

HONOLULU

Will Honolulu Ethics Commission Take the Gag Off its Director?

A restrictive communications policy may be replaced, but the proposed new one retains contradictory language requiring Chuck Totto to seek pre-approval to talk to the media.

JULY 21, 2015 • By Anita Hofschneider   

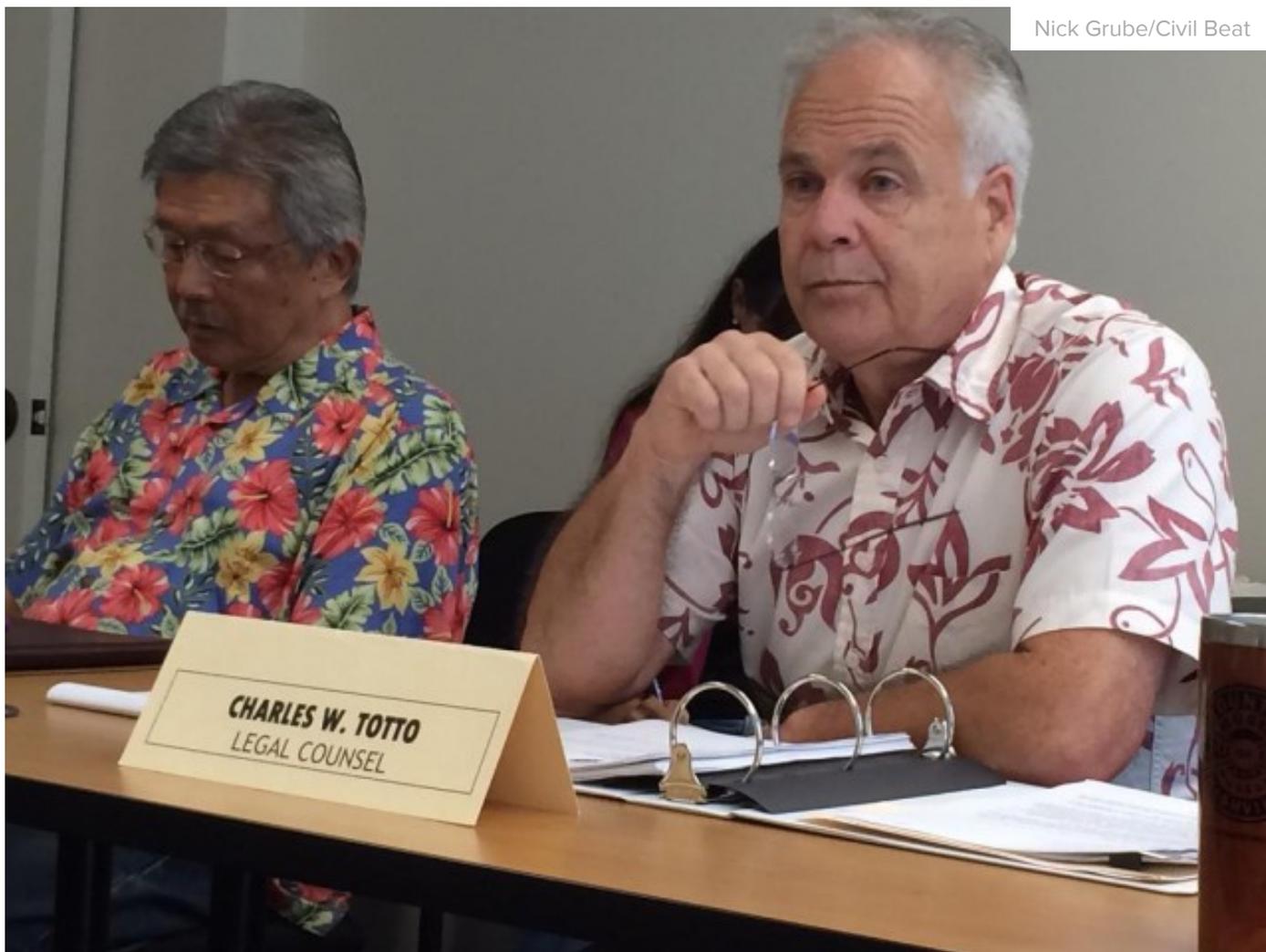
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The Honolulu Ethics Commission may backtrack on its [recently adopted news media policy](#) that prohibited Executive Director Chuck Totto and other staff members from interpreting or commenting on the commission's decisions and advisory opinions.

