compete with the community and other offenders for limited treatment services outside of prison. Women may also commit new offenses in their pursuit of drugs. With respect to this gap between service provision and the need for substance abuse treatment in prison, it is puzzling that a greater proportion of these women are not in trouble for drug use at some point during their parole.

Networks of Surveillance and the Documentation of Women’s Woes

Women have other problems on parole that come to official attention. Based on my interviews, these problems are best understood as the continuation of problems women had prior to prison. Nearly 5% of women (11) were reported by parole officers to be homeless at some point during their parole. Sometimes these women go to live at homeless shelters and sometimes they find themselves on the street. Parole officers know that this makes a woman vulnerable to using drugs, being victimized, and committing
new crimes. They are often women who have had a series of living situations where they have been dependent on troublesome relationships and have been forced out. For much of this population, whose claims to residences are mainly dependent on the good will of relatives, homelessness is a matter of semantics. Based on what we know about their own meager earnings, these women and their children are likely members of the hidden homeless. The hidden homeless is that population that shares a household with other groups, either residing with another family (to whom they are related) or sharing housing facilities with unrelated others (Market Trends Pacific 1999, p. 3-6). These housing arrangements are, of course, dependent on the generosity of these relatives or friends, which makes their situations tenuous. In a context of declining social welfare benefits in a stagnant economy, women's situations are never truly secure. Moreover, their remaining on parole is contingent upon their remaining in vetted households. Women’s troubles—the household conflicts, drug use by household members, and violence—often have to be pushed aside in order to maintain the household and keeping children together. Women may prefer to keep silent about some of these problems lest official interventions jeopardize their freedom.

Considering the risks involved, women share a surprising amount of information about their lives and problems with their parole officers. Some paroled women clearly see their parole officer as a social worker type if not a friend. Others attempt to resist or control the parole experience through divulging information. The officers’ case notes reveal their knowledge of women’s activities and difficulties. Issues that are thought to be relevant to the case management process are jotted down as brief notations in the case file. A sample set of officers’ notes for one parolee is presented below in Table 6.8. I
will refer to this woman as Ella. Ella was 19 years old when she was arrested for a first-degree burglary and went to prison early in 1996 at the age of 21. Having left school in the 10th grade, she pursued a GED in prison but received no substance abuse treatment until she entered a residential furlough facility during the last months of her sentence. While in prison, she worked in food service but did very little in the way of programming other than GED classes. Indeed, the Hawai'i Paroling Authority deferred her parole at one point to enable her to engage in some kind of treatment program for her addiction. Parole officers' notes vary in the amount of data included; most concern transactions that are directly related to the conditions of parole (address changes and employment information) but often include much more as Ella's case demonstrates:
Table 6.8. Officer case notes, #155.

<table>
<thead>
<tr>
<th>Date</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>June 1998</td>
<td>Subject is paroled to live with a friend</td>
</tr>
<tr>
<td>July 1998</td>
<td>Subject works part-time for a telemarketing/research company</td>
</tr>
<tr>
<td>August 1998</td>
<td>Subject moves with her mother</td>
</tr>
<tr>
<td>October 1998</td>
<td>Subject is three months pregnant.</td>
</tr>
<tr>
<td>November 1998</td>
<td>Subject works part time at a fast-food restaurant</td>
</tr>
<tr>
<td>January 1999</td>
<td>Subject is receiving partial welfare benefits.</td>
</tr>
<tr>
<td>April 1999</td>
<td>Subject gives birth to baby girl</td>
</tr>
<tr>
<td>May 1999</td>
<td>Subject’s welfare benefits increased</td>
</tr>
<tr>
<td>July 1999</td>
<td>Subject has a UA positive for methamphetamine</td>
</tr>
<tr>
<td>September 1999</td>
<td>Subject goes to live with uncle and her daughter</td>
</tr>
<tr>
<td>October 1999</td>
<td>Subject and baby move in with her brother</td>
</tr>
<tr>
<td>December 1999</td>
<td>Subject gets her own apartment</td>
</tr>
<tr>
<td>January 2000</td>
<td>Subject’s welfare benefits are reduced because baby is over six months old</td>
</tr>
<tr>
<td>February 2000</td>
<td>Subject moves back with her mother</td>
</tr>
<tr>
<td>March 2000</td>
<td>Subject begins First to Work Program.* Wants to go back to work for telemarketing company.</td>
</tr>
<tr>
<td>March 2000</td>
<td>Subject is having trouble with carpal tunnel syndrome; baby is having medical problems.</td>
</tr>
<tr>
<td>June 2000</td>
<td>Subject’s welfare is cut off because she missed First to Work classes. Her doctor is to write a letter for a disability claim due to carpal tunnel syndrome.</td>
</tr>
<tr>
<td>July 2000</td>
<td>Subject leaves First to Work Program to reapply for welfare</td>
</tr>
<tr>
<td>September 2000</td>
<td>Welfare will be reinstated because Subject will return to First to Work Program.</td>
</tr>
<tr>
<td>September 2000</td>
<td>Subject is pregnant</td>
</tr>
<tr>
<td>October 2000</td>
<td>Subject miscarries</td>
</tr>
<tr>
<td>April 2001</td>
<td>Subject is pregnant</td>
</tr>
<tr>
<td>May 2001</td>
<td>Subject has a positive UA for methamphetamine</td>
</tr>
<tr>
<td>May 2001</td>
<td>Parole officer notifies Child Protective Services about the positive UA; CPS tells parole officer that there is no fetal protection law but CPS will check subject’s history.</td>
</tr>
<tr>
<td>June 2001</td>
<td>Subject moves in with her boyfriend and daughter.</td>
</tr>
<tr>
<td>June 2001</td>
<td>CPS notifies parole officer that subject and her boyfriend are taking anger management and family planning classes per an agreement between subject and CPS. If subject fails to comply, CPS will take subject to court.</td>
</tr>
<tr>
<td>October 2001</td>
<td>Subject gives birth; she is to start CPS classes (parenting?) at a substance abuse treatment center [presumably along with substance abuse treatment].</td>
</tr>
</tbody>
</table>

* A program for people transitioning to work from welfare. See discussion.

