

Honolulu

SHOPO: Don't Release Police Officer Names For Salary Database

Honolulu officials had planned to release salary information, including officers' names. But the state police union says that endangers officers.

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By Nick Grube    / September 7, 2017

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Hawaii's statewide police union has filed a lawsuit against the city of Honolulu to block the release of officers' names to Honolulu Civil Beat.

The news site requested salary information for the Honolulu Police Department under the state's public records law to include in the [database of public employee salaries](#) that it publishes every two years.

City attorneys determined that police officers' names — except for those in “deep” undercover capacities — should be released along with their salary information, as is the case under state law for all public employees.

The State of Hawaii Organization of Police Officers, commonly known as SHOPO, believes the names of any officer who is or has ever been in any undercover assignment should be protected from disclosure, not just those currently in deep undercover roles.



Anthony Quintano/Civil Beat

The statewide police union has filed suit to keep the names of police officers from being released as part of salary information generally made public for all other public employees. SHOPO is concerned current and former undercover officers would be in danger.

When the city rejected SHOPO's argument, the union filed suit to block the release. It's also seeking a ruling that would preclude the city from "releasing the identities of current and former police officers who are or were working in an undercover law enforcement capacity."

But SHOPO's concern about identifying anyone who has ever been in an undercover capacity is overly broad, according to media attorneys, who pointed out that could include any officer working in plainclothes even for a day or two.

SHOPO's attorney, Vladamir Devens, did not return a phone call seeking comment on the legal challenge. City attorneys also did not respond to a

request for comment.

HPD spokeswoman Michelle Yu said the department would not be conducting interviews related to the case, and said that officials there were working with the city's Corporation Counsel.

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In the past, city officials have [taken the position](#) that most officers' names should not be released. Civil Beat has been publishing the public employees salary database since 2010 and has only been able to include job titles and salary ranges for Honolulu police officers.

City officials typically relied on language in the public records law that requires the release of names, job titles and salaries of all public employees, except "present or former employees involved in an undercover capacity in a law enforcement agency."

This effectively barred public disclosure of any officer's name even though their identities were often revealed in press releases about

recruitment and promotions.

But more recently HPD reconsidered the legal position and in the past year has provided employee rosters to both Civil Beat and the Honolulu-Star Advertiser with the names of undercover officers redacted.

At the time, HPD explained that it was withholding the names of officers who conceal their affiliation with the department on a permanent basis.

SHOPO did not challenge those disclosures.

“I think we’re starting to see a troubling trend where people are jumping into court to stop the disclosure of information when what they’re really trying to do is delay access for as long as possible,” said Brian Black, executive director of the Civil Beat Law Center for the Public Interest, a nonprofit that advocates for increased access to government records.

“This happened with (Honolulu deputy prosecutor) Katherine Kealoha trying to stop access to her basic employment information, and it’s happening with SHOPO now trying to stop access to information that, frankly, is public.”

Kealoha, who’s [under federal investigation](#) for public corruption, had similarly sued the city to prevent the release of records to Civil Beat. She [lost the case](#), but the legal challenge delayed release of the public documents for more than two months.



“These dangers are real and terrifying for our officers and their families.” — Tenari Maafala

Black, whose law firm is not a party to the SHOPO case, said the union appears to be stretching the meaning of the law, which leaves discretion of disclosure up to government agencies barring any clear violations of someone’s right to privacy, such as revealing a social security number or medical condition.

The union’s lawsuit stems from a public records request submitted to the city July 10.

According to the lawsuit, the city's human resources director, Carolee Kubo, told SHOPO on Aug. 28 that it intended to send Civil Beat a list of employee names, position titles and salaries excluding those individuals who were currently performing undercover work.

Union officials asked the city to hold off on disclosing the records until it had a time to meet and discuss the legal basis for releasing the information related to undercover officers.

But on Aug. 31, city officials told SHOPO that no such meeting would occur and that the records would be released. According to the union, the city said it would provide Civil Beat with the identities of all officers except those engaged in "deep" undercover operations.

Deputy Corporation Counsel Duane Pang told SHOPO that HPD determined which undercover officers were not being identified based on how "comfortable" the department felt about it with the passage of time, according to SHOPO's legal complaint.

That same day, Aug. 31, SHOPO President Tenari Maafala sent a letter to interim HPD Chief Cary Okimoto that broached the union's concerns. He also sent copies of the letter to Honolulu Mayor Kirk Caldwell, the Department of Corporation Counsel and Kubo, the human resources director.



SHOPO President Tenari Maafala is a vigorous defender of the rights of his union members.

“As I am sure you can well understand and appreciate, we have grave concerns about disclosing the identities of undercover officers for obvious reasons,” Maafala said in the letter. “Any such disclosures could risk an officer’s safety and expose an officer to grave danger, including endangering his/her family and children. These concerns are of the utmost concern for SHOPO.

“As you know, HPD did suffer the loss of an officer who worked a short time in an undercover capacity and was later gunned down in his home by the same suspect he had encountered in that capacity. These dangers are real and terrifying for our officers and their families.”

Maafala was referring to the 30-year-old case of Troy Barboza, a rookie officer who was fatally shot in his home in 1987 by Tony Williams, a California cocaine dealer.

According to [media reports from the time](#), Barboza was undercover when he bought cocaine from Williams and another man, both of whom were

arrested. While out on bail Williams, an associate member of the Crips street gang in Los Angeles, went to Barboza's home in Manoa and he shot him with a sawed-off shotgun before he could testify against him in court.

Honolulu attorney Jeff Portnoy said the police union often turns to Barboza's death when arguing that officer names should be kept secret.

Portnoy is a public records lawyer who has gone head-to-head with SHOPO in the past, [most famously in a mid-1990s](#) fight that went to the Hawaii Supreme Court over whether the public has a right to know the names of police officers suspended for misconduct.

Even then, he said, the union highlighted the Barboza tragedy in an attempt to sway opinion.

"They keep trotting out that case," Portnoy said. "I don't think it's very relevant, but it's something they trot out because it's all they have."

Portnoy questioned the wisdom of the SHOPO's lawsuit, saying it doesn't appear the union has standing in the case since the matter doesn't appear to relate to its collective bargaining agreement.

Even more perplexing, he said, is the fact that HPD has already released the names of its employees to the media.

He said there's a legitimate argument to be made about keeping secret the identities of officers who truly are undercover and spend their entire careers in the shadows. But that standard should not be used to sweep all officers under the same umbrella.

"It's always been my view that salaries for public employees are public, regardless of what everyone else may have said along the way, including OIP," Portnoy said, referring to the Hawaii Office of Information Practices. "They're being paid with taxpayers' dollars. They're public employees."

The Civil Beat Law Center for the Public Interest is an independent nonprofit organization created with funding from Pierre Omidyar, who is also publisher of Civil Beat.org. Civil Beat Editor Patti Epler sits on its board of directors.

Read SHOPO's challenge here:

To print the document, click the "Original Document" link to open the original PDF. At this time it is not possible to print the document with annotations.

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