

JOSH GREEN, M.D.  
GOVERNOR



**DEPT. COMM. NO. 172**

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ATTORNEY GENERAL

MATTHEW S. DVONCH  
FIRST DEPUTY ATTORNEY GENERAL

**STATE OF HAWAII**  
**DEPARTMENT OF THE ATTORNEY GENERAL**  
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(808) 586-1500

December 20, 2024

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

The Honorable Nadine K. Nakamura  
Speaker and Members of the  
House of Representatives  
Thirty-Third State Legislature  
State Capitol, Room 431  
Honolulu, Hawaii 96813

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

For your information and consideration, I am transmitting a copy of the Department of the Attorney General's Report on the Pilot Project to Expunge Certain Arrest Records, as required by Act 62, Session Laws of Hawaii 2024. In accordance with section 93-16, Hawaii Revised Statutes, I am also informing you that the report may be viewed electronically at <http://ag.hawaii.gov/publications/reports/reports-to-the-legislature/>.

If you have any questions or concerns, please feel free to call me at (808) 586-1500.

Sincerely,

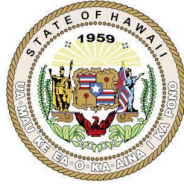
*Anne E. Lopez*

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Attorney General

c: Josh Green, M.D., Governor  
Sylvia Luke, Lieutenant Governor  
Legislative Reference Bureau (Attn: Karen Mau)  
Leslie H. Kondo, State Auditor  
Luis Salaveria, Director of Finance, Department of Budget and Finance  
Stacey A. Aldrich, State Librarian, Hawaii State Public Library System  
David Lassner, Ph.D., President, University of Hawaii

Enclosure

**JOSH GREEN, M.D.**  
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## **REPORT ON THE PILOT PROJECT TO EXPUNGE CERTAIN ARREST RECORDS**

Pursuant to Act 62, Session Laws of Hawaii 2024

Submitted to the Thirty-Third State Legislature  
Regular Session of 2025

### **I. INTRODUCTION**

Act 62, Session Laws of Hawaii 2024 (Act 62), established a pilot project administered by the Department of the Attorney General to expunge certain arrest records and other records pertaining to prior arrests made under section 712-1249, Hawaii Revised Statutes (HRS), for possession of marijuana. For purposes of the pilot project, the Department of the Attorney General was required to use the existing funding and resources of the Hawaii Criminal Justice Data Center (HCJDC), including the Hawaii Criminal Justice Information System (CJIS).

As of December 13, 2024, the HCJDC reviewed or began reviewing 640 arrest records under a state-initiated expungement pilot project. Of these, eighty-one records were verified and expunged, 112 are pending expungement, thirty-three were denied, and 414 remain under review. In the first year, the pilot project uncovered several challenges, including limited data in CJIS, difficulties in obtaining records, and incomplete arrest records, resulting in a labor-intensive and slow process.

The pilot project highlighted the need for human intervention to assess eligibility for a record to be expunged, because critical details like drug type and case disposition are inconsistently entered into CJIS, and records need to be manually checked. The Department of the Attorney General will continue exploring ways to streamline the process and will submit a comprehensive report to the Legislature before the regular session of 2026, outlining recommendations and required resources. Any expansion of the pilot project in the interim should carefully consider these challenges, as fully automating expungements remains infeasible.

## II. ACT 62

Act 62 was enacted on June 21, 2024, and established a pilot project for state-initiated expungement of certain marijuana-related arrest records. Pursuant to section 2(b) of Act 62:

(b) Notwithstanding section 831-3.2, Hawaii Revised Statutes, or any other law to the contrary, the department of the attorney general shall issue, without any written application by the holder of an arrest record and on the department's own initiative, an expungement order annulling, canceling, and rescinding the arrest record where:

- (1) The arrest occurred before January 11, 2020;
- (2) The arrest resulted in a single charge of violating section 712-1249, Hawaii Revised Statutes, for possessing marijuana;
- (3) The arrest occurred in a county having a population greater than two hundred thousand and less than five hundred thousand persons;
- (4) The criminal case terminated with a final disposition other than a conviction; and
- (5) An expungement order is not otherwise prohibited from being issued by law, including section 831-3.2(a), Hawaii Revised Statutes.

The department shall not charge the holder of the arrest record any fee for the issuance of an expungement order pursuant to the pilot project established by this section.

Act 62 requires the HCJDC to submit a report to the legislature regarding the progress of the pilot project, no later than twenty days prior to the convening of the regular sessions of 2025 and 2026, that shall include the following:

- (1) The total number of records identified to date as potentially eligible for expungement;
- (2) The total number of expungement orders granted to date by the department of the attorney general;
- (3) The total time and resources expended by the Hawai'i criminal justice data center to date on the pilot project; and
- (4) With respect to the report due to the legislature twenty days prior to the convening of the regular session of 2026, any future recommendations, including a statement of required resources and appropriations concerning state-initiated expungements.

