

COMMON CAUSE HAWAII news

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COMMON CAUSE/HAWAII IN THE NEWS

--1985--

A-10

The Honolulu Advertiser

Established July 2, 1856

Thurston Twigg-Smith President & Publisher
George Chaplin Editor-in-Chief
Buck Buchwach Executive Editor
John Griffin Editorial Page Editor
Mike Middelworth Managing Editor
Gerry Keir City Editor

Monday, July 8, 1985

Honolulu Star-Bulletin

Published by Gannett Pacific Corporation

CHRYN HO, CHAIRMAN
ALEXANDER ATHERTON, PRESIDENT
PHILIP T. GIALANELLA, PUBLISHER
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A. A. SMYSER Contributing Editor

William Carr, Managing Editor; Cynthia Qi, Assistant Managing Editor; Naomi Sutton, Tim, Today Editors; Bill Kwon, Sports Editor; James Blankenship, News Editor; Charles E. Frenkel and Carl Zimmerman, Assistant Editors, Editorial Page.

Published at 608 Kapalama Boulevard Honolulu, Hawaii 96813

A-16

Friday, July 5, 1985

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Common Cause is asking too that the chief justice arrange to have a code of ethics drawn up for judiciary employees. The group feels that such conflict-of-interest guidelines should be spelled out. Come on now, does anybody believe that the sushi rollers did not understand that their behind-the-scenes political enterprise was wrong? Our naivete does not extend this far.

Questionable Lobbying Practices at the Courts

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Common Cause, an organization dedicated to good government, has now challenged these activities as possible violations of the state ethics code. It has called on the state Ethics Commission, Chief Justice Herman Lum, who is Okuda's boss, and the Legislature to take action against the alleged violations.

It is too early to judge whether anything unethical is going on, but the situation cries for inquiry. Questions have been raised with regard to solicitations of court employees, failure to register as a lobbying group and political activity during office hours.

There is no doubt that Okuda's lobbying, even if technically proper, has taken on extraordinary dimensions that may not be in the best interests of sound government. Certainly the Judiciary, of all government branches, should not tolerate activities that cast a shadow on its integrity.

Legislators should also ask whether they have compromised themselves by accepting favors from Okuda and his lobbying group. The dispensation of deputy sheriff's badges to legislators is especially questionable.

Common Cause has raised questions that deserve to be answered.

Opinion

The Maui News

Founded in 1981

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MARY CAMERON SANFORD
NORA I. COOPER
EARL I. TANAKA
ROBERT J. JONES

Publisher
Associate Publisher
Editor
Managing Editor
Advertising Director

Mayor Frank Fasi

Common Sense, Not Common Cause, Rules

Recently, the head of Common Cause challenged the State's Campaign Spending Commission. He demanded that the commission stop candidates for public office from using campaign funds for personal expenditures or for other than political campaign purposes.

I agree. Campaign contributions should be used only for political purposes that help a candidate to get elected or re-elected to office.

However, I disagree with Common Cause when they declare what is or is not a political use of funds. For example, they say a candidate cannot buy a car, van, or a computer. They say a candidate cannot make a

contribution from his campaign fund to a bobby sox or little league baseball team. And they even say that my charging my recent trip expenses to Washington, D.C., is a wrongful use of campaign funds.

To all that I say "NUTS!" All of the above are legitimate political campaign expenses as well as in the public interest. It's time that politicians speak out against a few, self-annointed people who intimidate public officials with their self-righteousness and claim to be speaking for our people.

Obviously, their record shows that they operate on the premise that political candidates and office-holders

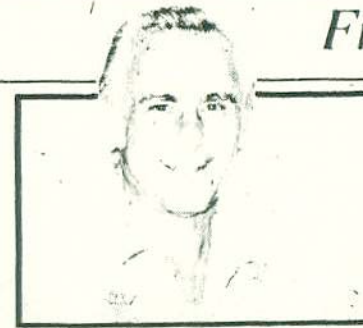
are basically dishonest. They attack elected officials when they meet together privately to discuss legislation and come to an agreement on the passage of laws. They argue that all discussions leading to political decisions must be held in public with reporters present. This is supposed to be "in the public interest." To that, again, I say, "NUTS!"

