

**ETHICS COMMISSION
CITY AND COUNTY OF HONOLULU**



Advisory Opinion No. 297

This is an advisory opinion in response to your request for advice from the Ethics Commission in regard to whether you would create a conflict of interest if you were to serve on the Board of Directors of the Hawaiian Humane Society [HHS].

The Commission understands the facts relative to your inquiry to be as follows:

As a deputy prosecuting attorney, your duties are generally administrative, involving policy and budgetary matters for the Department of the Prosecuting Attorney [PAT]. When animal control cases are received by the PAT, they are delegated to one of four divisions. The division chiefs are completely responsible for their assigned cases and have all discretionary authority over them.

Your department has a screening mechanism in place to prevent attorneys from being exposed to cases in which they have a conflict of interest.

The City contracts with HHS for enforcement of the animal control laws, but the funding does not come from your department's budget. Most of the cases referred to PAT by the HHS enforcement division concern unleashed dogs or animal cruelty. Some animal control cases reach the PAT by way of the Honolulu Police Department, generally in connection with cockfighting.

You are about to be nominated for a position on the Board of Directors of the HHS. If you serve on that Board, you would limit your efforts to the areas of education, fund-raising, and the HHS' facilities.

The ethical question presented is whether service as a board member of the HHS would tend to impair your independence of judgment in performing your duties.

The general rule in relation to your question is found in Revised Charter of the City and County of Honolulu 1973 (1994 Ed.), Section 11-102(c), which states in pertinent part:

No elected or appointed officer or employee shall... [e]ngage in any business transaction or activity or have a financial interest, direct or indirect, which is incompatible with the proper discharge of such person's official duties or which may tend to impair the independence of judgment in the performance of such person's official duties.

Based on the evidence presented, the Commission finds that a conflict of interest will not be created if you accept a position as a member of the Board of Directors of the HHS, provided that you screen yourself off from all cases sent to the PAT by HHS investigators and that you recuse yourself from HHS Board matters involving proposed legislation or violations of the animal control laws.

Dated: April 21, 1999

FAY M. UYEMA
Chair, Ethics Commission