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May 15, 2020

Hon. Donovan Dela Cruz
The Senate
State Capitol
Honolulu, Hawaii 96813

Dear. Sen. Dela Cruz:

Regarding the questions asked by the committee:

- The number and categories of citations issued by the Honolulu Police Department for violations of the Governor's Emergency Proclamations and the Mayor's Emergency Proclamations;

For citations, we do not have this information. The Committee should ask HPD.

- Working with Ms. Alivado of the Honolulu Police Commission, statistics on actions taken by the Honolulu Police Department's to enforce the Governor's Emergency Proclamations and the Mayor's Emergency Proclamations including information from the arrest logs and citations issued;

We do not have this information. Does the Committee want us to work with Ms. Alivado of HPC to get such info?

- Copies of the training protocol that the Honolulu Prosecutors will provide police officers that will bring consistency of actions to be taken in enforcing the emergency proclamations among law enforcement, at a minimum with setting bail and arrest;

We do not have protocol for HPD.

We do not instruct HPD on how much to set bail. They decide. Per HRS Section 804-5.

In cases where the punishment for the offense charged may be imprisonment for life not subject to parole, or imprisonment for a term more than ten years with or without fine, a judge or justice of a court of record, including a district judge, shall be competent to admit the accused to bail, in conformity with sections 804-3 to 804-6. In all other cases, the accused may be so admitted to bail by any judge or justice of a court of record, including a district judge, and in cases, except under section 712-1207, where the punishment for the offense charged may not exceed two years' imprisonment with or without fine, the sheriff, the sheriff's deputy, the chief of police or any person named by the chief of police, or the sheriff of Kalawao, regardless of the circuit within which the alleged offense was committed, may admit the accused person to bail. The court shall impose conditions of release or bail that are the least restrictive conditions required to ensure the accused's appearance and to protect the public. [L 1892, c 32, §3; RL 1925, §3980; am L 1931, c 231, §1; am L 1933, c 30, §1; RL 1935, §5434; RL 1945, §10735; RL 1955, §256-5; am L 1957, c 282, §9; am L 1963, c 85, §3; HRS §709-5; am L 1970, c 188, §39; ren L 1972, c 9, pt of §1; gen ch 1985; am L 1994, c 181, §1; am L 1998, c 149, §4; am L 2019, c 179, §17]

Case Notes

Since this section provides chief of police or designee with independent authority and discretion to admit persons charged with misdemeanor offenses to bail in accordance with §804-9, senior judge of family court lacked authority to issue a bail schedule divesting police of that authority and discretion. 75 H. 357, 861 P.2d 1205 (1993).

- Advise whether and when your office and the Honolulu Police Department will follow the Attorney General's protocol in using an ankle bracelet.

We do not know what the AG's protocol in using an ankle bracelet is.

I hope this answers your questions.

Very truly yours,

DWIGHT K. NADAMOTO
Acting Prosecuting Attorney