Over 90 percent of elected officials are honest, dedicated and hard-working. They are not crooks. They don't make secret deals against "the public interest." Most give of themselves rather than take. Most would prefer to confer with others privately so they can "lay their cards on the table" and make the best deal

possible to get laws passed "in the public interest."

With reporters and others present, they cannot jockey back and forth trying to find a position of compromise. The opposite takes place. Third parties present at meetings can have a chilling effect on the discussions of elected officials. As a result, too often, the best deals resulting in the best laws just don't happen. The people get shortchanged.

This is not to say that public hearings should be closed to the media or the public. On the contrary, such hearings can, and have, changed the positions of elected officials that had been determined in private meetings with their colleagues.



Frankly Speaking

thinking they should do what Common Cause says they should do. City council members tell me they are not supposed to get together to discuss any pending matter unless it's done in public. Not even if it be two council members. Ridiculous!

As for myself, I will charge my campaign fund for all costs for my trip to Washington. I will purchase new equipment for my campaign headquarters such as a computer, typewriters, and desks, among other things. I will purchase a new car if needed. This I will do because political campaigns never end. As soon as you finish one, the next begins.

Common sense — not Common Cause — will guide me on my relations with other officials and the expenditure of campaign funds. That's the way it was. And that's the way it will be.

The President of the United States will meet, often, with decision-making leaders of both political parties. They do this in private. Congressmen and senators will meet privately and chart a course of action on public laws. And that's the way it should be.

Why hasn't Common Cause demanded that all *these* secret meetings be open to the media and to the public? I'll tell you why. They'd be laughed right out of Washington, D.C.

But here in Hawaii, Common Cause has frightened elected officials into

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Council invites Fasi to make monthly, public visits

In their only "official" action yesterday, the nine City Council members extended Mayor Frank Fasi a standing invitation to meet publicly with them at least once a month.

"It's OK," said Fasi, noting that the City Charter already allows him to attend council meetings.

Meanwhile, Common Cause, the public-interest lobbying organization, asked Fasi to drop his plans to meet privately with the council, saying that would violate the City Charter as well



city
hall

as the state's "sunshine" law.

Fasi, however, said, "I will use my constitutional rights to talk with anybody I please at any time, at any place. . . . I don't intend to break any laws, but at the same time I don't intend to be tied down by an

interpretation of the law by a third party."

The president and the governor regularly hold private meetings with lawmakers, Fasi added.

Ian Lind, executive director of Common Cause/Hawaii, said, "The public's business should not be carried out in secret. That's the whole point of the sunshine law. But I'm afraid that the mayor wants to reject the whole idea of openness in government."

On another matter, Fasi said

he is "optimistic" about meeting with Gov. George Ariyoshi, his longtime political rival, in the next week to discuss Fasi's proposal for a joint city-state

policy committee to discuss matters of mutual interest.

Fasi made the proposal in his Jan. 2 inauguration speech, and said he has written to the

governor about it.

The committee would consist of the mayor, governor, City Council chairman, House speaker and Senate president.

IN HAWAII

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Mayor Thinks Private-Meeting Criticism Is Off Base

By Kathy Subko
Star-Bulletin Writer

Mayor Frank Fasi says he'll meet privately with City Council members concerning any city business, despite charges from a citizens' lobbying group that such meetings are illegal.

Ian Lind, executive director of Common Cause Hawaii, sent a letter to Fasi earlier this week saying private meetings violate the state's sunshine law on open government.

The letter was prompted by Fasi's recent statements that he intends to meet privately with Council members when he thinks it's necessary.

