

**ETHICS COMMISSION  
CITY AND COUNTY OF HONOLULU**

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**ETHICS COMMISSION  
CITY AND COUNTY OF HONOLULU**

Date and Place: May 1, 2020

Meeting Number (Access Code): 968 982 705

Meeting Password: yyZ4BQFYc82 (99942739 from phones and video systems) or Join by phone 1-408-418-9388

Present: Hon. Victoria Marks (ret.), Chair  
David B. Monk, Vice Chair

Peter S. Adler, Commissioner  
Hon. Riki Amano (ret.), Commissioner  
Lynette Lo Kanda, Commissioner  
Michael A. Lilly, Esq., Commissioner  
Hon. Allene R. Suemori (ret.), Commissioner

Jan K. Yamane, Executive Director and Legal Counsel (EDLC)  
Laurie A. Wong-Nowinski, Associate Legal Counsel (ALC)  
Janice K. Yonamine, Investigator (INV)  
Alyson N. Wong, Legal Clerk III (LCIII)  
Joanne O.N. Lim, Sr. Clerk (Sr. CLK)  
Kristie E.L. Kato, Sr. Clerk (Sr. CLK)

Moana Yost, Deputy Corporation Counsel,  
Department of the Corporation Counsel (COR)

Chief Susan Ballard, Deputy Chief John McCarthy, Deputy Chief Clyde Ho, Lynne Goto-Uyema, Esq., Honolulu Police Department (HPD)  
Carolee Kubo, Director, Department of Human Resources (DHR)  
Christina Jedra, Civil Beat  
Dan Gluck, Executive Director, State Ethics Commission  
Gordan Pang, Star Advertiser  
Natalie Iwasa, member of the public  
Melissa Vomvoris, member of the public  
Mia S., member of the public  
Cherry Pascual, member of the public

## MINUTES OF THE ETHICS COMMISSION MEETING

### I. Call to Order, Public Notice, Quorum

**Chair Marks called the meeting to order at approximately 1:05 p.m., declaring quorum with all Commissioners present via Webex.**

### II. New Business

#### A. For Discussion and Action: Whether City Officers and Employees Who Enforce the Law Should Be Allowed to Accept Tokens of Aloha and Acts of Kindness During a Global Pandemic (COVID-19)

Chair Marks referenced news stories that show members of the public providing meals to first responders such as police officers, emergency medical services, and fire department personnel. She further explained that the city council meeting agenda has many resolutions accepting certain gifts to HPD.

Vice Chair Monk stated that he has no problem with businesses or individuals giving gifts to the city for the benefit of the department. But, he recommended that if individuals receive personal gifts, the individual could thank the giver for their generosity but state that they can't accept any gifts unless it's in the form of a gift to the city.

Chair Marks asked for any public testimony.

The LCIII stated that she recently received an email from the Hawaii Firefighters Association (HFFA) that hadn't been distributed to the commissioners. Chair Marks asked the LCIII to read the letter. The LCIII stated that HFFA supports tokens of aloha and acts of kindness for first responders by Honolulu communities during this time. HFFA believes that the Commission's concern that accepting the smallest acts of kindness can be an ethical slippery slope for corruption for city officers and employees is misdirected. These tokens of aloha and acts of kindness are of small monetary value for city officers and employees that continue to protect the City and County of Honolulu from the spread of COVID-19.

Honolulu Police Chief Ballard stated that HPD is very sensitive regarding gifts. Since Officers Kaulike Kalama and Tiffany Enriquez were killed in the line of duty, there has been an outpouring of community support with gifts to HPD as a whole. HPD does its best to consider ethical issues and ensure that they are doing the right thing. Gifts are not accepted if it's to an individual or district. She stated that giving gifts is a way for the community to reach out to the department and for them to maintain their relationship with the community. She further stated that the department has its own standards of conduct where officers are not allowed to accept gifts. If the officers do accept gifts, inquiries are made and appropriate actions are taken. Moreover, all the gifts the department receives are reported to city council. Additionally, she stated that this is the first time she has ever seen the media film gifts being given to HPD and other first responders. She

requested that the Ethics Commission use a common sense approach to gifts during this time.

Natalie Iwasa stated people give gifts of aloha to show appreciation and they are not trying to influence recipients. She asked that the Ethics Commission to allow these types of gifts.

Dan Gluck commented that he already had a conversation with the EDLC and that the EDLC understands the State Ethics Commission's perspective on the issue.

