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SCPW-21-0000483

IN THE SUPREME COURT OF THE STATE OF HAWAII

IN THE MATTER OF INDIVIDUALS
IN CUSTODY OF THE STATE OF HAWAII

ORIGINAL PROCEEDINGS

HONORABLE MARK E. RECKTENWALD
Chief Justice
HONORABLE PAULA A. NAKAYAMA
HONORABLE SABRINA S. MCKENNA
HONORABLE MICHAEL D. WILSON
HONORABLE TODD W. EDDINS
Associate Justices

**REPLY TO RESPONDENTS' RESPONSES TO
PETITION FOR EXTRAORDINARY WRIT
PURSUANT TO HRS §§ 602-4, 602-5(5), AND 602-5(6)
AND/OR FOR WRIT OF MANDAMUS, FILED ON AUGUST 27, 2021**

EXHIBIT "A"

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**REPLY TO RESPONDENTS' RESPONSES TO
PETITION FOR EXTRAORDINARY WRIT
PURSUANT TO HRS §§ 602-4, 602-5(5), AND 602-5(6)
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Petitioner, the Office of the Public Defender (“OPD” or “Petitioner”), replies herein to the responses of Respondents: the Department of Public Safety (“PSD”); Director of PSD, Max N. Otani, the Hawai`i Paroling Authority (“HPA”); Chairman of the HPA, Edmund “Fred” Hyun; City and County of Honolulu Prosecuting Attorney Steven S. Alm (“Honolulu Prosecutor”); County of Maui Prosecuting Attorney Andrew H. Martin (“Maui Prosecutor”); County of Hawai`i Prosecuting Attorney Kelden B. A. Waltjen (“Hawai`i Prosecutor”); and County of Kauai Prosecuting Attorney Justin M. Kollar (“Kauai Prosecutor”).

A. THE CLAIMED THREAT TO PUBLIC SAFETY DUE TO RELEASED INDIVIDUALS REOFFENDING IS EXAGGERATED.

At the outset, Petitioner would like to reiterate that it supports this Court in crafting a release order that strikes the delicate balance between public health and public safety concerns. Petitioner believes that the categories of incarcerated persons and safeguards proposed in the relief sought in the Petition meet this important criterion. These safeguards include excluding persons convicted of or arrested for the most serious offenses from presumptive release and giving the lower courts the discretion to exclude from presumptive release those individuals who would pose a significant risk to the safety of themselves or the public.¹

Nevertheless, in their responses, several Respondents – Honolulu Prosecutor, Maui Prosecutor, PSD/HPA – cite concerns that the presumption for release of individuals under the

¹ SCPW-21-0000483, Petition For Extraordinary Writ Pursuant To HRS §§ 602-4, 602-5(5), And 602-5(6) And/Or For Writ Of Mandamus, filed on August 27, 2021 (“the Petition”).

criteria proposed by Petitioner would jeopardize public safety.² The claims made by these Respondents mirror those which were made during the last action by the Honolulu Prosecutor, other government officials and the media. The public-fear-inducing claims that releases will lead to a crime wave which will jeopardize public safety have been debunked by a report prepared by the non-profit firm Lawyers for Equal Justice (“LEJ”).³ LEJ’s report, which was based on an extensive review of court filings, court minutes, pleadings filed in individual cases, Honolulu Police Department (“HPD”) statistics and media reports, concluded that “government officials and the media misinformed the public in four ways:”

1. The media failed to adequately describe the safeguards the Supreme Court established to protect public safety.
2. The Honolulu Prosecutor and other government officials disregarded the public health concerns that made the initiative necessary in the first place.
3. Government officials and the media exaggerated and inflamed concerns about crime by emphasizing a handful of fear-inducing incidents at the expense of the reality that very few of the people who were released committed new offenses. The media also failed to mention that almost all of the new offenses were related to houselessness.
4. Public officials and the media blamed very real problems experienced by people who were released, especially houselessness, on the release

²See generally SCPW-21-0000483, Respondent Steven S. Alm’s Answer To Petition For Extraordinary Writ Pursuant To HRS §§ 602-4, 602-5(5), And 602-5(6) And/Or For Writ Of Mandamus, filed on Sept. 7, 2021, Respondent Andrew H. Martin’s Answer To Petition For Extraordinary Writ Pursuant To HRS §§ 602-4, 602-5(5), And 602-5(6) And/Or For Writ Of Mandamus, filed on September 7, 2021, Answer Of Respondents Max N. Otani, Director, State Of Hawai‘i Department Of Public Safety And Edmund (Fred) K. B. Hyun, Chairperson Of The Hawai‘i Paroling Authority To Petition For Extraordinary Writ Pursuant To HRS §§ 602-4, 602-5(5), And 602-5(6) And/Or For Writ Of Mandamus, filed on September 7, 2021.

³ Helper, T., et al., Outbreak, Lawyers for Equal Justice (August 18, 2021) (“LEJ Report”). <https://www.hiequaljustice.org/reports/outbreak>. A copy of the LEJ Report is attached hereto as Exhibit “A”.

initiative, instead of on the Department of Public Safety, the entity obligated to provide reentry services.[⁴]

The LEJ report noted that HPD had identified 300 individuals who had been released on O‘ahu due to COVID-19. While HPD claimed that 50 of these individuals had re-offended, the LEJ’s research revealed that only 39 of the 50 individuals had been released pursuant to the Supreme Court’s order.⁵ Further, 80 percent of the 39 were re-arrested for houselessness-related offenses or violations of the terms of release.⁶ Ultimately, the LEJ concluded:

This data belies the claim that the people released due to COVID-19 were re-arrested en masse for threatening the safety of our communities. Of the 300 individuals released, the vast majority did not reoffend. Of those who did reoffend, most were re-arrested for poverty-related offenses. If anything, the data shows that our legal system criminalizes poverty.

The larger context is also instructive. In 2017, the Hawai‘i Attorney General reported 2,622 arrests for serious crimes, including murder, rape, robbery, assault, burglary and theft. HPD’s data on the re-arrests of people who were released due to COVID-19 shows, at most, five crimes on O‘ahu fitting into that category. Far from showing a crime wave or spike, the data shows that the release initiative had essentially no impact on the crime rate.[⁷]

The LEJ report confirms that the public safety concerns and objections raised by Respondents as to released persons re-offending en masse are exaggerated and not supported by empirical data and should not deter this Court from granting the relief sought in the Petition. By contrast, as this Court recognized in August 2020, under less dire circumstances, the threat to public

⁴ Id. at p. 12. Exhibit “A”, attached.

⁵ Id. at p. 16. Exhibit “A”, attached.

⁶ The LEJ gave examples of “typical houselessness-related offenses” as, entry of a closed public park or obstruction of a public sidewalk. Further, “[m]ost of the violations of terms of release were incidents as minor as failing to notify a probation officer of a change in address.” Id.

⁷ Id. at pp. 16-17. Exhibit “A”, attached.

safety, which a COVID-19 outbreak within Hawai'i correctional facilities⁸ will cause, is real and requires swift and decisive action by this Court. The relief sought by Petitioner, a measured and carefully considered release of non-violent incarcerated persons similar to that effected by this Court in 2020, will address the looming public health crisis within Hawai'i correctional facilities while ameliorating any purported public safety concerns.

B. THE RELEASE OF INCARCERATED PERSONS PURSUANT TO A PRESUMPTIVE RELEASE ORDER FROM THIS COURT IS THE ONLY VIABLE WAY TO EXPEDITIOUSLY ALLEVIATE OVERCROWDING IN HAWAI'I CORRECTIONAL FACILITIES WHICH IS EXACERBATING THE COVID-19/DELTA VARIANT SPREAD WITHIN THE FACILITIES.

While any alleged threat to public safety caused by the release of incarcerated persons into the community is speculative and exaggerated, the threat to public safety by failing to take action to alleviate the overcrowded conditions within Hawai'i correctional facilities to prevent a COVID-19 outbreak is real and immediate. The situation within Hawai'i correctional facilities has already begun to deteriorate.

The state's latest cluster report ... said that cases in correctional facilities made up 100% of all cluster investigations over the last two weeks on the Big Island. Covid-19 cases in prisons and jail also comprised 63% of all cluster investigations in Kauai County; 57% on Oahu and 31% in Maui.[⁹]

⁸ "Hawai'i correctional facilities" refers collectively to all facilities under the supervision of PSD which house incarcerated persons from Hawai'i – Hawai'i Community Correctional Center ("HCCC"), Special Needs Facility ("SNF"), Halawa Medium Security Facility ("HMSF"), Kaua'i Community Correctional Center ("KCCC"), Kulani Correctional Facility ("KCF"), Maui Community Correctional Center ("MCCC"), Oahu Community Correctional Center ("OCCC"), Women's Community Correctional Center ("WCCC"), Waiawa Correctional Facility ("WCF"), Red Rock Correctional Center ("RRCC"), Saguaro Correctional Center ("SCC") and Federal Detention Center ("FDC").

⁹ Hofschneider, A., "Crowded Prisons And Poorly Ventilated Restaurant Kitchens Fuel Hawaii's Pandemic." *Honolulu Civil Beat*, September 2, 2021. <https://www.civilbeat.org/2021/09/crowded-prisons-and-poorly-ventilated-restaurant-kitchens-fuel-hawaiis-pandemic/>



COVID-19 INFORMATION | Updated: 9/7/2021

COVID-19 TESTING: INMATE REPORT

Facilities	Tested	Results Pending	Negative	Inconclusive	Total Tested Positive	Active Positive	Number of Persons in Medical Isolation	Number of Persons in Quarantine	Hospitalization	Recovered	Deaths
HCF	5,077	pending	4,404	6	659	24	24	185	0	640	7
HCCC	1,863	pending	1,589	2	270	8	8	NA	0	234	0
KCCC	762	pending	678	0	84	5	5	NA	0	78	0
KCF	295	0	295	0	0	0	0	0	0	0	0
MCCC	2,406	pending	2,200	6	201	18	18	NA	0	180	0
OCCC	10,646	pending	9,988	28	626	80	80	NA	0	538	0
WCCC	1,562	0	1,561	0	1	1	1	8	0	0	0
WCF	1,198	0	981	1	214	0	0	0	0	214	0
SAGUARO	3,307	0	2,645	5	662	0	0	0	0	660	2

The PSD’s COVID statistics confirm that there are active positive cases at six of nine facilities. As the COVID-19 dynamics in Hawai’i correctional facilities generally mirrors the dynamics in the broader Hawai’i community due to the cycling in and out of incarcerated persons and staff on a daily basis¹⁰, the situation in the facilities will likely worsen rather than improve.

Petitioner disputes Respondents’ suggestion that reliance on the PSD’s pandemic response plan will serve to ameliorate the COVID-19 crisis in Hawai’i correctional facilities. Although the recent federal court settlement by PSD will improve conditions within the facilities it does not directly address any procedures to reduce the populations at Hawai’i correctional facilities.¹¹ As a

¹⁰ SPCW-20-0000509, Dissent To Order Concluding Proceedings, Wilson, J., filed on April 16, 2021 at p. 5 (quoting from April 6, 2021 Declaration of Dr. Pablo Stewart, M.D.).

¹¹ See Exhibit “A” (Settlement Agreement And General Release, filed on September 7, 2021 in Civil No. 21-000268 JAO-KJM in the U.S. District Court for the District of Hawai’i) to the Answer Of Respondents Max N. Otani, Director, State Of Hawai’i Department Of Public Safety And Edmund (Fred) K. B. Hyun, Chairperson Of The Hawai’i Paroling Authority To Petition

reduction of populations is a critical component in preventing a COVID-19 outbreak within those facilities¹², the settlement cannot in and of itself stop the COVID-19 crisis within the facilities and will instead mitigate its effects.

In its Order Concluding Proceedings in SPCW-20-0000509, this Court also held that issues related to populations within Hawai'i correctional facilities should be addressed by "alternative means" to court orders, such as policies promulgated by the Hawai'i Correctional Systems Oversight Commission ("HCSOC"):

Issues regarding inmate populations may be addressed through alternative means, including by the Hawai'i Correctional Systems Oversight Commission, which was established by the Hawai'i State Legislature pursuant to Act 179, Session Laws of Hawai'i 2019, to, among other things, establish maximum inmate population limits for each correctional facility and formulate policies and procedure to prevent the inmate population from exceeding the capacity of each correctional facility.^[13]

For Extraordinary Writ Pursuant To HRS §§ 602-4, 602-5(5), And 602-5(6) And/Or For Writ Of Mandamus, filed on September 7, 2021.

¹² In his dissenting opinion to the Majority's Order Concluding Proceedings in SPCW-20-0000509, Justice Wilson noted,

The Majority's apparent about-face and failure to acknowledge the continuing threat of overcrowding runs contrary to the position of the Oversight Commission, Dr. Stewart, and the previous orders of this court identifying design capacity as a critical component of reasonably safe incarceration during the COVID-19 emergency.

SPCW-20-0000509, Dissent To Order Concluding Proceedings, Wilson, J., filed on April 16, 2021 at p. 8. Justice Wilson further noted the conclusions of Dr. Pablo Stewart, M.D., that, "In some ways, because DPS facilities are so overcrowded, DPS is engaging in mitigation strategies that end up doing more harm to the people in their custody." Id. at p. 3 (quoting April 6, 2021 Declaration by Dr. Pablo Stewart, M.D.).

¹³ SCWC-20-0000509, Order Concluding Proceedings, filed on April 16, 2021.

In September 2020, the Hawai'i Correctional System Oversight Commission ("HCSOC") issued its Infectious Disease Emergency Capacities report setting population guidelines for facilities during an infectious disease epidemic.

COVID-19 cases in Hawaii have rapidly increased in the past few weeks, including a major outbreak at Hawaii's largest jail, [OCCC]. Experience in other jurisdictions shows the rapid spread of the virus in correctional facilities is inevitable, given that social distancing is impossible in the confines of jails and prisons. And persons incarcerated are far more likely to suffer from chronic illness than the general population, increasing the risk of serious (and possibly deadly) infection. Excessive crowding in all Hawaii correctional facilities has existed for decades, putting the State in an especially vulnerable position for large outbreaks.

Determining "maximum inmate population limits for each correctional facility" is one of the mandates of Act 179, Session Laws of Hawaii 2019, which established the Commission. This responsibility was previously assigned to the now dissolved Corrections Population Management Commission (CPMC). In-depth analysis of facility capacities was conducted twenty years ago and published in the CPMC's *2001 Annual Report*. These capacities are still in use today as the facility operating capacities. However, the CPMC did not anticipate an infectious disease epidemic that might reach into our correctional facilities. Such an epidemic requires separation of inmates who might be infected by or exposed, in order to protect the remainder of the population and the staff of the facilities.^[14]

The following table compares the design, operational, actual and HCSOC's population guidelines for facilities during an infectious disease epidemic¹⁵:

¹⁴ HCSOC, Hawai'i Correctional Facilities – Infectious Disease Emergency Capacities (draft report September 2020). <https://ag.hawaii.gov/wp-content/uploads/2020/09/FINAL-REPORT-091120.pdf>

¹⁵ Design, operational and actual population statistics were obtained from PSD, Department of Public Safety Weekly Population Report for August 16, 2021 (<https://dps.hawaii.gov/wp-content/uploads/2021/08/Pop-Reports-Weekly-2021-08-16.pdf>). HCSOC population guidelines were obtained from HCSOC, Hawai'i Correctional Facilities – Infectious Disease Emergency Capacities (draft report September 2020) (<https://ag.hawaii.gov/wp-content/uploads/2020/09/FINAL-REPORT-091120.pdf>). The HCSOC report did not set forth population guidelines for Waiawa Correctional Facility so they were not included in the table.

Facility	Design	Operational	Actual	HCSOC
HCCC	206	226	238	120
HCF/SNF	586	1124	830	586
KCCC	110	128	128	56
KCF	200	200	106	108
MCCC	209	301	313	130
OCCC	628	954	903	425
WCCC	256	260	211	104

The foregoing statistics confirm that only Kulani Correctional Facility is operating within the HCSOC guidelines and that the remainder of the facilities are significantly above HCSOC guidelines. Thus, while the HSCOC has made recommendations to PSD, PSD has failed to act on those recommendations.

Several Respondents – Honolulu Prosecutor, Maui Prosecutor, Hawai‘i Prosecutor – also urge this Court to rely on the discretion of the lower courts in granting individual motions for release.¹⁶ The rapidly escalating pace of the COVID-19/Delta variant public health emergency belies any reliance on such a time-consuming process. The filing and hearing individual motions simply will not provide the swift reduction in the population at Hawai‘i correctional facilities that is necessary during the current public health emergency. During the last public health emergency, the filing of individual motions was an available option, yet this Court still issued its presumptive release orders in recognition of the “urgent and immediate concern to reducing the inmate population at OCCC to protect those who work at or are detained at OCCC, their families and the

¹⁶ See generally SCPW-21-0000483, Respondent Steven S. Alm’s Answer To Petition For Extraordinary Writ Pursuant To HRS §§ 602-4, 602-5(5), And 602-5(6) And/Or For Writ Of Mandamus, filed on Sept. 7, 2021, Respondent Andrew H. Martin’s Answer To Petition For Extraordinary Writ Pursuant To HRS §§ 602-4, 602-5(5), And 602-5(6) And/Or For Writ Of Mandamus, filed on September 7, 2021, Respondent Kelden B. A. Waltjen’s Response To August 31, 2021, Order, filed on September 7, 2021.

community.”¹⁷ The situation today is more serious and pressing and, again, the filing of individual motions will not provide the significant and immediate relief which is necessary to avert a public health crisis within Hawai‘i correctional facilities.

On August 27, 2021, the date of the filing of the Petition, the statewide COVID-19 case count stood at 59,613 and there had been 9,790 new cases in the preceding fourteen days.¹⁸ Today, September 9, 2021, the statewide case counts stands at 68,764 and there have been 11,265 cases in the past fourteen days.¹⁹ Even more concerning is the dire straits in Hawai‘i hospitals. Hawai‘i has reached its capacity of ICU beds. As of September 4, 2021, the state had 224 ICU patients for its 223 ICU beds. About 100 of those patients had COVID-19.²⁰ Hilo Medical Center, Adventist Health Castle, The Queen’s Medical Center, Wahiawa General Hospital, Pali Momi Medical Center, Straub Medical Center and Kuakini Medical Center have also exceeded their ICU capacity. Generally, hospitals are being pushed to the breaking point. In order to stave off a “worst-case scenario” of rationing care to those patients most likely to survive, hospitals are relying on emergency relief workers flown in by the Federal Emergency Relief Management Agency (“FEMA”).²¹ Also concerning is that the state’s oxygen demand is threatening to outstrip supply.²²

¹⁷ SCPW-20-0000509, Amended Order RE: Petty Misdemeanor and Misdemeanor Defendants, filed on August 17, 2020 at p. 2.

¹⁸ Hawai‘i Department of Health (“DOH”), Hawaii COVID-19 Data (cumulative totals as of August 27, 2021). <https://health.hawaii.gov/coronavirus2019/current-situation-in-hawaii>

¹⁹ DOH, Hawaii COVID-19 Data (cumulative totals as of September 7, 2021). <https://health.hawaii.gov/coronavirusdisease2019/current-situation-in-hawaii/>

²⁰ Cocke, S., “Hawaii hospitals run out of ICU beds, scramble to bring in extra oxygen.” *Honolulu Star Advertiser*, September 4, 2021. <https://www.staradvertiser.com/2021/09/04/hawaii-news/hawaii-hospitals-run-out-of-icu-beds-scramble-to-bring-in-extra-oxygen/>

²¹ Id.

Lieutenant Governor Josh Green has warned that if the state approaches 500 patients hospitalized with COVID-19, he would recommend shutdowns – as of September 6, 2021, there were 438 hospitalizations.²³

While Respondents generally urge this Court that leaving releases to the discretion of the lower courts and allowing PSD to follow its Pandemic Response Plan will be sufficient to address this situation, these alternatives would not viably alleviate overcrowding at Hawai‘i correctional facilities. In August 2020, when Petitioner filed its petition in SPCW-20-0000509, this Court recognized the urgency of reducing populations at Hawai‘i correctional facilities to alleviate the looming COVID-19 crisis within the facilities, the populations at Halawa Correctional Facility and OCCC were 739 and 770, respectively.²⁴ In April 2021, when this Court terminated the proceedings in SPCW-20-0000509, citing, in part, an improvement in the conditions which necessitated the Court’s intervention, the populations at HCF and OCCC were 682 and 847.²⁵ The most recent statistics show the populations at HCF and OCCC at 741 and 903, respectively.²⁶ Hence, after being given a year to improve overcrowding at its two largest facilities PSD has failed to do so, populations have instead increased. In fact, the current populations at HCF and OCCC are higher

²² Id.

