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Hawaii News

Mayor calls for police panel chairman's recusal from chief selection

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Max Sword:

He is seeking an Ethics Commission opinion "out of the abundance of caution," he said

Mayor Kirk Caldwell said Monday that Police Commission Chairman Max Sword should recuse himself from deciding who will be Honolulu's next police chief.

Sword confirmed to the Honolulu Star-Advertiser last week that his wife, Mona Wood-Sword, is a first cousin of Thomas Aiu, one of the seven finalists for police chief. Sword said he asked the city Ethics Commission to issue an opinion on the matter and is waiting to hear back.

Caldwell, in response to a query from the Star-Advertiser on Monday, said in an email, "Given the significance of this appointment, I believe that the fairest process for all candidates, and to maintain public confidence in the process, would be for Chair Sword to recuse himself."

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Told of Caldwell's comments, Sword said he won't respond until he hears directly from the mayor.

Whether Sword takes part in the vote for chief could have a major impact on the outcome. There are seven seats on the commission, but resignations have left the panel with only five current members. Because four members are required for the commission to take any action, removing Sword from the process would mean all four remaining members would need to agree on a single candidate.

Besides Aiu, a retired agent with the federal Drug Enforcement Administration, the other finalists are HPD Maj. Susan Ballard, retired HPD Maj. Kurt Kendro, retired HPD Assistant Chief Kevin Lima, retired Pennsylvania Police Department Maj. Mark Lomax, current Arlington (Texas) Deputy Chief James Lowery Jr. and retired HPD Deputy Chief Paul Putzulu.

On Friday, Sword said in a statement that he is seeking an opinion from the Ethics Commission about his family ties with Aiu "out of the abundance of caution," adding, "I fully intend to continue to perform my duties as a member of the Honolulu Police Commission, including participating in the interview and selection of our new chief of police, as objectively and responsibly as possible."

Sword said he discussed the Aiu situation with Police Commission staff after learning the names of the seven finalists, which were ranked by a contracted mainland

consultant group with the help of six community advisers, on Sept. 28. He said he and Wood-Sword are not close to Aiu.

The Police Commission staff then had informal discussions on the matter with the Ethics Commission and asked how to proceed, Sword said. When he did not hear back, he said, he sent a conflict-of-interest disclosure statement to the Ethics Commission and formally sought an opinion from Ethics Commission Executive Director Jan Yamane on Wednesday.

Caldwell said in his statement Monday that while he wants to hear from the Ethics Commission, he feels it best if Sword removed himself entirely. "Even if the commission finds that, technically, there is no conflict, given the importance of this decision, a recusal would address even the slightest perception that there may be a conflict," he said.

While Sword has insisted that he instructed Police Commission staff not to tell commissioners the identities of candidates until a finalist list was submitted by consultant EB Jacobs, the Star-Advertiser and other news media independently confirmed the names of semifinalists and disclosed them in news stories prior to Sept. 28.

'Tainted' process

Aiu first approached the Ethics Commission about his blood tie to Wood-Sword on Sept. 8. Aiu's query prompted Yamane, on Sept. 19, to send a letter to Police Commission Executive Officer Daniel Lawrence about the relationship between Sword and Aiu.

"Chair Sword should execute a disclosure of conflict of interest statement stating that he has a familial relationship to an applicant," Yamane said in the letter. "The Commission may then take appropriate action."

Yamane attached a blank conflict-of-interest form with her letter. "As required by law, please file Chair Sword's form with chair's appointing authority and the city clerk," she said.

Loretta Sheehan, one of the other four Police Commission members, said she believes Sword should recuse himself from all matters dealing with the chief selection process.

Sheehan said it would be unfair to Aiu, HPD and the public for Sword to continue being involved. "It creates a process that is tainted, that is questionable," regardless of who is selected, she said.

Sheehan said Sword should have informed his colleagues about his family ties to Aiu before proceeding with the discussion that day and the Wednesday meeting when the public testified on the finalists. "I don't know if he should have done that until he had that issue cleared," she said.

Sword told the Star-Advertiser last week that he thought it possible he could recuse himself from all matters dealing with Aiu but might still be able to vote on all other matters pertaining to the chief's selection. But Sheehan said that would be "completely impossible" and that "anything you do regarding any candidate is going to have an effect on Tommy Aiu's candidacy."

An advisory opinion issued by the Ethics Commission in 2008, which the current commission might use as a guide, suggests that Sword should recuse himself.

"The Ethics Commission has opined that conflicts arising from personal relationships that 'might reasonably tend to create a conflict with the public interest' are prohibited," Advisory Opinion 2008-1 said. The determination was made regarding a member of the city Zoning Board of Appeals who sought an opinion about whether he should vote on a development that would have an impact on his son and his family.

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