

Conflict Notice Regarding Councilmember Timothy Bynum

Jake Delaplane

Sent: Thursday, January 19, 2012 1:41 PM

To: Jay Furfaro; Mel Rapozo; Kipukai Kualii; Nadine Nakamura; Nadine Nakamura; JoAnn Yukimura; Alfred Castillo Jr.; Ricky Watanabe

Cc: Shaylene Carvalho

Attachments: Conflict Notice Regarding ~1.pdf (397 KB)

I have attached the OPA's notice of conflict regarding councilmember Timothy Bynum. For reasons stated in the notice, this communication is not being sent directly to Mr. Bynum by our office.

Thanks

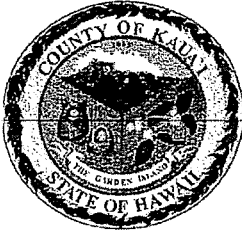
Jake Delaplane

First Deputy Prosecuting Attorney

County of Kaua'i

241-1751

jdelaplane@kauai.gov



OFFICE OF THE PROSECUTING ATTORNEY

COUNTY OF KAUA'I, STATE OF HAWAII
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Jake Delaplane
First Deputy Prosecuting Attorney

Shaylene Iseri-Carvalho
Prosecuting Attorney

Sam Jajich
Second Deputy Prosecuting Attorney

January 19, 2011

CONFIDENTIAL

TO: Council Chair Jay Furfaro
FR: Prosecuting Attorney Shaylene Iseri-Carvalho
RE: Conflict Notice Regarding Councilmember Timothy Bynum

This communication serves as a notice to the Council regarding a conflict of interest between Councilmember Timothy Bynum and the Office of the Prosecuting Attorney. This conflict arises from several incidents involving Councilmember Bynum and employees in our office, as well as the pending criminal case filed by our Office against Councilmember Bynum in November 2011.

1. Bynum's inappropriate confrontation of Deputy Prosecuting Attorney

On September 28, 2011, Councilmember Timothy Bynum attended a court proceeding with his son, David Bynum, at the 5th Judicial Circuit Courthouse in Līhu'e. After the hearing, Mr. Bynum stood outside the courtroom door in the public hallway and confronted Deputy Prosecuting Attorney [redacted] regarding David's case. As [redacted] exited the courtroom, Mr. Bynum stated directly to [redacted] "Do you think justice was done? This was because [expletive] Shaylene doesn't like me and is out to get me." [redacted] was standing nearby and also witnessed the confrontation.

According to the Kaua'i County Charter section 3.07(D)

The council may, upon an affirmative vote of at least two-thirds of its entire membership, suspend without pay for not more than one month any member for disorderly or contemptuous behavior in its presence. The presiding officer or the council by a majority vote may expel any other person who is guilty of disorderly, contemptuous or improper conduct at any meeting.

While this section deals with disorderly and contemptuous conduct that occurs in the presence of the Council, it is also instructive as to the appropriate conduct expected from Councilmembers in their dealings with county employees as well as the general public.

Additionally, Section 3.18 of the Kaua'i County Charter states:

Deputy Prosecuting Attorneys:

Lisa R. Arin
Jared Auna
Lance Kobashigawa

Melinda K. Mendes
Tracy Murakami

John H. Murphy
Ramsey Ross
Rebecca A. Vogt

Except for the purpose of investigative inquiries under Section 3.17, the council or its members, in dealing with county employees, or with county officers who are subjected to the direction and supervision of the mayor, shall deal solely through the mayor. and neither the council nor its members shall give orders to any such employee or officer either publicly or privately. Any willful violation of the provisions of this section by a member of the council shall be sufficient grounds for an action for his removal from office.

Clearly, Councilmember Bynum did not handle this situation appropriately. If Mr. Bynum had questions or concerns about the case, the appropriate course of action would have been to communicate those to the elected Department Head, which is me, rather than confronting one of our Deputies, who, in fact, was not assigned to handling the case. This confrontation clearly illustrates the undue bias Mr. Bynum harbors toward both me personally, as well as the Office of the Prosecuting Attorney. As such, Mr. Bynum must recuse himself from any matter before the Council involving the Office of the Prosecuting Attorney.

2. Bynum's inappropriate confrontation of [REDACTED]

Before coming to work at the OPA, [REDACTED] was employed by Kaua'i Council Services as a legislative analyst. She applied to the OPA as a Victim Witness Counselor, and was offered the job in March 2001. After accepting the position, [REDACTED] who had turned in her 2 week notice to Council Services, was confronted by Councilmember Bynum in her office. Bynum stated that he was concerned because it was well known that he and Shaylene did not 'get along' and adamantly believed that the only reason Shaylene hired her was to 'get back at him.' These statements and allegations continued for a prolonged period, leaving [REDACTED] to feel uncomfortable and offended.

Councilmember Bynum's inappropriate confrontation with [REDACTED] regarding [REDACTED] employment at the OPA demonstrates Mr. Bynum's continued undue bias toward me and my office. This bias and proclivity to engage in inappropriate conduct with OPA employees further establishes the need to have Mr. Bynum precluded from participating in any matters relating to the operations of the OPA.

