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.
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.

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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.
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, 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.
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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.
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.”

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.”

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

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[es] 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)

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
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.
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

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
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.”

By May 11, 2020, the overall jailed population in the state had been reduced by 832: from 2,189 people to 1,357 people. 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.

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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.

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. Meanwhile, new daily COVID-19 cases are close to 10 times what they were at their previous peak in March and April, 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.

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.
ANALYSIS

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.
   
   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.

   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.

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

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

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].”

“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.”

“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.”

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

Additionally, a *Honolulu Star-Advertiser* article quoted Attorney General Clare Conners, 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. 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
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
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. 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.

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.”

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

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.” 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.”

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

2. Gina Mangieri, “Lawmakers and authorities call for change after early release crime spike,” KHON2, May 19, 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
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.

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

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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.”

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

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 Hawaiʻi’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). 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).

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

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.” 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
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.

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.”

OUTBREAK  • 19

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, 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.”

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. 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.”

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.”

Only a single article out of the 53 in the database even mentioned DPS’s responsibility for reentry. (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.
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
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.

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.
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.
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.

**APPENDIX B: FACT CHECK OF ALLEGED RE-ARRESTEES**

**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:** 1PC17-0001360  
**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: 1PC1210000151; 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-20-0005145; 1DCC-20-0004962; 1DCC-20-0005180; 1DCC-20-0005223; 1DCC-20-0005628; 1DCC-20-0006638; 1DCC-20-0008591; 1DCC-20-0008944  
New Charges: Trespassing; indecent exposure; 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  
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: 1PC19-0001678  
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: Robbery  
Comments: All new charges are houselessness-related

Name: MT R  
Jurisdiction: First Circuit  
OPD Requested Release: No  
Custody Case: 1PC19-0001862  
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: 1CPC20-0000272  
Charges: HRS 712-1243, promoting a dangerous drug 3  
Released: 3/24/2020  
COVID-19 Motion: Yes  
Motion in Opposition: No  
New Case: 1CPC20-0000638  
New Charges: Robbery

Name: Joshua H  
Jurisdiction: First Circuit  
OPD Requested Release: No  
Custody Case: 1CPC19-0001741  
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: 1FFC20-0000413  
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
Name: Marcel M  
Jurisdiction: First Circuit  
OPD Requested Release: No  
Custody Case: 1CPC-19-00000223  
Charges: HRS 712-1243, promoting a dangerous drug 3; HRS 708-712(1)(a), assault 3  
Released: 3/3/2020  
COVID-19 Motion: No  
Motion in Opposition: N/A  
New Case: 1DCW-20-0001056; 1DCW-20-0001064; 1DC-20-0008998; 1DCW-20-0001177; 1DSS-20-0000591  
New Charges: Assault 1; violation of emergency proclamation; terrorist 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), terrorist 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
<table>
<thead>
<tr>
<th>Name</th>
<th>Jurisdiction</th>
<th>OPD Requested Release</th>
<th>Custody Case</th>
<th>Charges</th>
<th>Released</th>
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<th>Motion in Opposition</th>
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<th>New Charges</th>
<th>Comments</th>
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<tr>
<td>Justner Y</td>
<td>First Circuit</td>
<td>No</td>
<td>1CPC-19-0001497; 1CPC-19-0000210</td>
<td>HRS 705-500, criminal attempt; HRS 708-836.5, 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</td>
<td>3/24/2020</td>
<td>Yes</td>
<td>No</td>
<td>No new case</td>
<td>No new charges</td>
<td>All new charges are houselessness-related</td>
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<tr>
<td>Isaac S</td>
<td>First Circuit</td>
<td>Yes</td>
<td>1PC161000702</td>
<td>HRS 712-1243, promoting a dangerous drug 3; HRS 708-833(1), theft 4; HRS 708-839.55, unauthorized possession of confidential personal information</td>
<td>4/21/2020</td>
<td>Yes</td>
<td>Yes</td>
<td>No new case</td>
<td>No new charges</td>
<td>Technical probation violation</td>
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<tr>
<td>Matthew C</td>
<td>First Circuit</td>
<td>No</td>
<td>1CPC-19-0001822; 1CPC-18-0000134</td>
<td>HRS 712-1243, promoting a dangerous drug 3; HRS 708-833(1), theft 4; HRS 708-839.55, unauthorized possession of confidential personal information</td>
<td>4/20/2020</td>
<td>Yes</td>
<td>Yes</td>
<td>No new case</td>
<td>No new charges</td>
<td>Technical probation violation</td>
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<tr>
<td>Cody G</td>
<td>First Circuit</td>
<td>No</td>
<td>1CPC-19-0000702</td>
<td>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</td>
<td>4/7/2020</td>
<td>Yes</td>
<td>Yes</td>
<td>No new case</td>
<td>No new charges</td>
<td>Defendant has not been re-arrested</td>
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<td>Matthew C</td>
<td>First Circuit</td>
<td>No</td>
<td>1CPC-19-0000702</td>
<td>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</td>
<td>4/20/2020</td>
<td>Yes</td>
<td>Yes</td>
<td>No new case</td>
<td>No new charges</td>
<td>Technical probation violation</td>
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**Comments:**