²³ Tamashiro, K., “Hawaii hospitals fear COVID spike following Labor Day weekend.” KHON 2, September 6, 2021. <https://www.khon2.com/coronavirus/hawaii-hospitals-fear-covid-spike-following-labor-day-weekend/>

²⁴ PSD, End of Month Population Report (August 31, 2020). <https://dps.hawaii.gov/wp-content/uploads/2020/09/Pop-Report-EOM-2020-08-31.pdf>

²⁵ PSD, End of Month Population Report (April 30, 2021). <https://dps.hawaii.gov/wp-content/uploads/2021/05/Pop-Reports-EOM-2021-04-30.pdf>

²⁶ PSD, Weekly Population Report (August 16, 2021). <https://dps.hawaii.gov/wp-content/uploads/2021/08/Pop-Reports-Weekly-2021-08-16.pdf>

than those which prompted this Court to action in August 2020. Obviously, this Court’s urging to rely on individual release motions and alternative means such as HCSOC recommendations in lieu of presumptive release has failed to reduce populations. In fact, since this Court terminated the prior proceedings in April 2021 the total population at Hawai‘i correctional facilities has increased from 4,023 to 4,092 incarcerated persons.²⁷ In his dissenting opinion to the Order Concluding Proceedings, Justice Wilson warned that without supervision there would be no progress in reducing populations at the facilities without this Court’s continued intervention.

Without the support of this court, trial judges are positioned to revert to the prior practices of requiring bail for those accused of nonviolent offenses who are experiencing homelessness or poverty. The “reversion order” of the Majority thus returns our correctional system to one that preserves and promotes overcrowding, subjects incarcerated people awaiting trial for nonviolent offenses to the threat of COVID-19 infection, and condones as punishment for nonviolent misdemeanors and petty misdemeanors incarceration under threat of the life threatening COVID-19 virus.^[28]

The population statistics confirm that relying on PSD policies and procedures and individual motions has little or no effect on the populations of incarcerated persons. As this Court previously recognized, the only significant progress in expeditiously reducing populations at Hawai‘i correctional facilities requires the presumptive release orders sought by Petitioner herein.

DATED: Honolulu, Hawaii, September 9, 2021.

OFFICE OF THE PUBLIC DEFENDER
James S. Tabe
Public Defender

BY: /s/ Jon N. Ikenaga
Jon N. Ikenaga
Deputy Public Defender

²⁷ The populations at six facilities have increased (SNF, HMSF, MCCC, OCCC, WCCC, SCC) while the populations have decreased at only five facilities (HCCC, KCCC, KCF, WCF, FDC).

²⁸ SPCW-20-0000509, Dissent To Order Concluding Proceedings, Wilson, J., filed on April 16, 2021 at p. 9.

Outbreak

Lawyers for Equal Justice (August 2020)

EXHIBIT “A”



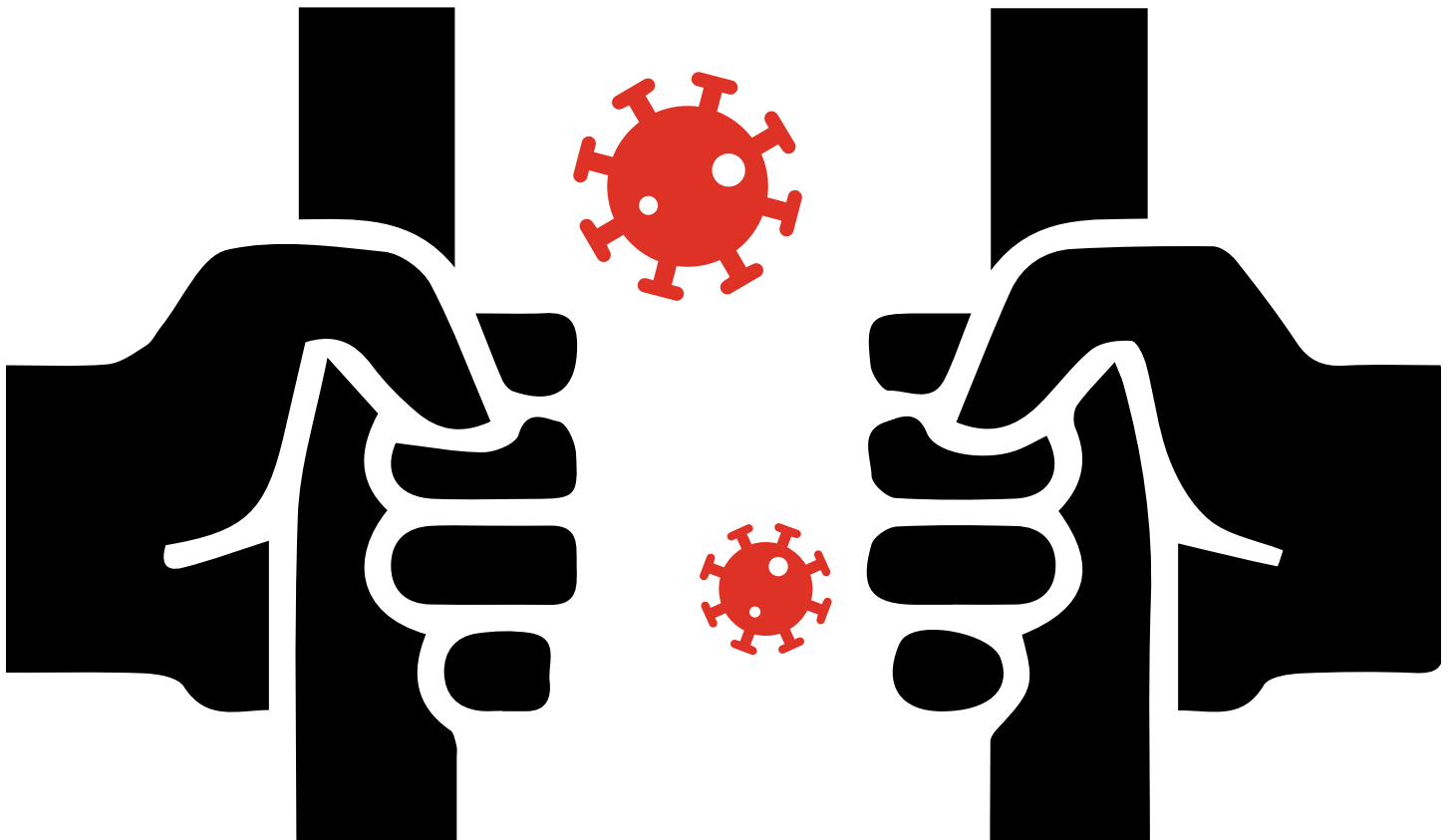
LAWYERS FOR
EQUAL
JUSTICE

In the spring of 2020, prosecutors, politicians and the media inflamed public fears of crime and minimized real threats to public health, undermining an initiative to reduce the populations of Hawai'i correctional facilities and prevent outbreak.

Today, in the face of an alarming coronavirus flare-up in our correctional facilities, it is critical that we learn from that mistake.

AUGUST, 2020

OUTBREAK





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Lawyers for Equal Justice (LEJ) is a non-profit law firm that advocates for low income residents of Hawai'i. The central mission of Lawyers for Equal Justice is to help our clients gain access to the resources, services and fair treatment that they need to realize their opportunities for self-achievement and economic security. Our cases change systems and policies to make justice, equality and opportunity available to everyone.

Since 2004, Lawyers for Equal Justice (LEJ) has been using class action litigation to stand up for the rights of hundreds of thousands of low-income households throughout Hawai'i. LEJ's cases have resulted in deep and lasting changes, improving health and safety, increasing economic and educational opportunities, and saving lives.

CONTENTS

INTRODUCTION	4
METHODOLOGY & DATA	6
ANALYSIS	8
CONCLUSION	20
APPENDIX A: LIST OF ALLEGED RELEASEES	21
APPENDIX B: FACT CHECK OF ALLEGED RE-ARRESTEES	22
APPENDIX C: FACT CHECK OF NON RE-ARRESTEES	33
APPENDIX D: EVALUATION OF MEDIA REPORTS	39
APPENDIX E: OFFICIAL STATEMENTS ON COVID-19 AND CORRECTIONAL FACILITIES	68
APPENDIX F: OFFICIAL STATEMENTS ON CRIME AND RELEASE INITIATIVE	70

PUBLIC HEALTH IS ONLY AS SECURE AS THE HEALTH OF THE MOST VULNERABLE AMONG US. COVID-19 HAS CAST THIS FACT INTO SHARP RELIEF: ONLY BY CARING FOR ONE ANOTHER CAN WE DEFEAT THE PANDEMIC.

INTRODUCTION

COVID-19 FESTERS wherever people are forced into close contact with one another, spreading quickly through those on the front lines to their friends, families and surrounding communities. It is no surprise, then, that jails and prisons across the country have played host to the most catastrophic outbreaks to date. In the context of COVID-19, correctional facilities are public health disasters waiting to happen.

In August of 2020, the pandemic hit Hawai'i's correctional facilities for the first time. As of August 16, 170 inmates and 34 staff workers at O'ahu County Correctional Center (OCCC) [had tested positive](#).

The spread into OCCC is no surprise. Although Hawai'i

correctional facilities had avoided an outbreak for months due to good luck and a policy of reducing the incarcerated population, the state's notoriously overcrowded and unclean correctional facilities invite rapid disease transmission.

The State of Hawai'i should learn the lessons taught by the events of the spring of 2020, when public servants stepped in to avoid an outbreak of COVID-19 in correctional facilities, and preserve public health.

From April 16–June 5, 2020, in response to a petition filed by the Hawai'i State Office of the Public Defender (OPD), the Hawai'i Supreme Court embarked on an ambitious and far-sighted initiative aimed at reducing the population

of the state's jails and prisons. The goal of the initiative was to prevent the sort of devastating COVID-19 outbreaks experienced in correctional facilities across the rest of the country, while ensuring public safety.

The Supreme Court designed a process that allowed individuals incarcerated for lower-level offenses to petition lower courts for release. The process provided an opportunity for prosecutors to object to release, and allowed releases only if the judge was satisfied release would not endanger the public.

As a result of the initiative, the population of Hawai'i correctional facilities fell by more than 800 people with no appreciable

increase in crime. As a result, Hawai'i avoided both outbreaks within correctional facilities and spread to communities.

Despite this success, media coverage of the release initiative was overwhelmingly negative. Prosecutors and others issued dire warnings that the courts were releasing large numbers of violent criminals, and that crime was spiking. Politicians repeated these claims in even more dramatic terms. Media outlets printed the inflammatory statements without meaningful rebuttal or context.

In this report, Lawyers for Equal Justice (LEJ) explores the reasons for the gulf between public perception of the project and reality. The report is not merely an academic attempt to correct the historical record, but an effort to ensure that the mistakes of May and June are not repeated in August and September.

The outbreak that the Supreme Court tried so desperately to avert in April is now upon us, exacerbated (if not caused) by the discontinuation of the release program. County jails have

rapidly refilled in the wake of the termination of the Supreme Court proceedings. Hundreds of inmates and correctional officers are infected.

Government officials, the media and the public must recognize that it is essential to reduce the number of people in those facilities to levels that will ensure health and safety for all. If we again allow fear of a nonexistent crime wave to overshadow the very real and immediate dangers of the current flare-up, that outbreak could easily overwhelm Hawai'i's health system.

KEY FINDINGS

1. During the Supreme Court proceedings, law enforcement officials generally agreed that Hawai'i correctional facilities were overcrowded and unsafe, that releases were necessary to avoid the spread of the pandemic, and that public safety could be protected if a judge reviewed each case. By contrast, in lower court filings and public statements, some of those same officials routinely and cynically mischaracterized the release process to play on public fears about crime.
2. The vast majority of the formerly-incarcerated people released through the Supreme Court process were not re-arrested. Of those who were released and then re-arrested, 80 percent were re-arrested for houselessness-related offenses, such as entry of a closed public park, or violations of the terms of their release, such as failing to call a probation officer.
3. In covering the release initiative, major media outlets tended to: vastly exaggerate the threat the releases posed to public safety; fail to adequately describe the courts' efforts to protect public safety; fail to report that almost all the re-arrests were for houselessness-related offenses; and ultimately allotted over 17 times more space to concerns about crime than to concerns about public health.
4. The Department of Public Safety explicitly disclaimed its legal obligation to provide reentry services to individuals who were released, leaving many people with no support whatsoever as they attempted to transition back into society.

METHODOLOGY & DATA

TO PRODUCE THIS REPORT, LEJ STAFF EXAMINED DATA AND INFORMATION FROM COURT FILINGS AND MEDIA REPORTS TO EXPLAIN AND EVALUATE THE RELEASE INITIATIVE, AND THE REACTION TO IT.

COURT FILINGS

LEJ conducted an extensive review of court filings. The review included all documents filed with the Supreme Court and all the reports of Special Master Daniel Foley,¹ including dozens of exhibits.

The review also included lower court documents. On May 26, 2020, the Honolulu Police Department (HPD) identified 300 individuals whom it alleged had been released

on O'ahu due to COVID-19. See [Appendix A](#) for the list released by the police department.

Of those actually released as part of the Supreme Court initiative, 39 were re-arrested (HPD over-stated the number as 50, but that figure appears unsupported by court records). LEJ conducted an extensive review of the relevant court filings for each of these individuals,

including court minutes, motions for release filed by OPD, motions in opposition to release filed by the Office of the Prosecuting Attorney, declarations of probation officers, and other filings. See [Appendix B](#) for LEJ's database evaluating the court filings of the 50 alleged reoffenders identified by HPD.

In addition, LEJ drew from the HPD list a sample of 13 cases

¹ The Supreme Court appointed retired Intermediate Court of Appeals Judge Daniel Foley as Special Master on April 16, 2020 to help the parties try to agree on ways to voluntarily reduce facilities populations.

Of those actually released as part of the Supreme Court initiative, 39 were re-arrested (HPD over-stated the number as 50, but that figure appears unsupported by court records).

involving people released through the Supreme Court process who had not been re-arrested as of June 5—the date the initiative ended. LEJ reviewed the court dockets for these individuals as well to evaluate the prosecutors’ treatment of individuals who did not commit any new offenses after they were released. See [Appendix C](#) for LEJ’s database evaluating the court filings for these 13 individuals.

MEDIA REPORTS

To evaluate media coverage of the COVID-19 release initiative, LEJ looked for articles published between April 15 (the date the Supreme Court started the initiative) and June 6 (the day after the Supreme Court ended it) for a total of 53 articles from nine different news outlets across the State of Hawai‘i.

To find these articles, LEJ searched the websites of major Hawai‘i news outlets for news articles containing relevant keywords, including “inmate release,” “prisoner release,” and “rearrested.” LEJ discarded opinion pieces, editorials and other commentary. See [Appendix D](#) for LEJ’s database of media reports.



ANALYSIS

THE SUPREME COURT INITIATIVE

THE SUPREME COURT AND ALL PARTIES ACCEPTED THE BASIC FACT THAT IT WAS ESSENTIAL TO REDUCE THE NUMBER OF PEOPLE INCARCERATED.

Our review of Supreme Court filings shows broad consensus about the need for at least some releases. Department of Public Safety Director Nolan P. Espinda himself said it best, in an op-ed published just before the pandemic struck:

“Unfortunately, the critical overcrowding situation must be addressed right now. Since the 1990s, Hawai‘i’s prison and jail population has grown well beyond capacity, during which time no new facilities were added. We are forced to triplebunk single cells, add beds to crowded dorms and convert spaces normally used for rehabilitative programs to housing. Overcrowding and inefficient infrastructure create safety and security risks to staff, inmates and the public.”¹

In its very first filing with the

Supreme Court on March 26, 2020, the Office of the Public Defender (OPD) set forth a detailed statement of facts, taken almost entirely from statements of public officials and national experts and national and local data.

OPD quoted the Centers for Disease Control (CDC), the World Health Organization, and other authorities to point out that people in correctional facilities are uniquely vulnerable to disease outbreaks because of their inability to socially distance, and because of the difficulties in maintaining hygiene while inside.

In the words of the CDC, the preeminent public health authority in the United States:

“Incarcerated [or] detained persons live, work, eat, study, and recreate within congregate environments, heightening the potential for COVID-19 to spread once introduced ... Options for medical isolation of COVID-19 cases are limited.”²

The OPD observed that states across the country had ordered the

release of “as many prisoners as [possible]” in order to respond to this grave public health threat.

In a March 31 response to OPD’s petition, the Hawai‘i State Attorney General (AG) did not present any expert opinion to challenge the assertions that conditions in Hawai‘i facilities were dangerous, and that a significant reduction in facility populations was essential to protecting public health.

Instead, the AG conceded that “reducing the jail and prison population could potentially assist the state’s existing operational plan to address COVID-19 in correctional facilities.”

Unsurprisingly, the Supreme Court agreed, holding on April 2, 2020 that:

“There is a significant interest in reducing inmate populations to protect those who work at or are incarcerated in these overcrowded facilities. COVID-19 outbreaks within overcrowded facilities or facilities in which appropriate physical distancing is not possible will not only place inmates at risk of

1. Nolan P. Espinda, “[Dispelling Myths About Prison Overcrowding](#),” *Honolulu Star-Advertiser*, Jan. 21, 2020

2. Centers for Disease Control, “[Interim Guidance on Management of Coronavirus Disease 2019 \(COVID-19\) in Correctional and Detention Facilities](#),” Updated March 23, 2019

OUTBREAKS IN CONTINENTAL CORRECTIONAL FACILITIES

8 of the top 10 COVID-19 clusters in the U.S. have been in correctional facilities.¹

A state prison in Marion, Ohio had 78 percent of its incarcerated population test positive for the virus—a total of over 2,000 people infected in just one facility. At one point, incarcerated people in Ohio represented 20 percent of all infections in that state.²

A federal prison in Texas had more than 1,300 of its roughly 1,750 incarcerated population test positive for the virus—three out of every four incarcerated individuals in the facility.³

Over 260 staff members have tested positive for COVID-19 at San Quentin state prison in California. At least two dozen incarcerated individuals and one guard have died from the virus.⁴

EXPERT TESTIMONY ON THE DANGERS OF COVID-19 IN CORRECTIONAL FACILITIES

“The various modules are so far beyond their design or operational capacities that it is physically impossible to effectively implement social distancing measures...[this] mean[s] that OCCC is a COVID-19 ticking time bomb.”⁵ — Dr. Pablo Stewart

“The individuals represented by petitioner are at high risk of serious, life-threatening COVID-19 infection, and that their continued confinement in crowded facilities subjects them to a heightened risk of contracting and further spreading

COVID-19.”⁶ — Public health and human rights experts (Robert L. Cohen, M.D., Joe Goldenson, M.D., Kathryn Hampton, MSt, Ranit Mishori, M.D., Michael Puisis, O.D., Rae S. Seitz, M.D., and Brie Williams, M.D.)

“The problem will be dangerously exacerbated if jails and prisons do not act immediately to reduce their prison populations and contain the spread of the virus.”⁷ — Various public health and human rights experts (same as above)

1. Taylor Miller Thomas, “[How U.S. prisons became ground zero for COVID-19](#),” *Politico*, June 25, 2020
2. Josiah Bates, “[Ohio began mass testing incarcerated people for COVID-19. The results paint a bleak picture for the the U.S. Prison System](#),” *Time*, April 22, 2020
3. Casey Tolan, Nelli Black, Drew Griffin, “[Inside the federal prison where three out of every four inmates have tested positive for coronavirus](#),” *CNN*, August 8, 2020
4. Associated Press, “[Guard at California’s San Quentin Prison dies of coronavirus](#),” *U.S. News and World Report*, August 10, 2020
5. Submitted to the Supreme Court in First Special Master’s Report on April 9, 2020
6. Brief of Amici Curiae submitted to the Supreme Court on April 6, 2020
7. *Ibid.*

ANALYSIS

“There is a significant interest in reducing inmate populations to protect those who work at or are incarcerated in these overcrowded facilities. COVID-19 outbreaks within overcrowded facilities or facilities in which appropriate physical distancing is not possible will not only place inmates at risk of death or serious illness, but will also endanger the lives and well-being of staff and service providers who work in the facilities, their families, and members of the community at large.

“Outbreaks within these facilities will severely tax the limited resources of community health care providers, including hospital beds, ventilators, and personal protective equipment because of virulent spread within close quarters, and will also require the utilization of additional resources to provide constitutionally mandated medical care.” — Supreme Court decision

death or serious illness, but will also endanger the lives and well-being of staff and service providers who work in the facilities, their families, and members of the community at large. Also, outbreaks within these facilities will severely tax the limited resources of community health care providers, including hospital beds, ventilators, and personal protective equipment because of virulent spread within close quarters, and will also require the utilization of additional resources to provide constitutionally mandated medical care.”

In the legal proceedings that followed, no party involved—neither the Attorney General, the Department of Public Safety, nor the Office of the Prosecuting Attorney

of any county—ever sought to overturn these findings.

THE PROCESS ESTABLISHED BY THE SUPREME COURT PROVIDED STRONG PROTECTIONS FOR PUBLIC SAFETY.

In its order on April 15, the Supreme Court mandated a four-step process specifically aimed at reducing the population of each facility to its design capacity, while ensuring that public safety was protected:

1. The court ruled that only certain categories of individuals were eligible to apply for COVID-19 release. The court categorically excluded individuals with high-level felony convictions from even applying for

release under the initiative (although those individuals could still pursue routine, non-emergency avenues for legal relief).