Ella’s frequent moves on parole, from one relative or situation to another, are characteristic of the poor who are marginally housed—the hidden homeless I referred to above. Her lack of job skills and employment experience are evident in her inability to
secure stable, full-time employment. Ella’s difficulties increase when she became pregnant just weeks after leaving prison. Unfortunately for Ella, her attempts to secure welfare benefits coincided with Hawaii’s push to get people off of welfare. Indeed, even in this liberal state, the welfare rolls were reduced by about one third between 1998 and 2002, from 48,300 recipients to 32,407 (State of Hawai‘i 2002, Table 11.01). This was not at a time when jobs became especially plentiful. The rules for receiving welfare had become more stringent, just as Ella found herself under scrutiny of yet another agency—the Department of Human Services. As the officer’s notes show, her benefits were reduced when her child reached six months and her benefits were threatened when she balked at attending the First to Work Program. More serious trouble followed when Ella had a positive drug test during her second pregnancy in 2001. When notified by Ella’s parole officer, Child Protective Services entered into an investigation of Ella and her situation. While Ella’s unborn baby was not subject to legal protection, her daughter was. Ella and her boyfriend, the father of her child, were ordered to attend CPS classes for anger management and family planning. Her participation is guaranteed by the courts now. More noteworthy still, is that Ella stands at the crosshairs of multi-agency surveillance. And, she is being sent to substance abuse treatment where her progress can be tracked by both child welfare and parole.

This overlapping system of scrutiny and regulation is a feature of modern crime control interventions, especially for women with children. So, how much of a difference do these interventions make? The following section deals with the question of recidivism in this group; that is the range of sanctions applied by parole when women commit new crimes or fail to adhere to the conditions of parole.
In an era when crime control issues are one of our most furious national debates, offender recidivism is a lightening rod for public frustration (Petersilia 1999). The same concern exists in Hawai‘i. During the State fiscal year 1999-2000, 12.4% (409) of all parolees were returned to prison (Hawai‘i Paroling Authority 2000). Of these, only four had been charged with new felonies while 405 were charged with technical violations. Technical violations generally involve substance use, contact with the police, failure to report to parole, association with other felons, and curfew violations. Parole is commonly revoked for a combination of all of these issues. Parole revocation contributes to swelling numbers of inmates in Hawaii’s prisons. In 2000, returned parolees made up 28.5% of new admissions to Hawaii’s prison population (State of Hawai‘i 2003). A recent study of parole recidivism in Hawai‘i revealed that 43% of parolees were returned to prison during their first 24 months on the outside (Kassebaum and Davidson-Coronado, 2001). The rate of return is higher in the very beginning, diminishing over time. Twenty percent of parolees experienced parole failure within six months of release from prison, while another ten percent were revoked or at risk for revocation when arrested at one-year post-release time (p. 31-32). This study of 314 parolees was a mostly male sample (86%) that included only 44 females.

I examined the rates of return to prison for women in my study over a six month period from May 1 to November 1, 2001. Some parolees had been out of prison for a few months while others had been continuing on parole for years. The median length of time on parole for this group of 240 women was, as mentioned before, 17 months—nearly a
year and a half. Table 6.9 summarizes the status for this group of 240 women during the six-month observational window:

<table>
<thead>
<tr>
<th>Disposition</th>
<th>Number</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Still on parole</td>
<td>172</td>
<td>71.7</td>
</tr>
<tr>
<td>Parole revoked; returned to prison</td>
<td>14</td>
<td>5.8</td>
</tr>
<tr>
<td>Warrant issued or taken into custody; hearing pending</td>
<td>26</td>
<td>10.8</td>
</tr>
<tr>
<td>Parole maxed out</td>
<td>15</td>
<td>6.3</td>
</tr>
<tr>
<td>Early discharge from parole</td>
<td>9</td>
<td>3.7</td>
</tr>
<tr>
<td>Moved to other jurisdiction outside Hawai‘i</td>
<td>1</td>
<td>0.4</td>
</tr>
<tr>
<td>Deceased</td>
<td>3</td>
<td>1.3</td>
</tr>
<tr>
<td>Totals</td>
<td>240</td>
<td>100%</td>
</tr>
</tbody>
</table>

Over 70% of women who were on parole in May of 2001 were still staying out of prison and avoiding arrest six months later. Parole was revoked after a due process hearing before the Parole Board for 14 women, but another 26 were facing possible charges for new offenses or technical violations. (This group was divided evenly, incidentally, into warrants issued for at-large parolees and a second group who were in custody awaiting hearings.) Fifteen women were discharged from parole as a result of having served their entire term, while nine were discharged early from parole. One was permitted to leave the jurisdiction for parole supervision in another state. Sadly, three women died during this period.11 Combining women whose parole was revoked (14) with those for whom warrants were issued for violations, new offenses, or absconding or who were already in custody awaiting hearings (26), approximately 17% of the women (40) in this study met with an outcome classified as a major failure on parole during just this six month period. If this rate holds over a 12-month period, their overall failure rate (34%) might well surpass the annual failure rate cited (30%) in the Kassebaum and Davidson (2001)

11 Two women appear to have died of natural causes at ages 51 and 53. A third died of a drug overdose at the age of 35 a few months after being paroled.
study. While it is true that recidivism is greatest during the early part of parole, this group contains both recently and not-so-recently paroled women. In any case a failure rate of 17% over any six-month period is problematic.

Parole, just one of the sectors of penalty in Hawai‘i, is the terminus of a system that promises rehabilitation but delivers much less. Torn by its contradictory mandates to watch as well as watch over felons (Rothman 1980), parole is left with the unresolved problems of women under its control. Women fail to receive effective programming and treatment at points throughout the system—from probation to parole. Indeed, considering that roughly 54% of women were incarcerated as a result of probation violations, probation as the entrée of the criminal processing system should probably should be scrutinized even more than prison for what it is failing to do.

Conclusion: Punishment and Paternalism in Hawai‘i

Many women leave prison to join households where they are peripheral members, often feeling like interlopers as they attempt to exercise the duties of motherhood. Reunion with children takes place in situations where the woman is still dependent upon others and is still not really in control of her own life. This is confirmed by the fact that she is under the watchful eyes of the law. While bonds of affection endure in many cases despite the separation entailed by incarceration, the woman’s identity as a mother has been undermined by damage to her position as moral guide. The authority that stems

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12 The parolees in the Kassebaum and Davidson study were tracked from their release from prison and their rates of return to prison diminished over time. My sample was composed of women who had been out various lengths of time, so the annual rate of 34% for this blended group (“new” and “old” parolees) may be probably even more problematic. One cannot say for sure without comparing males to females in Kassebaum’s sample.
from a mother’s moral position becomes undermined by her loss of rectitude—which
admittedly may go back to the very beginning. And, as a practical matter, the woman is
probably not in touch with the day-to-day needs of her children. Another adult has,
presumably, stepped in as liaison between children and the outside world of schools and
other institutions. Guiding children through the risks of growing up and affording
protection from harm is a primary part of maternal identity, but these women are poorly
situated to fulfill these tasks.