3. Bynum's Pending Criminal Case

On November 9, 2011, the OPA filed a criminal complaint in the District Court of the Fifth Circuit against Timothy Bynum, alleging 4 counts of violations of the Kaua'i County Code. Each Count is a misdemeanor offense, punishable by up to one year in jail and a \$2,000.000 fine for each. This means that if convicted, Bynum could face up to 4 total years imprisonment and \$8,000.00 in fines. There have already been two motion hearings on the case, in which Mr. Bynum has been represented by a private attorney. At each hearing, First Deputy Prosecutor Jake Delaplane represented the State and made all arguments on behalf of the State.

Councilmember Bynum's criminal case clearly establishes a conflict with the OPA. He has a clear financial interest in the operations of the OPA, as he would directly benefit if the OPA's operations were negatively impacted by any action of the Council. By virtue of being a criminal

defendant, he has a vested interest in ensuring that the OPA not operate at peak efficiency. In accordance with Article XX of the Kaua'i County Charter, this financial interest clearly prohibits Bynum from participating in any matter relating to the OPA that comes before the Council.

Further, because Councilmember Bynum is represented by an attorney in his criminal case, our office is prohibited from having direct contact with Bynum without his attorney present; as such contact would violate Bynum's 6th Amendment Right to Counsel and could result in dismissal of his case.

Bynum's paranoid belief that the actions taken by our office were calculated personal attacks against him is without any merit and is completely baseless. The criminal case against his son was investigated by the Kaua'i Police Department and referred to our office for prosecution. The case initiated against Councilmember Bynum was investigated by the Planning Department and referred to our office for criminal prosecution. The contact with [REDACTED] was solely initiated by Councilmember Bynum. Her decision to apply to the OPA and our decision to hire her was purely based on [REDACTED] exceptional experience and qualifications.

For the above stated reasons, Councilmember Bynum has a clear conflict of interest with the Office of the Prosecuting Attorney and should not be allowed to participate in any Council proceedings involving the OPA. It is our hope that the Council will address this situation in a timely and appropriate manner. Feel free to contact me with any questions regarding this matter.

SHAYLENE ISERI-CARVALHO
PROSECUTING ATTORNEY

This Afternoon's Council Meeting

Jake Delaplane

Sent: Thursday, January 19, 2012 11:53 AM

To: Ramsey Ross; Lance Kobashigawa; Kai Lawrence; Brady Beyers; Becky Vogt; Gary Nelson; Jake Delaplane; Jared Auna; John Murphy; Lisa Arin; Melinda Mendes; Sam Jajich; Shaylene Carvalho; Tracy Murakami; Adeline Refamonte; Cyndie Johnson; Deann Costa; Diana White; Jackie Alapai; Jamie Chong; Jennifer Arashiro; John Burgess; Julie Demond; Kerrileen Lizama; Krystal Morinaka-Hirata; Lawrence Jordan; Lianne Parongao; Lisa Aki; Marla Torres Lam; Michelle Jacintho; Patricia Pablo; Peggy Salba-Honnet; Raneey Layosa; Renie Judd

Anyone who wishes to attend this afternoon's Council meeting at 1:30pm may do so.

If you do attend, no need to fill out a leave request form, simply indicate the time on your time sheet as "leave with pay".

Thanks

Jake Delaplane
First Deputy Prosecuting Attorney
County of Kaua'i
jdelaplane@kauai.gov
241-1751

RE: My testimony for you

Sent: Tuesday, January 02, 0001 12:00 AM

To: Shaylene Carvalho; Glenn Mickens [REDACTED]

From: Jake Delaplane

Sent: Wednesday, January 18, 2012 5:54 PM

To: Shaylene Carvalho; Glenn Mickens

Subject: RE: My testimony for you

Glenn,

Since the last administration (Craig DeCosta), the caseload has increased as follows:

84% more felony cases

148% more juvenile cases

62% more misdemeanor cases

Even with these dramatically increased caseloads, our office has maintained the following conviction rates (from last year's report):

97% career criminal prosecutions

93% sexual assaults

98% domestic violence

98% methamphetamine

100% other drug crimes

99% property crimes

Hope this helps Glenn. Let me know if you need anything else, I'll be up late ☺

-Jake

From: Shaylene Carvalho

Sent: Tuesday, January 17, 2012 6:18 PM

To: Glenn Mickens

Cc: Jake Delaplane

Subject: Re: My testimony for you

Jake,

Can u call him and provide him info?

Thanks.

Sorry Glenn I m on Oahu for meetings. I return to Kauai tomorrow evening. Your support and kind words means a lot.

Shay

On Jan 17, 2012, at 4:51 PM, "Glenn Mickens" <[REDACTED]> wrote:

Shay:

I sent this note to Mel but as you see he said to send it to you.

On Thursday you will have your "hearing" or whatever you want to call it and I want to testify for you. My problem is that it starts at 1:30 and my Los Angeles Lakers play Miami at 3 pm and the way it might go the public may not get to talk for 3 hours or more.

BUT, I can get there at 9am and have my 6 minutes to talk about anything on the agenda and that is when I I can give you some good words. It would be better if I got to talk when you were there but unless Jay let the public talk before your part got on I know I would not be there for later so I do know that OI can have my saying at 9am---and the cameras are rolling so the public can see.

Anyway, Shay, this is my plan except that I might ask Jay if the public can have their 3 minutes before your segment starts and see what he says and judge it accordingly.

Would you be good enough to E Mail me any info you have on what I have asked Mel or, any other stats that will score points for you. I sure hope that you have Murphy and your other "good" people there to speak for you as this whole thing stinks of a conspiracy to get rid of you.

Or, if for any reason you don't want me to testify just let me know but I would like everyone to know what a great job you did as a council member and if the stats show it what a great job you have done as the PA.