2. The court invited OPD to file motions for emergency release on behalf of certain individuals. Most of those who were eligible were people charged with—but not convicted of—misdemeanors, people who could not afford bail, or people incarcerated due to technical parole or probation violations.

3. The court invited the Office of the Prosecuting Attorney to object to any proposed release.

4. The court directed the trial courts to grant release unless “the court finds that the release of the inmate would pose a significant

The court directed the trial courts to impose cash bail only if an individual was a “threat to public safety or a flight risk,” explaining that people “who are poor and not a risk to public safety or a flight risk should not be held simply because they do not have the means to post cash bail.”

risk to the safety of the inmate or the public.”

The court took one other step to reduce the incarcerated population: limiting the number of new individuals coming into correctional facilities by suspending the practice of incarcerating individuals simply because they were unable to make bail. The court directed the trial courts to impose cash bail only if an individual was a “threat to public safety or a flight risk,” explaining that people “who are poor and not a risk to public safety or a flight risk should not be held simply because they do not have the means to post cash bail.”

THE RELEASE INITIATIVE
DRAMATICALLY REDUCED THE
POPULATIONS OF HAWAI'I
CORRECTIONAL FACILITIES.

By May 11, 2020, the overall jailed population in the state had been reduced by 832: from 2,189 people to 1,357 people.¹ According to HPD, the Supreme Court’s expedited motions procedure accounted for a reduction of about 300 people on O’ahu. LEJ believes that the remainder of the reduction was accomplished through motions made by defense attorneys on the neighbor islands and by reducing the flow of individuals into correctional facilities, largely by suspending the practice of incarcerating people who could not afford bail.

INCARCERATED POPULATIONS
AND COVID-19 CASES ARE AGAIN
ON THE RISE FOLLOWING THE
TERMINATION OF THE SUPREME
COURT’S INITIATIVE.

On June 5, 2020, the Supreme

Court terminated the release initiative, noting that “although the pandemic continues, the rate of new infections in Hawai’i remains at very low levels” and that “much of the urgent relief requested” had been “addressed.” However, all four county jails remain above design capacity.²

Moreover, as of July 20, 2020, the population of the four county jails had grown to 1,718 people, erasing in the span of a single month nearly half of the total reduction that had been achieved.³

Meanwhile, new daily COVID-19 cases are close to 10 times what they were at their previous peak in March and April,⁴ and DPS has admitted that overcrowding prompted them to cut short what was supposed to be a mandatory 14-day quarantine before moving incoming prisoners into the general population.

1. Corrections Division, State of Hawai’i Department of Public Safety, “[Weekly Population Reports](#),” March–May, 2020

2. Corrections Division, State of Hawai’i Department of Public Safety, “[Weekly Population Report](#),” June 1, 2020; Design capacity is the number of inmates that planners or architects intended for the facility.

3. Corrections Division, State of Hawai’i Department of Public Safety, “[Weekly Population Report](#),” July 20, 2020

4. Hawai’i Department of Health [COVID-19 Data Dashboard](#), Accessed August 17, 2020

PUBLIC OFFICIALS & THE MEDIA

The out-of-court statements of many public officials, prosecutors, and state legislators, disregarded the real threat COVID-19 posed to incarcerated individuals and to the public. The media echoed these statements uncritically.

Our analysis of 53 news reports reveals that government officials and the media misinformed the public in four main ways:

1. The media failed to adequately describe the safeguards the Supreme Court established to protect public safety.

2. The Honolulu Prosecutor and other government officials disregarded the public health concerns that made the initiative necessary in the first place.

3. Government officials and the media exaggerated and inflamed concerns about crime by emphasizing a handful of fear-inducing incidents at the expense of the reality that very few of the people who were released committed new offenses. The media also failed to mention that almost all of the new offenses were related to homelessness.

4. Public officials and the media blamed very real problems experienced by people who were released, especially homelessness, on the release initiative, instead of on the Department of Public Safety, the entity obligated to provide reentry services.

As described above, the Supreme Court's release initiative combined three safeguards to prevent releases that might endanger public safety.

First, individuals convicted of the most serious offenses were not even eligible to apply for release under the initiative.

Second, prosecutors had the opportunity to provide evidence that a release might endanger public safety.

Third, release was granted only if a court found that a release would not endanger public safety.

THE MEDIA FAILED TO ADEQUATELY DESCRIBE THE SAFEGUARDS THE SUPREME COURT ESTABLISHED TO PROTECT PUBLIC SAFETY.

Media reports generally failed to accurately describe these safeguards: only about half the articles mentioned any safeguards at all, and only 13 percent mentioned the fact that those who posed a threat to public safety were not to be released. These failures to accurately describe the procedural safeguards contributed

to the misperception that the Supreme Court disregarded or minimized public safety concerns.

THE HONOLULU PROSECUTOR AND OTHER GOVERNMENT OFFICIALS DISREGARDED PUBLIC HEALTH CONCERNS.

In lower court filings, the Honolulu City Prosecutor's office used essentially the same two scripts to argue against emergency releases, which included the following statements:

"[T]he risk of Defendant contracting COVID-19 while in custody is low."

"PSD has adopted extensive policies and procedures to deter and respond to a COVID-19 infection in its facilities which, as of this date, remain COVID-19 free."

"Defendant has presented no evidence indicating he is particularly susceptible to COVID-19-related illness."

Every one of these assertions is deeply problematic. As an initial matter, the Honolulu Prosecutor did not support any of these bald assertions with actual medical

or expert evidence about the incarcerated individual or about the risk of infection in Hawai'i correctional facilities.

The assertion that “Defendant has presented no evidence indicating he is particularly susceptible to COVID-19-related illnesses” and the virtually identical assertion in the second script that “there is no showing that Defendant is susceptible to COVID-19 infection” are nonsensical. Humans have no immunity to the virus and there is no treatment or cure (hence the global pandemic),¹ not to mention the particular risk to people in jails and prisons (as documented above).

The assertion that, by arguing for release of an individual, OPD was raising a “contamination while incarcerated” scenario that was somehow “emotionally charged,” is both ironic and deeply troubling. OPD scrupulously documented the heightened dangers of a COVID-19 outbreak in correctional facilities with expert testimony from mainland and local experts and with actual examples of real-life catastrophes.

The Attorney General and the prosecutors made no attempt to refute that evidence in the Supreme Court; the Supreme Court explicitly found a heightened danger; and the Honolulu Prosecutor’s lower

HONOLULU PROSECUTOR LOWER COURT FILING, VERSION 1

The basis of defendant’s Motion is the current COVID-19 pandemic and the understandable concern arising therefrom. This Court, however, should not allow emotionally charged arguments citing to a **possible** “contamination while incarcerated” scenario detract from the carefully considered, fact based considerations, which went into the sentence/bail status of the defendant leading to current incarceration.

Further, Defendant’s contention that release is necessary because continued imprisonment at this time places him at “serious risk of loss of life or permanent injury” is **completely unsubstantiated**. Defendant has presented no evidence indicating he is particularly susceptible to COVID-19-related illnesses. Additionally, the risk of Defendant contracting COVID-19 while in custody is low—especially when compared with the significant risk of harm to both Defendant and the public posed by his release.

HONOLULU PROSECUTOR LOWER COURT FILING, VERSION 2

1. There is no showing that Defendant is particularly susceptible to COVID-19;
2. PSD has adopted extensive policies and procedures to deter and respond to a COVID-19 infection within its facilities which, as of the filing of this memorandum, remain COVID-19 free; and

court filings themselves were unsupported by evidence. The Prosecutor is correct that one side of the argument is “emotionally charged,” but it is his own, not that of the Supreme Court, the Special Master, or the Public Defender.

The out-of-court statements of many public officials, among them Honolulu Police Chief

Susan Ballard, prosecutors, and state legislators, disregarded the real threat COVID-19 posed to incarcerated individuals and to the public. The media echoed these statements uncritically. See [Appendix E](#) for a sample of these statements and associated media coverage.

A number of public officials cited

1. Robert D. Kirkcaldy, Brain A. King, and John T. Brooks, “COVID-19 and Postinfection Immunity: Limited Evidence, Many Remaining Questions,” *JAMA Network*, May 11, 2020

MISLEADING STATEMENTS BY THE HONOLULU PROSECUTOR

In submissions to the Special Master and the Supreme Court, the Honolulu prosecutor consistently issued inflammatory warnings of a crime wave:

“While we understood, only low-level non-violent offenders would be considered, we have seen class A drug cases, sex assault, robbery, assault, terroristic threatening and burglary cases, all subject for release ... We understand the police have seen an increase in robbery type offenses, as we see it, it’s a matter of time before we see an increase in other type of violent crimes.”¹

“Originally, the public defender did not include violent offenders or domestic violence offenders, however, our experience has been that even these defendants have been released by the court

over state’s objections. This has created a tipping point whereas the current situation where the release of dangerous and repeat offenders is more dangerous than the possibility of an outbreak overwhelming our healthcare system.”²

“Despite these low numbers and no reported cases of the virus in our prison facilities, data from Department of Public Safety reveals that over 800 inmates were released into our communities for COVID reasons...these numbers are staggering, especially in light of the fact that those released are not provided any support or resources once in the community.”³

“Let us hope that it does not take someone being killed or seriously injured for the Supreme Court orders to be lifted.”⁴

the fact that there had not been any reported COVID-19 cases in Hawai‘i correctional facilities to argue that releases were unnecessary. The media often amplified these statements. For example, *KITV* quoted Representative Gene Ward as saying, “There’s no evidence of anyone in the prisons having [COVID-19] so they’re safer [in prison].”⁵

Additionally, a *Honolulu Star-Advertiser* article quoted Attorney General Clare Connors, Honolulu Prosecutor Dwight Nadamoto, Hawai‘i County Prosecutor Mitch Roth, and Maui County Prosecutor Donald Guzman each saying the lack of COVID-19 cases in correctional facilities is reason to stop releases.⁶

This assertion is wildly

misguided. Dr. Pablo Stewart, a nationally recognized expert in prison health conditions and attending physician at OCCC, explained to the Supreme Court that—given the dirty and crowded conditions in Hawai‘i correctional facilities—even a single case of COVID-19 inside the walls would be very likely to spread catastrophically, as has occurred

1. Submitted to the Supreme Court in Third Special Master’s Report, 5th Exhibit, on April 30, 2020
2. Submitted to the Supreme Court in Fourth Special Master’s Report, 5th Exhibit, on May 15, 2020
3. Submitted to the Supreme Court in Fourth Special Master’s Report, 6th Exhibit, on May 15, 2020.
4. Submitted to the Supreme Court in Fifth Special Master’s Report, 1st Exhibit, on May 28, 2020
5. TJ Horgan, “[Lawmaker condemns the release of hundreds of inmates from Hawaii’s prisons](#),” *KITV*, May 4, 2020
6. Gordon Y.K. Pang, Rosemarie Bernardo, “[Attorney general, prosecutors want inmate releases halted](#),” *Honolulu Star-Advertiser*, May 6, 2020

“There’s no evidence of anyone in the prisons having [COVID-19] so they’re safer [in prison].” — Hawai‘i State Representative Gene Ward, House District 17

in other correctional facilities across the country. As we have seen, Dr. Stewart’s predictions have been confirmed by the explosion of cases at OCCC.

As of July 21, 2020, there have been at least 70,717 reported cases of COVID-19 amongst incarcerated individuals in the United States. At least 712 incarcerated individuals have died from the virus.¹ Outbreaks in mainland correctional facilities have proven very difficult to contain.

Until August, Hawai‘i was the only state in the union with no confirmed cases of COVID-19 in correctional facilities. The fact that there had been no spread in Hawai‘i was a sign that the initiative was successful, not that it was unnecessary. Tragically, the expert warnings have now been confirmed. With the termination of the policy, the incarcerated population climbed, and the conditions returned to facilitate a devastating outbreak.

THE MEDIA INFLAMED CONCERNS ABOUT PUBLIC SAFETY BY EMPHASIZING A HANDFUL OF DRAMATIC STORIES AT THE EXPENSE OF THE REALITY THAT VERY FEW OF THE PEOPLE WHO WERE RELEASED COMMITTED NEW OFFENSES, AND ALMOST ALL OF THE NEW OFFENSES WERE RELATED TO HOUSELESSNESS.

Law enforcement officials consistently claimed that the release initiative endangered public safety. The media often parroted these inflammatory statements, failing to provide context for the allegations. A sampling of headlines and quotations during the program demonstrates the problem:

“Lawmakers and authorities call for change after early release crime spike.”²

“Prosecutors raise alarms about hundreds of offenders released amid pandemic.”³

Honolulu Police Chief Susan Ballard said, “the releases pose a bigger threat to public safety as some of those who are released re-offend and prey on the community.”⁴

Hawai‘i County Prosecutor Mitch Roth said, “the release of dangerous and repeat offenders is more dangerous than the possibility of an outbreak overwhelming our care system.”⁵

As these headlines and quotations suggest, roughly 70 percent of articles mention concerns about crime, while only 13 percent mention concerns for public health. Ultimately, crime concerns are allotted over 17 times the amount of media coverage given to public health concerns. See [Appendix F](#) for further analysis of this coverage.

Many articles followed a predictable format: They begin with a catchy headline highlighting the purported dangers of releasing incarcerated individuals, include a paragraph or two of background

1. The Marshall Project, [“A state-by-state look at coronavirus in prisons,”](#) July 23, 2020

2. Gina Mangieri, [“Lawmakers and authorities call for change after early release crime spike,”](#) KHON2, May 19, 2020

3. Chelsea Davis, [“Prosecutors raise alarms about hundreds of offenders released amid pandemic,”](#) *Hawaii News Now*, May 4, 2020

4. Mark Ladao, [“More than 50 inmates out of 300 released are rearrested,”](#) *Honolulu Star-Advertiser*, May 27, 2020

5. John Burnett, [“Roth: Jail releases possibly more dangerous than outbreak,”](#) *Hawaii Tribune-Herald*, May 19, 2020

ANALYSIS

While the media focused on the inflammatory statements of public officials, the data painted a very different picture. Of the 50 individuals whom HPD claimed had been re-arrested after a COVID-19-related release, only 39 were actually released pursuant to the process put in place by the Supreme Court. Of these 39 people, almost 80 percent were re-arrested for houselessness-related offenses or violations of the terms of release.

information on the releases and a brief mention of health concerns, and then spend the vast majority of coverage on negative anecdotes.

For example, one *Honolulu Star-Advertiser* article is titled “Several Hawaii inmates released during coronavirus pandemic rearrested for new crimes.”¹ The article jumps right into a series of anecdotes about individuals supposedly released due to COVID-19 who allegedly reoffended.

Of the 22 total paragraphs in this article, 17 are dedicated to discussion of crime, including 14 focused on individual cases. The individual cases chosen for the article are the few most serious crimes committed, with no context or acknowledgement that these do not represent the vast majority of those who were released.

Not until the last few paragraphs of the article is the rationale for the release initiative discussed. Even there, the article glosses over

the public health concerns at the root of the initiative to leave room for prosecutors to disagree, as if the well-established connection between carceral facilities and COVID-19 outbreaks is a matter of active debate.

While the media focused on the inflammatory statements of public officials, the data painted a very different picture. Of the 50 individuals whom HPD claimed had been re-arrested after a COVID-19-related release, only 39 were actually released pursuant to the process put in place by the Supreme Court. Of these 39 people, almost 80 percent were re-arrested for houselessness-related offenses or violations of the terms of release.

Typical houselessness-related offenses include entry of a closed public park or obstruction of a public sidewalk. In one case, an individual was released without anywhere to go, fell asleep on the bench outside the courthouse, and

was then re-arrested for doing so. Most of the violations of terms of release were incidents as minor as failing to notify a probation officer of a change in address.

This data belies the claim that the people released due to COVID-19 were re-arrested en masse for threatening the safety of our communities. Of the 300 individuals released, the vast majority did not reoffend. Of those who did reoffend, most were re-arrested for poverty-related offenses. If anything, the data shows that our legal system criminalizes poverty.

The larger context is also instructive. In 2017, the Hawai'i Attorney General reported 2,622 arrests for serious crimes, including murder, rape, robbery, assault, burglary and theft.² HPD's data on the re-arrests of people who were released due to COVID-19 shows, at most, five crimes on O'ahu fitting into that category. Far from showing

1. Rosemarie Bernardo and Gordon Y.K. Pang, “[Several Hawaii inmates released during coronavirus pandemic rearrested for new crimes](#),” *Honolulu Star-Advertiser*, May 9, 2020

2. Uniform Crime Reporting (UCR) [Program State and County Crime Statistics](#), Crime Prevention & Justice Assistance Division, Attorney General's Office, State of Hawai'i

HPD's data on the re-arrests of people who were released due to COVID-19 shows, at most, five [serious] crimes on O'ahu. Far from showing a crime wave or spike, the data shows that the release initiative had essentially no impact on the crime rate.

a crime wave or spike, the data shows that the release initiative had essentially no impact on the crime rate.

PUBLIC OFFICIALS AND THE MEDIA BLAMED VERY REAL PROBLEMS EXPERIENCED BY PEOPLE WHO WERE RELEASED, ESPECIALLY HOUSELESSNESS, ON THE RELEASE INITIATIVE, INSTEAD OF THE DEPARTMENT OF PUBLIC SAFETY.

Some officials criticized the release initiative because many incarcerated individuals were released without the support they needed to succeed after release. For example, the Honolulu Prosecutor said in a statement to the Supreme Court:

"It was abundantly clear, the Office of the Public Defender

had not engaged any community agencies to help support the hundreds of inmates, who they advocated release of."¹

Houselessness among formerly incarcerated people is not a new problem: a 2017 report found that 30 percent of those released from Hawai'i's jails and prisons exited the correctional facility where they had been incarcerated without anywhere to go.²

Nonetheless, the criticism of the release initiative is correct, but it should have been aimed at the entity legally responsible for reentry: the Department of Public Safety (DPS).

As the agency tasked with overseeing Hawai'i's incarcerated people, DPS is charged with facilitating the reentry of those people into our communities. These duties are imposed by law.

DPS "shall develop a

comprehensive and effective offender reentry system plan" (emphasis added).³ In addition to this system-wide plan, DPS "shall develop comprehensive reentry plans ... for individuals exiting correctional facilities," and such plans "shall include...transitional programs to address the needs of individuals exiting the correctional system" (emphasis added).⁴

DPS is also responsible for tracking "the number of individuals who exit jail or prison with a reentry plan,"⁵ and reporting those figures annually.⁶

DPS is further required to "issue civil identification cards" to people soon to be released and to assist each person in obtaining "birth certificate, social security card, and any other relevant identification documents."⁷ These identification documents are, in the words of the U.S. Department

1. Submitted to the Supreme Court in Fourth Special Master's Report, 6th Exhibit, on May 15, 2020

2. Gavin Thornton, James Koshiba, and Joyce-Lee Ibarra, "[Touchpoints of Homelessness: Institutional Discharge as a Window of Opportunity for Hawai'i's Homeless](#)," Aloha United Way, 2017

3. Haw. Rev. Stat. § 353H-3(a)

4. Haw. Rev. Stat. § 353H-3(b)

5. Haw. Rev. Stat. § 353H-8 (b)(2)

6. Haw. Rev. Stat. § 353H-9

7. Haw. Rev. Stat. § 353H-32

ANALYSIS

“They let you out with zero. I had the clothes on my back. Everything else was still locked in the property crate. My phone, little bit [of] money I had, even the shoes I came in with. I tried to get my stuff back, but it was after 3 [p.m.], and they said the office was closed so I had to wait until the next day. I hear if they let you out on a Friday [after 3 p.m.], you got to wait ‘til Monday.” – Formerly incarcerated individual

Deputy Director Kimoto tried to pin responsibility for transitional programming on the Office of the Public Defender. This view finds no support in Hawai‘i law nor DPS’ own administrative documents, both of which make clear that DPS’ reentry obligations hold for all formerly incarcerated individuals without exception.

of Justice, “critical to successful reentry.”¹

State-issued ID is necessary to apply for employment, pursue educational opportunities, find housing, comply with conditions of parole, and fill prescriptions. Unfortunately, DPS has consistently struggled to meet its obligations.

The ID mandate went into effect on January 1, 2018,² but between November 2018 and October 2019, more than half of all people released from Hawai‘i jails left without a civil identification card. The same was true for birth certificates and social security cards.³

In some cases, people do not even get their belongings. The property room at OCCC, for example, is open Monday to Friday from 8 a.m. to 4 p.m. People who are released when the property room is closed need to come back to the jail when it reopens. This presents an especially difficult problem for those who are released after the property room closes for the weekend on Friday afternoon. A story from a formerly incarcerated person encapsulates the sordid state of affairs:

“Yeah, they let you out with zero. I had the clothes on my back. Everything else was still locked

in the property crate. My phone, little bit [of] money I had, even the shoes I came in with. I tried to get my stuff back, but it was after 3 [p.m.], and they said the office was closed so I had to wait until the next day. I hear if they let you out on a Friday [after 3 p.m.], you got to wait ‘til Monday.