But contradictory statements in a new proposed policy drafted by Vice Chair Michael Lilly raise questions about whether Totto would still have to seek approval before talking to the media.

Chair Katy Chen, Lilly and commissioners Stephen Silva and Stanford Yuen are backing a motion to discard the restrictive news media policy adopted last month.



Honolulu Ethics Commission Executive Director Chuck Totto

The seven-member commission plans to meet 11:30 a.m. Thursday at the Standard Financial Plaza to consider whether to replace it with another one drafted by Lilly. Also on the agenda is Totto's performance evaluation.

Lilly and Commissioner Riki May Amano requested that the commission consider the new draft media policy that would allow Totto to respond to media inquiries "in normal course."

Brian Black, executive director of the Civil Beat Law Center for the Public Interest, said he's glad the commission is reconsidering its news media policy.

"The June policy was a heavy-handed way to address any dissatisfaction that the commission had with the executive director and statements he may have made in the past," Black said. "And that policy was stifling in a way that is counterproductive to the

commission's education mission."

But Black pointed out that while the third paragraph of the proposed new policy gives the executive director the ability to respond to media inquiries directly and inform the commission members of his statements after the fact, a provision in the next paragraph appears to contradict that.

“The June policy was a heavy-handed way to address any dissatisfaction that the commission had with the executive director and statements he may have made in the past.” — Brian Black, Civil Beat Law Center for the Public Interest

A holdover from the policy adopted June 24, the provision would continue to require the executive director to consult with the commission chair, vice-chair or another designated commissioner when media statements are requested.

That's a time-consuming requirement, according to Totto and the commission's associate legal counsel, Laurie Wong. In a July 17

letter to Chen, the two wrote that the condition triples the amount of time it takes to handle media inquiries.

Totto and Wong said the commission had received six questions from the media since the June 24 policy was adopted.

“If we annualize number of media inquiries, there will be about 100 media inquiries this year. The new process will require 30 minutes time for each of 100 requests or 50 hours of response time. The traditional media practice would require only 17 hours,” Totto and Wong wrote.

They said the provision results in a “significant loss of our very limited resources.”

Reached by phone, Lilly declined to comment. Totto also did not respond to a request for comment.

“I think the commission should be commended for its willingness to reconsider the policy, but in doing so, the July policy still has issues and is confusing,” Black said.

Loosening the Rules

The restrictive policy adopted June 24 was drafted by Amano. The proposed new policy was written by Lilly, an attorney who wasn't present at last month's meeting.

The new draft would allow the executive director to comment on how the commission's findings and opinions could impact hypothetical situations.

That's a big departure from the policy adopted last month, which prevents the commission staff from interpreting or commenting on decisions and advisory opinions at all.

But Lilly's draft would still require Totto to talk to the Ethics Commission chair, vice-chair or a designated member before replying to media inquiries.

Totto opposed the June 24 policy change, calling it “cumbersome” and “impractical” in a June 19 letter to the commission members.

The commission adopted it regardless on a 5-1 vote. Only Chen voted against the change.

The policy came after Totto was quoted in a May 28 newspaper article stating that former City Council members Romy Cachola's and Nestor Garcia's ethics violations could nullify their votes on the city's \$6 billion rail project.

Honolulu Corporation Counsel Donna Leong sent a letter to the commission June 1 complaining about Totto's remarks. In the letter, she called for a media policy that would prevent Totto from talking publicly about the commission's decisions and opinions.