Your pal,
Glenn

Sorry Glenn but I don't have that information. I would suggest you contact Shay via email at scarvalho@kauai.gov. She would be glad to provide you with those numbers. I appreciate your support of Shay for the Prosecutor's race. Kauai needs her. Thanks again.

On Mon, Jan 16, 2012 at 5:06 PM, Glenn Mickens <[REDACTED]> wrote:
Mel:

I called Shay but had to leave a message on her phone. You know that I am backing her all the way and want to say something at the meeting.

Do you have any idea of how many crimes were prosecuted under Soong or whoever was the PA before Shay and how many have been prosecuted under her? I think that would be a great stat to point out especially if there were more (or even less) under Shay as she had the Furlough to contend with.

For me, it isn't about the disillusioned who are stirring up trouble for her but about her leadership in getting people prosecuted. If those people under her don't want to work for her or don't want to do what she says, then Shay is right to get rid of them.

Anyway, Mel, If you have this information I will appreciate your sending it to me. I will still say that as a councilwoman she did a great job of representing the people and if you have any other info on her work as PA just let me know so I can say it. You two were the only ones to back me in my issues that I brought up and I will not forget that.

Your pal,
Glenn

My testimony for tomorrow

Glenn Mickens [REDACTED]

Sent: Wednesday, January 18, 2012 3:52 PM

To: Shaylene Carvalho

Shay:

Please read this over and let me know ASAP if it is accurate and if it is ok for me to read it tomorrow. Thank you for sending me the 6 stats showing your prosecution record and thought I didn't mention what they were I did use the numbers.

If you have any changes just let me know and I will add or delete what you want.

Good luck tomorrow---I hope you get Tim and JoAnn to crawl under their chair---they are the ones ram roddinig this!

Your pal,
Glenn

My testimony is very simple---I want to support Shaylene Iseri-Carvalho 100% in all her efforts as our Prosecuting Attorney along with those in her team led by Jake Delaplane.

And, I want the public to know how much respect and admiration I had for Shaylene when she was a member of our council. Along with Mel Rapozo, when she made a decision and voted on that issue, her decision was made based on what it did for the people, all the people. She didn't care if she were in the minority when making up her mind, she still had the courage to vote her conscience.

Along with Tracy Murakami and Tony Allen she worked tirelessly to get the Safeway Bridge built after years of disregard by the developers of this shopping center to get it done. Her research and efforts at getting other projects done were endless and I believe that her move to the PA's office took this energy with her.

For instance, I believe that performance and results should be the measure to judge someone by for their success or failure. And with Shaylene at the helm working with her team she has obtained a conviction rate of the 6 most egregious felonies of 98%---a record that anyone would be proud of.

Is she a tough person to work for---very possibly. But, in my opinion she demands action and wants results and both as a council member and as our Prosecuting Attorney she has produced these results and that is the bottom line. We need more people like her in our government to get things done and move this county in the right direction.

Thank you, Shay.

RE: From Jake Delaplane

Cynthia johnson [REDACTED]

Sent: Wednesday, January 18, 2012 1:51 PM

To: Jake Delaplane

I will come in first thing in the morning.

CJ

From: jdelaplane@kauai.gov

To: [REDACTED] jchong@kauai.gov

Subject: RE: From Jake Delaplane

Date: Wed, 18 Jan 2012 23:45:55 +0000

Thanks Cyndie,

The meeting is at 1:30 tomorrow, so something before then would be great. [REDACTED]

From: Cynthia johnson [REDACTED]

Sent: Wednesday, January 18, 2012 1:37 PM

To: Jamie Chong; Jake Delaplane

Subject: RE: From Jake Delaplane

Importance: High

Jamie and Jake...

I will be happy to supply testimony regarding items below.

I am leaving tomorrow night (Thursday) for the mainland...so am busy getting everything here wrapped up.

I am "assuming" you want something in writing from me. I don't know what your timeframes are and I am without a computer for the time being.

[REDACTED]
[REDACTED] If tomorrow, does not work for you...it may be a while as I will be without a car or computer access for the next week or so.

Jamie...

Call me and leave me a message if this works and I will plan to come by tomorrow to write something up.

CJ

From: jchong@kauai.gov
To: [REDACTED]
Subject: From Jake Delaplane
Date: Tue, 17 Jan 2012 23:50:47 +0000

Hi Cyndie – for some reason Jake couldn't email you the below email. Here it is.

Hope all is well Cyndie!

Jamie told me she talked to you earlier and that you'd heard about Thursday's Council meeting that centers around [REDACTED] written testimony (that also appeared in the paper on Saturday)

It would be helpful to have testimony from you at the meeting, talking about the differences that you experienced between Craig's administration and Shay's and the improvements that Shay has made, especially with respect to the victim witness program.

It may also be helpful to detail your extensive management background, and, as we discussed before you left, how [REDACTED] actions surrounding her departure were particularly shocking.

Thanks for your help, we miss you and good luck on your move!

-Jake

Jamie D. E. Chong

Grant Coordinator

Office of the Prosecuting Attorney

County of Kauai

jchong@kauai.gov

Ph: 808-241-1756

Fax: 808-241-1758

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Testimony

Cyndie Johnson

Sent: Thursday, January 19, 2012 10:58 AM
To: Shaylene Carvalho; Jake Delaplane
Cc: Jamie Chong; [REDACTED]
Attachments: Testimony for Council.01.1~1.doc (30 KB)

Shay and Jake...