“I walked barefoot back toward town. A bus driver let me on with my [OCCC] bracelet [proof that I’d just been released]. I tried to find someone I knew back in the area where I was camped before. But it was all different. My tent was gone. This one guy Steve I knew from before let me stay with him.”⁴

1. U.S. Dep’t of Justice, *Prison Reform: Reducing Recidivism by Strengthening the Federal Bureau of Prisons*, 2017

2. Haw. Rev. Stat. § 353H-32

3. State of Hawai‘i Dep’t of Pub. Safety, *Reentry Coordination Office Annual Report on Civil Identification Documents*, 2019

4. Gavin Thornton, James Koshiba, and Joyce-Lee Ibarra, “[Touchpoints of Homelessness: Institutional Discharge as a Window of Opportunity for Hawai‘i’s Homeless](#),” Aloha United Way, 2017

That was before the pandemic began; there is no evidence that DPS has improved its practices since the COVID-19 outbreak. From April to June, hundreds of people re-entered the community from jails and prisons as a result of the COVID-19 crisis. However, the DPS entity responsible for reentry—the Reentry Coordination Office (RCO)—was conspicuously absent.

On April 28, 2020, a member of the Emergency Reentry Project (EREP), a coalition of community advocates and stakeholders,¹ wrote to DPS senior management “to ask what the Reentry Coordination Office has been doing to assist in the reentry process for those who have been released due to the novel coronavirus pandemic.”

DPS Director Nolan Espinda responded on May 1, 2020 by suggesting that private actors—rather than DPS, the state agency legally responsible for the provision of reentry services—seek “alternative transitional housing

... for those inmates who risk becoming homeless upon release.”²

In the week that followed, DPS’ efforts to disclaim any responsibility for people released due to the pandemic became even more transparent. On May 6, 2020 a representative of the EREP spoke on the phone with DPS Deputy Director for Corrections Shari Kimoto.

According to Deputy Director Kimoto, who oversees the RCO, DPS had no responsibility to provide reentry services to “COVID releases.”

Deputy Director Kimoto tried to pin responsibility for transitional programming on the Office of the Public Defender.³ This view finds no support in Hawai‘i law nor DPS’ own administrative documents, both of which make clear that DPS’ reentry obligations hold for all formerly incarcerated individuals without exception.

Remarkably, media coverage of reentry issues reinforced rather than contradicted the idea that

entities other than DPS were responsible for reentry services.

For example, one *Hawai‘i News Now* article asserts: “The sudden release of inmates also put significant strain on agencies that assist the homeless and mentally ill, since many of the inmates who fall into those categories were not able to seek adequate help upon their release.”⁴

Another article quotes House Speaker Scott Saiki saying, “[the release program] has shifted the financial burden primarily from the public safety system to local governments, service providers and the private sector.”⁵

Only a single article out of the 53 in the database even mentioned DPS’s responsibility for reentry.⁶ (In general, *Honolulu Civil Beat* articles tended to provide more context than those of other outlets.) No others mentioned that DPS had tried to disclaim responsibility for its legal obligation. None mentioned the history of problems with reentry that long predated the pandemic.

1. The EREP includes representatives from the Office of the Public Defender, ACLU of Hawai‘i, Office of Hawaiian Affairs, Hawai‘i Innocence Project, Medical-Legal Partnership for Children, Community Alliance on Prisons, Hawai‘i Justice Coalition, Law Enforcement Assistance Diversion Program, Hawai‘i Health and Harm Reduction Center, and the Hawai‘i Correctional Systems Oversight Commission.

2. April 28, 2020 and May 1, 2020 correspondence between Kat Brady and Nolan Espinda re: Emergency Reentry Project.

3. *Office of the Public Defender v. Connors* and *Office of the Public Defender v. Ige*, Fourth Summary Report and Recommendations of the Special Master, Exhibit 12

4. HNN Staff, “[COVID-19 risk decreased, state Supreme Court ends inmate early release program](#),” *Hawaii News Now*, June 5, 2020

5. Lynn Kawano, “[Inmate releases amid COVID-19 fears are putting a big strain on service providers](#),” *Hawaii News Now*, May 18, 2020

6. Yoohyun Jung, “[Critics say Hawaii prisons are failing to help released inmates](#),” *Honolulu Civil Beat*, May 23, 2020

CONCLUSION

WE MUST REDOUBLE OUR EFFORTS TO DEFEND THE HEALTH OF ALL OF THE MEMBERS OF OUR COMMUNITIES, INCLUDING THE INCARCERATED, BY REDUCING THE NUMBER OF PEOPLE HELD IN HAWAI'I'S JAILS AND PRISONS.



THE UNSPOKEN implication of much of the discussion surrounding the COVID-19 release initiative is that the process should never have begun, and that the hundreds of individuals released should still be incarcerated. Nothing could be further from the truth.

While it lasted, and for two months after, the Supreme Court initiative succeeded in averting an outbreak in the state's unsanitary and overcrowded correctional

facilities. Only after the initiative ended, and populations in those facilities increased, did the pandemic strike.

The pandemic is now spreading through our correctional facilities. The threat of an uncontrolled outbreak looms larger than ever. We must pick up where the Supreme Court left off in June. We must again work creatively to reduce the populations of our facilities and to provide an adequate level of

social services to those released. Public officials—especially law enforcement—should support the reduction, not undermine it.

The media should reject efforts to mischaracterize reductions by ensuring those efforts are put in an accurate context.

Above all, we must all recognize that releasing incarcerated individuals, far from threatening public health and safety, is essential to the protection of those interests.



APPENDIX A: HPD LIST OF ALLEGED RELEASEES

On May 26, 2020, the Honolulu Police Department (HPD) released the following list of individuals whom it alleged had been released in the First Circuit as a result of the Supreme Court's initiative. Prior to May 26, it had been impossible to get any kind of meaningful list of names from either the police or the prosecutor. In this case, HPD did not explain what the numbers in the fourth column mean. However, individuals whose names are highlighted had allegedly been rearrested since they were released.

[**VIEW LIST**](#)

APPENDIX B: FACT CHECK OF ALLEGED RE-ARRESTEES

We evaluated court filings associated with each of the highlighted names on the HPD list to determine why each individual had been released—in particular, whether they were on the Office of the Public Defender’s (OPD) list of requested releases as part of the COVID-19 initiative or for some other reason, as well as whether each individual had in fact been re-arrested, and if so, the grounds for the new arrest.

Roughly 90 percent of those re-arrested were charged with offenses relating directly to homelessness and poverty, not because of violent activity. In many cases in which violence did lead to a re-arrest, the defendant in question was released for other reasons, and sometimes the prosecutor filed no motion in opposition.

For privacy, we are only printing the first names of the defendants listed.



Name: Vanity S
Jurisdiction: First Circuit
OPD Requested Release: No
Custody Case: 1PC161001208; 1CPC-19-0000209
Charges: HRS 708-851(1)(a), forgery 1; HRS 710-1026.9, resisting an order to stop a motor vehicle
Released: 4/8/2020
COVID-19 Motion: No
Motion in Opposition: No
New Case: Federal case
New Charges: Car-jacking
Comments: Released pursuant to procedural COVID-19-related order



Name: Brittny N
Jurisdiction: First Circuit
OPD Requested Release: No
Custody Case: 1CPC-20-0000327
Charges: HRS 708-836, unauthorized control of a propelled vehicle
Released: 3/24/2020
COVID-19 Motion: Yes
Motion in Opposition: No
New Case: 1DCC-20-0009889; 1DCC-20-0011383; 1DCC-20-0011551
New Charges: Violation of emergency proclamation
Comments: All new charges are houselessness-related



Name: Lucan K
Jurisdiction: First Circuit
OPD Requested Release: Yes
Custody Case: 1CPC-17-0001360
Charges: HRS 712-1243, promoting a dangerous drug 3
Released: 4/22/2020
COVID-19 Motion: Yes
Motion in Opposition: Yes
New Case: No new case
New Charges: Revocation of probation for failure to communicate with probation officer
Comments: Technical probation violation



Name: Taylor M
Jurisdiction: First Circuit
OPD Requested Release: Yes
Custody Case: 1PC141002037
Charges: HRS 708-831, theft 2
Released: 4/23/2020
COVID-19 Motion: Yes
Motion in Opposition: Yes
New Case: No new case
New Charges: Revocation of probation for failure to communicate with probation officer
Comments: Technical probation violation



Name: Daniel B
Jurisdiction: First Circuit
OPD Requested Release: No
Custody Case: 1DCW-20-0001137
Charges: HRS 708-823(1), criminal property damage 4, intentional/knowing; HRS 711-1106(1)(a), harassment, strikes shoves, kicks
Released: 4/27/2020
COVID-19 Motion: No
Motion in Opposition: No
New Case: 1CPC-20-0000492
New Charges: Murder 2
Comments: Defendant was not even arrested in his Custody Case until 4/25/2020. Both of the charges against him at that time were petty misdemeanors, and he was released on his own recognizance



Name: Manawis M
Jurisdiction: First Circuit
OPD Requested Release: Yes
Custody Case: 1PC121000151; 1PC111000047
Charges: HRS 708-831, theft 2; HRS 712-1243, promoting a dangerous drug 3; HRS 329-43.5, prohibited acts related to drug paraphernalia
Released: 4/23/2020
COVID-19 Motion: Yes
Motion in Opposition: Yes
New Case: 1DCC-20-0007841; 1DCC-20-0008460
New Charges: Trespassing; indecent exposure; violation of emergency proclamation (park closure)
Comments: All new charges are houselessness-related



Name: Thomas N
Jurisdiction: First Circuit
OPD Requested Release: No
Custody Case: 1PC141001315
Charges: HRS 712-1243, promoting a dangerous drug 3; HRS 329-43.5, prohibited acts related to drug paraphernalia
Released: 3/30/2020
COVID-19 Motion: Yes
Motion in Opposition: No
New Case: 1DCC-20-0005115; 1DCC-20-0005145; 1DCC-20-0004962; 1DCC-20-0005180; 1DCC-20-0005223; 1DCC-20-0005628; 1DCC-20-0006638; 1DCC-20-0008591; 1DCC-20-0008944
New Charges: Violation of emergency proclamation (park closure)
Comments: All new charges are houselessness-related



Name: Sky T
Jurisdiction: First Circuit
OPD Requested Release: No
Custody Case: 1PC131001510; 1PC131001766
Charges: HRS 712-1243, promoting a dangerous drug 3; HRS 329-43.5, prohibited acts related to drug paraphernalia; HRS 708-833(1), theft 4
Released: 4/15/2020
COVID-19 Motion: Yes
Motion in Opposition: Yes
New Case: 1DCC-20-0005004; 1DCC-20-0005011
New Charges: Violation of emergency proclamation (park closure)
Comments: All new charges are houselessness-related

APPENDIX B



Name: Vagn R
Jurisdiction: First Circuit
OPD Requested Release: Yes
Custody Case: 1PC141001852
Charges: HRS 708-836, unauthorized control of a propelled vehicle
Released: 4/23/2020
COVID-19 Motion: Yes
Motion in Opposition: Yes
New Case: No new case
New Charges: No new charges
Comments: Defendant has not been re-arrested



Name: William B
Jurisdiction: First Circuit
OPD Requested Release: No
Custody Case: 1CPC-20-0000083
Charges: HRS 708-852, forgery 2
Released: 4/1/2020
COVID-19 Motion: Yes
Motion in Opposition: Yes
New Case: No new case
New Charges: Revocation of supervised release for failure to communicate with court officer
Comments: Technical probation violation



Name: Kendall K
Jurisdiction: First Circuit
OPD Requested Release: Yes
Custody Case: 1CPC-19-0001648
Charges: HRS 708-836, unauthorized control of a propelled vehicle
Released: 4/22/2020
COVID-19 Motion: Yes
Motion in Opposition: Yes
New Case: No new case
New Charges: Revocation of supervised release for failure to communicate with court officer
Comments: Technical probation violation



Name: Phillip T
Jurisdiction: First Circuit
OPD Requested Release: No
Custody Case: 1CPC-19-0001390;
1FFC-20-0000065
Charges: HRS 708-831(1)(b), theft 2, exceeding \$750; HRS 586-4(e)(1), violation of a TRO
Released: 4/20/2020
COVID-19 Motion: Yes
Motion in Opposition: Yes
New Case: 1CPC-20-0000673
Charges: Burglary
Comments: Technical probation violation



Name: Terdon W
Jurisdiction: First Circuit
OPD Requested Release: Yes
Custody Case: 1CPC-20-0000004
Charges: HRS 712-1243, promoting a dangerous drug 3
Released: 4/21/2020
COVID-19 Motion: Yes
Motion in Opposition: Yes
New Case: 1DCC-20-0007283;
1DCC-20-0014700
New Charges: Violation of emergency proclamation (park closure)
Comments: All new charges houselessness-related



Name: Timmy T
Jurisdiction: First Circuit
OPD Requested Release: No
Custody Case: 1CPC-19-0001632
Charges: HRS 708-836.5, unauthorized entry into a motor vehicle 1
Released: 3/24/2020
COVID-19 Motion: Yes
Motion in Opposition: No
New Case: No new case
New Charges: Revocation of probation for failure to communicate with probation officer
Comments: Technical probation violation



Name: Ronald N
Jurisdiction: First Circuit
OPD Requested Release: No
Custody Case: 1CPC-19-0001678
Charges: HRS 712-1243, promoting a dangerous drug 3
Released: 3/27/2020
COVID-19 Motion: Yes
Motion in Opposition: No
New Case: 1DCC-20-0009031; 1DCC-20-0012178; 1DCC-20-0012613
New Charges: Violation of emergency proclamation
Comments: All new charges are houselessness-related



Name: MT R
Jurisdiction: First Circuit
OPD Requested Release: No
Custody Case: 1CPC-19-0001862
Charges: HRS 708-836.5, unauthorized entry into motor vehicle 1
Released: 4/6/2020
COVID-19 Motion: Yes
Motion in Opposition: Yes
New Case: 1DCC-20-0012314; 1DCC-20-0013890; 1DCC-20-0008732
New Charges: Entry into a closed public park; obstruction of a public sidewalk
Comments: All new charges are houselessness-related



Name: Diamond S
Jurisdiction: First Circuit
OPD Requested Release: No
Custody Case: 1CPC-20-0000272
Charges: HRS 712-1243, promoting a dangerous drug 3
Released: 3/24/2020
COVID-19 Motion: Yes
Motion in Opposition: No
New Case: 1CPC-20-0000638
New Charges: Robbery



Name: Joshua H
Jurisdiction: First Circuit
OPD Requested Release: No
Custody Case: 1CPC-19-0001741
Charges: HRS 707-711(1)(d), assault 2; HRS 707-716(1)(e), terroristic threatening 1
Released: 3/29/2020
COVID-19 Motion: Yes
Motion in Opposition: Yes
New Case: 1FFC-20-0000413
New Charges: Domestic violence



Name: Joseph A
Jurisdiction: First Circuit
OPD Requested Release: Yes
Custody Case: 1PC161000406
Charges: HRS 708-891.5, computer fraud 2; HRS 708-839.55, unauthorized possession of confidential personal information; HRS 702-222, accomplice; HRS 708-852, forgery 2
Released: 4/20/2020
COVID-19 Motion: Yes
Motion in Opposition: Yes
New Case: No new case
New Charges: No new charges
Comments: Rearrested for a separate, technical probation violation



Name: Joshua L
Jurisdiction: First Circuit
OPD Requested Release: No
Custody Case: 1PC161000438
Charges: HRS 712-1243, promoting a dangerous drug 3; HRS 329-43.5(a), drug paraphernalia; HRS 708-814(1)(a); criminal trespassing 2, enclosed/fenced premises
Released: 4/23/2020
COVID-19 Motion: Yes
Motion in Opposition: Yes
New Case: No new case
New Charges: No new charges
Comments: Defendant has not been re-arrested

APPENDIX B



Name: Marcel M
Jurisdiction: First Circuit
OPD Requested Release: No
Custody Case: 1CPC-19-0000223
Charges: HRS 712-1243, promoting a dangerous drug 3; HRS 707-712(1)(a), assault 3
Released: 3/30/2020
COVID-19 Motion: Yes
Motion in Opposition: No
New Case: 1DCW-20-0001056; 1DCC-20-0014906; 1DCW-20-0001064; 1DCC-20-0008998; 1DCW-20-0001177; 1DSS-20-0000591
New Charges: Assault 1; violation of emergency proclamation; terroristic threatening 2; harassment, strikes, shoves, kicks; restraining order



Name: Herbert V
Jurisdiction: First Circuit
OPD Requested Release: No
Custody Case: 1CPC-19-0000760; 1CPC-20-0000159
Charges: HRS 708-836.5, unauthorized entry into a motor vehicle 1; HRS 712-1243, promoting a dangerous drug 3
Released: 3/3/2020
COVID-19 Motion: No
Motion in Opposition: N/A
New Case: No new case
New Charges: Revocation of probation for failure to comply with terms of release
Comments: Defendant was released in the course of normal court business before the Supreme Court issued any COVID-19-related orders



Name: Jessen G
Jurisdiction: First Circuit
OPD Requested Release: Yes
Custody Case: 1CPC-17-0000933
Charges: HRS 708-839.55, unauthorized possession of confidential personal information
Released: 4/23/2020
COVID-19 Motion: Yes
Motion in Opposition: Yes
New Case: 1FFC-20-0000419
New Charges: Abuse of family member; unlawful imprisonment
Comments: Following re-arrest, defendant again released; under stay away order with respect to complaining family member



Name: Eddie F
Jurisdiction: First Circuit
OPD Requested Release: No
Custody Case: 1CPC-19-0000286
Charges: HRS 708-810(1)(b), burglary 1, bodily injury; HRS 707-716(1)(e), terroristic threatening 1; HRS 586-11(a)(1)(B), first conviction domestic abuse; HRS 708-823(1), criminal property damage 4, intentional/knowing
Released: 3/27/2020
COVID-19 Motion: No
Motion in Opposition: N/A
New Case: 9 new citations
New Charges: Violation of emergency proclamation; entry into a closed public park; obstruction of a public sidewalk
Comments: All new charges are houselessness-related



Name: Cody G
Jurisdiction: First Circuit
OPD Requested Release: No
Custody Case: 1CPC-19-0001497;
 1CPC-19-0000210
Charges: HRS 705-500, criminal attempt;
 HRS 708-836.5, unauthorized entry into a
 motor vehicle 1; HRS 710-1021, escape 2;
 HRS 708-836, unauthorized control of a
 propelled vehicle; HRS 707-712.6, assault
 of a law enforcement officer 2; HRS
 708-823(1), criminal property damage 4,
 intentional/knowing
Released: 4/7/2020
COVID-19 Motion: Yes
Motion in Opposition: Yes
New Case: No new case
New Charges: No new charges
Comments: Defendant has not been re-
 arrested



Name: Matthew C
Jurisdiction: First Circuit
OPD Requested Release: No
Custody Case: 1CPC-19-0001822;
 1CPC-18-0000134
Charges: HRS 712-1243, promoting a
 dangerous drug 3; HRS 708-833(1), theft 4;
 HRS 708-839.55, unauthorized possession
 of confidential personal information
Released: 4/20/2020
COVID-19 Motion: Yes
Motion in Opposition: Yes
New Case: 1CPC-20-0000500;
 1CPC-20-0000499
New Charges: Forgery 2; identity theft 3;
 unauthorized possession of confidential
 personal information; criminal attempt;
 theft exceeding \$250; theft exceeding
 \$750
Comments: Technical probation violation



Name: Isaac S
Jurisdiction: First Circuit
OPD Requested Release: Yes
Custody Case: 1PC161000702
Charges: HRS 712-1243, promoting a
 dangerous drug 3; HRS 329-43.5(a), drug
 paraphernalia; HRS 708-814(1)(b), criminal
 trespassing 2, commercial premises &
 written warning
Released: 4/21/2020
COVID-19 Motion: Yes
Motion in Opposition: Yes
New Case: No new case
New Charges: Revocation of probation for
 failure to communicate with probation
 officer
Comments: Technical probation violation



Name: Justner Y
Jurisdiction: First Circuit
OPD Requested Release: No
Custody Case: 1CPC-20-0000178
Charges: HRS 712-1243, promoting a
 dangerous drug 3
Released: 3/24/2020
COVID-19 Motion: Yes
Motion in Opposition: No
New Case: 1DCC-20-0007309;
 1DCC-20-0010849; 1DCC-20-0012005,
 1DCC-20-0013431; 1DTI-20-100109
New Charges: Violation of emergency
 proclamation; sit/lie public sidewalk;
 obstruction of a public sidewalk
Comments: All new charges are
 houselessness-related

APPENDIX B



Name: Steven W
Jurisdiction: First Circuit
OPD Requested Release: No
Custody Case: 1CPC-19-0001251
Charges: HRS 708-831(1)(b), theft 2, exceeding \$750
Released: 3/31/2020
COVID-19 Motion: Yes
Motion in Opposition: No
New Case: No new case
New Charges: Revocation of supervised release for failure to communicate with court officer
Comments: Technical probation violation



Name: Matthew F
Jurisdiction: First Circuit
OPD Requested Release: No
Custody Case: 1CPC-18-0001803
Charges: HRS 708-841(1)(a), robbery 2, theft or motor vehicle theft & force
Released: 4/22/2020
COVID-19 Motion: Yes
Motion in Opposition: Yes
New Case: No new case
New Charges: Revocation of supervised release for failure to communicate with court officer
Comments: Technical probation violation