Fasi met with several Council members in his campaign headquarters a few days before he was inaugurated. Asked about that meeting, Fasi said he deliberately excluded the public and plans to do so in again.

"I will use my constitutional rights to talk with anybody I please at any time and place,"

Fasi said.

HE SAID he hopes to meet with Council members about subjects "that you wouldn't want to discuss publicly — similar to when the Council meets in executive session."

He compared potential meetings with Council members to meetings he says the president and governor have with legislators.

He refused to comment specifically about Lind's letter, saying

it would be a "waste of time."

He said if he doesn't want the public to know about future meetings with public officials, he will deny that they are taking place.

"I don't intend to break any laws," Fasi said. "But by the same token I'm not going to be tied down."

COUNCIL CHAIRWOMAN

Patsy Mink said she did not consider the pre-inaugural meeting to be a violation of the law, say-

ing many subjects were discussed.

But in his letter to Fasi, Lind says such meetings violate both the "letter and spirit of the state's sunshine law" which requires all public business to be conducted openly.

"The open meeting requirements clearly apply not only to decision-making meetings, but also to meetings involving the discussions and deliberations preparatory to a decision," Lind wrote.

"I'm afraid that the mayor wants to reject the whole idea of openness in government," Lind said in a statement released with copies of his letter to Fasi.

Exceptions to the law include "chance" meetings of board members or meetings where city officials discuss subjects in litigation. City Council members frequently hold "executive sessions" to discuss matters with their attorneys.

200 groups get notices on political donations

By Jerry Burris
Advertiser Politics Editor

More than 200 local corporations, unions and other groups have been advised that they may have violated the law because they failed to tell the state about their political contributions.

The notice was sent out this week by Jack M. Gonzales, executive director of the state Campaign Spending Commission, to any group which apparently gave more than \$1,000 in political contributions during the last election.

The Campaign Spending Commission recently reiterated its belief that the law requires a report from any such group. However, as many as 200 local businesses, including architectural firms, "Big Five" corporations, tourism companies and others apparently have been contributing large sums without reporting.

In some cases, the contribu-

tions have amounted to tens of thousands of dollars, yet there was no central record of how much a business spent politically.

The citizen lobbying group Common Cause has been pushing the commission to act, saying failure to disclose was a major loophole in the law.

Gonzales said yesterday the commission isn't talking about penalties or sanctions now, but just wants to get organizational reports from those businesses that have contributed more than \$1,000.

The commission came up with its list by going through each individual campaign spending report by political candidates.

Many groups already report their campaign activities as registered political action committees. Others, however, were apparently unaware of the requirement, Gonzales said.

The commission notified them that reports are due by Jan. 31.

Governor Under Fire on Pesticide

By John Christensen
Star-Bulletin Writer

The environmental record of the Ariyoshi administration is being heavily criticized following reports this week about lax enforcement and a cover-up of a pesticide contamination of milk.

State Sen. Benjamin Cayetano yesterday accused Gov. George Ariyoshi of being more concerned with his administration's image than with the public's well-being during the heptachlor contamination in the early 1980s.

Cayetano, who was chairman of the special Senate committee that investigated the contamination, said that "part of the problem is this administration's inability to see that the greater loyalty is to the public rather than the different branches and agency heads."

The Star-Bulletin reported earlier this week that pesticide contaminations on Oahu date back at least to 1962, about 20 years earlier than previously made public. It also reported that state officials and University of Hawaii professors covered up a milk contamination in 1975 and showed more concern for dairy farmers than the public's health during the heptachlor contamination.

CAYETANO SAID that when faced with a problem such as the heptachlor contamination, "the governor's reaction is always one of anger." He said Ariyoshi regards such an incident as an attack on his administration and defends it rather than rooting out the problem.

"He seems incapable of grasping the fact that the public won't blame him if a few of his 30,000 employees do something wrong," Cayetano said. "It's fine that he is concerned about his employees' well-being, but as governor he should be protecting us."