I have given Jamie a signed hard copy of the attached.
If you wish to revise or change...please feel free to do so.

Jamie...

If you make any changes...just email me a copy of the revised document.

I hope this helps...I hate to see Erin or anyone else get away with the things they are doing!!!!

CJ

Cyndie Johnson

*Administrative Officer
Office of the Prosecuting Attorney
3990 Kaana St., Suite 210
Lihue, HI 96766
808-241-1727*

Testimony from Cynthia Johnson for Council Meeting on 1/19/2012

As I just retired from the Office of the Prosecuting Attorney on 12/31/2011 and am moving to the mainland on 1/19/2012; please accept this as my written testimony regarding changes to the Victim Witness Program which have occurred within OPA over the last five (5) years while I was employed with OPA as the Departmental Administrative Assistant (12/2006 -6/2010) and as the Administrative Officer (7/2010 - 12/2011). My background includes over thirty (30) years of management experience in Personnel, Budget Analysis, Sales and Operations. When I retired from Wells Fargo Mortgage and moved to Kaua'i, accepting a position with OPA became my second career. It has been my pleasure to work with Shaylene and to assist her in building a better and more efficient office.

When Shaylene first took office, a thorough analysis of OPA needs was done. It was found that the VW Program was not operating as a cohesive part of the OPA office. Shay eliminated the separate VW Program and instituted "vertical prosecution" units; which are designed to better assist victims and witnesses. The VW staff was then incorporated into this new organizational design as an integral part of each prosecution unit.

There were a number of other positive changes that took place when Shaylene Iseri-Carvalho was elected as Prosecuting Attorney as of 12/01/2008:

Flex Scheduling:

Prior to this time, a number of OPA employees were allowed to work "flex hours". Several of the Victim Witness employees, including the Director, worked hours outside of the normal 7:45-4:30. When analyzed by the new administration, this was found to be extremely ineffective and did not provide the best service levels to our victims nor to our attorneys. (Examples: One of the VW Counselors worked from 6:30 to 3:15, therefore was not available to be at court if needed after 3:15 or had to be paid overtime. The Director worked 7:30 to 2:30 with no lunch period. She also occasionally worked in the morning, then left for the afternoon, and then returned in the evening to work; so she was not in the office to supervise her staff nor was she available to victims or attorneys if needed during normal work hours.)

Victim Witness Travel for Off island Trainings, VW Meetings and Conferences:

Prior to Shaylene taking office, the VW Director did not travel to any off island meetings. When Shaylene attended the 1st scheduled VOCA meeting after she took office; she was told by the Attorney General's office that no one from Kaua'i's VW program had attended any of the VOCA quarterly meetings for the last several years. Now...Shay either attends the quarterly meetings herself or sends one of our VW staff or the Grant Coordinator.

Special Travel Comp Time for VW staff:

Prior to Shaylene taking office, the previous Prosecuting Attorney gave additional comp time to VW Counselors when they traveled. (The Counselors objected to the County policy regarding the time allowed for travel so they were given "special" additional comp time for waiting at the airport before a flight).

As you can see from the above, in order to provide a workplace that is fair to all employees, Shaylene took proactive steps to eliminate any special treatment for certain employees.

In addition to the above, when the analysis of the VW Program was done, it was found that the VW Director was spending a considerable amount of time performing "clerical and input" duties rather than spending her time working with victims and witnesses. As part of the OPA reorganization, the Grant Coordinator worked with several of our Grantors, to rectify this. The Director position was eliminated, a clerk was hired to do the clerical and input duties, and the Director was reallocated to a VW Counselor with a caseload in order to provide better service to our victims and witnesses.

I believe that OPA operates more efficiently and more effectively today as a direct result of the changes that Shaylene has implemented over the last four (4) years. This may be difficult for some people to see or to understand because they do not see the entire scope or the "big picture", they only choose to see the immediate impact a change may have on them as an individual. But as an Elected Official and a Department Head of a County Agency, Shay accepted the responsibility of making a number of "tough" decisions in her mission to provide "Justice and Equality for All"; PONO KAULIKE.

RE: Elder Abuse Council Meeting is Cancelled Today

Lianne Parongao

Sent: Tuesday, January 17, 2012 12:06 PM

To: Jake Delaplaine

Cc: Shaylene Carvalho; Rane Layosa

Hi Jake,

Brigitte called and left a message to inform that today's meeting is cancelled due to severe weather conditions.

If you want to call her, her cell phone number is [REDACTED]

Thank you,
lp

-----Original Message-----

From: Rane Layosa On Behalf Of Prosecutor
Sent: Tuesday, January 17, 2012 8:32 AM
To: Lianne Parongao; Jake Delaplaine
Subject: FW: Meeting

Ranee T. Layosa
Secretary
Office of the Prosecuting Attorney
County of Kaua'i
rlayosa@kauai.gov

-----Original Message-----

From: brigitte ratcliffe [<mailto:ratcliffe@thejbrfoundation.org>]
Sent: Monday, January 16, 2012 10:50 AM
To: Sherwin Perez; Prosecutor; June Renaud; gacain@dhs.hawaii.gov; dhs.hawaii.gov
Subject: Meeting

Hello! KEAC Members,

Just a reminder about KEAC tomorrow's meeting January 17, 2012 at 2:00 PM.
See you there.

Brigitte Ratcliffe.

