

Honolulu

Can Revamped Honolulu Ethics Commission Rebuild Its Credibility?

The commission's former executive director often tangled with Mayor Caldwell's administration. Now new director Jan Yamane has big plans for change.

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By Anita Hofschneider    Nick Grube    / July 13, 2017

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The Honolulu Ethics Commission, which is supposed to keep tabs on city employees and politicians, was in utter disarray last summer.

The long-time executive director had [quit over political meddling](#). A lawsuit was filed against the agency alleging [vindictive investigations](#). And the sole investigator [resigned in disgust](#).

On top of that, the commission office was forced to move from downtown Honolulu to Iwilei, where it's tucked inside a building with the busiest DMV in the state. The limited parking and out-of-the-way location has made the already-difficult business of government watchdogging even harder on the commission and its staff.

“We wonder whether people can easily find us,” said Jan Yamane, who’s taken over as the commission’s executive director. “We’ve seen that as a hurdle. We’re not as visible.”



Honolulu Ethics Commission Director Jan Yamane gestures during a recent meeting.

But the commission’s hurdles extend beyond location.

Yamane must work to rebuild an ethics commission that lost its bite in recent years due to internal strife and outside interference from Mayor Kirk Caldwell’s administration.

It’s a challenge, but one that Yamane says she’s poised to take on.

The commission has been relatively quiet since Yamane was [hired in August](#) to replace Chuck Totto, who had been the agency’s executive director and lead attorney for nearly 16 years.

The commission has only issued two ethics opinions in Yamane’s time with the agency, neither of which were particularly revelatory. And there have been no public clashes with the Caldwell administration.

Under Totto, the commission issued a number of high-profile opinions that slapped city council members with [record fines](#) and helped [clarify the business dealings](#) of Caldwell.

But Totto's approach also drew the ire of some powerful people, including former Honolulu police chief Louis Kealoha and his wife, Katherine, a city prosecutor. The Kealohas, who are [under federal investigation](#) for public corruption and abuse of power, sued the ethics commission and its former staffers for poking around in their business.

But it was Totto's well-documented fights with Caldwell and his top staffers that caused the most problems, so much so that it became [a major campaign theme](#) during the 2016 race for mayor.



Chuck Totto left the Honolulu Ethics Commission after the Caldwell administration decimated his budget.

The mayor and his staff, particularly Corporation Counsel Donna Leong, have been criticized for dismantling Totto's career and torpedoing the credibility of

the commission through [budgetary meddling](#) and other tactics that [interfered with agency investigations](#).

On one occasion, Leong's department refused to let the commission spend \$600 on a GPS tracking device officials wanted to use to bust city employees for overtime abuse. Commission staffers estimated that stopping the scheme could have saved the city \$250,000. But the investigation fizzled due to the delays in getting the proper equipment.

The stonewalling became so pervasive that the commission even [considered issuing subpoenas](#) to several members of Caldwell's cabinet just to get them to cooperate with investigations.

The commission's attitude began to shift, however, once Caldwell began appointing his own people to the agency board. Tutto then became a target of micromanaging by the commission.

Among other things, he was told [not to speak to the press](#) without prior approval and to track his time in [six-minute intervals](#). Tutto was eventually [suspended for 30 days](#).

The seven-member Honolulu Ethics Commission is now completely made up of Caldwell appointees, including Victoria Marks, Michael Lilly, Riki May Amano, Allene Suemori, Peter Adler, David Monk and Lynette Lo Kondo.

Lilly was originally appointed by former Mayor Peter Carlisle in 2011, but Caldwell decided in 2016 to keep him on for another five-year term.

Despite the history of friction Yamane and the new cast of commissioners say they're ready to move forward with the work they're tasked to do.

"There's been a lot of turbulence," said Adler, a professional mediator that has taken on some of Hawaii's hottest topics, including pesticides and genetically-modified farming.

“We’re not spending a lot of time looking back,” he added. “It’s a new day, it’s a new era trying to get on with the business that needs to be done.”

A Large Backlog

It’s clear there’s no shortage of work for Yamane and the new-look ethics commission. Cases have piled up after years of budget fights and five months without an investigator.

Yamane said the commission now has a backlog of 40 to 50 complaints. That’s on top of about 60 pending investigations, not all of which are likely to result in significant findings.

While she hasn’t issued many advisory opinions, she’s been busy trying to get a handle on the hefty workload and figure out how the commission can be more efficient and effective.

There are about 10,000 city employees and only five ethics commission staffers, only three of which can perform investigations.



City Ethics Commission Chair Victoria Marks laughs during a recent meeting, while Vice Chair Michael Lilly tunes into the meeting from Maui via a tablet device.

And when someone has a complaint, no matter the issue, Yamane said it often comes to the commission even if it has nothing to do with city ethics rules, such as conflicts of interest.

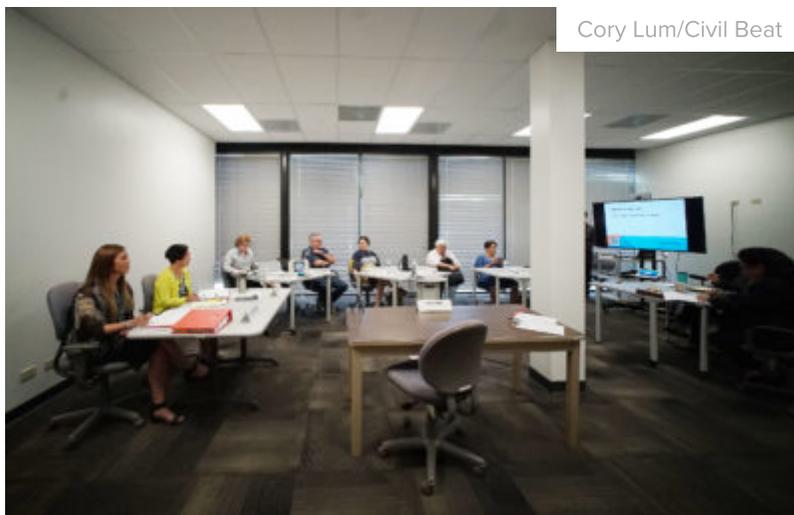
“We’re trying to do better at triaging cases,” Yamane said. “Not everything that comes in is an ethics complaint. There was less of a process of weeding out the things that came in the door.”