The governor was offered an opportunity to comment, but declined because the questions were not in writing.

The Cayetano committee was critical of several state agencies, including the Departments of Health and Agriculture, the attorney general's office and the College of Tropical Agriculture.

BUT THIS IS the first time the governor has been singled out for such criticism, and Cayetano, a Democrat, is not the only critic. Nor is Ariyoshi the only target.

Legislators and environmentalists vented their anger yesterday at the bureaucrats who prolonged the contamination and a gov-

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Ariyoshi Criticized in Pesticide Case

Continued from Page One

ernment that has been unresponsive to environmental issues.

"What I've read this week fills me with rage," said freshman Rep. Fred Hemmings. "We're paying a tremendous price for our government and we're getting crap in return. We're not getting leadership."

"I'm distressed to hear that the state knew about the problem for the past 22 years," said Rep. Barbara Marumoto. "This is very serious."

Hemmings and Marumoto are both Republicans.

"I was upset with the governor a few years ago for asking for an exemption when there was talk of banning EDB, and now we have EDB in our water. It seems that any time agriculture is pitted against health, agriculture comes out ahead," Marumoto said.

IAN LIND of Common Cause, the public interest group, criticized the administration for a "paternalistic attitude" that excludes the public when it comes to making policy.

"It has the view that the public and the press are not qualified to review these weighty matters," said Lind, "and this attitude has gotten us into a bind."

He said that citizens and researchers seeking access to data and reports compiled by state agencies have had "continuing problems."

"We now see why the sunshine law (which requires that

meetings of state agencies be open to the public) and right of public access laws are so vital. If people had known earlier that there might possibly have been a problem from the cumulative use of pesticides, we might not have this problem now."

THE PROBLEM now, in the view of Wayne Gagne, an entomologist at the Bishop Museum and the regional vice president for the Sierra Club, is "just the tip of the iceberg. The oils, the toxic wastes and the pesticides are a really disturbing combination."

Gagne's said that rather than dealing with it aggressively, the state is waiting for it "to go away."

Rick Scudder, state board chairman of the Conservation Council of Hawaii, blasted the state's "piecemeal" approach to the environment, adding, "I think the state is still groping around, trying to figure out what it's doing."

Scudder was especially critical of "schizophrenic" situations such as the one at the Department of Agriculture, which promotes agriculture but is also responsible for regulating pesticide use.

"They're going in circles," he said.

OF THOSE commenting, no one felt that the state was doing an effective job of regulating pesticides. "I'm not satisfied the state is effective at regulating anything," said Hemmings, "and

now there's a proposal to put all water under its jurisdiction."

Nor did anyone believe the environment was adequately protected. "If it were," said Scudder, "I wouldn't be so damn busy, along with a lot of other people."

Money for more pesticide inspectors would help, most agreed, but no one was convinced that inspectors alone would make a difference. "Adequate enforcement of the existing laws would be a lot better," said Hemmings.

Rep. Mark Andrews, the new chairman of the House Committee on Planning, Energy, Ecology and Environmental Protection, said the poor record on protecting against pesticide contamination is "inexcusable and an embarrassment to the state... the Legislature has to put pressure on the administration to make sure that doesn't happen again."

Environmentalists, and at least one legislator, wonder just how assertive the Legislature will be.

"I HOPE this will result in a serious review of the legislation," said Gagne, "but I've been following the Legislature for a number of years and environmental legislation always seems to go down a black hole. It's been pathetic."

"I hope there will be enough legislators who realize that there may be repercussions from their constituents if they don't get something done. In the past,

legislation has been either killed in committee or, if it made it out, vetoed by the governor."

Gagne pointed out that the situation also involves "a lot of money and a lot of politics" and said he was pessimistic about the "same old crowd in the House. (Speaker Henry) Peters can give it the kiss of death by putting it into blind alleys. It's hard to be optimistic."