Who would know how to address the dilemmas posed by mothering on the
margins? Women leaving prison attempt to undo the damage they see themselves as
having caused but few see that their children are caught up in the same contexts and
conditions that shaped their own trajectories. Cognitive skills classes and the other
approaches stressed by penalty in late modernity place an enormous emphasis on
individual agency and independence. But these foundations of subjectivity belong far
more to middle-class lives than to the lives of the women I came to know.

In her book on homeless mothers, quoted at the beginning of this chapter,
Deborah Connelly explores the contingent and shifting conditions within which these
women attempt to parent. She notes that popular understandings of homeless mothers,
who negotiate motherhood within a context of domestic violence, poverty, and
homelessness, depict these women as either helpless victims of personal and social
factors outside of their control or as choice-makers responsible for their own actions.
The women in my study, like those in Connolly’s, ought to be understood as “limited
agents” (p. 79), constantly addressing dilemmas that would madden the average person.
Added to this is the slippage between ideological versions of motherhood and the series
of losses and troubles posed by the real lives of these women. The emphasis on choice making and the power of the individual to transform herself, the keystone of late-modern rehabilitation strategies, fails to consider these realities. Moreover, when the woman does fail to manage the conditions of parole, relationships, work, and (often), her own residual addiction, she can blame no one but herself.

As regards the material realities of post-release life, the overall picture is one of women gaining access to housing mostly by virtue of social capital—that is help from networks of intimates—backed up by meager amounts of economic capital. The traditional extended family so important to Hawaii’s mix of Asian and Polynesian cultures, can, like the African American families described by Patricia Hill-Collins (1994) and Sandra Enos (2001) absorb troubled family members. The people who step in to care for her children have taken up this responsibility in addition to their own considerable burdens. They, like their incarcerated relatives, are likely to be members of the working poor and have family burdens and problems of their own. This makes for a stressful situation in these uneasy households.

The instability of post-release housing is mirrored by frequent job changes by women on parole. The best that most of these women can hope for are positions as low-wage workers. And, although many of these women might have qualified, parole regulations discourage collecting welfare or unemployment. As a result, women on parole find themselves competing for the same entry-level jobs that their welfare counterparts want once they are made to leave the welfare rolls.

Substance abuse treatment is inadequate given the scope of the problem. The substance use detected by the Paroling Authority is undoubtedly an undercount of the
extent to which women are still involved in the drug scene after prison. Resumption of substance use on parole calls into question the efficacy of prison treatment which is nominally about getting people off of drugs. And, although parole directs women to substance abuse treatment, there is no systematic continuum of care that might prevent relapse into drug use. Instead, women are watched until they fail through ever deepening drug involvement.

This watching increasingly takes place by numerous formal agencies of regulation and control. Some of these collaborations are simply about getting vocational training, substance abuse treatment, or other community services for parolees. But the control potential of these arrangements can be instantly ratcheted up by parole in cases of non-compliance. Moreover, parole officers interact with child protective services to deal with women’s family problems as well as with substance abuse treatment facilities to ensure that women are following their treatment plans. Donzelot (1979) suggests that the modern state no longer polices troubled individuals directly through the family. And in the case of these carceral families, this is certainly true. A number of agencies serve as adjuncts to the network of surveillance cast by penal institutions. This situation offers the benefits of discipline and normalization, presumably based on the individual’s making the right choices—backed up by the repressive power of the state which can step in to revoke parole and return people to prison.

Rothman (1980) argued that American Progressivism linked the idea of paternalism to offender rehabilitation. Through indeterminate sentencing, probation, and parole, the state could watch over the criminal as well as watch her (p. 70). Hawai‘i is one of the states where the Progressive ideal seems to endure—residing in an uneasy way
with the more punitive techniques of governance available to the state. In the case of
women offenders, the responsibilities of care and control are spread among a variety of
state and non-state actors: parole; offender's relatives; substance abuse treatment centers,
child welfare services, and state agencies providing social welfare entitlements. This is a
system of high surveillance and diffuse accountability. However, there is someone left to
blame when the system fails: the parolee herself.

The final chapter of this dissertation summarizes the contradictions of the
ideology and structure of rehabilitation in late modernity. I summarize the linkages
between society and punishment, pointing to the implications of both social and penal
transformations for women. Crime control policy is not the only expression of state
power that poor women have to worry about. I have already alluded to the increasing
surveillance of women through various agents of the state ranging from child welfare to
entitlement programs; I expand upon this in the final chapter. Finally, I consider the role
of the prison and related legal apparatuses as they draw more and more families under
their influence and control.
Chapter 7

Women or Children First? The Ideology of Choice and the Structure of Rehabilitation

'It's you working on yourself.'

Elaine, parolee, describing the rehabilitation program she joined in prison.

Introduction: Rehabilitation, Hawaiian Style

If late-modern rehabilitation were an economy, the terms “choice” and “responsibility” would be its legal tender. But how much purchasing power does this ideological currency really provide for women leaving Hawaii’s prisons on parole? In best-case scenarios, women emerge from prison as transformed selves, recast as responsible, rational, and independent choice-makers. And, in fact, a good number of these women rejoin their families and attempt to lead solid lives as mothers and workers even in the face of enormous social and material obstacles. The prison, as the site where rehabilitation is carried out, remains a fundamentally coercive environment, in which real choice in matters both great and small is absent. So, the domains within which women practice their choices and newly-learned cognitive skills are really very narrow in prison. On parole, women can practice a less limited autonomy. But, in fact, their lives are constrained in many of the same ways as before their incarceration. They still lack education and job skills, they have complicated relationship issues, and they have
unstable job and housing situations. A good number of them still have problems with drugs. And they find that their children, now adolescents, have developed the same range of problems that shaped their own journeys to prison. Women are subjected to a range of rehabilitative strategies in prison that purport to alter consciousness in ways that will help them amend their lives, but these attempts fail to significantly alter their most serious problems.

