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TOP NEWS

Special Master Daniel Foley recommends state reduce inmate population to stem spread of COVID-19

By [Gordon Y.K. Pang](#) • Today

The independent special master assigned to study overcrowding at state correctional facilities is recommending that the Department of Public Safety work with other stakeholders to reduce the number inmates being housed in the wake of the [coronavirus pandemic](#).

“It is my recommendation that the process of reconsidering, lowering, and monitoring the operational capacities of the Hawai‘i’s correctional centers and facilities begin,” Special Master Daniel Foley said in a filing to the Hawaii Supreme Court today.

The Office of the Public Defender late last month filed motions with the High Court urging that it require the state to promptly release certain, non-violent inmates as a means of reducing the numbers being held in the overpopulated state jails and prisons. The office pointed out that limiting social contact between individuals is the key issue in dealing with widespread infiltration of the coronavirus and that the state’s inmate populations at its eight jails and prisons are over capacity. They urged that non-violent inmates in the jails, and some now incarcerated in prisons, be released to ease the populations.

[In a subsequent filing](#), Public Defender James Tabe submitted a list of 426 inmates, all but a handful of them housed in the state’s four jails, that he believes should be considered for release.

Attorney General Clare Connors and three of the four county prosecutors, in their filings, do not dispute overcrowding in the facilities and have not raised objections to the concept of releasing inmates. But they have insisted that inmate’s cases be handled individually and that those released should be closely monitored.

Gov. David Ige last week wrote to President Trump seeking the use of the Federal Detention Center to house state prison inmates temporarily to help ease overpopulation in response to the outbreak.

DPS said it already has been working with the Judiciary and others in reducing inmate population — short of releasing individuals. Its total jail population, as of Monday, was 1,695 inmates, a decrease of 504 from its count on March 2.

The High Court last week designated Foley as special master and gave him until today to file a preliminary report.

Foley, a retired appellate judge and one-time civil liberties attorney, cited in his 44-page preliminary report recommendations made by a state-appointed oversight commission that called for certain inmates to be released to help lower the possibility of the spread of COVID-19 both within the state’s eight jails and prisons, as well as Hawaii’s greater population.

“The parties should continue the effort to decrease inmate populations and lower the currently set operational capacities in light of COVID-19,” Foley wrote. “Furthermore, it is critical that concurrent efforts continue, which should include the DPS sharing their plans and efforts to implement its Pandemic Response Plan as requested by the Oversight Commission.”

Foley added: “While actual counts of cells serving double, triple, or quadruple occupancy are yet unknown to the Special Master in the short time available for this interim report, a credible source has advised that in some modules personal space appears downright impossible with over 160 individuals in 48 cells of two modules at MCCC, or 175 individuals in 54 cells at HCCC.”

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