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GOVERNOR



STATE OF HAWAII  
**DEPARTMENT OF PUBLIC SAFETY**  
919 Ala Moana Boulevard, 4th Floor  
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No. \_\_\_\_\_

December 12, 2019

The Honorable Ronald D. Kouchi,  
President and Members of the Senate  
Thirtieth State Legislature  
State Capitol, Room 409  
Honolulu, Hawaii 96813

The Honorable Scott K. Saiki, Speaker  
and Members of the House of  
Representatives  
Thirtieth State Legislature  
State Capitol, Room 431  
Honolulu, HI 96813

Dear President Kouchi, Speaker Saiki, and Members of the Legislature:

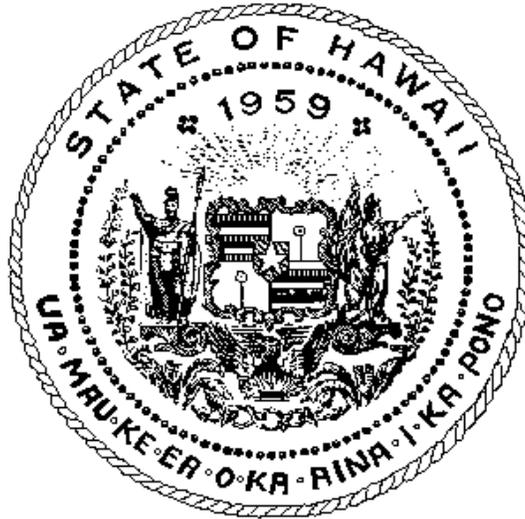
For your information and consideration, I am transmitting a copy of the Report on Release of Misdemeanants, as required by Act 217, Session Laws of Hawaii 2016, §353-36 and §356-37, Hawaii Revised Statutes. In accordance with Section 93-16, Hawaii Revised Statutes, I am also informing you that the report may be viewed electronically at: <https://dps.hawaii.gov/wp-content/uploads/2019/12/Report on Release of Misdemeanants.pdf>.

Sincerely,

A handwritten signature in black ink, appearing to read "Nolan P. Espinda". The signature is fluid and cursive, with a large initial "N" and "E".

Nolan P. Espinda  
Director

Enclosures



**DEPARTMENT OF PUBLIC SAFETY  
REPORT TO THE 2020 LEGISLATURE**

**IN RESPONSE TO HRS 353-36 & 37  
ACT 217, SESSION LAWS OF HAWAII 2016**

**RELEASE OF MISDEMEANANTS**

**December 2019**

**HRS 353-36 & 37/Act 217, Sessions Law of Hawaii 2016  
RELEASE OF MISDEMEANANTS**

Act 217, Session Laws of Hawaii 2016, requires the Department of Public Safety (PSD) to report to the Legislature any misdemeanor releases by the Director pursuant to this Act. The report shall include the following information: 1) detailed information on the number of incarcerated misdemeanants released; 2) the guidelines and criteria used in deciding release; 3) any information regarding post-release offenses committed or allegedly committed by a misdemeanants; 4) any known incidents of interactions between released misdemeanants and law enforcement agencies due to alleged criminal behavior; and 5) any other information the Legislature deems relevant to determine the best interests of the State.

After the passage of Act 217, PSD developed a policy to implement the requirements of the Act. The policy development process required extensive research and data review. A draft misdemeanor screening tool was developed and utilized as part of a pilot project prior to finalization. Shortly thereafter, training was provided to staff at Hawaii Intake Service Center, Kauai Intake Service Center, Maui Intake Service Center, Oahu Intake Service Center, Hawaii Community Correctional Center, Kauai Community Correctional Center, Maui Community Correctional Center, and Oahu Community Correctional Center. The finalized policy, including the screening tool and forms, took effect on March 1, 2017. This report focuses on the period July 2018 to June 2019.

**I. Detailed information on the number of incarcerated misdemeanants released.**

No offenders were released during the review period pursuant to Act 217. It is possible that meetings and presentations of the Act 134 Pre-Trial Task Force may have caused affected criminal justice system entities to enact policy changes that may have impacted the inmates who are candidates for release under HRS 353-36.

**II. The guidelines and criteria used in deciding misdemeanor releases.**

PSD formalized the policy around the requirements of Act 217 and incorporated other factors for the Director's consideration, including, the Pretrial risk assessment score, the jail classification score, whether the individual's mental health condition is managed, and the designation of a residence address. A copy of the policy, referenced as COR.16.11: Release of Misdemeanants at Community Correctional Centers, is available on PSD's website at <https://dps.hawaii.gov/wp-content/uploads/2017/06/COR.16.11.pdf>.

**III. Any information regarding post-release offenses committed or allegedly committed by a misdemeanor.**

Not applicable.

**IV. Any known incidents of interactions between released misdemeanants and law enforcement agencies due to alleged criminal behavior.**

Not applicable.

**V. Any other information the Legislature deems relevant to determine the best interest of the State.**

Additional information was not requested by the Legislature.

**VI. Recommended Changes to the HRS 353-36 & 37 and Act 217 related to Misdemeanant Releases.**

Introduced as part of the Administration's package in 2018 session, PSD's HB 2387, HD1, proposed amendments to HRS 353-36 & 37 and Act 217 that would allow for a wider pool of misdemeanants to be considered for release, while maintaining safeguards for the community. The bill was deferred with the reasoning that the HCR 134 Pretrial Task Force was continuing its deliberations, some of which might impact Act 217 and HRS 353-36 and would be submitting its report the following year to the 2019 Legislature.

HB 2387's purpose was to expand the population of inmates to be assessed by allowing the consideration of inmates convicted under offenses other than HRS 706-663. The Bill also provided that those convicted of offenses that involve a violation of an order of protection or violation of a temporary restraining order, as well as those arrested for those offenses, be precluded from being assessed under Act 217, to further ensure victims' and the public's safety.

Again, it is possible that meetings and presentations of the Act 134 Pre-Trial Task Force may have caused affected criminal justice system entities to enact policy changes that may have impacted the inmates who are candidates for release under HRS 353-36.

Finally, it should be noted that HRS 353-36 will sunset at the close of this fiscal year, on June 30, 2020, just after the adjournment of the upcoming Legislative session.