Yamane was hired by the ethics commission after a two-and-a-half-year stint as Hawaii’s top government auditor. It was a curious move at the time given the circumstances behind her departure.

In April 2016, Yamane was replaced as the state’s acting auditor. It was revealed shortly after her departure that the Hawaii Attorney General’s Office had [investigated her department](#), although officials have refused to discuss the details or provide records related to the probe. Civil Beat has filed a lawsuit to get access to the AG’s report.

Yamane, an attorney, so far has treated the ethics job like her last gig with the auditor. Except this time, she’s picking apart her own office and how it works.

For example, Yamane and her staff are continuing the practice of tracking their work in six-minute intervals because she thinks the data will be useful to justify future budget requests.



The Honolulu Ethics Commission holds a hearing in a conference room at Kapalama Hale, a building the city is renting across the

She said even buying street from Costco. an extension cord can seem extravagant considering the size of the commission's budget, which is [\\$411,953 this year](#), and includes pay for six staff members.

She thinks some of her employees are spending too much time on administrative tasks, and plans to ask for money to hire a new deputy next year to ease the burden.

The commission also wants to increase Yamane's pay by 10 percent, along with that of Laurie Wong-Nowinski, who is the associate legal counsel. City data shows the executive director's pay last year was \$108,000 and Wong-Nowinski's salary was \$84,696. Adler says their salaries should be more comparable to other city attorneys to help recruit and retain staff.

It's unclear whether such requests will get buy-in from the Caldwell administration and in particular Leong, whose department oversees the commission's budget.



Top City Attorney Donna Leong is in charge of the Honolulu Ethics Commission's budget.

But Yamane said Leong, who had blocked Totto's budget requests in the past, has been "nothing but supportive."

"We have a need and it's a demonstrated need," Yamane said. "But it's a need that must be balanced with the other needs of the administration."

Even if Yamane is successful in getting more staff, there's no place to put them. The office is so small that interns have to share desks or work remotely.

The new building's renovations are still unfinished. The commission tapes white sheets of paper over the door during executive session because the shared conference room doesn't have a curtain.

She describes the new office as a "shoebox."

"It doesn't allow for any growth," she said.

But Yamane and the commissioners have bigger plans than boosting her budget.

Overhauling City Ethics

For about a year, Yamane and the commission have been developing a 10-year blueprint to overhaul the city's ethics code and make the agency more efficient.

Part of the work includes small technological changes — some of which she's already done — such as posting lobbyist disclosure reports online so that citizens and journalists can more easily track influence in politics.

She also wants to expand training for all city employees as well as create a program in which ethics staff will meet with lobbyists on an annual basis to provide a refresher on city rules and regulations related to influence peddling.



Cory Lum/Civil Beat

The more ambitious work includes ethics reform, which can take years of rule making and successfully convincing politicians to tighten ethics laws, although there aren't too many specifics at this point.

Peter Adler, a local mediator, is leading the Honolulu Ethics Commission's strategic planning efforts.

The commission, however, has begun to

highlight its strengths and weaknesses, which revolve mainly around budget and training.

Adler, who's one of the commissioners taking the lead on the process, said the development of a 10-year strategic plan a work-in-progress. He also understands the difficulties amassing political will at city hall.

"We certainly can't do everything fast with the existing resources that we have," Adler said. "There's tough slogging we have ahead."

The commission plans to take up the blueprint again at its July 19 meeting.

Need For More Independence?

Stanford Yuen is a former ethics commissioner who has worked with both Totto and Yamane. He said it's clear the commission is in recovery mode after Totto's departure.

But Yuen said Yamane has the commission on a good path. He described her as a smart, capable person who knows that her job is to hold government officials accountable.

He also believes the makeup of the current commission shouldn't be cause for concern. What he'd like to see changed, however, is the administration's control over the ethics commission budget.

Yuen had a front-row seat to the battles between Totto, Leong and others in the Caldwell administration as they bickered over extra money for ethics enforcement.

He was also part of the commission in 2014 when the agency sent a letter to Caldwell complaining of his administration's heavy-handed approach to dealing with ethics matters.



Stanford Yuen is a former member of the city Ethics Commission.

Until the commission has more autonomy over its own budget, Yuen said it will be difficult for Caldwell — or any administration official for that matter — to avoid questions about political maneuvering in the agency's finances.

"It's a fact of life," Yuen said. "Whoever controls your purse strings has influence over you. That's reality."

At a recent council meeting, the only attendee besides commission staff and interns was Kioni Dudley. The Makakilo resident filed a complaint with the city Ethics Commission last year seeking to invalidate a 2015 council vote to fund the elevated rail line.

He also wants the commission to require council members to declare both campaign contributions and money received through super PACs before voting on a bill that benefits a major donor.

Dudley has been attending commission meetings regularly since last summer and says he's expecting the commission to reach a decision on his complaint this summer.

He was disappointed to see commissioners like Yuen leave the board but said he's pleased with what Yamane has been doing so far. Like other observers, he felt that the commission lost a lot of credibility when Totto left last year.

"I feel that there's a very strong effort to restore it," he said.

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