Gagne said the Sierra Club has supported the creation of a Department of the Environment for several years, "but the governor says 'No way, Jose, and won't move.'"

There is an Office of Environmental Quality, which is little more than a clearing house and has no authority. It is under the Department of Health's jurisdiction and will be phased out at the end of the year unless the Legislature renews it.

MARUMOTO SAID she sponsored a bill to provide affordable testing of breast milk after the heptachlor contamination was revealed. "Mothers had a hard time getting it done," she said, "and it cost something like \$150." The bill made it out of committee, but was never funded and died.

Nevertheless, she said, "There are those in the Legislature who are very, very concerned." Are enough of them concerned enough to make some changes? "We shall see."

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In Defense of Some Secrecy

By A. A. Smyser

Contributing Editor

MY THOUGHTS on open meetings are considered mildly treasonable by some of my fellow journalists.

I think the demand for them is overdone.

This won't cost me my membership in the Honolulu Press Club, which is more concerned about how to balance the books on its bar and restaurant operations.

But it may draw an arched eyebrow from such respected colleagues as my younger brother, Dick, of Oak Ridge, Tenn., who is this year's president of the American Society of Newspaper Editors.

ASNE fights the openness battle year-round alongside such allies as the American Newspaper Publishers Association, the Associated Press Managing Editors Association, the Society of Professional Journalists and assorted other organizations.

Locally Common Cause is a foremost non-media exponent of openness.

Some people believe that any time three public officials are gathered together journalists and

Editors and Common Cause are wrong in their demands; the mayor and the Council ought to be able to hold private discussions.

anybody else ought to be allowed to listen in, too.

I AM FOR OPENNESS, but I don't agree with Common Cause that the taxpayers of Honolulu will suffer irreparably if Mayor Frank F. Fasi and City Council sit down and have private talks occasionally.

It might even help if a few things could be thrashed out in private before the matter is aired publicly.

I know there is a suspicion of back door conniving, and I'll come back to that.

First let me flash back to meetings in the mayor's office when Johnny Wilson was mayor and later when Neal Blaisdell succeeded him.

Both of them would have the City Council's predecessor — the Honolulu Board of Supervisors — in for occasional off-the-record chats. Some of the sessions, I seem to recall, were late of an afternoon and lubricated with an open bar and hard liquor.

Reporters were allowed in, but we had to respect the off-the-record nature of the meetings

and use what we heard for background only. A lot of journalists won't accept such invitations today, though some still do.

I found the meetings constructive. They allowed for backgrounding on upcoming matters away from the public eye and gave the supervisors a chance to become educated on a pending matter before they had to take a public position on it.

They allowed the members to feel out each other's stances in private, to learn before a public meeting and formal vote which way the votes were tending to fall.

It was at such meetings, I think, that Blaisdell broke through a standoff with the supervisors early in his administration that was threatening to stymie all his nominations and proposals. There was enough private give-and-take to establish such mutual trust that lasted through the rest of his term.

I SUBMIT THAT the other extreme of no background briefing, no private discussion before a matter goes public pushes most public officeholders toward immobility. Only the most articulate and sure-footed dare to speak up. The others keep their peace if only to cover up their ignorance.

I further submit that the true connivers are going to manage private or secret discussions no matter what the rules may be. Thus by denying private backgrounding to our public figures we may be most handicapping those who are not part of some cabal.

Over the years, I have grown more and more convinced of the advantages of democracy over its opposites. We truly have just about the best government system in the world, one that stays closer to the public's interest than any other, one that can change and adjust with the most flexibility and the least violence.

We absolutely should insist on openness and accountability in our decision-making processes, and strive for the most we can get.

But I think we are asking too much when we ask our public officials to do all their learning and backgrounding and feeling-out of each other on the public stage.