Critiques of rehabilitation and treatment in prison are by no means new (see Duguid 2000 for a history). Prison has long been known to foster dependency, for example. But the issue of structure and agency (really the kernel of most of our fights about offender rehabilitation and punishment) has seldom been investigated for what it means for women offenders. This issue of individual action is made more complex for women especially because there is less consensus about what women compared to men are expected to be as they emerge from prison. Social expectations about women are complex to start with, and their appearance in numbers in a criminal processing system (still organized around the male offender) disturbs us. The “woman question” described by Ehrenreich and English (1978) about expectations of female behavior posed by the social transformations of the 19th century persist today—as society regards (in condemnation) the welfare mother, the pregnant teen, and the woman offender. The social transformations that troubled the category of “woman” in the 19th century resonate in the changes brought by today’s globalization and neoliberal politics. We are still far from settling the question of whether society is better off for women being workers or mothers, or some combination of the two. This uncertainty is intensified within penalty as women become the subject of efforts at rehabilitation. Parole hearings and parole
supervision as a whole, as one small illustration of the broader penal system, scrutinize women not just as workers but as women and mothers as well. (I have observed women being scolded for their derelictions as mothers but never about their lack of education or job skills.) Motherhood is seen as a way to “reach” women and correct their behavior, as pointed out by the judge I quoted in the first chapter. But as for male parolees, work provides another means of regulation and discipline (Simon 1993) that staying home with children does not provide. The “woman question” surfaces in penality in some of the same ways it appears in social policy arguments more generally. As Foucault suggested, the prison (and its ancillary apparatuses like parole) provides a model of society where such questions of power and morality are intensified.

The “new penology,” especially its theses about the management of populations based on actuarial assessments of risk, has become the dominant narrative of late-modern penology among many scholars. Indeed, its core arguments about increasingly punitive crime control, elimination of discretion across sectors of the penal bureaucracy, and the normativeness of high levels of crime really do appear to have gained the upper hand—at least in the United States and Britain (Garland 1996, Garland 2001). Yet other narratives about the possibility of enabling criminals to amend their lives and desist from crime endure. As a state, Hawai‘i eschews many of the harsher modes of punishment for its own sake that are being experimented with across the nation. For the moment, there are no supermax prisons, chain gangs, or executions\(^1\) in the Aloha State and there is still an ideological commitment to rehabilitation. These narratives about rehabilitation versus incapacitation and punishment reside along side one another, legitimated by reason of

\(^1\) The Territory of Hawaii abolished capital punishment in 1957; its last execution was of a Filipino male in 1944 (Theroux 1991).
culture, political economy, and social conflicts. They are also highly contextualized and historically contingent.

Punishment and Society

Hawaii’s history, described in Chapter 3, tells of recurrent tensions in institutions of punishment and places them in broader social and economic domains. Hawaii’s colonial past and its political economy, dominated for nearly a century by the industrial plantation, left their stamp on its present society. This history helps to explain the racialization of the carceral population in Hawai‘i. Dispossessed and alienated, Native Hawaiians make up the bulk of disadvantaged minorities who are over-represented in the criminal processing system. New immigrants to Hawai‘i cycled through the same system and continue to do so. Waves of disadvantaged groups became the predominant defendants in criminal courts during the 19th century, illustrating the intimate role between courts, prisons, and social transformation. In recent times, globalization has meant another transformation for Hawai‘i, with jobs that require different forms of cultural and social capital compared to the old plantation way of life. The individuals and groups who fail to bring their subjectivity into line with these transformations generally make up the ranks of court and prison populations.

As in other regions of the country, penality in Hawai‘i was always a way of organizing and controlling a large, multi-racial workforce. Punishment in the early to mid 19th century focused on moral reform of the indigenous population. But with the development of industrial plantation workforce, law enforcement and the courts targeted those who failed to work, those who were overly violent or disruptive, and those whose
lifestyles were incompatible with Western regimes of production—especially those who used drugs and alcohol. Innovations in crime control and punishment were often adopted from the United States but reflected local social and economic arrangements. The Progressivism that inspired reform in the early part of the 20th century in some areas of the United States came much later to Hawai‘i. Progressivism, with its emphasis on upward social mobility and individual uplift (Rothman 1980), was the antithesis of the plantation economy and its racial stratification. It was only when the plantation oligopoly loosened its grasp that things began to change. But even in the era of the medical model that arrived in the 1930s, the prison in Hawai‘i was still expected to be self-supporting. Its work regimes and agricultural camp operations tended to resemble those of the plantation.

The logic of penal labor is certainly not unique to Hawai‘i, but this place does provide a chance to examine how cultural and economic considerations inform the structure of punishment. This case study also provides an example of how this structure changed over time—from one based on moral transformation to one shaped by economic objectives. At present, we are in an era that has shifted its explicit goals to those of rehabilitation and incapacitation, albeit in a largely contradictory arrangement.

But what about women and punishment in Hawai‘i? As Rafter (1990) found, treatment of prisoners in 19th century America resonated with gendered expectations in the larger society. This is reflected in the work that women and men did in prison, with women engaged in domestic tasks and men doing physical labor. This pattern was found in Hawai‘i as well: For much of the 20th century, women could be found doing the things they had always done in Hawai‘i’s prisons, weaving lauhala products and making
clothing. But as she also found, gender expectations varied by race and class (Rafter 1990). In Hawai‘i, this meant that women of color were expected to do productive as well as reproductive work—unlike their middle-class white counterparts who were seldom imprisoned. Hawaiian and immigrant women posed no contradiction to the political economy of prison in Hawai‘i. It was the presence of white women in the prisons of the United States that, in part, prompted the women’s reformatory movement in the late 19th century, while black women remained in custodial facilities (Rafter 1990).

More importantly, the pattern of women’s incarceration offers additional theoretical possibilities beyond these statements about gender roles. During periods of moral reform in Hawai‘i’s past, specifically the period between the 1830s through the 1870s, women were arrested and incarcerated in larger numbers than in periods when moral concerns were at a low point. Under the missionary regime, when concerns about remaking the Hawaiian family in the Western Christian ideal prevailed, women were regularly arrested and confined especially for sex or family related offenses. As missionary influence waned, women came to prison less frequently. In present day Hawai‘i, like the remainder of the United States, the population of women under crime control jurisdiction has skyrocketed. This development comes at a time when arguments about family values and fundamentalist religious themes are prevalent in public policy debates. The presence of women and girls in criminal populations, in turn, reinforce these questions about what is happening with women.

