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DEPT. COMM. NO. 145

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STATE OF HAWAII  
**DEPARTMENT OF PUBLIC SAFETY**

919 Ala Moana Boulevard, 4th Floor  
Honolulu, Hawaii 96814

No. \_\_\_\_\_

December 18, 2018

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

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

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

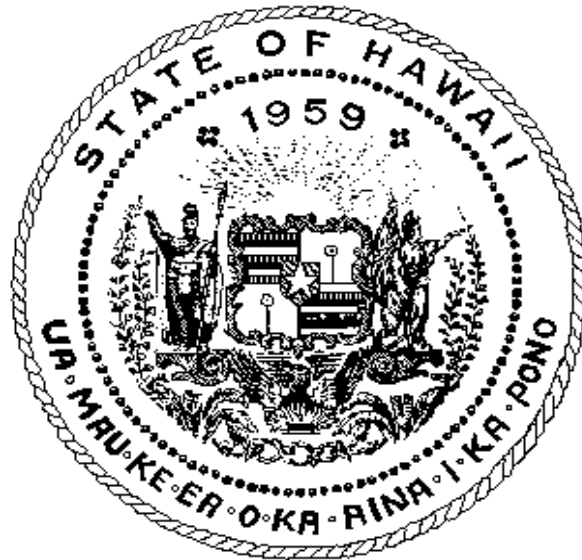
For your information and consideration, I am transmitting a copy of the **Report on Release of Certain Misdemeanants**, as required by Act 217, Session Laws of Hawaii 2016, Sections 353-36 and 353-37, Hawaii Revised Statutes. In accordance with Section 93-16, Hawaii Revised Statutes, I am also informing you that the report may be viewed electronically at: <http://dps.hawaii.gov/publications/reports-to-legislature/2019/Release of Certain Misdemeanants.pdf>.

Sincerely,

A handwritten signature in blue ink that reads "Nolan P. Espinda".

Nolan P. Espinda  
Director

Enclosures



**DEPARTMENT OF PUBLIC SAFETY  
REPORT TO THE 2019 LEGISLATURE**

**Responsive to Act 217, Session Laws of Hawaii 2016  
Sections 353-36 and 353-37, Hawaii Revised Statutes**

**RELEASE OF CERTAIN MISDEMEANANTS**

**December 2018**

**Act 217, Sessions Law of Hawaii 2016  
Sections 353-36 & 353-37, Hawaii Revised Statutes**

**RELEASE OF CERTAIN MISDEMEANANTS**

Act 217, Session Laws of Hawai'i 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 began developing 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, became effective on March 1, 2017. This report will focus on the period of July 2017 to June 2018.

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

There were 3 offenders were released during the review period pursuant to Act 217 with 2 released on Hawaii Island and 1 released on Kauai. The demographic information for the three (3) releases includes that they were sentenced misdemeanants, who were released on their own recognizance (ROR). They all scored community custody on the jail classification instrument. They did not have any medical or mental health concerns, and they had secured a residence.

**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.**

A review of CJIS for the three (3) individuals released substantiated that they did not have any post release offenses (excluding traffic offenses) resulting in an arrest or commitment.

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

A review of CJIS for the three (3) individuals released substantiated that they did not have any post release offenses (excluding traffic offenses) that resulted in an arrest or commitment.

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

PSD was not provided with any request for additional information related to Act 217.

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

In the 2018 Legislature, PSD recommended changes to the language of HRS 353-36 & 37 and Act 217 to allow for a wider pool of misdemeanants to be assessed, while ensuring the safety of the community. This bill was tabled pending the HCR 134 Pretrial Task Force's submittal of its report to the 2019 Legislature.

The recommended changes focused on language that does not limit the type of misdemeanants to only charges based on HRS 706-663. This change will allow for the consideration of other offenses which are currently excluded. The Department also suggested that those arrested, as well as, those convicted of offenses that involve a violation of an order of protection or violation of a temporary restraining order be precluded from an assessment under Act 217, in light of victims' and public safety concerns.

A total of 259 individuals were eligible for release under Act 217 during the evaluation period. There were 3 individuals who were released pursuant to the Act and 85 individuals were released from custody prior to the required notifications to the Court and Prosecutor's Office or finalization of the release documents. There were 171 individuals who were not considered for release based on the following factors: Risk Assessment score (106), Mental Health concerns (54), Criminal History (6), and other factors (5).