- Defendant has not been re-arrested
- Technical probation violation
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<tr>
<th>Name</th>
<th>Jurisdiction</th>
<th>OPD Requested Release</th>
<th>Custody Case</th>
<th>Charges</th>
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<th>Motion in Opposition</th>
<th>New Case</th>
<th>New Charges</th>
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<tr>
<td>Steven W</td>
<td>First Circuit</td>
<td>No</td>
<td>1CPC-19-0001251</td>
<td>HRS 708-831(1)(b), theft 2, exceeding $750</td>
<td>3/31/2020</td>
<td>Yes</td>
<td>No</td>
<td>No</td>
<td>Revocation of supervised release for failure to communicate with court officer</td>
<td>Technical probation violation</td>
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<tr>
<td>Christin B</td>
<td>First Circuit</td>
<td>No</td>
<td>1CPC-19-0001803</td>
<td>HRS 708-841(1)(a), robbery 2, theft or motor vehicle theft &amp; force</td>
<td>4/22/2020</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
<td>Revocation of supervised release for failure to communicate with court officer</td>
<td>Technical probation violation</td>
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<tr>
<td>Matthew F</td>
<td>First Circuit</td>
<td>No</td>
<td>1CPC-18-0000637</td>
<td>HRS 712-1243, promoting a dangerous drug 3</td>
<td>4/22/2020</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
<td>Revocation of probation for failure to communicate with probation officer</td>
<td>Technical probation violation</td>
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<tr>
<td>Michael H</td>
<td>First Circuit</td>
<td>Yes</td>
<td>1CPC-18-0000790</td>
<td>HRS 708-803, habitual property crime</td>
<td>3/31/2020</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
<td>Revocation of probation for failure to communicate with probation officer</td>
<td>Technical probation violation</td>
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<td>James H</td>
<td>First Circuit</td>
<td>Yes</td>
<td>1CPC-18-0000486</td>
<td>HRS 712-1243, promoting a dangerous drug 3, HRS 708-833(1), theft 4</td>
<td>4/21/2020</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
<td>Violation of emergency proclamation; obstruction of a public sidewalk</td>
<td>All new charges are houselessness-related</td>
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<tr>
<td>Gail K</td>
<td>First Circuit</td>
<td>No</td>
<td>1CPC-18-0000433</td>
<td>HRS 707-716(1)(e), terroristic threatening 1, Class B Felony, HRS 134-25, failure to properly store a pistol or revolver</td>
<td>3/27/2020</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
<td>Revocation of supervised release for failure to communicate with court officer</td>
<td>Technical probation violation</td>
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Notes:
- 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
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<thead>
<tr>
<th>Name</th>
<th>Jurisdiction</th>
<th>OPD Requested Release</th>
<th>Custody Case</th>
<th>Charges</th>
<th>Released</th>
<th>COVID-19 Motion</th>
<th>Motion in Opposition</th>
<th>New Case</th>
<th>New Charges</th>
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<tr>
<td>Aleki T</td>
<td>First Circuit</td>
<td>No</td>
<td>1CPC-20-0000169</td>
<td>HRS 708-836, unauthorized control of a propelled vehicle; HRS 708-832(t)(a), theft 3, exceeding $250</td>
<td>4/3/2020</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>No new case</td>
<td>Revocation of probation for failure to communicate with probation officer</td>
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<td>Kiakahi B</td>
<td>First Circuit</td>
<td>Yes</td>
<td>1CPC-17-0001474</td>
<td>HRS 712-1243, promoting a dangerous drug 3; HRS 329-43.5(a), drug paraphernalia</td>
<td>4/1/2020</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>No new case</td>
<td>Revocation of probation for failure to communicate with probation officer</td>
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<tr>
<td>Michelle K</td>
<td>First Circuit</td>
<td>Yes</td>
<td>1CPC-18-0001642</td>
<td>HRS 708-836, unauthorized control of a propelled vehicle</td>
<td>4/23/2020</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>1DCC-20-0016069</td>
<td>Violation of emergency proclamation; trespassing; obstruction of a public sidewalk</td>
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<tr>
<td>Quinton Q</td>
<td>First Circuit</td>
<td>No</td>
<td>1CPC-17-0001474</td>
<td>HRS 712-1243, promoting a dangerous drug 3; HRS 329-43.5(a), drug paraphernalia</td>
<td>4/1/2020</td>
<td>Yes</td>
<td>No</td>
<td>Yes</td>
<td>No new case</td>
<td>Revocation of probation for failure to communicate with probation officer</td>
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<tr>
<td>David T</td>
<td>First Circuit</td>
<td>No</td>
<td>1CPC-18-0000424</td>
<td>HRS 712-1246.5, promoting a harmful drug 4</td>
<td>3/31/2020</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
<td>1DCC-20-0013745; 1DCW-20-0001327</td>
<td>Sit/lie; trespassing</td>
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<td>Kiakahi B</td>
<td>First Circuit</td>
<td>Yes</td>
<td>1CPC-18-0000779</td>
<td>HRS 711-1110.9, violation of privacy 1</td>
<td>4/20/2020</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>1DCW-20-0001323</td>
<td>Criminal tampering</td>
</tr>
</tbody>
</table>