*Motherhood, Government, and Penalty*

Motherhood is constructed by culture in ways that make it seem an entirely natural and even instinctual relationship. The powerful bond between mother and child is
supposed to be resistant to the troubles and strains of real life. Of all forms of familial violence, for example, killings or injuries inflicted by a mother on her children evoke the most incomprehension, anxiety, and denial. There are indications, however, that this denial about the nature of motherhood as a constructed category may be breaking down on the margins among poor women and women of color. The motherhood of certain women or groups of women has become suspect. Crack use by mothers caused moral panics in the 1980s and 1990s, resulting in the criminalization of addicted women (Chavkin, Wise, and Elman 1998; Coffey 1997; Gomez 1997; Logan 1999; Maher 1990; Maher 1992; Sterk-Elifson 1995). Welfare mothers have become the objects of a racialized skepticism, as have women who go to prison. The common denominator of all of these suspect moms is their marginalized social position. But public policy analyses (such as those attached to the welfare reform of the 1990s) have not centered on poverty but upon the women themselves who fail to measure up. The law’s notions about motherhood are decontextualized and divorced from the reality of their situations.

Not all women are mothers, but motherhood is normatively the central concern of many women, even women who break the law. Indeed, motherhood constitutes a sense of identity and a powerful motivation despite the fact that these women have led highly unconventional lives. In fact, the form and content of motherhood for the women in my study was highly variable. Some women were forced to parent on the streets, many parented in a context of domestic violence, and most were also burdened by drug or alcohol addiction. Others had lost their children to death, to child protective services, to family members who could better care for them. Some women did all the nurturing and “motherwork” that society expects. Others mothered at a distance, maintaining a
companionate relationship with their children. Many were guilt-ridden and overwhelmed by the relationship and what they saw as their part in the difficulties their children were now having. But no matter how far down the scale they had gone as mothers, incarceration represented the nadir of their experience and had an iatrogenic impact upon their relationships with their children.

What the law says about motherhood is diffused through its agents, institutions, and policies—as well as by the community and media. And, although law does not speak with one voice about what motherhood should be, once a woman is caught up in this web of supervision and control, she is subject to blaming and shaming. Individual judges, parole officers, social workers, police—in short any agents of control—are free to inflict their judgments on her as a mother. And, as women have reported to me and as I have observed myself, they do so continually. Women feel this blame and shame acutely. One of the ways that power is most intimately deployed is through inflicting these injuries on women who are too disempowered to talk back or to explain themselves. The form of legal procedures often prohibits women from defending their motherhood; talking back means insubordination so women remain injured and silent.

I have chosen to highlight motherhood as an account of feminine gender and as a site for controlling women. Feminine subjectivity is enacted in a variety of ways, especially ones that are linked to relationship. But relationship, under some conditions, may render a woman vulnerable and may disempower her further. Fineman's examination of families and the law shows how family policy over the last 30 years has hurt mothers:
Needless to say, the shifts in policy based on such ideology have operated to harm the most disadvantaged and defenseless mothers. The unanticipated by-product of earlier liberal feminist attempts to achieve economic equality has been that the new images of Mother operate to disadvantage any women encountering the law in the context of nonmarket circumstances. Such women are caretakers, nurturers who live lives of dependency—their child’s and their own—generated by their roles as mothers (1995, p. 89).

Fineman, writing prior to 1996, had not incorporated the harm that welfare reform would do to these women. Nor does she address the impact of incarceration upon women and their families.

Penalty, through confinement and supervision, reflects a further encroachment upon the autonomy of women as mothers due to the separation and conditions it places upon her relationship with her children. Since 1996, women inmates in Hawai‘i have been sent to prisons on the mainland. Few families can afford to travel to visit them. The cost of telephone calls is a prohibitive burden upon these families, and writing letters can be a problem for inmates with low levels of literacy. Women inmates also face the permanent loss of their children through contemporary adoption policies that reduce the length of time children can be in foster care. Women with prison sentences of a year or more who lack family members who can take their children are especially at risk. After prison, a woman finds herself returning to a community that is skeptical of her abilities as caregiver. Moreover, she finds herself at the center of a web of surveillance that includes social services, child welfare agents, as well as her parole officer. These agencies of penality share information and data on these women, increasing their vulnerability to transgress in large and small ways. Women are not only drug tested and scrutinized in other ways by the conditions of parole, but may be subject to other forms of surveillance.
that affects their parenting. They may become involved with agents from child protective services who place demands on women to attend parenting classes or adhere to contracts with any number of conditions. Government through the management of populations is not confined to probation, jails, prisons, or parole departments. Increasingly, these populations are subject to the gaze of overlapping networks of regulation and control.

Women offenders are expected to rescue their reputations not only as responsible individuals but also as proper guardians of children. Motherhood, as historically constructed, has entailed at its core an extreme degree of moral rectitude, which women lose when they are arrested and convicted of crimes. Women in this study were not only faced with developing a reasonable profile as workers but had to deal with their own and society’s expectations about their responsibilities as mothers. Many of the women I interviewed had older children who were often exhibiting difficulties: mental illness, drug use, behavioral problems, early pregnancy, and difficulties in schools. Since children’s outcomes are ideologically linked to maternal care, the problems children have, in the minds of mothers and in the minds of the community, reflect her personal failure. The ideology of essential or intensive motherhood with its incredible demands is constructed in terms of individual success and failure rather than social context. I learned that most women offenders have lost control over the context and conditions of motherhood early on in their childbearing lives through alienation, lack of economic, cultural, and social capital, and violence. The structure and practices of rehabilitation have little impact on these problems and, if anything, tend to erode the family relationship even further.
Life Course Theory, Structure, and Agency

In Chapter Four, I described women’s pathways to prison while attempting to refine life course theory to link women’s biographies with structural factors. The analysis of events and turning points draws attention to the power of social bonds and relationship in modulating behavior. This theory has been elaborated by feminist theorists to explain women’s pathways to prison, drawing attention to the ways gender interacts with factors like race and class in shaping women’s offending. Life events such as childhood abuse and its consequences such as addiction, within an overall context of violence and exploitation, appear to be highly correlated with women’s offending.

Desistence among male offenders is often associated with the acquisition of a mate, the birth of children, and employment. The pattern for women is more complex. The events or turning points that spell desistance for male offenders may represent the onset of lawbreaking for women or spur them on to commit more serious crimes with their partners. Connectedness for women sometimes means the inception of addiction to harder drugs in environments that are coercive if not overtly violent.