We presumably have some measure of trust in our elected officials or we wouldn't have elected them. I'd take a chance on their having some private get-togethers so long as they all still have to cast their votes publicly, be available to be asked to explain them, and be subject to criticism from all of us as well as by their colleagues.

Star-Bulletin

Common Cause Defended

I am dismayed by Mayor Frank Fasi's attack on Common Cause. The mayor is sadly uninformed about the aims of Common Cause and its relationship with Hawaii's elected officials.

First, he seems not to know that the membership of Common Cause in Hawaii is not "a few self-anointed people," but well over 1,200, none of them "self-anointed." Many of us supported Fasi's candidacy in the recent election. We have felt good will toward him personally, and have had high hopes for the new Fasi administration.

I am shocked by the mayor's accusations. Common Cause does not, as he charges, "intimidate public officials," nor do we "operate on the premise that political candidates and office-holders are basically dishonest."

In fact, we would agree with him that most elected officials are "honest, dedicated and hard-working." The aim of Common Cause is to work cooperatively with these officials toward our mutual goal of ensuring that the people's rights are protected through the process of law.

The mayor objects especially to Common Cause's support of the sunshine law and the campaign spending law. The first of these gives the people access to information that affects their lives or that lets them know how well their government is being run. Such information is every citizen's right. Many times in past years, the people of Hawaii have had reason to thank Common Cause for its persistent monitoring of the sunshine law.

As for the campaign spending law, Common Cause does not, as Fasi charges, dictate what is or is not a legitimate use of campaign funds. The law itself defines those uses. Common Cause has never said that "a candidate cannot buy a car, a van or a computer."

According to the law, the legitimacy of charging such purchases to one's campaign funds

would depend upon the uses to which the purchases are put.

Common Cause has not said, as Fasi charges, that the mayor's recent trip to Washington was not a legitimate campaign expense. However, the charge raises the question of whether the trip advanced the mayor's election campaign and whether it should have been paid for out of his campaign funds.

We are troubled that the newly elected mayor has challenged Common Cause so sharply and so early in his tenure. Fasi owes it to the 1,200 Common Cause members in this state to make a public retraction. I am a member of Common Cause.

Anne Greene

Isle Common Cause Raps Rep. Peters for Dual-Role Statement

Common Cause/Hawaii has criticized state Rep. Henry Peters for taking a statement out of context from a citizens' report in trying to defend his

dual role as House speaker and a Bishop Estate trustee.

In his speech to the Legislature Wednesday, Peters said, "...It cannot be considered improper or immoral for a legislator to also be an employee of a business or corporation."

Ian Lind, Common Cause's executive director, said Peters took the statement out of context from the 1971 report by the Citizens Conference on State Legislatures.

Actually, the report calls for tougher controls over legislative conflicts of interest, he said.

"The report did not dismiss the issue of conflicts, as the (House) speaker has implied. In fact, the sentence quoted occurs in a section of the report which concludes by calling for stronger measures to prevent conflicts of interests from distorting the work of our state Legislature," he said.

"As the Citizens Conference report makes clear, the conflict-of-interest question should not be so casually laid to rest," he said.

The report says ethical guidelines "must, on the one hand, be drawn tightly enough to protect the public interest, but not so tightly that they prevent the legislator from earning a living or advancing his profession. Every 'part-time' legislator has a right to do both of these things, but not at the expense of the public interest."

Common Cause Says Open Government Is The Law Of The Land

With the publication of this article, MidWeek has given the Common Cause organization an equal opportunity to respond to Mayor Frank Fasi's criticisms of the group (Frankly Speaking, Jan. 9). The opinions stated in this article and in the columns by Mayor Fasi are those of the authors and do not necessarily reflect the opinions or attitudes of MidWeek Magazine.

By Ian Y. Lind

Executive Director
Common Cause Hawaii

Should we return to the days when political bosses huddled in smoke-filled rooms to divide up the spoils without fear of being interrupted by the public or the press?