RE: Request to be placed on January 18 Agenda

Shaylene Carvalho

Sent: Friday, January 13, 2012 6:16 PM

To: JoAnn Yukimura

Cc: Yvette Sahut; Jake Delaplane; Jay Furfaro; Dickie Chang; Mel Rapozo; Kipukai Kualii; Nadine Nakamura; Tim Bynum; Jade Tanigawa; Ricky Watanabe

Councilmember Yukimura,

As you already know, I inherited the Administrative Staff of one person, [REDACTED]

[REDACTED]. We currently do not have an Administrative Officer because we are waiting on Personnel to do the posting. Further, we were advised that we could not hire anyone until further notice because the contract for drug testing expired. We bend over backwards to accommodate the Council at every budget. In fact, our last budget presentation was approximately 3 hours long. You already have the information available to you. I already work 60-70 hours a week. The least you could do is your own homework to satisfy your own personal agenda.
Shay

From: JoAnn Yukimura

Sent: Friday, January 13, 2012 5:59 PM

To: Shaylene Carvalho

Cc: Yvette Sahut; Jake Delaplane; Jay Furfaro; Dickie Chang; Mel Rapozo; Kipukai Kualii; Nadine Nakamura; Tim Bynum; Jade Tanigawa; Ricky Watanabe

Subject: Re: Request to be placed on January 18 Agenda

Aloha, Prosecutor--

I wasn't expecting you personally to prepare the reports we are asking for. I assumed that someone in the Victim Witness program or your bookkeeper must already have the Victim Witness Budget separated out from the main budget for accountability and record keeping purposes, as required by grants and proper accounting procedures. I hope you will be able to provide such for us. Most other departments in the County have been cooperative and respectful of the council's budgetary and program oversight functions and usually provide such information when requested. Mahalo.

JoAnn

On Jan 13, 2012, at 5:42 PM, Shaylene Carvalho wrote:

Aloha Yvette,

Please pass on my comments to those interested.

With regard to Councilmember Yukimura's correspondence dated January 9, 2012, our office has already provided all the information that is being requested. Each item relates to information that was routinely provided to the Council over the last 3 years, and should be readily available to her in the copies of handouts we provided to the council, the verbatim minutes and the Mayor's budget submittals. With respect to grant funds, all requests for applications go to the Council for approval and all expenditures need to be routed to the Finance Department. The Finance Department would have all the updated information and such requests should be routed to that Department.

I find it simply shocking that Councilmember Yukimura fails to exercise any due diligence in obtaining

information that is already available for her to access and is so insensitive to the important safety issues facing our community. It is obvious with the news media coverage that just within the last two weeks our island has been bombarded by vicious violent attacks involving officers being shot at, an armed robbery and the ongoing murder case. In addition, there are numerous other meetings and hearings which I already have committed to on Tuesday and Wednesday. Is this matter of such grave importance, that she wants us to stop everything we are doing now to attend to her personal agenda? Surely anyone would not disagree that these matters that affect the safety of the community must take priority of my limited and valuable time.

Mahalo,
Shay

From: Yvette Sahut
Sent: Friday, January 13, 2012 3:30 PM
To: Shaylene Carvalho; Jake Delaplane
Cc: Jade Tanigawa; Ricky Watanabe
Subject: RE: Request to be placed on January 18 Agenda

Aloha Shay,

Chair Furfaro requested that I inform you that the Special Council Meeting on Thursday, January 19, 2012 is confirmed and was posted today. He also wanted to request that you be prepared to address the questions in Councilmember Yukimura's memo dated January 9, 2012 at the Special Council Meeting on Thursday.

Should you have any questions, please feel free to contact me.

Mahalo,
Yvette

Yvette Sahut
Legislative Assistant
Office of the County Clerk | Council Services Division
4396 Rice Street, Suite 209 | Līhu'e, HI 96766
Phone: (808) 241-4821 | Fax: (808) 241-6349

From: Shaylene Carvalho
Sent: Thursday, January 12, 2012 12:06 PM
To: Ricky Watanabe
Cc: Yvette Sahut; Jade Tanigawa
Subject: Re: Request to be placed on January 18 Agenda

Yep, I m here. Thanks.

Shay

On Jan 12, 2012, at 11:48 AM, "Ricky Watanabe" <rwatanabe@kauai.gov> wrote:

Shay—are you available to attend a special council meeting on Thursday, Jan. 19 at 1:30 pm?
Cannot on the 18th as Leg. Opening day. Please let me know so we can post appropriately
Thanks, Ricky

From: Ricky Watanabe

Sent: Thursday, January 12, 2012 8:34 AM
To: Shaylene Carvalho
Subject: RE: Request to be placed on January 18 Agenda

Will check Shay and get back to you

From: Shaylene Carvalho
Sent: Thursday, January 12, 2012 8:12 AM
To: Ricky Watanabe; Jay Furfaro
Subject: Re: Request to be placed on January 18 Agenda

Aloha Ricky,

Given the expediency request by council members Bynum and Yukimura to obtain testimony from our office, I am sure there should be no objection to calling either a special council meeting or creating a similar agenda item to address their concerns sooner than February 15th. I am not available on January 24, 25 and 26. Please discuss this with the Chair and the 2 councilmembers as I do not want to prolong this item to allow them to make negative misrepresentations without my presence.