Vice Chair Monk reminded the Commissioners that at the February 19, 2020, Ethics Commission meeting they just passed a zero-tolerance policy on gifts, prohibiting all tokens of aloha. He had abstained from the vote and referenced Ms. Iwasa's and Chief Ballard's point that the community needs a forum to express aloha for those who perform great service.

The EDLC referred to Chief Ballard's point on how it's the first time she has seen news crews filming deliveries of free food to first responders. She stated that current gift guidance, excepting the decision from the February 2020 meeting, allows city employees to accept tokens of aloha except for any employee that enforces the law. The discussion that we are having is limited to first responders who enforce the law, which would include HPD and its personnel.

**Commissioner Kanda moved and Commissioner Adler seconded a motion to suspend gifts provisions during the pandemic.**

Chair Marks ask for clarification of the term "pandemic". **Vice Chair Monk proposed an amendment to the motion: replace "during the pandemic" with "until such time the governor declares the state of emergency is over."**

The EDLC explained that both the governor and mayor make different proclamations.

**Vice Chair Monk amended his amendment to also reference the mayor.** He also suggested that the Commission not use the word "pandemic" in any resolution because one can envision other disasters where similar situations could arise and would result in having to create a new resolution.

The EDLC stated that the language included in the proclamation was a declaration of a state of emergency or disaster.

The ALC asked for clarification of the term "gift policy" in the motion.

Commissioner Amano stated that suspending the entire gift policy is a bad idea. She further stated that the Commission must do this on a case-by-case basis. How is the Commission going to fashion a process so people don't take advantage of the situation? The intention is to allow acts of kindness, such as giving food, to keep first responders' spirits up. She further stated that the motion is too broad

and the issue is how narrow should they carve it out.

Commissioner Adler stated that he would appreciate hearing from Chief Ballard and Mr. Gluck. Chief Ballard stated that any gifts that come to the department are sent to her for approval. She would like the motion to be more streamlined. For example, instead of suspending all gift policies, the Commission could allow tokens of aloha. Additionally, she clarified that departmental gifts are reported to the City Council and that they are able to accept or deny the gift as well.

Dan Gluck stated that the State Ethics Commission hasn't had an opportunity to address these issues. However, he and his colleagues believe that they're not inclined to change any gift policy right now. Instead, they are looking at reprioritizing the enforcement cases during these times. He stated that changing policies back and forth can be difficult when dealing with agencies and trying to figure out how to explain it to their employees and ensure consistency. Usually, he would advise agencies of best practices. The State Ethics Commission would not put their resources into enforcing acceptance of tokens of aloha.

The EDLC stated that from an enforcement standpoint, we wouldn't even know if individuals were accepting personal gifts. She further stated that if we didn't know, there would be no way to enforce it.

Commissioner Adler reminded everyone that the Ethics Commission is not a surveillance system. We are a complaint-based commission and rely on people reporting issues. He stated that he is inclined to be permissive during this emergency rather than being too narrow.

The EDLC suggested that the commission could set an end date, based on the governor's and/or mayor's proclamation of the termination of the state of emergency.

Commissioner Adler suggested having an explicit time to suspend gift policies. He stated that he has a lot of faith in the fire and police departments and we can always revisit the resolution if the situation continues.

Vice Chair Monk stated that crafting a motion that is clear and understandable is a real challenge in this situation. He says that Chief Ballard's explanation on HPD's enforcement policy gave him a lot of faith that HPD is already on top of these issues. He also referenced Mr. Gluck's point on adopting a relaxed posture on enforcement for the duration of this emergency instead of adopting a formal motion to change policy.

Commissioner Amano asked who falls in the category of first responders for purposes of this motion. EDLC stated that the discussion refers to law enforcement first responders. Commissioner Adler insisted that the Commission include firefighters and paramedics.

**Commissioner Kanda withdrew her motion and Commissioner Adler withdrew his second of her motion.**

**The EDLC proposed a new motion: “Allow first responders to accept tokens of aloha and acts of kindness during a state of emergency or disaster as proclaimed by the governor and/or mayor.”**

**Commissioner Amano moved and Commissioner Lilly seconded the motion. The motion carried unanimously.**

III. Adjournment

Commissioners agreed that the next Ethics Commission meeting will be held on June 24, 2020.

**At approximately 1:59 p.m., Vice Chair Monk made and Commissioner Lilly seconded a motion to adjourn the meeting. The motion carried unanimously.**