### III. THE PROCESS AND PROCEDURES USED TO IMPLEMENT THE PILOT PROJECT

The HCJDC is the division of the Department of the Attorney General responsible for processing expungement orders pursuant to section 831-3.2, HRS, and for maintaining CJIS. CJIS is a centralized database for pertinent criminal justice data collected from all criminal justice agencies, including state and county law enforcement agencies and the judiciary. HCJDC was tasked with implementing the pilot project using criminal history record information in CJIS to identify and expunge criminal records that meet the criteria of the pilot project.

Based on the criteria established in section 2(b) of Act 62, HCJDC determined that Hawaii County met the criteria of a county having a population greater than two hundred thousand and less than five hundred thousand persons. The pilot project is therefore focused on arrests made in Hawaii County, before January 11, 2020, that resulted in a single charge for a violation of section 712-1249, HRS, for possession of marijuana.

The required criteria presented logistical issues that substantially increased the time and workforce needed to implement the pilot project. There is no way to easily determine that a person was charged under section 712-1249, HRS, for possession of marijuana. A person can be arrested and charged with an offense of promoting a detrimental drug in the third degree under section 712-1249, HRS, for possessing any amount of marijuana or any amount of a Schedule V substance. Schedule V substances include low level narcotics such as prescription medications with small amounts of codeine, opium, and other opioids.<sup>1</sup> The information in CJIS is generally limited to identifying the charge by statute, not by substance. Therefore, a person

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<sup>1</sup> Specifically, Schedule V includes ". . . [a]ny compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, which also contains one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation, valuable medicinal qualities other than those possessed by the narcotic drug alone:

- (1) Not more than 200 milligrams of codeine, or any of its salts, per 100 milliliters or per 100 grams;
- (2) Not more than 100 milligrams of dihydrocodeine, or any of its salts, per 100 milliliters or per 100 grams;
- (3) Not more than 100 milligrams of ethylmorphine, or any of its salts, per 100 milliliters or per 100 grams;
- (4) Not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit;
- (5) Not more than 100 milligrams of opium per 100 milliliters or per 100 grams; and
- (6) Not more than 0.5 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit."

Section 329-22(b), HRS.

charged with possession of a Schedule V drug will be shown only as being charged with an offense under section 712-1249, HRS. The detail of the substance may not be included and would have to be determined by a manual review of the arrest record, charging documents, or court records.

Because the details of the incident, such as the substance possessed, are generally not included in CJIS data, for most cases the HCJDC expunger must manually review the arrest records, charging documents, and other court records to determine whether the individual charged with a 712-1249, HRS, violation is eligible for expungement under the pilot project. Obtaining these records is another step in the process, because arrest records are kept by the arresting law enforcement agency and are not automatically shared with HCJDC, and court records are kept by the judiciary and are not automatically shared with HCJDC, although some court records are publicly available.

Given this background information, the process HCJDC employed to implement the pilot project had four basic steps:

- (1) **Identify records for potential expungement:** HCJDC used CJIS to research and identify records potentially eligible for expungement;
- (2) **Verify arrest details.** HCJDC requested the arresting law enforcement agencies to review their arrest records and verify the type of drug involved in each arrest, and, where applicable, contacted the judiciary for charging documents or other court records; and
- (3) **Determine eligibility.** Using CJIS, publicly available documents, and the additional information from step 2, HCJDC reviewed records to determine eligibility for expungement.
- (4) **Expunge records.** Once it was determined that a record qualified for expungement, HCJDC contacted the arresting law enforcement agency, identified the record to be expunged, and requested that the fingerprints and photographs associated with the records be transferred to HCJDC. Upon receipt of the fingerprints and photographs, HCJDC completed the expungement process.

The HCJDC initiated the process by using CJIS to identify arrests in Hawaii County involving a single charge under section 712-1249, HRS, that occurred prior to January 11, 2020. A total of 2,268 records were identified as potentially eligible for expungement. Some individuals had been arrested for the same charge in separate incidents, resulting in multiple eligible records. Considering this, the number of individuals potentially eligible for at least one record expungement was 2,161. Detailed demographic information for these individuals is provided in Section IV of this report.