Mahalo,

Shay

On Jan 12, 2012, at 6:13 AM, "Ricky Watanabe" <rwatanabe@kauai.gov> wrote:

Jake—As the motion was made by the full Council to defer the item to the Jan. 25th, the item needs to re-appear on the Jan. 25th full Council agenda. Therefore if Shay is unable to make the Jan. 25th Council agenda another request to defer until February 15th should be sent as the next Council meeting 25th would be February 15. Thank you, Ricky

From: Jake Delaplane
Sent: Wednesday, January 11, 2012 6:18 PM
To: Jay Furfaro; Ricky Watanabe
Cc: Shaylene Carvalho
Subject: Request to be placed on January 18 Agenda

Chair Furfaro,

I noticed that our agenda item from today was deferred to the January 25, 2011 meeting. We are requesting to be placed on the January 18 agenda instead, as Shay will be off-island and unavailable on the 25th.

Thanks

Jake Delaplane
First Deputy Prosecuting Attorney
County of Kaua'i
241-1751
jdelaplane@kauai.gov

FW: Written Testimony for Agenda Item C 2012-08

Mel Rapozo

Sent: Thursday, January 12, 2012 10:10 AM
To: Shaylene Carvalho; Jake Delaplane
Attachments: Letter to County Council ~1.docx (24 KB)

Complete testimony submitted by Erin Wilson.

From: Erin Wilson [wilsonerin_@hotmail.com]
Sent: Tuesday, January 10, 2012 4:37 PM
To: Council Testimony
Subject: Written Testimony for Agenda Item C 2012-08

Attached please find my written testimony.

Thank you,
Erin Wilson

Scanned from a Council Services Xerox multifunction device

xerox@cok.kauai.gov

Sent: Wednesday, January 11, 2012 5:43 PM

To: Shaylene Carvalho

Attachments: Scanned from a Council Ser~1.pdf (39 KB)

Please open the attached document. It was scanned and sent to you using a Xerox multifunction device.

Attachment File Type: pdf

multifunction device Location: machine location not set

Device Name: XRX0000AAD604A6

For more information on Xerox products and solutions, please visit
<http://www.xerox.com>

Date: January 10, 2012

**To: Jay Furfaro, Chair
Joann Yukimura, Vice Chair
Tim Bynum
Dicky Chang
KipuKai Kualii
Mel Rapozo
Nadine Nakamura**

**From: Erin Wilson, Former Victim Witness Counselor at OPA
Re: Council Meeting Agenda Item C 2012-08**

First of all let me say thank you for your time and providing an opportunity for public comment on the Office of the Prosecuting Attorney (OPA) and Victim Witness Program (VWP) at your meeting today. I believe my circumstance is unique to any other and I appreciate the opportunity to share some of my experiences with you in hopes that you will consider what I have to say as an opportunity to improve services at OPA and the Victim Witness Program.

I am a single mom who moved to Kauai in August 2011 from Colorado with my 6 year old son because I was offered a position as a Victim Witness Counselor at the Office of the Prosecuting Attorney. This was in my mind, a dream job, where I could use my passion for helping others, advocating for victims of crime. Within a few days of working, I was assigned to work on the most serious of crimes including murder, negligent homicide, assault, robbery, theft, etc. In this position, my responsibilities included making contact with victims to find out how they were coping, finding out what their needs are, helping victims apply for Crime Victim Compensation, finding local resources, getting victims registered for SAVIN (a victim notification system), and let victims know about other civil remedies. Most importantly, my job was to listen to our victims.

I quickly learned at OPA that NOTHING could be done without the direct approval and oversight of the elected prosecutor. In fact, office staff received an email from the Prosecutor's Office leadership, stating that staff was not to send emails to any outside agencies unless discussed with the OPA leadership prior to sending. Furthermore, OPA Leadership asked to be cc'ed on all other emails to outside agencies. I was very surprised by this as I had not worked in such an environment where communication with related agencies (agencies we interface with) was restricted in such a manner.

The process by which OPA would receive completed investigations and then assigned to the appropriate Deputy and Victim Witness Counselor was ambiguous. The time frame with which the assignment would take place was even more vague and varied week to week. Sometimes cases would be reviewed by the Prosecutor and assigned to a Deputy Attorney and Victim Witness Counselor right away. Other times, as I found out with my caseload, would take

Date: January 10, 2012

**To: Jay Furfaro, Chair
Joann Yukimura, Vice Chair
Tim Bynum
Dicky Chang
KipuKai Kualii
Mel Rapozo
Nadine Nakamura**

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Re: Council Meeting Agenda Item C 2012-08**

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months upon months before even being assigned to a Deputy or Counselor for *any* action to be taken.

In one case that was assigned to me, there were several victims of a violent crime. Prior to making initial contact with the victims, I reviewed the police reports so as to be fully prepared when I contacted the victims and their families, being fully aware of what happened. What I was unable to prepare for was the anger and frustration these families felt when I met with them the first time in our office and learned that after 17 months, I was the first person to contact them from the Prosecutor's Office. In those 17 months, none of the victims or their families had been contacted by anyone at the Prosecutor's office to offer condolences (there had been a death resulting from the crime) or inform the families about their rights to Victim Witness services, Crime Victim Compensation, or any other related community services that they were entitled to. It was not that the Deputies or Victim Witness Counselors were not working hard on their caseloads, but rather, the victims' receipt of services could have occurred much earlier in this case and many others, had the case(s) been assigned by OPA Leadership in a timelier manner. Many of the cases I came across had sat waiting for screening and prosecution or declination for long periods of time. Cases had sat for so long that in some situations, the statute of limitations had run out on certain counts of crimes and the defendants could no longer be charged, leaving victims helpless.