Most people would probably answer with a strong "no" to this question. Yet in his "Frankly Speaking" column of January 9, Honolulu Mayor Frank Fasi directed a harsh attack on Common Cause for having taken strong and effective action to assure that public officials, both elected and appointed, adopt policies that promote open and honest government, and obey the laws that they are sworn to uphold.

Mr. Fasi apparently believes that open government in Hawaii is the result of Common Cause having "frightened" and "intimidated" elected officials. This is flattering, but the fact is that the state of Hawaii, like every other state in the nation, prohibits secrecy in govern-

Common Cause is an advocate of openness in government, but it is equally clear that openness is the law of the land and not simply the private opinion of any "self-anointed" group. The reasons for openness can be stated quite simply:

"In a democracy, the people are vested with the ultimate decision-making power. Governmental agencies exist to aid the people in the formation and conduct of

"Opening up the governmental processes to public scrutiny and participation is the only viable and reasonable method of protecting the public's interest."

public policy. Opening up the governmental processes to public scrutiny and participation is the only viable and reasonable method of protecting the public's interest."

These are not the words of Common Cause, although we might have said them. This is the text of the "declaration of policy and intent" that the legislature adopted as an introduction to Hawaii's sunshine law.

The mayor would, it seems, have it otherwise. He argues that the sunshine law prohibits even two public officials from discussing any pending matter except in a public meeting, and he rejects such a limit — and the whole idea of open government — as "ridiculous." But Mr. Fasi is attacking a "straw man." His characterization of the sunshine law is far stricter than the view of Common Cause.

The sunshine law is not intended to eliminate personal conversations, but to require the deliberations and decisions of official agencies to be open and accessible to the public. Our reading of the law indicates that informal information sharing between two public officials would be prohibited only if it were used "to circumvent the spirit or requirements" of openness.

The mayor, though, has made it clear that he will not be content to have private conversations with individual members of the City Council. He says that he intends to "meet together privately" with the full City Council "to discuss legislation and come to an agreement on the passage of laws." This goes far beyond any reasonable need for informal dialogue.

What the mayor proposes is

really a return to secret government, pure and simple.

Mr. Fasi attempts to further support his position with the claim that if open meetings were suggested for Congress, Common Cause "would be laughed right out of Washington, D.C." The mayor, it would appear, is somewhat misinformed.

It is true that, during much of the history of this country,

Congress operated largely in secret. However, ten years ago, in response to the lessons of Watergate and lobbying by Common Cause and other public interest organizations, Congress adopted a series of reforms requiring — yes, that's right — open meetings.

Today, virtually all meetings of Congressional committees, subcommittees, conference committees, even

the bill-drafting or "mark-up" sessions where serious compromises and trade-offs occur, are required to be open to the public. Common Cause was not laughed out of the capitol. We changed its way of doing the public's business.

Open, honest, and accountable government is truly a common cause, and it is hoped that the mayor will have the common sense to realize it.

Anderson Debt Is Put at \$296,245

The campaign organization of former Mayor Eileen Anderson has run deeper into debt as it pays off remaining bills from her unsuccessful bid for re-election last November.

Democrat Anderson's campaign shows a \$296,245 deficit after spending more than \$1.6 million on the election — the most-expensive campaign for Honolulu mayor.

Anderson's campaign report was among numerous documents submitted by political candidates to the state Campaign Spending Commission yesterday, detailing their finances from the general election until the end of 1984.

Anderson received help from her husband, Clifford, and 32 of her friends, supporters and former cabinet officers who took out a total of \$53,300 in loans for the campaign.

The commission also received numerous organizational reports from individuals who have contributed more than \$1,000 to a campaign.

Letters were sent out to donors after the commission settled out of court a lawsuit filed by Common Cause/Hawaii.

The citizens' lobbying organization challenged the commission because it refused to require those contributors to file disclosure statements.