Even the birth of children, which usually means the acquisition of greater responsibility, can deepen levels of stress and difficulty and present women with difficult choices. Women addicts may resist drug use when pregnant only to begin again after the birth of their children. Some are responding to health concerns about the effects of drug use on the fetus while others are afraid that authorities will detect their drug use and they will lose their children. Still others have so lost control over their lives that suspending a drug habit is out of the question. Even when women attempt to get help for their addictions, support and treatment are difficult to come by. Some women cope with the
dissonance of pregnancy and continued drug use by going underground so that they can keep both their children and their drugs. Addiction, like the bond between mother and child, becomes another relationship with a life of its own. Autonomy and agency in both cases can be strikingly attenuated, especially when feelings of worthiness are so tied up in the relationship.

In looking at this population of women on parole, it is clear that this group has experienced problems with school failure, familial dysfunction, ubiquitous violence, and poverty. These women have few job skills and little in the way of employment experience. Their relationships with significant others have been troubled by addiction and overlapping forms of psychological and economic dependence upon others who are often similarly situated. As mothers, they frequently had problems ranging from homelessness to addiction that existed prior to their incarceration and persist afterwards. Women’s pathways to prison, however, are not simply products of individual biographies and events; these pathways are shaped by structural factors that position some women very precariously, rendering them vulnerable to criminalization. Native Hawaiian women, whose alienation from mainstream institutions places them at higher risk than other women for a number of poor outcomes, are a case in point. Although lack of education was a common thread throughout this group of women on parole, Native Hawaiian women had even less education than others. Affected by both gender inequality and the oppressive legacy of colonialism, they are especially vulnerable to being criminalized.

This is not at all to suggest that women in this study or similar studies are without agency. Some resist the imposition of these new selves, mostly to their peril. Women
who reject “the white man’s way” of disciplining children through talking to them may well have their children removed by child protective services. Other women adapt with difficulty against many odds, adopting the tropes and behaviors learned while in prison. These women see their previous means of handling difficulties as counterproductive and readily accept these new technologies of the self (“talking it out” instead of hitting or understanding rather than arguing). Still others, who maintain “prison saved my life,” have experienced something that feels to them like a transformation, a radical alteration in the meaning of their lives and the way they experience the self.

Yet, what women offenders experience under rehabilitation regimes often ignores the structural features that have rendered them vulnerable to criminalization. Late-modern rehabilitation ideology presupposes fully autonomous selves who are capable of making choices. Approaches such as cognitive skills, utilized as stand-alone classes and as components of various other interventions, assume a sort of middle-class self who makes choices rather freely as one would do at a supermarket. In fact, the self as consumer is an appropriate model, one that Rose points out is essential to the economic apparatus of late-modern capitalism (Rose 1999). Yet, this newly responsibilized self is expected to function in a middle-class way with no corresponding endowment of social or economic resources.

Transformation and the Limits of Freedom

In Shadd Maruna’s (2001) study of desistance from crime, ex-offender narratives are linked to conceptions of the self—as well as to a return to or abandonment of criminal behavior. Maruna writes that successful ex-offenders must develop a coherent narrative
of self that ties the problematic past to a better future. Desisters, Maruna writes, demonstrate personal agency and a sense of control over the conditions of their lives in their speech (p. 13). Their narratives reflect an ideology of choice and freedom grounded in individual effort. Desisters from crime tell stories about their lives from a generative script—filled with tropes about fulfillment through helping others (p. 118-125). By contrast, offenders who continue their lives of crime tell tales of woe, blame, and victimization—reading their lives from a condemnation script (p. 73-84). Maruna notes that the latter, unsuccessful desisters are not entirely wrong about the obstacles to going straight. His micro-level analysis synthesizes much of what psychology knows about the self and its relation to desistance and persistence from crime. Maruna investigates the issue of agency in this account very thoroughly, but little emerges in his text about the intractable structural barriers that offenders encounter. My interest, by contrast, has been at the intersection of structure and agency and the concern of this study has been to examine domains of power and subjectivity among female offenders who face different structural obstacles from men.\(^2\) One of the points raised in my talks with women parolees is that sexual relationship, especially with a troublesome male (or female, for that matter), can be a conduit to crime rather than the turning point that life course theory says spells desistance for men. The folk rubric of “a steady job and the love of a good woman” (Maruna 2001, p. 30-31) which is supposed to build stakes in conformity among males tends to be far less relevant to women’s experiences. In communities of color, high

\(^2\) Maruna interviewed 55 males and 10 females. These individuals represent the five to six percent of repeat felons who commit most burglaries, thefts, and robberies.
proportions of young men are imprisoned, few have access to jobs and, as a result, few suitably marriageable men are available.³

The transformations of Maruna’s desisters differ in important respects from the experiences of the women offenders who are attempting to recover from criminal identities. Offenders who are mothers have the additional burden of reconciling a transformed present with a past of maternal failure. Reunion with children may be a happy occasion but the problems of their children are ever-present reminders of past mistakes. The ideology of essential motherhood is culturally linked to a subjectivity made up of reason, consciousness, autonomy, free-will, and choice-making (DiQuinzio 1999) which are the same characteristics assumed by late-modern rehabilitation projects. For the women offenders in my study, motherhood ideology renders the women individually responsible for their children’s fates. The logic of taking responsibility for crimes, the construction of crime as a “bad” choice, undermines the position of mother as a moral agent in the lives of her children. Worse, the authority that is so much a part of her parental capital is diminished when she does reunite with her children. She may make the “right choices” but the fact of her incarceration infuses her maternal identity with doubt. In the end, both motherhood ideology and the project of rehabilitation are culturally linked to individual responsibility rather than to the ways in which both are structured.

The women who appeared to be doing well on parole expressed great joy in their transformative experiences. Their narratives of service to others (mirroring Maruna’s desisters), especially others who had experienced their problems with addiction and

³ Programs like marriage incentives will not change these facts, much less provide a solution to poverty.
incarceration, suffused their self-concepts. They have come to feel that these transformed selves have resulted from a series of choices, backed up by beliefs that resonate deeply with cultural notions of freedom and the will. This sense of satisfaction and fulfillment is predicted by the fact that individual freedom is the primary mode of governance in late modernity. "We are governed not against but through our freedom" (Valverde 1998, p. 17, emphasis in original). In other words, we experience freedom through doing what we should because we want to do it.