Name: Michael H
Jurisdiction: First Circuit
OPD Requested Release: Yes
Custody Case: 1CPC-18-0000637
Charges: HRS 712-1243, promoting a dangerous drug 3
Released: 4/22/2020
COVID-19 Motion: Yes
Motion in Opposition: Yes
New Case: No new case
New Charges: Revocation of probation for failure to communicate with probation officer
Comments: Technical probation violation



Name: Gail K
Jurisdiction: First Circuit
OPD Requested Release: No
Custody Case: 1CPC-18-0001790
Charges: HRS 708-803, habitual property crime
Released: 3/31/2020
COVID-19 Motion: Yes
Motion in Opposition: No
New Case: No new case
New Charges: Revocation of probation for failure to communicate with probation officer
Comments: Technical probation violation



Name: James H
Jurisdiction: First Circuit
OPD Requested Release: Yes
Custody Case: 1CPC-18-0000486
Charges: HRS 712-1243, promoting a dangerous drug 3; HRS 708-833(1), theft 4
Released: 4/21/2020
COVID-19 Motion: Yes
Motion in Opposition: Yes
New Case: 1DCC-20-0016070;
1DCC-20-0013968
New Charges: Violation of emergency proclamation; obstruction of a public sidewalk
Comments: All new charges are houselessness-related



Name: Christin B
Jurisdiction: First Circuit
OPD Requested Release: No
Custody Case: 1CPC-19-0000943
Charges: HRS 707-716(1)(e), terroristic threatening 1; Class B Felony, HRS 134-25, failure to properly store a pistol or revolver
Released: 3/27/2020
COVID-19 Motion: Yes
Motion in Opposition: Yes
New Case: No new case
New Charges: Revocation of supervised release for failure to communicate with court officer
Comments: Technical probation violation



Name: Brendy B
Jurisdiction: First Circuit
OPD Requested Release: No
Custody Case: 1CPC-20-0000169
Charges: HRS 708-836, unauthorized control of a propelled vehicle; HRS 708-832(1)(a), theft 3, exceeding \$250
Released: 3/31/2020
COVID-19 Motion: Yes
Motion in Opposition: No
New Case: No new case
New Charges: Revocation of probation for failure to communicate with probation officer
Comments: Technical probation violation



Name: Quinton Q
Jurisdiction: First Circuit
OPD Requested Release: No
Custody Case: 1CPC-17-0001474
Charges: HRS 712-1243, promoting a dangerous drug 3; HRS 329-43.5(a), drug paraphernalia
Released: 4/1/2020
COVID-19 Motion: Yes
Motion in Opposition: No
New Case: No new case
New Charges: Revocation of probation for failure to communicate with probation officer
Comments: Technical probation violation



Name: Michelle K
Jurisdiction: First Circuit
OPD Requested Release: Yes
Custody Case: 1CPC-18-0001642
Charges: HRS 708-836, unauthorized control of a propelled vehicle
Released: 4/23/2020
COVID-19 Motion: Yes
Motion in Opposition: Yes
New Case: 1DCC-20-0016069
New Charges: Violation of emergency proclamation; trespassing; obstruction of a public sidewalk
Comments: All new charges are houselessness-related



Name: Aleki T
Jurisdiction: First Circuit
OPD Requested Release: No
Custody Case: 1CPC-17-0001450
Charges: HRS 708-836, unauthorized control of a propelled vehicle
Released: 4/3/2020
COVID-19 Motion: No
Motion in Opposition: N/A
New Case: 6 new citations
New Charges: Violation of emergency proclamation; obstructing a public sidewalk; trespass; sit/lie
Comments: All new charges are houselessness-related



Name: David T
Jurisdiction: First Circuit
OPD Requested Release: No
Custody Case: 1CPC-18-0000424
Charges: HRS 712-1246.5, promoting a harmful drug 4
Released: 3/31/2020
COVID-19 Motion: Yes
Motion in Opposition: Yes
New Case: 1DCC-20-0013745; 1DCW-20-0001327
New Charges: Sit/lie; trespassing
Comments: All new charges are houselessness-related



Name: Kiakahi B
Jurisdiction: First Circuit
OPD Requested Release: Yes
Custody Case: 1CPC-18-0000779
Charges: HRS 711-1110.9, violation of privacy 1
Released: 4/20/2020
COVID-19 Motion: Yes
Motion in Opposition: Yes
New Case: 1DCW-20-0001323
New Charges: Criminal tampering 2
Comments: Touched someone else's property without consent

APPENDIX B



Name: Bowen B
Jurisdiction: First Circuit
OPD Requested Release: No
Custody Case: 11CPC-19-0001108; 1CPC-19-0001193; 1CPC-19-0000482
Charges: HRS 708-836, unauthorized control of a propelled vehicle; HRS 710-1026(1)(a), resisting arrest, physical force; HRS 286-102, no motor vehicle driver's license; HRS 710-1027, resisting an order to stop a motor vehicle; HRS 291-2, reckless driving; HRS 708-839.55, unauthorized possession of confidential personal information; HRS 708-839.8, identity theft 3; HRS 708-833(1), theft 4; HRS 708-831(1)(a), theft 2, person
Released: 4/2/2020
COVID-19 Motion: Yes
Motion in Opposition: Yes
New Case: 1CPC-20-0000570
New Charges: Unauthorized control of a propelled vehicle; resisting an order to stop a motor vehicle



Name: Joshua B
Jurisdiction: First Circuit
OPD Requested Release: No
Custody Case: 1CPC-18-0000906; 1CPC-20-0000039
Charges: HRS 709-906(1)(5), abuse of a family or household member, refusal to comply with the lawful order of a police officer; HRS 707-721(1), unlawful imprisonment 1; HRS 708-836.5, unauthorized entry into motor vehicle 1
Released: 3/23/2020
COVID-19 Motion: No
Motion in Opposition: N/A
New Case: 1DCC-20-0013010; 1CPC-20-0000591
New New Charges: Violation of emergency proclamation; theft
Comments: Released on own recognizance on 3/23 in order referencing COVID-19 pandemic among other factors; Supreme Court orders not referenced, no COVID-related motion filed



Name: Franklin P
Jurisdiction: First Circuit
OPD Requested Release: No
Custody Case: 1CPC-17-0001410; 1CPC-19-0001609
Charges: HRS 708-831(1)(b), theft 2, exceeding \$750; HRS 708-836, unauthorized control of a propelled vehicle; HRS 712-1243, promoting a dangerous drug 3; Felony Class C, HRS 708-821(1)(b), criminal property damage 2 exceeding \$1,500; HRS 286-102, driving without a valid driver's license
Released: 4/22/2020
COVID-19 Motion: Yes
Motion in Opposition: Yes
New Case: 1CPC-20-0000578
New Charges: Unauthorized control of a propelled vehicle



Name: James V
Jurisdiction: First Circuit
OPD Requested Release: Yes
Custody Case: 1CPC-17-0001034
Charges: HRS 712-1243, promoting a dangerous drug 3
Released: 4/21/2020
COVID-19 Motion: Yes
Motion in Opposition: Yes
New Case: No new case
New Charges: Revocation of probation for failure to communicate with probation officer
Comments: Technical probation violation



Name: Mark D
Jurisdiction: First Circuit
HPD Re-Arrest Listed: No
Custody Case: 1CPC-20-0000389
Charges: HRS 712-1243, promoting a dangerous drug 3
Released: 3/23/2020
COVID-19 Motion: No
Motion in Opposition: N/A
New Case: 1DCC-20-0011545
New Charges: Violation of emergency proclamation
Comments: All new charges are houselessness-related



Name: Amos F
Jurisdiction: First Circuit
HPD Re-Arrest Listed: No
Custody Case: 1CPC-19-0001703
Charges: HRS 708-836, unauthorized control of a propelled vehicle
Released: 3/27/2020
COVID-19 Motion: Yes
Motion in Opposition: No
New Case: 1DCW-20-0000936; 1DCW-20-0001146
New Charges: Theft of goods valued at less than \$250 from Aloha Island Mart; terroristic threatening



Name: Arthur M
Jurisdiction: First Circuit
OPD Requested Release: Yes
Custody Case: 1PC151001321
Charges: HRS 712-1243, promoting a dangerous drug 3
Released: 4/21/2020
COVID-19 Motion: Yes
Motion in Opposition: Yes
New Case: 1CPC-20-0000532; 1CPC-20-0000625
New Charges: Theft of goods valued at less than \$250 from Macy's; possession of methamphetamine
Comments: Defendant was rearrested on old charges and has not even allegedly committed a new crime since he was released this spring



Name: Christopher K
Jurisdiction: First Circuit
OPD Requested Release: Yes
Custody Case: 1CPC-18-0000105; 1PC151000641
Charges: HRS 708-839.8, identity theft 3; HRS 708-839.55, unauthorized possession of confidential personal information; HRS 708-832(1)(a), theft 3 exceeding \$250
Released: 4/22/2020
COVID-19 Motion: Yes
Motion in Opposition: Yes
New Case: No new case
New Charges: Revocation of probation for failure to communicate with probation officer
Comments: Technical probation violation

APPENDIX B



Name: Thomas F
Jurisdiction: First Circuit
OPD Requested Release: No
Custody Case: 1CPC-19-0001811
Charges: HRS 708-821(1)(b), criminal property damage 2, exceeding \$1,500
Released: 3/27/2020
COVID-19 Motion: Yes
Motion in Opposition: No
New Case: 1DCC-20-0007360; 1DCC-20-0010751; 1DCC-20-0011697; 1DCC-20-0014237
New Charges: Theft 4; violation of emergency proclamation
Comments: All new charges houselessness-related



Name: Chad W
Jurisdiction: First Circuit
OPD Requested Release: No
Custody Case: 1CPC-19-0000758
Charges: HRS 712-1243, promoting a dangerous drug 3; HRS 708-823, criminal property damage 4, intentional/knowing
Released: 3/30/2020
COVID-19 Motion: Yes
Motion in Opposition: No
New Case: No new case
New Charges: Revocation of supervised release for failure to communicate with court officer
Comments: Technical probation violation

APPENDIX C: FACT CHECK OF NON RE-ARRESTEES

In addition to the names that were highlighted, indicating alleged re-arrest, we drew a sample of 13 names from the HPD list that were not highlighted in order to investigate prosecutorial practices in the average case, where release had not been followed by re-arrest. The two scripts used by the Honolulu Prosecutor are used in more than half the cases listed in this appendix.

For privacy, we are only printing the first names of the defendants listed.



Name: Charlani M
Jurisdiction: First Circuit
OPD Requested Release: Yes, probation violations, 144
Custody Case: 1PC091001102
Charges: HRS 708-836.5; unauthorized entry into motor vehicle 1
Released: 04/09/2020
COVID-19 Motion: Yes
Motion in Opposition: Yes
Quotes: "1. There is no showing that defendant is susceptible to COVID-19 infection; 2. PSD has adopted extensive policies and procedures to deter and respond to a COVID-19 infection in its facilities which, as of this date, remain COVID-19 free; and 3. The public safety must take priority and the release of a person with confirmed inability to conform their conduct to legally imposed conditions thereon cannot be reasonably expected to conform their conduct to those conditions imposed by Governor

Ige and Mayor Caldwell to halt of the progress of the virus in the community which include 'sheltering in place,' social distancing and self-quarantine."

"Given a conflict between the safety of the public versus an individual's safety from a 'what if' situation, the Court must rule for public safety."

"In the event the Court decides to release Defendant based upon the threat of COVID-19 infection, for the protection of the public, it must first insure that: 1. Defendant is free of COVID-19; 2. Defendant has a verifiable place to stay once released where he/she can 'shelter-in-place' and/or be quarantined. This means the person or persons with whom Defendant will be staying both acknowledge and accept Defendant as a co-dweller in the shelter."



Name: Howard L
Jurisdiction: First Circuit
OPD Requested Release: No
Custody Case: 1PC111001143
Charges: HRS 707-0711/1D, assault 2

Released: 04/07/2020
COVID-19 Motion: Yes
Motion in Opposition: No



Name: Terii N
Jurisdiction: First Circuit
OPD Requested Release: No
Custody Case: 1PC111000152
Charges: HRS 712-1243, promoting a dangerous drug 3; HRS 329-43.5(a), drug paraphernalia
Released: 04/21/2020
COVID-19 Motion: Yes
Motion in Opposition: Yes
Quotes: “1. There is no showing that defendant is susceptible to COVID-19 infection; 2. PSD has adopted extensive policies and procedures to deter and respond to a COVID-19 infection in its facilities which, as of this date, remain COVID-19 free; and 3. The public safety must take priority and the release of a person with confirmed inability to conform their conduct to legally imposed conditions thereon cannot be reasonably expected to conform their conduct to those conditions imposed by Governor

Ige and Mayor Caldwell to halt of the progress of the virus in the community which include ‘sheltering in place,’ social distancing and self-quarantine.”

“Given a conflict between the safety of the public versus an individual’s safety from a ‘what if’ situation, the Court must rule for public safety.”

“In the event the Court decides to release Defendant based upon the threat of COVID-19 infection, for the protection of the public, it must first insure that: 1. Defendant is free of COVID-19; 2. Defendant has a verifiable place to stay once released where he/she can ‘shelter-in-place’ and/or be quarantined. This means the person or persons with whom Defendant will be staying both acknowledge and accept Defendant as a co-dweller in the shelter.”



Name: Kirk I
Jurisdiction: First Circuit
OPD Requested Release: No
Custody Case: 1PC121000168; 1PC131000568
Charges: HRS 708-852, forgery 2; HRS 705-500, criminal attempt; HRS 708-831(1)(b), theft 2, exceeding \$300; HRS 708-811, burglary 2
Released: 3/16/2020 (order granting defendant’s motion for release on his own recognizance to a representative of Sand Island Treatment Center); and again on 4/22/2020
COVID-19 Motion: Yes
Motion in Opposition: Yes
Quotes: “The release of Defendant at this time would pose a significant risk to the safety of both Defendant and the public.”

considerations, which went into the sentence/ bail status of the defendant leading to current incarceration.”

“COVID-19 does not subvert the seriousness of Defendant’s offense or the history and characteristics of Defendant that warranted his incarceration; nor does it lessen the amount of protection the public needs from Defendant.”

“Defendant has presented no evidence indicating he is particularly susceptible to COVID-19-related illnesses. Additionally, the risk of Defendant contracting COVID-19 while in custody is low—especially when compared with the significant risk of harm to both Defendant and the public posed by his release.”

“This Court, however, should not allow emotionally charged arguments citing to a possible ‘contamination while incarcerated’ scenario detract from the carefully considered, fact based

“Given consideration of safety of the public versus the Defendant’s safety, the public safety must prevail.”



Name: Rufino D
Jurisdiction: First Circuit
OPD Requested Release: Yes, probation violations, 79
Custody Case: 1PC121000317
Charges: HRS 712-1243, promoting a dangerous drug 3; HRS 329-43.5(a), drug paraphernalia
Released: 04/23/2020
COVID-19 Motion: Yes
Motion in Opposition: Yes
Quotes: “The release of Defendant at this time would pose a significant risk to the safety of both Defendant and the public.”

“This Court, however, should not allow emotionally charged arguments citing to a possible ‘contamination while incarcerated’ scenario detract from the carefully considered, fact based considerations, which went into the sentence/ bail status of the defendant leading to current

incarceration.”

“COVID-19 does not subvert the seriousness of Defendant’s offense or the history and characteristics of Defendant that warranted his incarceration; nor does it lessen the amount of protection the public needs from Defendant.”

“Defendant has presented no evidence indicating he is particularly susceptible to COVID-19-related illnesses. Additionally, the risk of Defendant contracting COVID-19 while in custody is low—especially when compared with the significant risk of harm to both Defendant and the public posed by his release.”

“Given consideration of safety of the public versus the Defendant’s safety, the public safety must prevail.”



Name: Christopher F
Jurisdiction: First Circuit
OPD Requested Release: Yes, probation violations, 87
Custody Case: 1PC131001810; 1DTA-13-04537
Charges: HRS 712-1243, promoting a dangerous drug 3; HRS 711-1101(1)(a), disorderly conduct, fight, threat
Released: 04/20/2020
COVID-19 Motion: Yes
Motion in Opposition: Yes
Quotes: “1. There is no showing that defendant is susceptible to COVID-19 infection; 2. PSD has adopted extensive policies and procedures to deter and respond to a COVID-19 infection in its facilities which, as of this date, remain COVID-19 free; and 3. The public safety must take priority and the release of a person with confirmed inability to conform their conduct to legally imposed conditions thereon cannot be reasonably expected to conform their

conduct to those conditions imposed by Governor Ige and Mayor Caldwell to halt of the progress of the virus in the community which include ‘sheltering in place,’ social distancing and self-quarantine.”

“Given a conflict between the safety of the public versus an individual’s safety from a ‘what if’ situation, the Court must rule for public safety.”

“In the event the Court decides to release Defendant based upon the threat of COVID-19 infection, for the protection of the public, it must first insure that: 1. Defendant is free of COVID-19; 2. Defendant has a verifiable place to stay once released where he/she can ‘shelter-in-place’ and/ or be quarantined. This means the person or persons with whom Defendant will be staying both acknowledge and accept Defendant as a co-dweller in the shelter.”



Name: Chau L
Jurisdiction: First Circuit
OPD Requested Release: Yes, probation violations, 126
Custody Case: 1PC131001348; 1DCC-20-0013815
Charges: HRS 712-1243, promoting a dangerous drug 3; HRS 329-43.5(a), drug paraphernalia
Released: 04/21/2020
COVID-19 Motion: Yes
Motion in Opposition: Yes
Quotes: “1. There is no showing that defendant is susceptible to COVID-19 infection; 2. PSD has adopted extensive policies and procedures to deter and respond to a COVID-19 infection in its facilities which, as of this date, remain COVID-19 free; and 3. The public safety must take priority and the release of a person with confirmed inability to conform their conduct to legally imposed conditions thereon cannot be reasonably expected to conform their conduct to those conditions imposed by Governor

Ige and Mayor Caldwell to halt of the progress of the virus in the community which include ‘sheltering in place,’ social distancing and self-quarantine.”

“Given a conflict between the safety of the public versus an individual’s safety from a ‘what if’ situation, the Court must rule for public safety.”

“In the event the Court decides to release Defendant based upon the threat of COVID-19 infection, for the protection of the public, it must first insure that: 1. Defendant is free of COVID-19; 2. Defendant has a verifiable place to stay once released where he/she can ‘shelter-in-place’ and/or be quarantined. This means the person or persons with whom Defendant will be staying both acknowledge and accept Defendant as a co-dweller in the shelter.”



Name: Tisha D
Jurisdiction: First Circuit
OPD Requested Release: Yes, probation violations, 80
Custody Case: 11PC121000010
Charges: HRS 712-1243, promoting a dangerous drug 3
Released: 04/21/2020
COVID-19 Motion: Yes
Motion in Opposition: Yes
Quotes: “The release of Defendant at this time would pose a significant risk to the safety of both Defendant and the public.”

“COVID-19 does not subvert the seriousness of Defendant’s offense or the history and characteristics of Defendant that warranted her incarceration; nor does it lessen the amount of protection the public needs from Defendant.”

“Defendant has presented no evidence indicating she is particularly susceptible to COVID-19-related illnesses. Additionally, the risk of Defendant contracting COVID-19 while in custody is low—especially when compared with the significant risk of harm to both Defendant and the public posed by her release.”

“This Court, however, should not allow emotionally charged arguments citing to a possible ‘contamination while incarcerated’ scenario detract from the carefully considered, fact based considerations, which went into the sentence/bail status of the defendant leading to current incarceration.”

“Given consideration of safety of the public versus the Defendant’s safety, the public safety must prevail.”



Name: Suzan S
Jurisdiction: First Circuit
OPD Requested Release: Yes, probation violations, 173
Custody Case: 1PC141000369
Charges: HRS 708-831(1)(b), theft 2, exceeding \$300
Released: 04/17/2020
COVID-19 Motion: Yes
Motion in Opposition: Yes
Quotes: “The release of Defendant at this time would pose a significant risk to the safety of both Defendant and the public.”

“This Court, however, should not allow emotionally charged arguments citing to a possible ‘contamination while incarcerated’ scenario detract from the carefully considered, fact based considerations, which went into the sentence/ bail status of the defendant leading to current incarceration.”

“COVID-19 does not subvert the seriousness of Defendant’s offense or the history and characteristics of Defendant that warranted her incarceration; nor does it lessen the amount of protection the public needs from Defendant.”

“Defendant has presented no evidence indicating she is particularly susceptible to COVID-19-related illnesses. Additionally, the risk of Defendant contracting COVID-19 while in custody is low—especially when compared with the significant risk of harm to both Defendant and the public posed by her release.”

“Given consideration of safety of the public versus the Defendant’s safety, the public safety must prevail.”