To verify the arrest details of the identified arrest records, HCJDC requested information from the arresting agencies. Of the 2,268 total records identified, 2,247 arrests were made by the Hawaii County Police Department (HCPD) and twenty-one arrests were made by the Department of Law Enforcement (DLE). On August 6, 2024,

HCJDC contacted both agencies via email, seeking their assistance with the pilot project. Each agency received an Excel spreadsheet containing details of the arrests they handled, including the arrestee's name, State Identification (SID) number, Offender Tracking Number (OTN), arrest report number, and arrest date. HCJDC requested that the arresting agency review their records for the identified incidents and verify the type of drug(s) that were involved. Given the volume of records HCPD was asked to review, HCJDC suggested that up to fifty records be reviewed per month.<sup>2</sup>

On August 13, 2024, the DLE reported that their reviewed records did not contain information to verify drug-related details for any of the identified arrests. HCJDC continued to examine publicly available court records for the twenty-one DLE arrests. On September 12, 2024, HCJDC requested complaint files from the Judiciary for six of the DLE arrests lacking publicly available court documents. The Judiciary responded on September 16, 2024, stating it had no documents for the identified arrests. By December 13, 2024, HCJDC successfully verified and expunged ten of the twenty-one DLE arrest records using data from CJIS and publicly available court records. Four arrests were denied for expungement, and seven remain pending verification of drug information or final court disposition.

HCJDC continued reviewing publicly available court records for 2,247 HCPD arrests and, by December 13, 2024, has manually reviewed or started reviewing 619 of these records. Based on data from CJIS and publicly available court documents, HCJDC determined that 183 of the reviewed HCPD arrest records qualified for expungement. Of these, HCJDC has completed the expungement process for seventy-one records, while 112 are in progress. Twenty-nine arrests were denied for expungement, and 407 remain under review.

As of December 13, 2024, HCJDC manually reviewed or begun reviewing a total of 640 arrest records, including twenty-one DLE arrests and 619 HCPD arrests. From these, eighty-one records have been verified and expunged, 112 have been verified and are pending expungement, thirty-three have been denied, and 414 remain under further review.

#### **IV. THE TOTAL NUMBER OF RECORDS IDENTIFIED TO DATE AS POTENTIALLY ELIGIBLE FOR EXPUNGEMENT**

As of the date of this report and based on the available resources, the Hawai'i Criminal Justice Data Center has identified 2,161 individual offenders arrested or charged in Hawaii County that are potentially eligible for expungement.

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<sup>2</sup> On September 9, 2024, HCJDC followed up with the HCPD via email after receiving no response during the first month of the pilot project. As of the date of this report, HCPD has not responded to these requests.

Breakdown of offenders by ethnicity:

RACE	Hawaii PD	Hawaii Sheriff
BLACK	60	
CHINESE	13	
FILIPINO	140	1
HAWAIIAN	506	4
HISPANIC	54	3
JAPANESE	80	
KOREAN	4	
MICRONESIAN	16	1
NATIVE AMERICAN	5	
OTHER	124	2
SAMOAN	9	
TONGAN	5	
UNKNOWN	51	
WHITE	1073	10

**V. THE TOTAL NUMBER OF EXPUNGEMENT ORDERS GRANTED TO DATE BY THE DEPARTMENT OF THE ATTORNEY GENERAL**

As of December 13, 2024, and based on the available resources, the Department of the Attorney General has granted eighty-one expungement orders.

**VI. THE TOTAL NUMBER OF ARREST/CHARGES DENIED TO DATE BY THE DEPARTMENT OF THE ATTORNEY GENERAL.**

As of December 13, 2024, and based on the available resources, the Department of the Attorney General has identified thirty-three arrests that do not qualify for expungement.

**VII. THE TOTAL TIME AND RESOURCES EXPENDED BY THE HAWAI'I CRIMINAL JUSTICE DATA CENTER TO DATE ON THE PILOT PROJECT.**

As of December 13, 2024, and based on the available resources, the HCJDC has spent approximately two hundred and sixty hours on the pilot project and has used the resources of four staff members, including the Administrator.

## **VIII. CONCLUSION**

The pilot project highlighted significant challenges in implementing a state-initiated expungement program. The limited data in CJIS, coupled with the lack of access to detailed arrest records, made the process slow and labor-intensive. Although HCJDC made progress in identifying arrest records that could be expunged, substantial obstacles remain to verify eligibility and complete the expungement process.

The Department of the Attorney General will continue studying these challenges and exploring ways to streamline the expungement process under this pilot project. In accordance with Act 62, a comprehensive report, including recommendations or a statement of the resources and appropriations required for state-initiated expungements, will be submitted to the Legislature before the 2026 regular session.

In the interim, if the Legislature contemplates expanding the scope of offenses eligible for expungement under this pilot project, it is essential to recognize that the process cannot be fully automated. Human review and intervention will remain necessary to assess case eligibility. Expungement will continue to require extensive research into arrest and court records, a process further complicated by the inconsistent entry of critical information—such as the type of drug involved and the final case disposition—into CJIS. These challenges should be carefully considered before any expansion of the pilot project.