The power of personal transformation derives from two notions among women who talked about these experiences—notions that contain high degrees of cultural resonance. One is the evangelical narrative of being saved by a divine power (a potent cultural theme). The other has to do with satisfaction that one has achieved this status by dint of hard work and individual effort. At first glance, these notions seem paradoxical (divine versus individual intervention). But again, the structure of rehabilitation is so flexible, it can absorb both of these notions without too much effort on the part of participants. As Elaine, quoted in the beginning of the chapter told me, the basis of her prison program was "working on" herself and a strong belief in the type of evangelical experience that often infuses programs aimed at offenders. The idea that "I once was lost and now am found" resonates powerfully with desisters from crime and deviance as it does with many of the rest of us. It is these small numbers of transformation accounts that provide legitimation for rehabilitation projects, lauding individual effort while drawing castigation upon those who cannot succeed. This is not at all to detract from the reality and the meaning of these experiences for those who have had them. But the system co-
opts transformation when it does occur within its walls as a resource to legitimate its strategies of power.

What Maruna has left out of his analysis are the notions of structure and power that I feel are crucial ingredients in understanding late-modern penalty. I have provided an analysis of the productive role of power in creating subjectivities, based on Foucault (1988; 1990; 1991b) and others who have expanded upon his ideas. The increasingly popular cognitive approaches to changing offenders resonate with the idea of self-change, but in particular types of ways. These attempts to change criminal thinking into prosocial thinking are grounded in cultural notions about human nature. But this is an idea of the self that is particular to a social and economic world dominated by middle-class consumerism. It also depends upon the ability of this formerly criminal self to think her self "straight." Alcoholics Anonymous, which has had some experience in reformation, offers a different approach. Old timers tell newcomers that "you can't think yourself into right acting, you have to act yourself into right thinking." The importance of habit is described by Marianna Valverde in her study of Alcoholics Anonymous:

The testimony of AA members suggests that it is extremely difficult, if not impossible, to suddenly will ourselves into a new identity; and neither can we suddenly perform an act that has no precedent in our biography (1998, p. 139).

Yet, it appears as though the rehabilitation project in most cases asks that this be done. In this, rehabilitation in late-modernity is philosophically Hegelian rather than Marxist. It assumes that being proceeds from thought rather than thought proceeding from the material grounds of our beings. Habit flows from one's relationship to daily life, requiring time and learning. Theories about human development across the life course
allow for personal change, but it may not occur in the time frame that courts and legal institutions demand. There is a saying in the recovery community about acquiring sober time that puts the development of habit into perspective: time takes time.

*Prison as a Treatment Setting for Women: The Contradiction of Structure & Ideology*

Of course, one of the most important structural factors affecting women offenders is simply the expansion of incarceration in the United States and the increasing population of female inmates. Incarceration has become the predominant means of dealing with a range of social problems from drug addiction to mental illness. These issues, especially addiction, used to be dealt with (albeit never extensively enough) in treatment facilities in the community. Galbraith discusses her visit to a women's correctional facility near Washington, D.C.:

"Within minutes I forgot where I was—in a prison. I felt like I was back in the halfway house for alcohol and drug dependent women where I began my career in the mid-1970s. These were the same women with the same life experiences—lousy childhoods, multiple relationships with abusive men, histories of sexual and physical abuse, drug addiction and alcoholism and serious mental illnesses. The difference was that in 1993, they were in prison not treatment (1998, p. 1)."

Crime control policies, notably the war on drugs, rendered the prison hegemonic in settling problematic social concerns, primarily the fear of criminals and drug addicts. Many modern reform projects, and even the treatment of the mentally ill, have drifted by default into the prison setting.

The prison is a center of knowledge production, but studies of offenders in late-modern penality focus on individual-level characteristics of inmates. The diffusion of statistical techniques of managing risk based on these factors has reinforced an interest in
changing offenders' psychologies. In part, this has given rise to the interest in fostering
cognitive change. These concepts, drawn from work by Canadian researchers, have
infused a range of programs here in Hawai'i and elsewhere. They target so-called
“criminal thinking” believed to be at the heart of offending. At the same time, these
strategies deny the real difference that race, gender, and class make (Bloom 1996;
Covington and Bloom 1999; Kendall 2002). The survival strategies women develop to
cope with violent victimization (e.g., drug addiction) and economic marginalization
become further stigmatized as “thinking errors” (Kendall 2002). Even when the special
needs of women are considered in rehabilitative programs, their unmet needs in terms of
victimization and need for substance abuse treatment may be redefined as risks—
requiring higher levels of security and increased regulation (Hannah-Moffat 1999).

Rehabilitation itself, as Foucault’s work suggests, can be an important nexus of
power and control. And although power works through repression, it also has a
productive capacity. In other words, people may adopt new identities voluntarily. The
question is whether rehabilitation or treatment services can be effective when they are
provided in a setting that is inherently coercive. Prison precludes independent choices,
the very choices that contemporary therapies and cognitive skills programs attempt to
foster. Even programs that are aimed at empowering women within the prison setting
tend to empower women to be responsible rather than powerful (Hannah-Moffat 2000).
The expression of self-efficacy by inmates within the prison system, a move that would
entail raising consciousness about structural inequities, is hardly imaginable in the
Hawai'i setting—or elsewhere. Given the structure of prison, real choicemaking is likely
to be met with disciplinary measures rather than reinforcement.
So, does nothing work? Based on this study, it appears that therapeutic communities for women may foster the skills women need and provide them with substance abuse treatment and therapy for the traumas they have endured. Women who report having life-changing experiences in prison in this study often credit this program—or their experiences in the women's residential furlough program. But these programs reside in spaces that are carved out from the security apparatus of the prison. They represent interruptions in the prison regime of power and control. This is not an argument for more therapeutic space within the prison; rather it is grounds for moving this project outside prison walls into the community. The therapeutic community at the Hawai'i Women's Correctional Center and the women's residential furlough facility appear to provide what Covington calls a “well-constructed chance” for women to change their lives. Treatment programs, which are predicated upon change, cannot ever reside easily within a culture of control that is the prison (Covington 1999). Based on my study of this population of mostly non-violent offenders who have basically low-level offenses, I would argue that there are no services that these women need that, of necessity, must be conducted exclusively within the prison environment.