Comments: Technical probation violation

Comments: All new charges are houselessness-related

Comments: All new charges are houselessness-related

Comments: All new charges are houselessness-related

Comments: Touched someone else’s property without consent
Name: Bowen B  
**Jurisdiction:** First Circuit  
**OPD Requested Release:** No  
**Custody Case:** 1CPC-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: 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-20-0000570  
**New Charges:** Unauthorized control of a propelled 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 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: 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: 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

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: Mark D  
Jurisdiction: First Circuit  
HPD Re-Arrest Listed: No  
Custody Case: 1CPC-20-000389  
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-20-001545  
New Charges: Violation of emergency proclamation  
Comments: All new charges are houselessness-related

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: No  
New Case: 1CPC-20-000532; 1CPC-20-000625  
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
**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

Ali'iolani Hale, Hawai'i Supreme Court
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.

**Charlani M**
- **Jurisdiction:** First Circuit
- **OPD Requested Release:** Yes, probation violations, 144
- **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.”

**Howard L**
- **Jurisdiction:** First Circuit
- **OPD Requested Release:** No
- **Charges:** HRS 707-0711/1D, assault 2
- **Released:** 04/07/2020
- **COVID-19 Motion:** Yes
- **Motion in Opposition:** No
**APPENDIX C**

Name: Kirk I  
**Jurisdiction:** First Circuit  
**OPD Requested Release:** No  
**Custody Case:** 1PC111000152  
**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:**  
1. The release of Defendant at this time would pose a significant risk to the safety of both Defendant and the public.  
2. 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.  
3. 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.  
4. 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.  
5. Given consideration of safety of the public versus the Defendant’s safety, the public safety must prevail.  