Name: Christopher Y
Jurisdiction: First Circuit
OPD Requested Release: Yes, probation violations, 207
Custody Case: 1PC141000013
Charges: HRS 708-831(1)(b), theft 2, exceeding \$300
Released: 04/21/2020
COVID-19 Motion: Yes
Motion in Opposition: Yes
Quotes: “1. There is no showing that defendant is susceptible to COVID-19 infection; 2. PSD has adopted extensive policies and procedures to deter and respond to a COVID-19 infection in its facilities which, as of this date, remain COVID-19 free; and 3. The public safety must take priority and the release of a person with confirmed inability to conform their conduct to legally imposed conditions thereon cannot be reasonably expected to conform their conduct to those conditions imposed by Governor

Ige and Mayor Caldwell to halt of the progress of the virus in the community which include ‘sheltering in place,’ social distancing and self-quarantine.”

“Given a conflict between the safety of the public versus an individual’s safety from a ‘what if’ situation, the Court must rule for public safety.”

“In the event the Court decides to release Defendant based upon the threat of COVID-19 infection, for the protection of the public, it must first insure that: 1. Defendant is free of COVID-19; 2. Defendant has a verifiable place to stay once released where he/she can ‘shelter-in-place’ and/ or be quarantined. This means the person or persons with whom Defendant will be staying both acknowledge and accept Defendant as a co-dweller in the shelter.”

APPENDIX C



Name: Huron R
Jurisdiction: First Circuit
OPD Requested Release: No
Custody Case: 1CPC-17-0000660; 1CPC-17-0001622
Charges: HRS 708-852, forgery 2; HRS 708-831(1)(b), theft 2, exceeding \$750
Released: 4/21/2020
COVID-19 Motion: Yes
Motion in Opposition: Yes
Quotes: “The release of Defendant at this time would pose a significant risk to the safety of both Defendant and the public.”

“This Court, however, should not allow emotionally charged arguments citing to a possible ‘contamination while incarcerated’ scenario detract from the carefully considered, fact-based considerations, which went into the sentence/bail status of the defendant leading to current incarceration.”

“Further, Defendant’s contention that release is necessary because continued imprisonment at this time places him at ‘serious risk of loss of life or

permanent injury’ is completely unsubstantiated. Defendant has presented no evidence indicating he is particularly susceptible to COVID-19-related illnesses. Additionally, the risk of Defendant contracting COVID-19 while in custody is low—especially when compared with the significant risk of harm to both Defendant and the public posed by his release.”

“Based on the most current relevant information, the release of Defendant into the general population on Oahu could actually increase his chances of contracting COVID-19.”

“The Department of Public Safety has implemented a number of safeguards to curb the possibility of inmates being exposed to COVID-19, along with policies and procedures to prevent transmission of infectious agents within its correctional facilities.”

“Given consideration of safety of the public versus the Defendant’s safety, the public safety must prevail.”



Name: Jennifer C
Jurisdiction: First Circuit
OPD Requested Release: No
Custody Case: 1PC121000219; 1PC131000876; 5DCC-20-0000061
Charges: HRS 708-831(1)(b), theft 2, exceeding \$300; HRS 708-852, forgery 2; HRS 708-839.8, identity theft 3; HRS 708-839.55, unauthorized

possession of confidential personal information; HRS 705-500, criminal attempt; HRS 708-833, theft 4; VL KCC 19-2.3 (a), illegal camping; VL KCC 19-1.4(a)(13), unauthorized structure
Released: 3/31/2020
COVID-19 Motion: Yes
Motion in Opposition: Not specific to COVID-19



Name: Kainoa S
Jurisdiction: First Circuit
OPD Requested Release: No
Custody Case: 1PC131001316; 1DTC-19-014865

Charges: HRS 708-836, unauthorized control of a propelled vehicle
Released: 04/08/2020
COVID-19 Motion: Yes
Motion in Opposition: No

APPENDIX D: EVALUATION OF MEDIA REPORTS

The Society of Professional Journalists' [Code of Ethics](#) encourages reporters to “seek the truth and report it.” But this includes a specific call to provide context: “Take special care not to misrepresent or oversimplify in promoting, previewing or summarizing a story.” As well as to avoid stereotyping: “Journalists should examine the ways their values and experiences may shape their reporting.”

The code also asks that journalists minimize any harm their reporting may cause in pursuit of the truth: “Balance the public’s need for information against potential harm or discomfort; show compassion for those who may be affected by news coverage; and avoid pandering to lurid curiosity, even if others do.”

Reporting is a tough job. But it’s also a job that comes with an immense responsibility. Disseminating accurate information, particularly in matters of public health and safety, is of utmost importance to the public good. Using the code as a frame of reference, and in particular the above considerations, LEJ evaluated each article for a number of criteria, including:

- The extent to which the article mentioned the health and safety of incarcerated individuals and the public;
- The extent to which the article devoted substantially more space to concerns about crime than to any other subject;
- The extent to which the article accurately described the process established by the Supreme Court; in particular, that individuals convicted of the most serious offenses were not even eligible to apply for release, and that an individual would be released only if the court heard from the prosecutor and determined that release would not threaten public safety;
- The extent to which the article uncritically repeated anecdotes about individual releasees to imply that significant numbers of releases and rearrests involved particularly serious crimes;
- The extent to which the article addressed problems with the reentry system; in particular, whether it noted the long history of dysfunctional DPS administration of Hawai‘i’s reentry programs, or simply blamed reentry problems on the Supreme Court, the Office of the Public Defender, or the release; and initiative itself;
- Whether the article contained anything from the perspective of incarcerated individuals or about the dangerous conditions in the correctional facilities.

Based on this criteria, we assigned each article a color. Green means the article was mostly fair and contained helpful information, with a minimal focus on rare, albeit sensational, cases. Yellow means the article may have contained some good information, but over-emphasized security concerns. Red means the article severely over-emphasized security concerns, and/or the article contained little useful information at all, and overall contributed to a false sense that the release program was endangering the community.



APPENDIX D



Total Articles: 53

Outlets: 9

Authors: 26

Published: April 16–June 6, 2020

Total paragraphs: 724

Paragraphs about health concerns for inmates	47	6.49%	Found in 32/53 articles (60.38%)
Paragraphs about public health concerns	11	1.52%	Found in 7/53 articles (13.21%)
Paragraphs about (accurate) release process	61	8.43%	Found in 29/53 articles (54.72%)
Paragraphs about Supreme Court criteria of denying release only if threat to public safety	7	0.97%	Found in 7/53 articles (13.21%)
Paragraphs about public safety concerns	191	26.38%	Found in 37/53 articles (69.81%)
Paragraphs about violent offenders and reoffenders (specific cases)	100	13.81%	Found in 20/53 articles (37.74%)
Paragraphs about reentry concerns	41	5.66%	Found in 13/53 articles (24.53%)
Paragraphs about reentry that address DPS's role/overall context	7	0.97%	Found in 1/53 articles (1.89%)
Paragraphs that mention baseline recidivism rate/context	3	0.41%	Found in 2/53 articles (3.77%)
Article includes inmate voices or perspective?	4	Yes	Found in 4/53 articles (7.55%)
Article mentions Dr. Stewart, or quotes any doctors/public health officials?	2	Yes (but only the CDC)	Found in 2/53 articles (3.77%)
Article mentions the fact that violent offenders were not originally on the list of individuals eligible to apply?	9	Yes	Found in 9/53 articles (16.98%)



Article: [“Hawaii Supreme Court: Inmate Release To Be Considered By Judges”](#)

Outlet: *Honolulu Civil Beat*
Author: Yoohyun Jung

Published: April 16, 2020
Total paragraphs: 6

Paragraphs about health concerns for inmates	2	Paragraphs about public safety concerns	0
Paragraphs about public health concerns	0	Paragraphs about violent offenders and reoffenders (specific cases)	0
Paragraphs about (accurate) release process	4	Paragraphs about reentry concerns	0
Paragraphs about Supreme Court criteria of denying release only if threat to public safety	0	Paragraphs about reentry that address DPS's role/overall context	0
Article includes inmate voices or perspective?	No	Paragraphs that mention baseline recidivism rate/context	0
Article mentions Dr. Stewart, or quotes any doctors/public health officials?	Yes		
Article mentions the fact that violent offenders were not originally on the list of individuals eligible to apply?	No		



Article: [“Hawaii Supreme Court allows plan to release inmates on individual basis”](#)

Outlet: *Honolulu Star-Advertiser*
Author: Star-Advertiser Staff

Published: April 16, 2020
Total paragraphs: 9

Paragraphs about health concerns for inmates	1	Paragraphs about public safety concerns	0
Paragraphs about public health concerns	0	Paragraphs about violent offenders and reoffenders (specific cases)	0
Paragraphs about (accurate) release process	6	Paragraphs about reentry concerns	0
Paragraphs about Supreme Court criteria of denying release only if threat to public safety	1	Paragraphs about reentry that address DPS's role/overall context	0
Article includes inmate voices or perspective?	No	Paragraphs that mention baseline recidivism rate/context	0
Article mentions Dr. Stewart, or quotes any doctors/public health officials?	No		
Article mentions the fact that violent offenders were not originally on the list of individuals eligible to apply?	No		

APPENDIX D



Article: [“108 inmates on Big Isle seek early release because of pandemic”](#)

Outlet: *Hawaii Tribune-Herald*

Author: John Burnett

Published: April 17, 2020

Total paragraphs: 18

Paragraphs about health concerns for inmates	0	Paragraphs about public safety concerns	0
Paragraphs about public health concerns	0	Paragraphs about violent offenders and reoffenders (specific cases)	0
Paragraphs about (accurate) release process	0	Paragraphs about reentry concerns	0
Paragraphs about Supreme Court criteria of denying release only if threat to public safety	1	Paragraphs about reentry that address DPS's role/overall context	0
Article includes inmate voices or perspective?	No	Paragraphs that mention baseline recidivism rate/context	0
Article mentions Dr. Stewart, or quotes any doctors/public health officials?	No		
Article mentions the fact that violent offenders were not originally on the list of individuals eligible to apply?	Yes		



Article: [“Hawaii’s jail population drops by 619 inmates since March”](#)

Outlet: *Honolulu Star-Advertiser*

Author: Star-Advertiser Staff

Published: April 17, 2020

Total paragraphs: 15

Paragraphs about health concerns for inmates	1	Paragraphs about public safety concerns	0
Paragraphs about public health concerns	0	Paragraphs about violent offenders and reoffenders (specific cases)	0
Paragraphs about (accurate) release process	3	Paragraphs about reentry concerns	0
Paragraphs about Supreme Court criteria of denying release only if threat to public safety	0	Paragraphs about reentry that address DPS's role/overall context	0
Article includes inmate voices or perspective?	No	Paragraphs that mention baseline recidivism rate/context	0
Article mentions Dr. Stewart, or quotes any doctors/public health officials?	No		
Article mentions the fact that violent offenders were not originally on the list of individuals eligible to apply?	No		



Article: ["Jail population decreases by 619 people since beginning of March"](#)

Outlet: KITV4

Author: KITV4 Staff

Published: April 19, 2020

Total paragraphs: 7

Paragraphs about health concerns for inmates	0	Paragraphs about public safety concerns	0
Paragraphs about public health concerns	0	Paragraphs about violent offenders and reoffenders (specific cases)	0
Paragraphs about (accurate) release process	2	Paragraphs about reentry concerns	0
Paragraphs about Supreme Court criteria of denying release only if threat to public safety	0	Paragraphs about reentry that address DPS's role/overall context	0
Article includes inmate voices or perspective?	No	Paragraphs that mention baseline recidivism rate/context	0
Article mentions Dr. Stewart, or quotes any doctors/public health officials?	No		
Article mentions the fact that violent offenders were not originally on the list of individuals eligible to apply?	No		



Article: ["Inmate count at MCCC down 33% since February"](#)

Outlet: *The Maui News*

Author: Lila Fujimoto

Published: April 25, 2020

Total paragraphs: 31

Paragraphs about health concerns for inmates	1	Paragraphs about public safety concerns	19
Paragraphs about public health concerns	0	Paragraphs about violent offenders and reoffenders (specific cases)	18
Paragraphs about (accurate) release process	4	Paragraphs about reentry concerns	0
Paragraphs about Supreme Court criteria of denying release only if threat to public safety	0	Paragraphs about reentry that address DPS's role/overall context	0
Article includes inmate voices or perspective?	No	Paragraphs that mention baseline recidivism rate/context	0
Article mentions Dr. Stewart, or quotes any doctors/public health officials?	No		
Article mentions the fact that violent offenders were not originally on the list of individuals eligible to apply?	No		

APPENDIX D



Article: [“Hawaii Supreme Court order mandates quicker release of non-violent inmates”](#)

Outlet: *Honolulu Star-Advertiser*

Author: Gordon Y.K. Pang

Published: April 26, 2020

Total paragraphs: 21

Paragraphs about health concerns for inmates	1	Paragraphs about public safety concerns	0
Paragraphs about public health concerns	0	Paragraphs about violent offenders and reoffenders (specific cases)	0
Paragraphs about (accurate) release process	3	Paragraphs about reentry concerns	0
Paragraphs about Supreme Court criteria of denying release only if threat to public safety	1	Paragraphs about reentry that address DPS's role/overall context	0
Article includes inmate voices or perspective?	No	Paragraphs that mention baseline recidivism rate/context	0
Article mentions Dr. Stewart, or quotes any doctors/public health officials?	No		
Article mentions the fact that violent offenders were not originally on the list of individuals eligible to apply?	Yes		



Article: [“Virus prompts Hawaii court’s order of faster inmate release”](#)

Outlet: *Hawaii News Now*

Author: The Associated Press

Published: April 27, 2020

Total paragraphs: 12

Paragraphs about health concerns for inmates	2	Paragraphs about public safety concerns	0
Paragraphs about public health concerns	0	Paragraphs about violent offenders and reoffenders (specific cases)	0
Paragraphs about (accurate) release process	2	Paragraphs about reentry concerns	0
Paragraphs about Supreme Court criteria of denying release only if threat to public safety	1	Paragraphs about reentry that address DPS's role/overall context	0
Article includes inmate voices or perspective?	No	Paragraphs that mention baseline recidivism rate/context	0
Article mentions Dr. Stewart, or quotes any doctors/public health officials?	No		
Article mentions the fact that violent offenders were not originally on the list of individuals eligible to apply?	Yes		



Article: [“Waipahu woman released due to pandemic is now back in custody for a carjacking”](#)

Outlet: *Hawaii News Now*

Author: HNN Staff

Published: April 30, 2020

Total paragraphs: 8

Paragraphs about health concerns for inmates	0	Paragraphs about public safety concerns	7
Paragraphs about public health concerns	0	Paragraphs about violent offenders and reoffenders (specific cases)	7
Paragraphs about (accurate) release process	0	Paragraphs about reentry concerns	0
Paragraphs about Supreme Court criteria of denying release only if threat to public safety	0	Paragraphs about reentry that address DPS's role/overall context	0
Article includes inmate voices or perspective?	No	Paragraphs that mention baseline recidivism rate/context	0
Article mentions Dr. Stewart, or quotes any doctors/public health officials?	No		
Article mentions the fact that violent offenders were not originally on the list of individuals eligible to apply?	No		



Article: [“500 Hawaii inmates released early over fears of COVID-19’s spread in overcrowded facilities”](#)

Outlet: *Hawaii News Now*

Author: Rick Daysog

Published: April 30, 2020

Total paragraphs: 13

Paragraphs about health concerns for inmates	2	Paragraphs about public safety concerns	6
Paragraphs about public health concerns	0	Paragraphs about violent offenders and reoffenders (specific cases)	5
Paragraphs about (accurate) release process	0	Paragraphs about reentry concerns	2
Paragraphs about Supreme Court criteria of denying release only if threat to public safety	0	Paragraphs about reentry that address DPS's role/overall context	0
Article includes inmate voices or perspective?	No	Paragraphs that mention baseline recidivism rate/context	0
Article mentions Dr. Stewart, or quotes any doctors/public health officials?	No		
Article mentions the fact that violent offenders were not originally on the list of individuals eligible to apply?	No		

APPENDIX D



Article: [“Hilo jail population down 160 inmates due to court order”](#)

Outlet: *Hawaii Tribune-Herald*

Author: John Burnett

Published: May 1, 2020

Total paragraphs: 10

Paragraphs about health concerns for inmates	1	Paragraphs about public safety concerns	0
Paragraphs about public health concerns	0	Paragraphs about violent offenders and reoffenders (specific cases)	0
Paragraphs about (accurate) release process	0	Paragraphs about reentry concerns	0
Paragraphs about Supreme Court criteria of denying release only if threat to public safety	0	Paragraphs about reentry that address DPS's role/overall context	0
Article includes inmate voices or perspective?	No	Paragraphs that mention baseline recidivism rate/context	0
Article mentions Dr. Stewart, or quotes any doctors/public health officials?	No		
Article mentions the fact that violent offenders were not originally on the list of individuals eligible to apply?	No		



Article: [“Hundreds of Hawaii inmates freed from overcrowded facilities to limit exposure to COVID-19”](#)

Outlet: *Honolulu Star-Advertiser*

Author: Mark Ladao

Published: May 1, 2020

Total paragraphs: 22

Paragraphs about health concerns for inmates	1	Paragraphs about public safety concerns	0
Paragraphs about public health concerns	0	Paragraphs about violent offenders and reoffenders (specific cases)	0
Paragraphs about (accurate) release process	2	Paragraphs about reentry concerns	0
Paragraphs about Supreme Court criteria of denying release only if threat to public safety	0	Paragraphs about reentry that address DPS's role/overall context	0
Article includes inmate voices or perspective?	No	Paragraphs that mention baseline recidivism rate/context	0
Article mentions Dr. Stewart, or quotes any doctors/public health officials?	No		
Article mentions the fact that violent offenders were not originally on the list of individuals eligible to apply?	No		



Article: ["Inmates released amid COVID-19 pandemic"](#)

Outlet: KHON2

Author: Max Rodriguez

Published: May 1, 2020

Total paragraphs: 10

Paragraphs about health concerns for inmates	2	Paragraphs about public safety concerns	3
Paragraphs about public health concerns	0	Paragraphs about violent offenders and reoffenders (specific cases)	1
Paragraphs about (accurate) release process	1	Paragraphs about reentry concerns	1
Paragraphs about Supreme Court criteria of denying release only if threat to public safety	0	Paragraphs about reentry that address DPS's role/overall context	0
Article includes inmate voices or perspective?	Yes	Paragraphs that mention baseline recidivism rate/context	0
Article mentions Dr. Stewart, or quotes any doctors/public health officials?	No		
Article mentions the fact that violent offenders were not originally on the list of individuals eligible to apply?	Yes		



Article: ["Suspect charged with murder after fatal stabbing in Aiea"](#)

Outlet: Hawaii News Now

Author: HNN Staff

Published: May 2, 2020

Total paragraphs: 6

Paragraphs about health concerns for inmates	0	Paragraphs about public safety concerns	6
Paragraphs about public health concerns	0	Paragraphs about violent offenders and reoffenders (specific cases)	6
Paragraphs about (accurate) release process	0	Paragraphs about reentry concerns	0
Paragraphs about Supreme Court criteria of denying release only if threat to public safety	0	Paragraphs about reentry that address DPS's role/overall context	0
Article includes inmate voices or perspective?	No	Paragraphs that mention baseline recidivism rate/context	0
Article mentions Dr. Stewart, or quotes any doctors/public health officials?	No		
Article mentions the fact that violent offenders were not originally on the list of individuals eligible to apply?	No		

APPENDIX D



Article: [“Hawai‘i Judiciary Frees 37% of Prison Population in Two Months”](#)

Outlet: *Big Island Now*

Author: Max Dibble

Published: May 3, 2020

Total paragraphs: 16

Paragraphs about health concerns for inmates	1	Paragraphs about public safety concerns	7
Paragraphs about public health concerns	1	Paragraphs about violent offenders and reoffenders (specific cases)	4
Paragraphs about (accurate) release process	0	Paragraphs about reentry concerns	0
Paragraphs about Supreme Court criteria of denying release only if threat to public safety	0	Paragraphs about reentry that address DPS's role/overall context	0
Article includes inmate voices or perspective?	No	Paragraphs that mention baseline recidivism rate/context	0
Article mentions Dr. Stewart, or quotes any doctors/public health officials?	No		
Article mentions the fact that violent offenders were not originally on the list of individuals eligible to apply?	Yes		



Article: [“Prosecutors raise alarms about hundreds of offenders released amid pandemic”](#)

Outlet: *Hawaii News Now*

Author: Chelsea Davis

Published: May 4, 2020

Total paragraphs: 21

Paragraphs about health concerns for inmates	0	Paragraphs about public safety concerns	11
Paragraphs about public health concerns	0	Paragraphs about violent offenders and reoffenders (specific cases)	6
Paragraphs about (accurate) release process	0	Paragraphs about reentry concerns	0
Paragraphs about Supreme Court criteria of denying release only if threat to public safety	0	Paragraphs about reentry that address DPS's role/overall context	0
Article includes inmate voices or perspective?	No	Paragraphs that mention baseline recidivism rate/context	0
Article mentions Dr. Stewart, or quotes any doctors/public health officials?	No		
Article mentions the fact that violent offenders were not originally on the list of individuals eligible to apply?	Yes		



