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**INMATE RELEASES COULD HAVE PREVENTED CURRENT OCCC
OUTBREAK; CAN PREVENT FURTHER SPREAD**

A new report urges public officials and the media to learn from mistakes made during the spring and to resist promulgating dangerous “tough on crime” myths in the face of a public health emergency.

HONOLULU, Hawai'i — Lawyers for Equal Justice (LEJ) issued a report entitled “Outbreak” today, which finds that the Hawai'i Supreme Court's inmate release program during the spring of 2020 was successful in reducing correctional facility populations, reducing the risk of a COVID-19 outbreak, and protecting public health and safety. However, public perception of the initiative was largely negative because of misleading criticisms by public officials, which were often amplified by the media in reporting that fell short of its important responsibility to the public.

Today, there are more than 200 confirmed cases of COVID-19 among inmates and staff at O'ahu Community Correctional Facility (OCCC). In response to a petition filed by the state Office of the Public Defender, the Supreme Court on Sunday ordered the Department of Public Safety to release inmates meeting certain standards, including some individuals awaiting trial on misdemeanor charges.

This report urges officials to support the new round of releases in light of the outbreak at OCCC, and the immediate threat the current situation poses to the state's other overcrowded facilities.

“The expert consensus has been clear from the beginning that lowering the populations in our overcrowded and unsanitary correctional facilities protects the health not only of inmates but of the

general public—all of us,” said Tom Helper, LEJ Director of Litigation and a co-author of the report. “Public officials should support releases, not block them. At the very least, they should refrain from making misleading claims about supposed threats to public safety.”

Dr. Pablo Stewart, a nationally recognized expert in prison health conditions and attending physician at OCCC explained to the Supreme Court in April 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 in other correctional facilities across the country. Dr. Stewart’s warning has now been proven accurate.

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. 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.

The report analyzed court records and 53 media reports covering the program to reach four central 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.

Accurate dissemination of critical information and its surrounding context could have helped keep the release program going, reducing the risk of outbreak. Instead, many public officials exaggerated perceived threats and made misleading statements to stoke pushback against the Supreme Court-mandated program. Too often, news reports uncritically repeated these statements, providing little or no context for them, and omitting important information about the undisputable public health and safety threat represented by overcrowded jails and prisons in favor of focusing on a handful of sensationalized anecdotes.

For example, not one article mentioned Dr. Stewart, and only a handful mentioned that persons convicted of violent crimes were not even eligible for release under the program. Few mentioned that almost all of the individuals who were re-arrested were charged with crimes related to homelessness, such as sleeping in the park.

This contributed to a false narrative that the program was endangering the public. The pushback against the program this narrative triggered contributed to its premature termination. The incarcerated population increased as a result, jeopardizing the health and safety of not just those behind bars, but the public employees who oversee them and the public at large.

“The media has an essential function to our society, especially in times of crises,” said Will Caron, Director of Communications for Hawai‘i Appleseed Center. “It is our hope that this report will demonstrate the importance of the media’s role, and encourage local news outlets to live up to that responsibility.”

“It is essential that the public understand that inmate releases protect public health,” said Helper. “Public officials and the media should help ensure that that message is heard.”

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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.