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:** 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.”

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**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.”

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

**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.”

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**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.”
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 708-852, forgery 2; HRS 708-839.8, identity theft 3; HRS 708-839.55, unauthorized possession of confidential personal information; 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;  
Released: 3/31/2020  
COVID-19 Motion: Yes  
Motion in Opposition: Not specific to COVID-19  
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: 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: Kainoa S  
Jurisdiction: First Circuit  
OPD Requested Release: No  
Custody Case: 1PC1310001316; 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.
Total Articles: 53
Outlets: 9
Authors: 26
Published: April 16–June 6, 2020
Total paragraphs: 724

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

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 health concerns: 0
Paragraphs about (accurate) release process: 4
Paragraphs about Supreme Court criteria of denying release only if threat to public safety: 0

Article includes inmate voices or perspective? No
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 health concerns: 0
Paragraphs about (accurate) release process: 6
Paragraphs about Supreme Court criteria of denying release only if threat to public safety: 1

Article includes inmate voices or perspective? No
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: “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 health concerns | 0 |
| Paragraphs about (accurate) release process | 0 |
| Paragraphs about Supreme Court criteria of denying release only if threat to public safety | 1 |

**Article includes inmate voices or perspective?** No
**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’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 health concerns | 0 |
| Paragraphs about (accurate) release process | 3 |
| Paragraphs about Supreme Court criteria of denying release only if threat to public safety | 0 |

**Article includes inmate voices or perspective?** No
**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 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 health concerns | 0 |
| Paragraphs about (accurate) release process | 2 |
| Paragraphs about Supreme Court criteria of denying release only if threat to public safety | 0 |
| Article includes inmate voices or perspective? | No |
| 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 health concerns | 0 |
| Paragraphs about (accurate) release process | 4 |
| Paragraphs about Supreme Court criteria of denying release only if threat to public safety | 0 |
| Article includes inmate voices or perspective? | No |
| 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 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 health concerns: 0
Paragraphs about (accurate) release process: 3
Paragraphs about Supreme Court criteria of denying release only if threat to public safety: 1
Article includes inmate voices or perspective? No
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 health concerns: 0
Paragraphs about (accurate) release process: 2
Paragraphs about Supreme Court criteria of denying release only if threat to public safety: 1
Article includes inmate voices or perspective? No
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 1: “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 health concerns | 0 |
| Paragraphs about (accurate) release process | 0 |
| Paragraphs about Supreme Court criteria of denying release only if threat to public safety | 0 |
| Article includes inmate voices or perspective? | No |
| 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 2: “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 health concerns | 0 |
| Paragraphs about (accurate) release process | 0 |
| Paragraphs about Supreme Court criteria of denying release only if threat to public safety | 0 |
| Article includes inmate voices or perspective? | No |
| 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 health concerns: 0
- Paragraphs about (accurate) release process: 0
- Paragraphs about Supreme Court criteria of denying release only if threat to public safety: 0
- Article includes inmate voices or perspective: No
- 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 health concerns: 0
- Paragraphs about (accurate) release process: 2
- Paragraphs about Supreme Court criteria of denying release only if threat to public safety: 0
- Article includes inmate voices or perspective: No
- 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
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<th>Article: “Inmates released amid COVID-19 pandemic”</th>
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<tr>
<td><strong>Outlet:</strong> KHON2</td>
<td><strong>Published:</strong> May 1, 2020</td>
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<td><strong>Author:</strong> Max Rodriguez</td>
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<th>Article: “Suspect charged with murder after fatal stabbing in Aiea”</th>
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<td><strong>Outlet:</strong> Hawaii News Now</td>
<td><strong>Published:</strong> May 2, 2020</td>
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<td><strong>Author:</strong> HNN Staff</td>
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<td>Article: “Hawai‘i Judiciary Frees 37% of Prison Population in Two Months”</td>
<td>Outlet: Big Island Now</td>
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<th>Article: “Prosecutors raise alarms about hundreds of offenders released amid pandemic”</th>
<th>Outlet: Hawaii News Now</th>
<th>Published: May 4, 2020</th>
<th>Total paragraphs: 21</th>
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<td>Paragraphs about reentry that address DPS’s role/overall context</td>
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<td>Paragraphs that mention baseline recidivism rate/context</td>
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**APPENDIX D**