Article: [“Hawaii Supreme Court stops inmate early release program”](#)

Outlet: KITV4

Author: TJ Horgan

Published: May 4, 2020

Total paragraphs: 8

Paragraphs about health concerns for inmates	0	Paragraphs about public safety concerns	2
Paragraphs about public health concerns	0	Paragraphs about violent offenders and reoffenders (specific cases)	1
Paragraphs about (accurate) release process	0	Paragraphs about reentry concerns	0
Paragraphs about Supreme Court criteria of denying release only if threat to public safety	0	Paragraphs about reentry that address DPS's role/overall context	0
Article includes inmate voices or perspective?	No	Paragraphs that mention baseline recidivism rate/context	0
Article mentions Dr. Stewart, or quotes any doctors/public health officials?	No		
Article mentions the fact that violent offenders were not originally on the list of individuals eligible to apply?	No		



Article: [“Lawmaker condemns the release of hundreds of inmates from Hawaii's prisons”](#)

Outlet: KITV4

Author: TJ Horgan

Published: May 4, 2020

Total paragraphs: 15

Paragraphs about health concerns for inmates	1	Paragraphs about public safety concerns	1
Paragraphs about public health concerns	0	Paragraphs about violent offenders and reoffenders (specific cases)	0
Paragraphs about (accurate) release process	1	Paragraphs about reentry concerns	0
Paragraphs about Supreme Court criteria of denying release only if threat to public safety	0	Paragraphs about reentry that address DPS's role/overall context	0
Article includes inmate voices or perspective?	No	Paragraphs that mention baseline recidivism rate/context	0
Article mentions Dr. Stewart, or quotes any doctors/public health officials?	No		
Article mentions the fact that violent offenders were not originally on the list of individuals eligible to apply?	No		

APPENDIX D



Article: [“Jail population in Wailuku drops below 300 with inmate releases”](#)

Outlet: *The Maui News*

Author: Lila Fujimoto

Published: May 4, 2020

Total paragraphs: 9

Paragraphs about health concerns for inmates	0	Paragraphs about public safety concerns	0
Paragraphs about public health concerns	0	Paragraphs about violent offenders and reoffenders (specific cases)	0
Paragraphs about (accurate) release process	0	Paragraphs about reentry concerns	0
Paragraphs about Supreme Court criteria of denying release only if threat to public safety	0	Paragraphs about reentry that address DPS's role/overall context	0
Article includes inmate voices or perspective?	No	Paragraphs that mention baseline recidivism rate/context	0
Article mentions Dr. Stewart, or quotes any doctors/public health officials?	No		
Article mentions the fact that violent offenders were not originally on the list of individuals eligible to apply?	No		



Article: [“Attorney general, prosecutors want inmate releases halted”](#)

Outlet: *Honolulu Star-Advertiser*

Author: Gordon Y.K. Pang, Rosemarie Bernardo

Published: May 6, 2020

Total paragraphs: 19

Paragraphs about health concerns for inmates	4	Paragraphs about public safety concerns	5
Paragraphs about public health concerns	0	Paragraphs about violent offenders and reoffenders (specific cases)	0
Paragraphs about (accurate) release process	1	Paragraphs about reentry concerns	0
Paragraphs about Supreme Court criteria of denying release only if threat to public safety	0	Paragraphs about reentry that address DPS's role/overall context	0
Article includes inmate voices or perspective?	Yes	Paragraphs that mention baseline recidivism rate/context	0
Article mentions Dr. Stewart, or quotes any doctors/public health officials?	No		
Article mentions the fact that violent offenders were not originally on the list of individuals eligible to apply?	No		



Article: [“COVID-19 outbreak in prison could overwhelm healthcare system”](#)

Outlet: KITV4

Author: Diane Ako

Published: May 6, 2020

Total paragraphs: 12

Paragraphs about health concerns for inmates	2	Paragraphs about public safety concerns	2
Paragraphs about public health concerns	4	Paragraphs about violent offenders and reoffenders (specific cases)	0
Paragraphs about (accurate) release process	0	Paragraphs about reentry concerns	1
Paragraphs about Supreme Court criteria of denying release only if threat to public safety	0	Paragraphs about reentry that address DPS's role/overall context	0
Article includes inmate voices or perspective?	Yes	Paragraphs that mention baseline recidivism rate/context	0
Article mentions Dr. Stewart, or quotes any doctors/public health officials?	No		
Article mentions the fact that violent offenders were not originally on the list of individuals eligible to apply?	No		



Article: [“Hawaii Jails Have Released More Than 800 Inmates Since March”](#)

Outlet: Honolulu Civil Beat

Author: Yoohyun Jung

Published: May 7, 2020

Total paragraphs: 5

Paragraphs about health concerns for inmates	0	Paragraphs about public safety concerns	0
Paragraphs about public health concerns	0	Paragraphs about violent offenders and reoffenders (specific cases)	0
Paragraphs about (accurate) release process	0	Paragraphs about reentry concerns	0
Paragraphs about Supreme Court criteria of denying release only if threat to public safety	0	Paragraphs about reentry that address DPS's role/overall context	0
Article includes inmate voices or perspective?	No	Paragraphs that mention baseline recidivism rate/context	0
Article mentions Dr. Stewart, or quotes any doctors/public health officials?	No		
Article mentions the fact that violent offenders were not originally on the list of individuals eligible to apply?	No		

APPENDIX D



Article: [“Several Hawaii inmates released during coronavirus pandemic rearrested for new crimes”](#)

Outlet: *Honolulu Star-Advertiser*

Author: Rosemarie Bernardo, Gordon Y.K. Pang

Published: May 9, 2020

Total paragraphs: 22

Paragraphs about health concerns for inmates	2	Paragraphs about public safety concerns	17
Paragraphs about public health concerns	0	Paragraphs about violent offenders and reoffenders (specific cases)	14
Paragraphs about (accurate) release process	0	Paragraphs about reentry concerns	0
Paragraphs about Supreme Court criteria of denying release only if threat to public safety	0	Paragraphs about reentry that address DPS's role/overall context	0
Article includes inmate voices or perspective?	No	Paragraphs that mention baseline recidivism rate/context	1
Article mentions Dr. Stewart, or quotes any doctors/public health officials?	No		
Article mentions the fact that violent offenders were not originally on the list of individuals eligible to apply?	No		



Article: [“Some inmates seeking release are accused of violent acts”](#)

Outlet: *Hawaii Tribune-Herald*

Author: John Burnett

Published: May 10, 2020

Total paragraphs: 23

Paragraphs about health concerns for inmates	1	Paragraphs about public safety concerns	15
Paragraphs about public health concerns	0	Paragraphs about violent offenders and reoffenders (specific cases)	12
Paragraphs about (accurate) release process	2	Paragraphs about reentry concerns	0
Paragraphs about Supreme Court criteria of denying release only if threat to public safety	1	Paragraphs about reentry that address DPS's role/overall context	0
Article includes inmate voices or perspective?	No	Paragraphs that mention baseline recidivism rate/context	0
Article mentions Dr. Stewart, or quotes any doctors/public health officials?	No		
Article mentions the fact that violent offenders were not originally on the list of individuals eligible to apply?	Yes		



Article: [“Jail population plummets: HTH sought list of inmates released to due pandemic—but there isn’t one, officials say”](#)

Outlet: *Hawaii Tribune-Herald*

Author: John Burnett

Published: May 10, 2020

Total paragraphs: 25

Paragraphs about health concerns for inmates	4	Paragraphs about public safety concerns	3
Paragraphs about public health concerns	1	Paragraphs about violent offenders and reoffenders (specific cases)	0
Paragraphs about (accurate) release process	2	Paragraphs about reentry concerns	0
Paragraphs about Supreme Court criteria of denying release only if threat to public safety	1	Paragraphs about reentry that address DPS's role/overall context	0
Article includes inmate voices or perspective?	No	Paragraphs that mention baseline recidivism rate/context	0
Article mentions Dr. Stewart, or quotes any doctors/public health officials?	No		
Article mentions the fact that violent offenders were not originally on the list of individuals eligible to apply?	No		



Article: [“Hawaii jail population drops, list of released unavailable”](#)

Outlet: *The Garden Island*

Author: Associated Press

Published: May 11, 2020

Total paragraphs: 12

Paragraphs about health concerns for inmates	1	Paragraphs about public safety concerns	0
Paragraphs about public health concerns	0	Paragraphs about violent offenders and reoffenders (specific cases)	0
Paragraphs about (accurate) release process	1	Paragraphs about reentry concerns	0
Paragraphs about Supreme Court criteria of denying release only if threat to public safety	0	Paragraphs about reentry that address DPS's role/overall context	0
Article includes inmate voices or perspective?	No	Paragraphs that mention baseline recidivism rate/context	0
Article mentions Dr. Stewart, or quotes any doctors/public health officials?	No		
Article mentions the fact that violent offenders were not originally on the list of individuals eligible to apply?	No		

APPENDIX D



Article: [“Dozens of inmates in quarantine at Waiawa Correctional Facility”](#)

Outlet: *Hawaii News Now*

Author: HNN Staff

Published: May 12, 2020

Total paragraphs: 5

Paragraphs about health concerns for inmates	0	Paragraphs about public safety concerns	1
Paragraphs about public health concerns	0	Paragraphs about violent offenders and reoffenders (specific cases)	0
Paragraphs about (accurate) release process	0	Paragraphs about reentry concerns	0
Paragraphs about Supreme Court criteria of denying release only if threat to public safety	0	Paragraphs about reentry that address DPS's role/overall context	0
Article includes inmate voices or perspective?	No	Paragraphs that mention baseline recidivism rate/context	0
Article mentions Dr. Stewart, or quotes any doctors/public health officials?	No		
Article mentions the fact that violent offenders were not originally on the list of individuals eligible to apply?	No		



Article: [“More than a dozen granted early release amid pandemic have been re-arrested”](#)

Outlet: *Hawaii News Now*

Author: HNN Staff

Published: May 14, 2020

Total paragraphs: 10

Paragraphs about health concerns for inmates	2	Paragraphs about public safety concerns	5
Paragraphs about public health concerns	1	Paragraphs about violent offenders and reoffenders (specific cases)	0
Paragraphs about (accurate) release process	0	Paragraphs about reentry concerns	1
Paragraphs about Supreme Court criteria of denying release only if threat to public safety	0	Paragraphs about reentry that address DPS's role/overall context	0
Article includes inmate voices or perspective?	No	Paragraphs that mention baseline recidivism rate/context	0
Article mentions Dr. Stewart, or quotes any doctors/public health officials?	No		
Article mentions the fact that violent offenders were not originally on the list of individuals eligible to apply?	No		



Article: [“House Committee Wants More Detailed Reports On Jail Releases”](#)

Outlet: *Honolulu Civil Beat*

Author: Blaze Lovell

Published: May 15, 2020

Total paragraphs: 19

Paragraphs about health concerns for inmates	0	Paragraphs about public safety concerns	3
Paragraphs about public health concerns	1	Paragraphs about violent offenders and reoffenders (specific cases)	0
Paragraphs about (accurate) release process	0	Paragraphs about reentry concerns	0
Paragraphs about Supreme Court criteria of denying release only if threat to public safety	1	Paragraphs about reentry that address DPS's role/overall context	0
Article includes inmate voices or perspective?	No	Paragraphs that mention baseline recidivism rate/context	0
Article mentions Dr. Stewart, or quotes any doctors/public health officials?	Yes		
Article mentions the fact that violent offenders were not originally on the list of individuals eligible to apply?	No		



Article: [“Hawaii legislators want weekly report on inmate releases”](#)

Outlet: *Honolulu Star-Advertiser*

Author: Rosemarie Bernardo, Leila Fujimori

Published: May 15, 2020

Total paragraphs: 12

Paragraphs about health concerns for inmates	1	Paragraphs about public safety concerns	2
Paragraphs about public health concerns	0	Paragraphs about violent offenders and reoffenders (specific cases)	0
Paragraphs about (accurate) release process	0	Paragraphs about reentry concerns	0
Paragraphs about Supreme Court criteria of denying release only if threat to public safety	0	Paragraphs about reentry that address DPS's role/overall context	0
Article includes inmate voices or perspective?	No	Paragraphs that mention baseline recidivism rate/context	0
Article mentions Dr. Stewart, or quotes any doctors/public health officials?	No		
Article mentions the fact that violent offenders were not originally on the list of individuals eligible to apply?	No		

APPENDIX D



Article: [“Jail Populations Expected to Continue Decline Through June”](#)

Outlet: *Big Island Now*

Author: Big Island Now Staff

Published: May 16, 2020

Total paragraphs: 15

Paragraphs about health concerns for inmates	1	Paragraphs about public safety concerns	4
Paragraphs about public health concerns	1	Paragraphs about violent offenders and reoffenders (specific cases)	0
Paragraphs about (accurate) release process	2	Paragraphs about reentry concerns	2
Paragraphs about Supreme Court criteria of denying release only if threat to public safety	0	Paragraphs about reentry that address DPS's role/overall context	0
Article includes inmate voices or perspective?	No	Paragraphs that mention baseline recidivism rate/context	0
Article mentions Dr. Stewart, or quotes any doctors/public health officials?	No		
Article mentions the fact that violent offenders were not originally on the list of individuals eligible to apply?	No		



Article: [“Inmate releases amid COVID-19 fears are putting a big strain on service providers”](#)

Outlet: *Hawaii News Now*

Author: Lynn Kawano

Published: May 18, 2020

Total paragraphs: 13

Paragraphs about health concerns for inmates	1	Paragraphs about public safety concerns	0
Paragraphs about public health concerns	0	Paragraphs about violent offenders and reoffenders (specific cases)	0
Paragraphs about (accurate) release process	1	Paragraphs about reentry concerns	6
Paragraphs about Supreme Court criteria of denying release only if threat to public safety	0	Paragraphs about reentry that address DPS's role/overall context	0
Article includes inmate voices or perspective?	No	Paragraphs that mention baseline recidivism rate/context	0
Article mentions Dr. Stewart, or quotes any doctors/public health officials?	No		
Article mentions the fact that violent offenders were not originally on the list of individuals eligible to apply?	No		



Article: [“Four people recently released from prison due to concerns about COVID-19 were arrested Sunday”](#)

Outlet: KHON2

Author: KHON2 Staff

Published: May 18, 2020

Total paragraphs: 5

Paragraphs about health concerns for inmates	0	Paragraphs about public safety concerns	5
Paragraphs about public health concerns	0	Paragraphs about violent offenders and reoffenders (specific cases)	5
Paragraphs about (accurate) release process	0	Paragraphs about reentry concerns	0
Paragraphs about Supreme Court criteria of denying release only if threat to public safety	0	Paragraphs about reentry that address DPS's role/overall context	0
Article includes inmate voices or perspective?	No	Paragraphs that mention baseline recidivism rate/context	0
Article mentions Dr. Stewart, or quotes any doctors/public health officials?	No		
Article mentions the fact that violent offenders were not originally on the list of individuals eligible to apply?	No		



Article: [“Hawaii lawmakers question release of inmates amid pandemic”](#)

Outlet: KITV4

Author: KITV4 Web Staff

Published: May 18, 2020

Total paragraphs: 7

Paragraphs about health concerns for inmates	0	Paragraphs about public safety concerns	0
Paragraphs about public health concerns	0	Paragraphs about violent offenders and reoffenders (specific cases)	0
Paragraphs about (accurate) release process	1	Paragraphs about reentry concerns	0
Paragraphs about Supreme Court criteria of denying release only if threat to public safety	0	Paragraphs about reentry that address DPS's role/overall context	0
Article includes inmate voices or perspective?	No	Paragraphs that mention baseline recidivism rate/context	0
Article mentions Dr. Stewart, or quotes any doctors/public health officials?	No		
Article mentions the fact that violent offenders were not originally on the list of individuals eligible to apply?	No		

APPENDIX D



Article: [“4 recently released inmates caught in a stolen car, police say”](#)

Outlet: KITV4

Author: KITV4 Web Staff

Published: May 18, 2020

Total paragraphs: 4

Paragraphs about health concerns for inmates	0	Paragraphs about public safety concerns	2
Paragraphs about public health concerns	0	Paragraphs about violent offenders and reoffenders (specific cases)	2
Paragraphs about (accurate) release process	0	Paragraphs about reentry concerns	0
Paragraphs about Supreme Court criteria of denying release only if threat to public safety	0	Paragraphs about reentry that address DPS's role/overall context	0
Article includes inmate voices or perspective?	No	Paragraphs that mention baseline recidivism rate/context	0
Article mentions Dr. Stewart, or quotes any doctors/public health officials?	No		
Article mentions the fact that violent offenders were not originally on the list of individuals eligible to apply?	No		



Article: [“Lawmakers urge paroling authority to delay another large prisoner release”](#)

Outlet: *Hawaii News Now*

Author: Lynn Kawano

Published: May 19, 2020

Total paragraphs: 14

Paragraphs about health concerns for inmates	1	Paragraphs about public safety concerns	7
Paragraphs about public health concerns	0	Paragraphs about violent offenders and reoffenders (specific cases)	2
Paragraphs about (accurate) release process	1	Paragraphs about reentry concerns	3
Paragraphs about Supreme Court criteria of denying release only if threat to public safety	0	Paragraphs about reentry that address DPS's role/overall context	0
Article includes inmate voices or perspective?	No	Paragraphs that mention baseline recidivism rate/context	0
Article mentions Dr. Stewart, or quotes any doctors/public health officials?	No		
Article mentions the fact that violent offenders were not originally on the list of individuals eligible to apply?	No		



Article: ["Roth: Jail releases possibly more dangerous than outbreak"](#)

Outlet: *Hawaii Tribune-Herald*

Author: John Burnett

Published: May 19, 2020

Total paragraphs: 25

Paragraphs about health concerns for inmates	0	Paragraphs about public safety concerns	8
Paragraphs about public health concerns	0	Paragraphs about violent offenders and reoffenders (specific cases)	3
Paragraphs about (accurate) release process	0	Paragraphs about reentry concerns	3
Paragraphs about Supreme Court criteria of denying release only if threat to public safety	0	Paragraphs about reentry that address DPS's role/overall context	0
Article includes inmate voices or perspective?	No	Paragraphs that mention baseline recidivism rate/context	0
Article mentions Dr. Stewart, or quotes any doctors/public health officials?	No		
Article mentions the fact that violent offenders were not originally on the list of individuals eligible to apply?	Yes		



Article: ["Hawaii inmate early-release reviews are over"](#)

Outlet: *Honolulu Star-Advertiser*

Author: Andrew Gomes

Published: May 19, 2020

Total paragraphs: 25

Paragraphs about health concerns for inmates	2	Paragraphs about public safety concerns	1
Paragraphs about public health concerns	0	Paragraphs about violent offenders and reoffenders (specific cases)	0
Paragraphs about (accurate) release process	4	Paragraphs about reentry concerns	0
Paragraphs about Supreme Court criteria of denying release only if threat to public safety	0	Paragraphs about reentry that address DPS's role/overall context	0
Article includes inmate voices or perspective?	No	Paragraphs that mention baseline recidivism rate/context	0
Article mentions Dr. Stewart, or quotes any doctors/public health officials?	No		
Article mentions the fact that violent offenders were not originally on the list of individuals eligible to apply?	No		

APPENDIX D



Article: [“Lawmakers and authorities call for change after early-release crime spike”](#)

Outlet: KHON2

Author: Gina Mangieri

Published: May 19, 2020

Total paragraphs: 21

Paragraphs about health concerns for inmates	1	Paragraphs about public safety concerns	6
Paragraphs about public health concerns	0	Paragraphs about violent offenders and reoffenders (specific cases)	1
Paragraphs about (accurate) release process	1	Paragraphs about reentry concerns	4
Paragraphs about Supreme Court criteria of denying release only if threat to public safety	0	Paragraphs about reentry that address DPS's role/overall context	0
Article includes inmate voices or perspective?	No	Paragraphs that mention baseline recidivism rate/context	0
Article mentions Dr. Stewart, or quotes any doctors/public health officials?	No		
Article mentions the fact that violent offenders were not originally on the list of individuals eligible to apply?	No		



Article: [“Hawaii Prosecutors Want COVID-19 Inmate Releases Stopped”](#)

Outlet: Honolulu Civil Beat

Author: Yoohyun Jung

Published: May 20, 2020

Total paragraphs: 13

Paragraphs about health concerns for inmates	1	Paragraphs about public safety concerns	4
Paragraphs about public health concerns	1	Paragraphs about violent offenders and reoffenders (specific cases)	1
Paragraphs about (accurate) release process	2	Paragraphs about reentry concerns	0
Paragraphs about Supreme Court criteria of denying release only if threat to public safety	0	Paragraphs about reentry that address DPS's role/overall context	0
Article includes inmate voices or perspective?	No	Paragraphs that mention baseline recidivism rate/context	0
Article mentions Dr. Stewart, or quotes any doctors/public health officials?	No		
Article mentions the fact that violent offenders were not originally on the list of individuals eligible to apply?	No		



Article: [“Hawaii lawmakers raise concern on notifying crime victims during the inmate release process”](#)

