



Supreme Court — THE JUDICIARY • STATE OF HAWAII

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Mark E. Recktenwald
CHIEF JUSTICE

May 13, 2020

Senator Donovan M. Dela Cruz, Chair
Senator Jarrett Keohokalole
Senator Michelle N. Kidani
Senator Donna Mercado Kim
Senator Sharon Y. Moriwaki
Senator Kurt Fevella
Senate Special Committee on COVID-19
Hawai'i State Capital
415 S. Beretania Street
Honolulu, HI 96813

Dear Chair Dela Cruz and Members of the
Senate Special Committee on COVID-19,

This letter is in response to your May 12, 2020 letter to me (a copy of which is enclosed) regarding Governor Ige's travel quarantine orders and concerns with respect to enforcement. You requested that I issue a directive to all judges stating that release of those arrested for alleged violations of the travel quarantine orders "should not be presumed unless an appropriate amount of bail is posted and conditions, including ankle bracelets, are imposed."

The Judiciary appreciates the concerns expressed in your letter. Governor Ige also wrote last week regarding similar issues. As I indicated in my response to Governor Ige's letter, bail must be set on an individualized basis consistent with constitutional and statutory requirements, which do not authorize bail schedules. See Pelekai v. White, 75 Haw. 357, 861 P.2d 1205 (1993).

In addition to the bail considerations, I also explained that the administrative judges are open to discussing expedited arraignment and pleas for cases involving alleged violations of travel quarantine restrictions, on a county by

Chair Donovan M. Dela Cruz and Members of the
Senate Special Committee on COVID-19
May 13, 2020
Page 2

county basis, in collaboration with, among others, the attorney general, the office of the public defender, the county police departments, and the county prosecutors. Any discussion must take into consideration my orders restricting entry to Judiciary facilities for anyone who has traveled in the past 14 days. By proceeding on a county level, the courts will be able to address any county specific concerns that may arise.

Thank you for the Committee's interest in these important issues.

Sincerely,



Mark E. Recktenwald
Chief Justice

Enclosure: Letter from the Senate Special Committee on
COVID-19 to Chief Justice Mark Recktenwald dated May 12, 2020

cc w/enclosure:

Senate President Ronald D. Kouchi
Senators of the 30th Legislature
Governor David Y. Ige
Attorney General Clare E. Connors
Public Defender James S. Tabe
Acting Prosecuting Attorney Dwight Nadamoto,
City and County of Honolulu
Prosecuting Attorney Mitchell Roth, County of Hawai'i
Prosecuting Attorney Don S. Guzman, County of Maui
Prosecuting Attorney Justin Kollar, County of Kaua'i
Chief Susan Ballard, Honolulu Police Department
Chief Paul Ferreira, Hawai'i Police Department
Chief Tivoli Faaumu, Maui Police Department
Chief Todd Raybuck, Kaua'i Police Department
Myles Breiner, Esq., President, Hawai'i Association of
Criminal Defense Lawyers



The Senate

STATE CAPITOL
HONOLULU, HAWAII 96813

May 12, 2020

The Honorable Mark Recktenwald
Chief Justice
Supreme Court of Hawaii
417 S. King Street
Honolulu, HI 96813

Dear Chief Justice Recktenwald,

As you may know, the Senate Special Committee on the State's Response to COVID-19 has sought to address a number of concerns coming from our constituents regarding the enforcement of the travel quarantine orders put into effect by Governor Ige. The travel quarantine orders are important safety measures and we have worked with various state agencies to improve the systems for screening and monitoring travelers into the state. Even with improved screening and monitoring, there are those who are exploiting the system and are breaking the laws in place to keep us safe.

One major concern we hear about constantly from our constituents is that the quarantine orders are being flouted once travelers leave the airport. We also have heard that it is challenging for law enforcement to address these violations because when they appear before a judge, often the violators are released on their own recognizance and without any measures to ensure no further violations happen.

On behalf of the Senate Committee, and our constituents, we ask that you address these concerns on behalf of law enforcement in a consistent manner. We saw that the Hawai'i Supreme Court issued an order to all judges in the prison release matter directing that, in considering the releases on an individualized basis, "release shall be presumed..." and that "a verified residence for an inmate should not be required in every case." We ask that you issue a similar directive to all judges handling these matters, except that release should not be presumed unless an appropriate amount of bail is posted and conditions, including ankle bracelets, are imposed. The underlying concerns are the same, as both relate to keeping our population safe during this pandemic.

State Senate, State Capitol
415 S. Beretania Street
Honolulu, HI 96813

Chief Justice Recktenwald
May 12, 2020
Page 2

We are convening this month to address certain pressing issues, including matters related to enforcement of these safety measures. We appreciate your cooperation with our statewide effort.

Sincerely,

Senator Donovan M. Dela Cruz
Senator Jarrett Keohokalole
Senator Michelle N. Kidani
Senator Donna Mercado Kim
Senator Sharon Moriwaki
Senator Kurt Fevella

Cc. Senate President
All Senators