**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 health concerns: 0
- Paragraphs about (accurate) release process: 0
- Paragraphs about Supreme Court criteria of denying release only if threat to public safety: 0
- Article includes inmate voices or perspective?: No
- 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 health concerns: 0
- Paragraphs about (accurate) release process: 1
- Paragraphs about Supreme Court criteria of denying release only if threat to public safety: 0
- Article includes inmate voices or perspective?: No
- 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 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 health concerns | 0 |
| Paragraphs about (accurate) release process | 0 |
| Paragraphs about Supreme Court criteria of denying release only if threat to public safety | 0 |
| Article includes inmate voices or perspective? | No |
| 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 health concerns | 0 |
| Paragraphs about (accurate) release process | 1 |
| Paragraphs about Supreme Court criteria of denying release only if threat to public safety | 0 |
| Article includes inmate voices or perspective? | Yes |
| 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 health concerns | 4 |
| Paragraphs about (accurate) release process | 0 |
| Paragraphs about Supreme Court criteria of denying release only if threat to public safety | 0 |
| Article includes inmate voices or perspective? | Yes |
| 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 health concerns | 0 |
| Paragraphs about (accurate) release process | 0 |
| Paragraphs about Supreme Court criteria of denying release only if threat to public safety | 0 |
| Article includes inmate voices or perspective? | No |
| 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: “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 health concerns: 0
Paragraphs about (accurate) release process: 0
Paragraphs about Supreme Court criteria of denying release only if threat to public safety: 0
Article includes inmate voices or perspective?: No
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

Paragraphs about public safety concerns: 17
Paragraphs about violent offenders and reoffenders (specific cases): 14
Paragraphs about reentry concerns: 0
Paragraphs about reentry that address DPS's role/overall context: 0
Paragraphs that mention baseline recidivism rate/context: 1

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 health concerns: 0
Paragraphs about (accurate) release process: 2
Paragraphs about Supreme Court criteria of denying release only if threat to public safety: 1
Article includes inmate voices or perspective?: No
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

Paragraphs about public safety concerns: 15
Paragraphs about violent offenders and reoffenders (specific cases): 12
Paragraphs about reentry concerns: 0
Paragraphs about reentry that address DPS's role/overall context: 0
Paragraphs that mention baseline recidivism rate/context: 0
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 health concerns: 1
Paragraphs about (accurate) release process: 2
Paragraphs about Supreme Court criteria of denying release only if threat to public safety: 1

Article includes inmate voices or perspective? No
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 health concerns: 0
Paragraphs about (accurate) release process: 1
Paragraphs about Supreme Court criteria of denying release only if threat to public safety: 0

Article includes inmate voices or perspective? No
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: “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 health concerns: 0
Paragraphs about (accurate) release process: 0
Paragraphs about Supreme Court criteria of denying release only if threat to public safety: 0
Article includes inmate voices or perspective?: No
Article mentions Dr. Stewart, or quotes any doctors/public health officials?: 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 health concerns: 1
Paragraphs about (accurate) release process: 0
Paragraphs about Supreme Court criteria of denying release only if threat to public safety: 0
Article includes inmate voices or perspective?: No
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 health concerns: 1
Paragraphs about (accurate) release process: 0
Paragraphs about Supreme Court criteria of denying release only if threat to public safety: 1
Article includes inmate voices or perspective: No
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

Paragraphs about public safety concerns: 3
Paragraphs about violent offenders and reoffenders (specific cases): 0
Paragraphs about reentry concerns: 0
Paragraphs about reentry that address DPS’s role/overall context: 0
Paragraphs that mention baseline recidivism rate/context: 0