Outlet: KHON2

Author: KHON2 Web Staff

Published: May 20, 2020

Total paragraphs: 8

Paragraphs about health concerns for inmates	0	Paragraphs about public safety concerns	3
Paragraphs about public health concerns	0	Paragraphs about violent offenders and reoffenders (specific cases)	0
Paragraphs about (accurate) release process	0	Paragraphs about reentry concerns	0
Paragraphs about Supreme Court criteria of denying release only if threat to public safety	0	Paragraphs about reentry that address DPS's role/overall context	0
Article includes inmate voices or perspective?	No	Paragraphs that mention baseline recidivism rate/context	0
Article mentions Dr. Stewart, or quotes any doctors/public health officials?	No		
Article mentions the fact that violent offenders were not originally on the list of individuals eligible to apply?	No		



Article: [“Honolulu police have rearrested dozens of inmates released due to coronavirus, lawmakers told”](#)

Outlet: Honolulu Star-Advertiser

Author: Kevin Dayton

Published: May 21, 2020

Total paragraphs: 15

Paragraphs about health concerns for inmates	0	Paragraphs about public safety concerns	9
Paragraphs about public health concerns	0	Paragraphs about violent offenders and reoffenders (specific cases)	4
Paragraphs about (accurate) release process	1	Paragraphs about reentry concerns	0
Paragraphs about Supreme Court criteria of denying release only if threat to public safety	1	Paragraphs about reentry that address DPS's role/overall context	0
Article includes inmate voices or perspective?	No	Paragraphs that mention baseline recidivism rate/context	0
Article mentions Dr. Stewart, or quotes any doctors/public health officials?	No		
Article mentions the fact that violent offenders were not originally on the list of individuals eligible to apply?	No		

APPENDIX D



Article: [“Lawmakers join AG in voicing concerns about inmates' release due to COVID-19”](#)

Outlet: KITV4

Author: KITV4 Web Staff

Published: May 21, 2020

Total paragraphs: 9

Paragraphs about health concerns for inmates	1	Paragraphs about public safety concerns	3
Paragraphs about public health concerns	0	Paragraphs about violent offenders and reoffenders (specific cases)	0
Paragraphs about (accurate) release process	0	Paragraphs about reentry concerns	0
Paragraphs about Supreme Court criteria of denying release only if threat to public safety	0	Paragraphs about reentry that address DPS's role/overall context	0
Article includes inmate voices or perspective?	No	Paragraphs that mention baseline recidivism rate/context	0
Article mentions Dr. Stewart, or quotes any doctors/public health officials?	No		
Article mentions the fact that violent offenders were not originally on the list of individuals eligible to apply?	No		



Article: [“Inmates numbers at Maui jail are still on the decline”](#)

Outlet: *The Maui News*

Author: Lila Fujimoto

Published: May 21, 2020

Total paragraphs: 15

Paragraphs about health concerns for inmates	0	Paragraphs about public safety concerns	0
Paragraphs about public health concerns	0	Paragraphs about violent offenders and reoffenders (specific cases)	0
Paragraphs about (accurate) release process	2	Paragraphs about reentry concerns	0
Paragraphs about Supreme Court criteria of denying release only if threat to public safety	0	Paragraphs about reentry that address DPS's role/overall context	0
Article includes inmate voices or perspective?	No	Paragraphs that mention baseline recidivism rate/context	0
Article mentions Dr. Stewart, or quotes any doctors/public health officials?	No		
Article mentions the fact that violent offenders were not originally on the list of individuals eligible to apply?	No		



Article: ["Inmates released due to pandemic are back behind bars"](#)

Outlet: *Hawaii News Now*

Author: Lynn Kawano

Published: May 22, 2020

Total paragraphs: 11

Paragraphs about health concerns for inmates	0	Paragraphs about public safety concerns	6
Paragraphs about public health concerns	0	Paragraphs about violent offenders and reoffenders (specific cases)	4
Paragraphs about (accurate) release process	0	Paragraphs about reentry concerns	0
Paragraphs about Supreme Court criteria of denying release only if threat to public safety	0	Paragraphs about reentry that address DPS's role/overall context	0
Article includes inmate voices or perspective?	No	Paragraphs that mention baseline recidivism rate/context	0
Article mentions Dr. Stewart, or quotes any doctors/public health officials?	No		
Article mentions the fact that violent offenders were not originally on the list of individuals eligible to apply?	No		



Article: ["Program that allowed the release of hundreds of inmates has been ended"](#)

Outlet: *KHON2*

Author: KHON2 Staff

Published: May 22, 2020

Total paragraphs: 4

Paragraphs about health concerns for inmates	0	Paragraphs about public safety concerns	1
Paragraphs about public health concerns	0	Paragraphs about violent offenders and reoffenders (specific cases)	0
Paragraphs about (accurate) release process	0	Paragraphs about reentry concerns	0
Paragraphs about Supreme Court criteria of denying release only if threat to public safety	0	Paragraphs about reentry that address DPS's role/overall context	0
Article includes inmate voices or perspective?	No	Paragraphs that mention baseline recidivism rate/context	0
Article mentions Dr. Stewart, or quotes any doctors/public health officials?	No		
Article mentions the fact that violent offenders were not originally on the list of individuals eligible to apply?	No		

APPENDIX D



Article: [“Critics Say Hawaii Prisons Are Failing To Help Released Inmates”](#)

Outlet: *Honolulu Civil Beat*

Author: Yoohyun Jung

Published: May 23, 2020

Total paragraphs: 29

Paragraphs about health concerns for inmates	0	Paragraphs about public safety concerns	1
Paragraphs about public health concerns	0	Paragraphs about violent offenders and reoffenders (specific cases)	0
Paragraphs about (accurate) release process	0	Paragraphs about reentry concerns	14
Paragraphs about Supreme Court criteria of denying release only if threat to public safety	0	Paragraphs about reentry that address DPS's role/overall context	7
Article includes inmate voices or perspective?	Yes	Paragraphs that mention baseline recidivism rate/context	0
Article mentions Dr. Stewart, or quotes any doctors/public health officials?	No		
Article mentions the fact that violent offenders were not originally on the list of individuals eligible to apply?	No		



Article: [“More than 50 inmates out of 300 released are rearrested”](#)

Outlet: *Honolulu Star-Advertiser*

Author: Mark Ladao

Published: May 27, 2020

Total paragraphs: 12

Paragraphs about health concerns for inmates	1	Paragraphs about public safety concerns	5
Paragraphs about public health concerns	0	Paragraphs about violent offenders and reoffenders (specific cases)	0
Paragraphs about (accurate) release process	0	Paragraphs about reentry concerns	1
Paragraphs about Supreme Court criteria of denying release only if threat to public safety	0	Paragraphs about reentry that address DPS's role/overall context	0
Article includes inmate voices or perspective?	No	Paragraphs that mention baseline recidivism rate/context	0
Article mentions Dr. Stewart, or quotes any doctors/public health officials?	No		
Article mentions the fact that violent offenders were not originally on the list of individuals eligible to apply?	Yes		



Article: [“Sentenced Prison Population New Focus on Inmate Reduction”](#)

Outlet: *Big Island Now*

Author: Big Island Now Staff

Published: May 29, 2020

Total paragraphs: 7

Paragraphs about health concerns for inmates	1	Paragraphs about public safety concerns	0
Paragraphs about public health concerns	0	Paragraphs about violent offenders and reoffenders (specific cases)	0
Paragraphs about (accurate) release process	1	Paragraphs about reentry concerns	0
Paragraphs about Supreme Court criteria of denying release only if threat to public safety	0	Paragraphs about reentry that address DPS's role/overall context	0
Article includes inmate voices or perspective?	No	Paragraphs that mention baseline recidivism rate/context	0
Article mentions Dr. Stewart, or quotes any doctors/public health officials?	No		
Article mentions the fact that violent offenders were not originally on the list of individuals eligible to apply?	No		



Article: [“Special master defends early release of Hawaii inmates, says recidivism rate low”](#)

Outlet: *Honolulu Star-Advertiser*

Author: Mark Ladao

Published: May 29, 2020

Total paragraphs: 12

Paragraphs about health concerns for inmates	0	Paragraphs about public safety concerns	1
Paragraphs about public health concerns	0	Paragraphs about violent offenders and reoffenders (specific cases)	0
Paragraphs about (accurate) release process	1	Paragraphs about reentry concerns	1
Paragraphs about Supreme Court criteria of denying release only if threat to public safety	0	Paragraphs about reentry that address DPS's role/overall context	0
Article includes inmate voices or perspective?	No	Paragraphs that mention baseline recidivism rate/context	2
Article mentions Dr. Stewart, or quotes any doctors/public health officials?	No		
Article mentions the fact that violent offenders were not originally on the list of individuals eligible to apply?	No		

APPENDIX D



Article: [“Man released early due to COVID-19 arrested again in Kapolei”](#)

Outlet: *Honolulu Star-Advertiser*

Author: Star-Advertiser Staff

Published: May 31, 2020

Total paragraphs: 3

Paragraphs about health concerns for inmates	0	Paragraphs about public safety concerns	3
Paragraphs about public health concerns	0	Paragraphs about violent offenders and reoffenders (specific cases)	3
Paragraphs about (accurate) release process	0	Paragraphs about reentry concerns	0
Paragraphs about Supreme Court criteria of denying release only if threat to public safety	0	Paragraphs about reentry that address DPS's role/overall context	0
Article includes inmate voices or perspective?	No	Paragraphs that mention baseline recidivism rate/context	0
Article mentions Dr. Stewart, or quotes any doctors/public health officials?	No		
Article mentions the fact that violent offenders were not originally on the list of individuals eligible to apply?	No		



Article: [“COVID-19 risk decreased, state Supreme Court ends inmate early release program”](#)

Outlet: *Hawaii News Now*

Author: HNN Staff

Published: June 5, 2020

Total paragraphs: 10

Paragraphs about health concerns for inmates	1	Paragraphs about public safety concerns	1
Paragraphs about public health concerns	0	Paragraphs about violent offenders and reoffenders (specific cases)	0
Paragraphs about (accurate) release process	1	Paragraphs about reentry concerns	2
Paragraphs about Supreme Court criteria of denying release only if threat to public safety	0	Paragraphs about reentry that address DPS's role/overall context	0
Article includes inmate voices or perspective?	No	Paragraphs that mention baseline recidivism rate/context	0
Article mentions Dr. Stewart, or quotes any doctors/public health officials?	No		
Article mentions the fact that violent offenders were not originally on the list of individuals eligible to apply?	No		



Article: [“Hawaii Supreme Court lifts order requiring the release of inmates to prevent spread of COVID-19”](#)

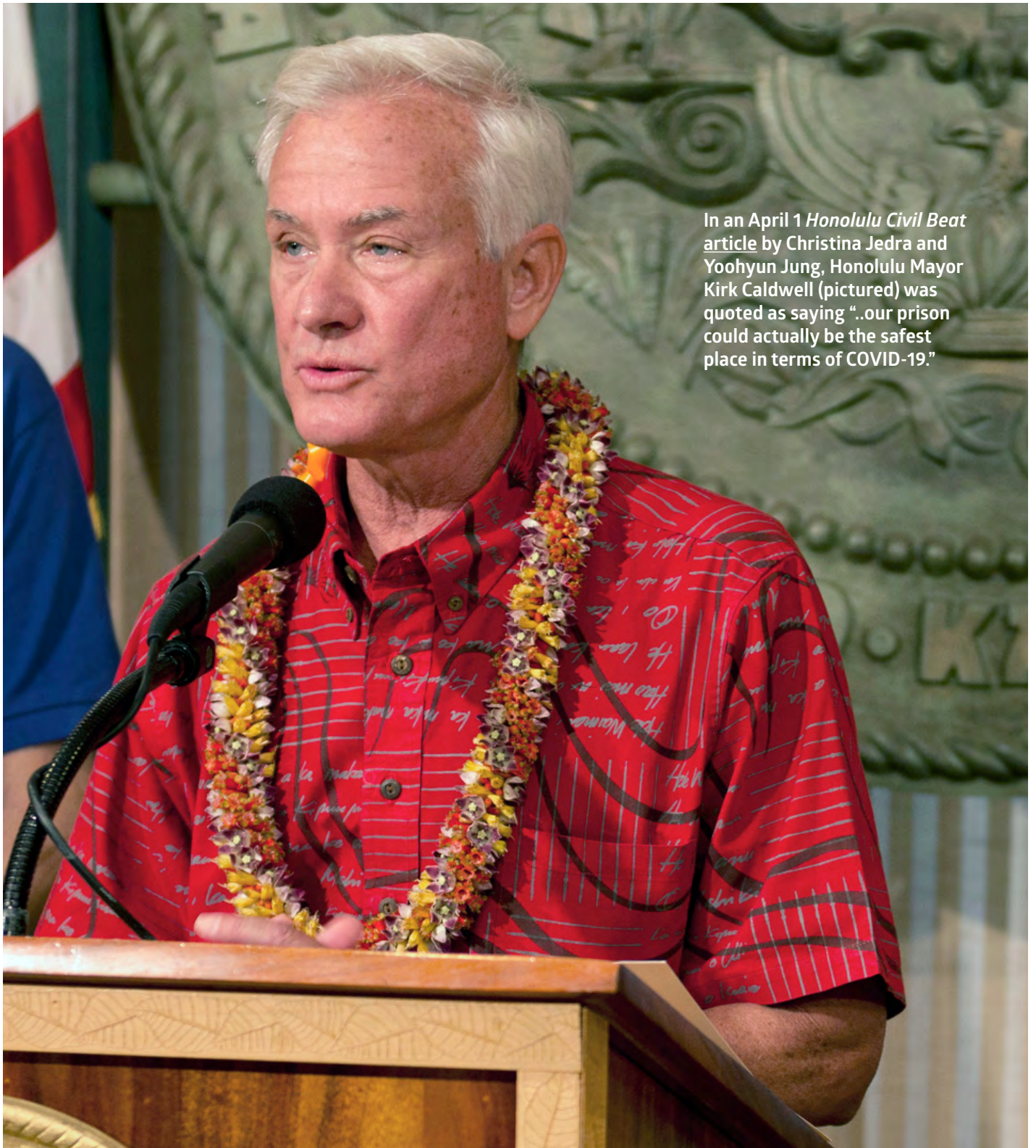
Outlet: *Honolulu Star-Advertiser*

Author: Gordon Y.K. Pang

Published: June 6, 2020

Total paragraphs: 26

Paragraphs about health concerns for inmates	2	Paragraphs about public safety concerns	6
Paragraphs about public health concerns	1	Paragraphs about violent offenders and reoffenders (specific cases)	1
Paragraphs about (accurate) release process	1	Paragraphs about reentry concerns	0
Paragraphs about Supreme Court criteria of denying release only if threat to public safety	0	Paragraphs about reentry that address DPS's role/overall context	0
Article includes inmate voices or perspective?	No	Paragraphs that mention baseline recidivism rate/context	0
Article mentions Dr. Stewart, or quotes any doctors/public health officials?	No		
Article mentions the fact that violent offenders were not originally on the list of individuals eligible to apply?	No		



In an April 1 *Honolulu Civil Beat* [article](#) by Christina Jedra and Yoohyun Jung, Honolulu Mayor Kirk Caldwell (pictured) was quoted as saying “..our prison could actually be the safest place in terms of COVID-19.”

APPENDIX E: OFFICIAL STATEMENTS ON COVID-19 AND CORRECTIONAL FACILITIES

Public officials frequently refused to acknowledge the clear public health rationale for releasing incarcerated individuals.

- Honolulu Police Chief Susan Ballard said, “It is the HPD’s position that there was no urgency or legitimate reason for early or premature release.”¹
- Acting Honolulu prosecutor Dwight Nadamoto said, “Close to 300 inmates were released from O’ahu correctional facilities because of the *purported* threat from COVID-19” (emphasis added).²
- Maui County Prosecutor Donald Guzman said, “At this stage there hasn’t been any real data or incidences that lead to us believe that by continuing the release we’re stopping COVID-19 in the prisons.”³

LEJ’s review of the 53 articles in the media database show that the media consistently failed to put these quotes into context by including the undisputed expert consensus on the public health dangers posed by Hawai’i’s correctional facilities.

- While 32 articles (about 60 percent) mention the threat to the health of incarcerated people, only 7 articles (13 percent) mention that releases also protected the health of the general public.
- Of the 724 paragraphs in the 53 articles, only 58 (8 percent) mention health concerns at all.
- The few articles that did discuss public health often did so by quoting attorneys from the Office of the Public Defender about the dangers of a COVID-19 outbreak in correctional facilities, implying that a possible outbreak was simply an assertion made by one side in a debate, as opposed to a fact admitted by all parties and endorsed by the Supreme Court.
- Not a single media article mentioned Dr. Stewart’s detailed, firsthand observations of conditions at OCCC or the dangers those conditions presented—the “ticking time bomb.”

1. Mark Ladao, “[More than 50 inmates out of 300 released are rearrested.](#)” *Honolulu Star-Advertiser*, May 27, 2020

2. Gordon Y.K. Pang, “[Hawaii Supreme Court lifts order requiring the release of inmates to prevent spread of COVID-19.](#)” *Honolulu Star-Advertiser*, June 6, 2020

3. Gordon Y.K. Pang and Rosemarie Bernardo, “[Attorney general, prosecutors want inmate releases halted.](#)” *Honolulu Star-Advertiser*, May 6, 2020

APPENDIX F: OFFICIAL STATEMENTS ON CRIME AND RELEASE INITIATIVE

Public officials often exaggerated concerns about crime when it came to releasing incarcerated individuals.

- Hawai'i County Prosecutor Mitch Roth: "Oftentimes, we're believing that these people are dangerous when they're being released." He described some of the releases as "very troubling to me."¹
- Acting Honolulu Prosecutor Dwight Nadamoto: "When they pick up their offense, the new charge is like a robbery in the second degree, or a burglary in the first degree or something like that. These people have committed violent offenses."²
- Acting Honolulu Prosecutor Dwight Nadamoto repeatedly references specific cases he finds dangerous: "These are the type of people who are getting released."³
- State Senator Clarence Nishihara: "It's not just the safety of the inmates relative to [COVID-19] but at what expense to the public safety?"⁴
- State Attorney General Clare Connors, referring to 47 alleged reoffenders: "that's kind of a big number if you're a victim of one of those crimes."⁵

LEJ's review of the data shows that the substance of media reports disproportionately amplified a perceived threat to public safety:

- Of the 724 total paragraphs, 191 paragraphs (about 26 percent) detail concerns about crime.
- About 70 percent of articles mention concerns about crime, compared to only 13 percent that mention concerns for public health.
- 38 percent of articles discuss specific individuals who were released, and 100 paragraphs are dedicated to detailing these anecdotes.
- Only 9 articles (less than 17 percent) mention that those with high-level felony convictions were excluded from the Supreme Court release process.

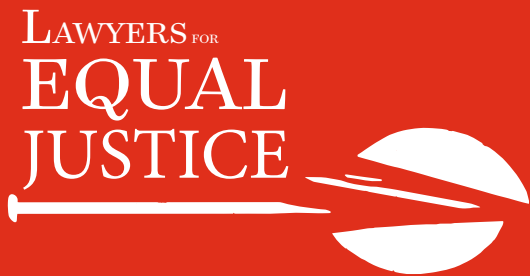
1. John Burnett, "[Jail population plummets: HTH sought list of inmates released to due pandemic—but there isn't one, officials say](#)," *Hawaii Tribune-Herald*, May 10, 2020

2. Gina Mangieri, "[Lawmakers and authorities call for change after early release crime spike](#)," *KHON2*, May 19, 2020

3. Yoohyun Jung, "[Hawaii prosecutors want COVID-19 inmate releases stopped](#)," *Honolulu Civil Beat*, May 20, 2020

4. Lynn Kawano, "[Lawmakers urge paroling authority to delay another large prisoner release](#)," *Hawaii News Now*, May 19, 2020

5. Kevin Dayton, "[Honolulu police have rearrested dozens of inmates released due to coronavirus, lawmakers told](#)," *Honolulu Star-Advertiser*, May 21, 2020



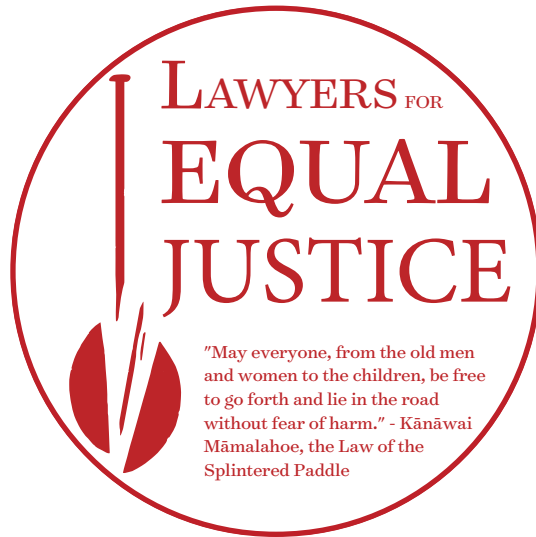
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LAWYERS FOR
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"May everyone, from the old men
and women to the children, be free
to go forth and lie in the road
without fear of harm." - Kānāwai
Māmalahoe, the Law of the
Splintered Paddle