After asking many employees at OPA why the delay on the above referenced case and others I had been assigned to, I was consistently referred to one number...17. This number was significant because there had been 17 Deputy Attorneys who had been hired and either terminated or left on their own accord from OPA. 17 was a significant number because the prosecutor's office is a relatively small office to begin with. 17 was a significant number because all of these 17 former employees had left the office since the current OPA Leadership was elected into office. Most importantly, 17 was a significant number because it answered some of my questions about why a large backlog of cases had either sat for long periods of time without victims being contacted, defendants being indicted, or passed on from deputy to deputy through the revolving door at OPA.

In a letter to County Council dated January 19, 2011 regarding furloughs, the Elected Prosecutor, Shaylene Iseri-Carvalho, states that as a result of furloughs,

"OPA, the sole agency to file the criminal documents with the court and/or prepare for hearings, wasn't able to accomplish its duties in a number of cases because there was insufficient staff to prepare them in an expedited and timely manner."

I beg to differ. I would suggest instead, it is the constant revolving door of employees that has caused a tremendous backlog of cases at OPA. Even the office letterhead is constantly changing and currently reflects that about half of the Deputies that were listed on the above referenced letter, dated January 19th, 2011, have left OPA within the past year. All, I would suggest, to the detriment of Kauaiian families and community.

There was another significant factor that limited the scope of Victim Witness Services at OPA. The elected prosecutor demoted the former Victim Witness Director, Diana Gausepohl-White and effectively eliminated the Director position altogether. What did this mean for the Victim Witness program? It meant that our Victim Witness program no longer had a leader in Victim Witness services to provide oversight of day to day operations and management of the program. It also resulted in drastic changes in the scope of services that Victim Witness Counselors were *allowed* to offer. For example, before the Director position was eliminated, the VWP offered services such as Outreach programs, crime scene support upon request, alliances with multiple community agencies. After the Victim Witness Director position was eliminated, these components of our comprehensive program diminished or ceased to exist. Another downfall to eliminating the Director position was the inability to maintain relationships with agencies that the VWP interfaces with on Kauai, in the state of Hawaii (ex. Victim Witness Coordinator meetings) as well as nationwide organizations such as National Organization for Victim Advocacy (NOVA). These former relationships made our Victim Witness program at the Prosecutor's Office stand out among others in the Pacific region.

Losing the Victim Witness Director at OPA, we also lost accountability for an equitable distribution of workloads among the Counselors. For example, each Counselor is assigned to certain types of cases such as Property, Crimes Against Persons, Firearms, etc. without regard to the intensity of the case or the needs of the victims and witnesses. The current OPA Leadership also promotes the perception that Victim Witness Counselors have little importance within the office and are perceived as such by many of the attorneys, clerks, and other staff at OPA. For example, in one conversation I had with a Deputy Attorney at OPA, two Victim Witness Counselors were referred to as "worthless." In a separate conversation I had with a Prosecutor, it was stated that 'Victim Witness Counselors were not needed because deputy attorney's already make contact with their victims, without the help of a Counselor.' Based on my experience working at OPA, I disagree. Furthermore, the notion that the Deputy Prosecuting Attorneys have the same job responsibilities as a Victim Witness Counselor, is misleading.

Other responsibilities of the Victim Witness Director that also took a backseat included the onboarding of new Counselors, ongoing training of new skills, knowledge of trends in the field, and ensuring that advocates took turns attending national conferences.

I am no longer employed with the Prosecutor's Office as I was informed on November 9th that I was being laid off and my position as Victim Witness Counselor was being eliminated from the office due to "lack of work". This "lack of work" described in the letter that OPA gave me is in stark contrast to the much needed Victim Witness Counselor that the elected prosecutor requested monies for, in her letter (just a few months ago) to County Council dated June 13th, 2011. Despite this "lack of work" the office has hired several people including a Receptionist, a Process Server, two (2) Law Clerks, and a Law Office Assistant position which was created for the previous Secretary--all since my last day of employment, November 23rd, 2011. Furthermore, OPA has done nothing to preserve my employment despite that the County of Kauai Employee Handbook (page 17) Layoff Policy states that they will give 90 days' notice prior to instilling a Reduction in Workforce or Layoff. I am certain that the victims who call OPA on a

daily basis requesting an update on their case status or the victims of the most recent surge of crime on Kauai, could have used the services I provided as a Victim Witness Counselor.

I request of you today, to re-evaluate the Victim Witness Program and consider that victims are not being served in this community in the full scope that they should be served, due to the changes and restraints that the elected prosecutor is putting on the Counselor's abilities to communicate with local agencies and organizations, conduct outreach to victims, and serving victims in a timely manner through the prosecution of crimes. I believe that the County of Kauai has excellent resources to support the victims of our community. My hope is that my words will be a starting point for restoring the full scope of the Victim Witness Program back to its intended purpose for our victims, community, and ohana.

Sincerely,

Erin Wilson

Email: [REDACTED]

Council Meeting January 25, 2012

Jamie Chong

Sent: Wednesday, January 11, 2012 3:38 PM

To: Shaylene Carvalho; Jake Delaplane

Just finished watching the Council Meeting. We are deferred to January 25, 2012 – however, Yukimura has requested that Diana Gausepohl-White be present at the meeting “since she has 15 years of VW experience and was the Program Director at one time”.