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 health concerns: 0
Paragraphs about (accurate) release process: 0
Paragraphs about Supreme Court criteria of denying release only if threat to public safety: 0
Article includes inmate voices or perspective: No
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

Paragraphs about public safety concerns: 2
Paragraphs about violent offenders and reoffenders (specific cases): 0
Paragraphs about reentry concerns: 0
Paragraphs about reentry that address DPS’s role/overall context: 0
Paragraphs that mention baseline recidivism rate/context: 0
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<th>Article: “Jail Populations Expected to Continue Decline Through June”</th>
<th>Published: May 16, 2020</th>
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<tr>
<td>Outlet: Big Island Now</td>
<td>Total paragraphs: 15</td>
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<th>Article: “Inmate releases amid COVID-19 fears are putting a big strain on service providers”</th>
<th>Published: May 18, 2020</th>
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<tr>
<td>Outlet: Hawaii News Now</td>
<td>Total paragraphs: 13</td>
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<td>Author: Lynn Kawano</td>
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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 health concerns: 0
Paragraphs about (accurate) release process: 0
Paragraphs about Supreme Court criteria of denying release only if threat to public safety: 0
Article includes inmate voices or perspective?: No
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

Paragraphs about public safety concerns: 5
Paragraphs about violent offenders and reoffenders (specific cases): 5
Paragraphs about reentry concerns: 0
Paragraphs about reentry that address DPS’s role/overall context: 0
Paragraphs that mention baseline recidivism rate/context: 0

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 health concerns: 0
Paragraphs about (accurate) release process: 1
Paragraphs about Supreme Court criteria of denying release only if threat to public safety: 0
Article includes inmate voices or perspective?: No
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

Paragraphs about public safety concerns: 0
Paragraphs about violent offenders and reoffenders (specific cases): 0
Paragraphs about reentry concerns: 0
Paragraphs about reentry that address DPS’s role/overall context: 0
Paragraphs that mention baseline recidivism rate/context: 0
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 health concerns: 0
Paragraphs about (accurate) release process: 0
Paragraphs about Supreme Court criteria of denying release only if threat to public safety: 0
Article includes inmate voices or perspective?: No
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 health concerns: 0
Paragraphs about (accurate) release process: 1
Paragraphs about Supreme Court criteria of denying release only if threat to public safety: 0
Article includes inmate voices or perspective?: No
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 health concerns: 0
Paragraphs about (accurate) release process: 0
Paragraphs about Supreme Court criteria of denying release only if threat to public safety: 0
Article includes inmate voices or perspective?: No
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 health concerns: 0
Paragraphs about (accurate) release process: 4
Paragraphs about Supreme Court criteria of denying release only if threat to public safety: 0
Article includes inmate voices or perspective?: No
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 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 health concerns: 0
Paragraphs about (accurate) release process: 1
Paragraphs about Supreme Court criteria of denying release only if threat to public safety: 0

Article includes inmate voices or perspective? No
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

Paragraphs about public safety concerns: 6
Paragraphs about violent offenders and reoffenders (specific cases): 1
Paragraphs about reentry concerns: 4
Paragraphs about reentry that address DPS’s role/overall context: 0
Paragraphs that mention baseline recidivism rate/context: 0

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 health concerns: 1
Paragraphs about (accurate) release process: 2
Paragraphs about Supreme Court criteria of denying release only if threat to public safety: 0

Article includes inmate voices or perspective? No
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

Paragraphs about public safety concerns: 4
Paragraphs about violent offenders and reoffenders (specific cases): 1
Paragraphs about reentry concerns: 0
Paragraphs about reentry that address DPS’s role/overall context: 0
Paragraphs that mention baseline recidivism rate/context: 0
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 health concerns: 0
Paragraphs about (accurate) release process: 0
Paragraphs about Supreme Court criteria of denying release only if threat to public safety: 0

Article includes inmate voices or perspective? No
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 health concerns: 0
Paragraphs about (accurate) release process: 1
Paragraphs about Supreme Court criteria of denying release only if threat to public safety: 1