Read the meeting agenda and the proposed new media policy:

ETHICS COMMISSION
CITY AND COUNTY OF HONOLULU

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MIKE CALDWELL
MAYOR



CHARLES W. TOTTO
EXECUTIVE DIRECTOR & LEGAL COUNSEL

AGENDA
Honolulu Ethics Commission
July 23, 2015 – 11:30 am
Standard Financial Plaza
Conference Room, Suite 211
715 South King Street
Honolulu, Hawaii 96813

SPEAKER REGISTRATION

- Prior to the Day of the Meeting: Persons wishing to testify are requested to register their name, phone number and agenda item subject matter via email at ethics@honolulu.gov or calling 768-7787 or 768-7791.
- On the Day of the Meeting: Persons who have not registered to testify by the time the Commission meeting begins will be given the opportunity to speak on an item following the oral testimonies of the registered speakers.
- Each speaker is limited to three minute presentations on each item.

WRITTEN TESTIMONY

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6 Comments

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John Bond

Yes, we are still wondering about the nullification of purchased votes...

Like · Reply ·  4 · Jul 21, 2015 3:41am



Natalie Iwasa, Community Advocate

It's time to seriously consider moving both the county and state ethics directors into positions of inspectors general.

Like · Reply ·  5 · Jul 21, 2015 7:39am



Choon James

Or for the City Honolulu Ethics Commission to be INDEPENDENT and FREE from the City Corporation Counsel who changes its head with a new Mayor. I submit that the Corporation Counsel should be working for the people of Honolulu and not for any Mayor's Agenda.

Like · Reply ·  5 · Jul 21, 2015 12:45pm



Rick Tubania · University of Hawaii at Manoa

Choon James - another erroneous statement - the CC works also for the city council and as a representative form of government, it also works for the people. where have you been?

Like · Reply · Jul 21, 2015 4:36pm



Choon James

Rick Tubania I did not say that the City Corporate Counsel does not help the City Council. (The City Council also has access to its own Counsel.)

The City Corporate Counsel head Donna Leong is appointed by the Mayor. I suggest you open your eyes and observe to see if City Hall governance is always for the good public or personal political agenda.

Like · Reply ·  2 · Jul 21, 2015 5:31pm

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Arvid Youngquist

Should. Aught to. Must. Prudent. But with clear oversight which does not restrict responsible and responsive performance of normal or extraordinary duty expected of any incumbent. Imua.

Like · Reply ·  1 · Jul 21, 2015 9:02am



Rick Tubania · University of Hawaii at Manoa

the director's new media policy was due to toto's sometime irresponsible comments made to the media. as the ethics chief, he should be very careful to not make foolish statements in public that would compromise the work of the commission or affect any new issues that may

come before it. so the "fault" really lies with toto and not the directors, they want a commissioner who is truly independent, by not making statements that would have a pre-judgemental effect.

Like · Reply ·  1 · Jul 21, 2015 12:05pm



Choon James

Relating to the July 23, 2015 Meeting AGENDA Item B. For Action: Request for a Motion to Adopt a New Draft Media Policy, we also believe that public participation is necessary.

As such, we also suggest that Olelo Community Television be invited to televise these important meetings like that of the City Council Committee and Public Hearings. Most of us do not live close to Honolulu to be able to attend these meetings regularly. Surely, it is the core mission of the Ethics Commission to promote transparency in order to increase faith and trust in government.

Please do not muzzle or prevent Mr. Chuck Totto, Director and Legal Counsel, in his responsibilities to be transparent. He is one City employee who helps restore faith and trust in government.

Like · Reply ·  5 · Jul 21, 2015 12:41pm



Christine Trecker

The June media policy definitely needs to be reconsidered. The Honolulu Ethics Commission cannot fulfill its responsibility to the public if responding to the media is hampered by red tape.

I assume the Commission meeting tomorrow is open to the public. Choon James, has Oleo agreed to tape the 11:30 meeting 7/23 at the Standard Financial Plaza as you suggested? Good idea.

Like · Reply · Jul 21, 2015 8:32pm



Choon James

Christine Trecker The public media television staff do not tape meetings unilaterally. The Ethics Commission would to agree to it. We think the Ethics Commission should, in the name of transparency and education.

Like · Reply · Jul 22, 2015 10:10am



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