They have written testimony from Erin Wilson that has information on workload allocation, and use of public funding. Wonder if we can get the testimony from Mel?

Let me know if you have any questions...

Jamie D. E. Chong

Grant Coordinator

Office of the Prosecuting Attorney

County of Kauai

jchong@kauai.gov

Ph: 808-241-1756

Fax: 808-241-1758

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RE: Important announcement

Nicole Naumu

Sent: Tuesday, January 17, 2012 8:43 AM**To:** Mayor; KCT Dept Head; KCT CC; Ernest Barreira; Shaylene Carvalho; Jake Delaplane; Ricky Watanabe; Jay Furfaro; JoAnn Yukimura; Mel Rapozo; Dickie Chang; Nadine Nakamura; Tim Bynum; Kipukai Kualii; Ernie Pasion

Awesome! Congratulations Ernie!!

From: Cyndi Ayonon **On Behalf Of** Mayor**Sent:** Friday, January 13, 2012 10:54 AM**To:** KCT Dept Head; KCT CC; Ernest Barreira; Shaylene Carvalho; Jake Delaplane; Ricky Watanabe; Jay Furfaro; JoAnn Yukimura; Mel Rapozo; Dickie Chang; Nadine Nakamura; Tim Bynum; Kipukai Kualii; Ernie Pasion**Subject:** FW: Important announcement

Aloha!

As you know, the County's annual budget is the driver behind all that we do. County Councils and Administrations have stated for many years that development of the budget is the single most important task performed on an annual basis. It is imperative that we, as the Administration, devote adequate resources to this task. There has been one position in Finance dedicated and responsible for the development and tracking of the annual budget for many years.

Especially during these challenging economic times, I wholeheartedly believe that we need to improve budgetary oversight and responsiveness. I have tasked the Department of Finance to investigate budgetary best practices and determine how we can work with the County Council to revamp our budgetary process. My goals include improving community involvement in the budget process, setting of performance measurements, goals and objectives. We will also work with the Council on our joint initiative of changing the annual budget calendar to allow the administration and council to have more time to conduct budget deliberations. While we may ultimately require Kauai County Charter changes to budget calendar, we will begin the process.

Therefore, I am pleased to announce a restructuring within the Finance Department which will address the annual budget in a way that will better support the needs of our community, our departments and the County Council.

I will be expanding the responsibilities of Ernest Barreira with the added oversight over the budgeting process. As you know, Mr. Barreira has been serving as the County's Assistant Chief Procurement Officer, and think we can all agree that he has done an outstanding job increasing efficiencies and productivity within Purchasing over the past twenty one months. Ernie is a 25 year veteran of government service; 21 of those years served in a management or chief administrative capacity.

In his position of Budget and Purchasing Director, Mr. Barreira will report to Director of Finance Wally Rezentes, Jr. Additionally, in Finance, two existing positions will be reprogrammed to support both the grant and budget administration functions of the county and will report to Mr. Barreira.

Please join me in congratulating Ernie on his new position. I look forward with great optimism to successfully closing out the current fiscal year, and working with the Council on the budget for fiscal year 2013.

Best regards,

Mayor Carvalho

Memorandum from Council Vice Chair Yukimura requesting the presence of Diana Gausepohl-White at the January 19, 2012 Special Council Meeting at 1:30 p.m.

Wilma Akiona

Sent: Friday, January 13, 2012 4:15 PM
To: Shaylene Carvalho
Cc: Jake Delaplane; Yvette Sahut
Attachments: Memo to Prosecutor request~1.pdf (42 KB)

Attached is the aforementioned memorandum. The hard copy will be sent via interoffice mail. Thank you for your attention to this matter.

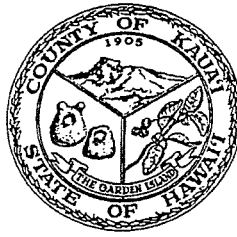
Sincerely,

Wilma Akiona
Council Services Division
Office of the Kaua'i County Clerk
Ph. No. 241-4815

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COUNTY COUNCIL

Jay Furfaro, Chair
JoAnn A. Yukimura, Vice Chair
Tim Bynum
Dickie Chang
KipuKai Kualif'i
Nadine K. Nakamura
Mel Rapozo



Council Services Division
4396 Rice Street, Suite 209
Lihue, Kauai, Hawaii 96766

OFFICE OF THE COUNTY CLERK


Ricky Watanabe, Interim County Clerk
Eduardo Topenio, Jr., Deputy County Clerk

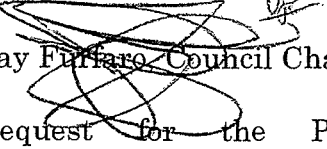
Telephone (808) 241-4188
Fax (808) 241-6349
Email cokcouncil@kauai.gov

MEMORANDUM

January 13, 2012

To: Shaylene Iseri-Carvalho, Prosecuting Attorney

From: JoAnn A. Yukimura, Council Vice Chair 

Via: ~~Jay Furfaro, Council Chair~~ 

Re: Request for the Presence of Victim Witness Counselor
Diana Gausepohl-White at the January 19, 2012 Special Council
Meeting

This is to request the presence of Victim Witness Counselor
Diana Gausepohl-White at the January 19, 2012 Special Council Meeting at
1:30 p.m.

Should you have any questions, please contact me at 241-4092.

Thank you for your attention and response.

cc: Jake Delaplane, First Deputy Prosecuting Attorney

YS/wa2012-452