Article includes inmate voices or perspective? No
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 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 health concerns: 0
Paragraphs about (accurate) release process: 0
Paragraphs about Supreme Court criteria of denying release only if threat to public safety: 0
Article includes inmate voices or perspective?: No
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

Paragraphs about public safety concerns: 3
Paragraphs about violent offenders and reoffenders (specific cases): 0
Paragraphs about reentry concerns: 0
Paragraphs about reentry that address DPS’s role/overall context: 0
Paragraphs that mention baseline recidivism rate/context: 0

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 health concerns: 0
Paragraphs about (accurate) release process: 2
Paragraphs about Supreme Court criteria of denying release only if threat to public safety: 0
Article includes inmate voices or perspective?: No
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

Paragraphs about public safety concerns: 0
Paragraphs about violent offenders and reoffenders (specific cases): 0
Paragraphs about reentry concerns: 0
Paragraphs about reentry that address DPS’s role/overall context: 0
Paragraphs that mention baseline recidivism rate/context: 0
### Article: “Inmates released due to pandemic are back behind bars”

**Outlet:** *Hawaii News Now*  
**Author:** Lynn Kawano  
**Published:** May 22, 2020  
**Total paragraphs:** 11

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- Article includes inmate voices or perspective? No
- 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

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<th>Paragraphs about reentry concerns</th>
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- Article includes inmate voices or perspective? No
- 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: “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 health concerns: 0
- Paragraphs about (accurate) release process: 0
- Paragraphs about Supreme Court criteria of denying release only if threat to public safety: 0
- Article includes inmate voices or perspective?: Yes
- 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

Paragraphs about public safety concerns: 1
Paragraphs about violent offenders and reoffenders (specific cases): 0
Paragraphs about reentry concerns: 14
Paragraphs about reentry that address DPS’s role/overall context: 7
Paragraphs that mention baseline recidivism rate/context: 0

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 health concerns: 0
- Paragraphs about (accurate) release process: 0
- Paragraphs about Supreme Court criteria of denying release only if threat to public safety: 0
- Article includes inmate voices or perspective?: No
- 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

Paragraphs about public safety concerns: 5
Paragraphs about violent offenders and reoffenders (specific cases): 0
Paragraphs about reentry concerns: 1
Paragraphs about reentry that address DPS’s role/overall context: 0
Paragraphs that mention baseline recidivism rate/context: 0
**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 health concerns: 0
- Paragraphs about (accurate) release process: 1
- Paragraphs about Supreme Court criteria of denying release only if threat to public safety: 0

**Article includes inmate voices or perspective?** No  
**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 health concerns: 0  
- Paragraphs about (accurate) release process: 1  
- Paragraphs about Supreme Court criteria of denying release only if threat to public safety: 0

**Article includes inmate voices or perspective?** No  
**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 health concerns: 0  
- Paragraphs about (accurate) release process: 0  
- Paragraphs about Supreme Court criteria of denying release only if threat to public safety: 0  
- Article includes inmate voices or perspective?: No  
- 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 health concerns: 0  
- Paragraphs about (accurate) release process: 1  
- Paragraphs about Supreme Court criteria of denying release only if threat to public safety: 0  
- Article includes inmate voices or perspective?: No  
- 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

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66 • OUTBREAK
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 health concerns: 1
- Paragraphs about (accurate) release process: 1
- Paragraphs about Supreme Court criteria of denying release only if threat to public safety: 0
- Article includes inmate voices or perspective?: No
- 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
- Paragraphs about public safety concerns: 6
- Paragraphs about violent offenders and reoffenders (specific cases): 1
- Paragraphs about reentry concerns: 0
- Paragraphs about reentry that address DPS’s role/overall context: 0
- Paragraphs that mention baseline recidivism rate/context: 0
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.”
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.”

- 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).

- 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.”

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

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
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
Authors

Tom Helper
Stephanie Turrentine
Isaiah Feldman-Schwartz
“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.” - Kānwai Māmalahoe, the Law of the Splintered Paddle