The State and the Future of the Carceral Family

In examining the problems of women under carceral supervision, this dissertation has uncovered linkages across a range of institutions where state control is mirrored and diffused across the family. This represents an extension of the structure of rehabilitation and its ideology of choice as well. State penal institutions also partner with agencies (often state-funded) in the community to provide services to those under its jurisdiction.
The state can govern families from a distance by providing services of various types to an array of offenders. The degree of voluntarism on the part of families who receive services is variable, ranging from highly coercive to those that are selected under more or less benign circumstances. People may opt to go to vocational rehabilitation services on a more or less voluntary basis, but usually have to be mandated to substance abuse treatment centers. Due to the sparse supply and high demand for these services, the offender may not have much say in where she goes for treatment, calling into question the possibility of choicemaking where her most serious issues are concerned.

Additionally, penal agents such as parole officers interact with substance abuse treatment providers to make sure that the offender is compliant. This is in contradistinction to federal laws that, under all other circumstances, protect the confidentiality of substance abuse treatment clients. Child protective services, through “service contracts,” mandate that parents receive any number of services or, for that matter, adhere to any conditions it may impose. They too are able to ensure compliance through checking up on their clients. Other services offered by state and community providers include anger management programs, domestic violence classes, cognitive skills, psychiatric or psychological therapies, mediation, vocational rehabilitation services, and many more than I have listed. If the current administration is successful in drawing in faith-based community providers to this loose system of state/community service providers, the web of potential stakeholders in social surveillance can be expected to expand even more. The target population for these services consists of those who are too poor to afford the luxury of private practitioners as sources of help. And, when these services fail to arrest the public troubles of people, even family members who have been
themselves part of the carceral population, or ex-offenders, may have to resort to the courts for help to control a troubled child or violent spouse. Indeed, the courts and penal institutions are increasingly addressing all sorts of family concerns (Fox and Benson 2000), especially among the poor.

The expansion of incarceration affects poor communities of color disproportionately, such that the adults who are significant figures in children’s lives are removed from those communities. And those who are back in the community may be struggling as ex-offenders. As Rose and Clear (1998) argue, these rents in the fabric of community life create more social disorganization. The fractured families caught up in the mechanics of crime control represent a serious problem for state power. If, as Donzelot (1997) and others suggest, the family (especially in its patriarchal form) is supposed to police itself, from the perspective of the law, the family is doing a poor job of it. Not only has the patriarchal family structure lost its authority, but the nuclear version of it has dropped from sight as its normative expression. One third of the births in the United States are to unmarried women, roughly the same rate as in Hawai‘i with 32% of children born in 2000 to unmarried women (State of Hawai‘i 2002). In 1995, a quarter of Hawaii’s children lived with a single parent while the remainder lived in other arrangements ranging from nuclear households to extended families (University of Hawai‘i Center on the Family, 1999). Given the relationship between poverty and non-marital births, it should be no surprise that births outside marriage are concentrated among marginalized groups. In 2000, 45% of non-marital births were to women of Native Hawaiian ancestry, while only 12% were to Caucasian women, rates that are, respectively double and half their approximate representation in the population (Hawai‘i
Department of Health, 2001). The social transformations and uneven economic development evident in Hawai‘i have meant changes in family structure. Welfare policies that once attenuated poverty for women and children in times of economic stress are being retracted. Increasing work hours for welfare recipients are being proposed as are marriage incentives for poor women. In 1992, New Jersey passed “bridefare” legislation that provided marriage incentives and excluded additional children from welfare support (Fineman 1995).

Not only are crime control policies injuring families through incarceration, but they are moving in tandem with punitive welfare and housing policies to dismantle vestiges of the social safety net for poor women and children. The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 placed a ban on welfare cash assistance and food stamps for anyone convicted of a felony drug offense. This provision has been implemented fully or partially in 42 states (Allard 2002). These limitations and similar ones relating to public housing punish the poor who make up the carceral population and their children. (In Hawai‘i, cash benefits and food stamps for drug felons depend on attending drug treatment for which the client herself is billed.) The impact of having a criminal record, reduced or non-existent welfare benefits, combined with lack of education and job skills pose additional serious obstacles for women leaving prison. Provisions of the Adoption and Safe Families Act which require that states place limits on the time allowed for family reunification mean that women who cannot support their children may lose them to adoption.

I have used the concept of the carceral to draw attention to the management of troublesome populations in late-modernity. The example of the carceral family points
out the death of the private, or more accurately, the elision of public and private spheres, a development which has rendered the formerly closed life of the household open to inspection. Families of means will retain some semblance of private life, but for women in my study and their vulnerable families, the privilege of privacy has been largely lost.

The catchphrase during disasters was always “women and children first.” The sentiment harkens back to an earlier, patriarchal era when women and children were more firmly lodged in the authority structures of traditional families. Then, the interests of women and children were aligned with one another under the protection of the patriarchal father. With the demonization of many groups of poor women, especially women of color, there are fracture lines appearing in the traditional alliance between mother and child. The construction of the “crack baby” as a social problem involved the criminalization of the mother, even after it was found that the effects of drugs on the fetus were indirect and were mediated by the home environment and factors like poverty (Chasnoff et al 1998). Nevertheless, drug-using and otherwise deviant mothers were constructed as the enemies of their own children. Interventions that used to assume women were the main advocates for their children, and provided support for her in that task, no longer make that assumption. The development of the child-centered family as the late-modern normative structure (Fineman 1995) has often meant that mothers have had to subordinate their entire interests to their children. And, perhaps, as Kaplan (1994) has argued, the emerging personhood of the fetus threatens to displace the mother as the iconic figure of reproduction. In many social welfare policies, adult women are becoming more expendable. In reality, most mothers, including inmate mothers, are willing to sacrifice their own interests to their children. But when women lose control of
the conditions of motherhood, as these troubled mothers do, their efforts at caring about anything deteriorate. And with little social support for motherhood among poor women, can the choices women are forced to make really be considered choices?

When the state does intervene in troubled families, changes in the law have allowed it to move much more quickly to abandon or criminalize the mother and to remove her children permanently. To the question, “women or children first,” the neo-liberal state in examining the troubled carceral family chooses to “save” the children while abandoning the mother. But, on the whole, the state’s record in protecting children has not been much better than the efforts of their troubled mothers. And whether the state will have an effective relation with the children of the carceral family in the future remains to be seen.
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283


284


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286


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