Why Secrecy Is Harmful

In a recent column, A. A. Smyser, contributing editor, presented an articulate defense of "some secrecy" in public affairs. I thoroughly enjoyed his warm and personal discussion of the "constructive" role that secrecy can play in the development of public policy. However, Smyser's argument overlooks several fundamental issues.

The secrecy of backroom settings seems comfortable, constructive, and helpful to those involved. However, the vast majority of people have no access to such secret sessions. This was probably not considered vital in the days of Mayor Johnny Wilson, which Smyser recalls so fondly. After all, politics in that era was an exclusive enterprise in which a few people with immediate access to the backrooms of the powerful were able to make decisions that would affect everyone else.

In the last 25 years, however, there has been a dramatic change in the character of politics, not only in Hawaii but across this country. Previously unrepresented interests—including women, ethnic communities, the handicapped, the young and the old, small businesses, the poor, and others—have demanded and achieved entry into the political system.

America has indeed become more democratic, and in the process the political system has had to change and adapt in order to accommodate the variety of new voices.

Openness in government is the cornerstone of this new structure of politics. Only by opening the doors of the backrooms can everyone have the opportunity to participate in the process of making important public policy decisions.

A policy of openness certainly has its costs. Open government, like democracy in general, seems cumbersome and inefficient. Public officials are understandably tempted to ignore the requirements of openness when confronting complex and controversial issues. Under such circumstances, it seems easier to avoid the welter of conflicting interests by closing the doors, pouring a few drinks, and letting a small select group arrive at a decision.

But people need to have confidence in the process of government. While secrecy might on occasion appear to provide the most expeditious means to reach a particular decision, it necessarily contributes to public frustration, cynicism, and ultimately apathy, attitudes which threaten the foundations of democracy.

Indeed, being for openness only between controversial issues is like being a vegetarian only between meals. It doesn't make sense. It is precisely when

the demands of openness seem most onerous that they are most needed.

It is also important to note that a commitment to open government does not eliminate all opportunities for officials to inform themselves on upcoming issues before a matter goes public. While they cannot meet together secretly without violating the Sunshine Law, public officials can discuss upcoming issues with staff, lobbyists, experts, and concerned constituents.

Personal conversations with individual colleagues also would seem to be appropriate so long as they are not intended to circumvent the requirements of the law.

Philosophical disagreements aside, the immediate question is whether Mayor Frank F. Fasi will obey the law like other responsible elected officials. Fasi has unfortunately indicated that he intends to ignore sunshine requirements and resort to secrecy whenever he pleases.

Smyser's philosophical defense of some secrecy should not be interpreted as a defense of such unlawful behavior on the part of Honolulu's mayor.

Ian Y. Lind
Executive Director
Common Cause/Hawaii

Hirten Appointment Under Fire

Council Members, Others Raise Legal Issues

By Kathy Subko
Star-Bulletin Writer

Two City Council members and a citizens' group are questioning the legality of John Hirten's appointment as city transportation director and a testimonial dinner planned to raise money for his moving expenses.

Ian Lind, executive director of Common Cause, said his group will send a letter to Mayor Frank Fasi today, protesting Hirten's appointment which appears to violate state residency requirements.

State law requires all city department heads to live in the state for a year before taking office. Hirten just recently moved to Hawaii from Washington, D.C.

Fasi has said he doesn't believe the residency requirement is constitutional. Lou Torraca, Fasi's information director, said yesterday the mayor does not object to the plan for the dinner. It was Fasi who told news reporters about the testimonial.

Lind said yesterday his concern is that "the administration seems to be taking the view that they can selectively choose to enforce or not to enforce the

laws that are on the books."

Hirten lived in Honolulu a few years ago when he was a transportation consultant for the city.

HOWEVER, Hirten said he did not take steps to maintain his residency status such as continuing to pay state income or property taxes, voting, or keeping a Hawaii driver's license.

He was sworn in Jan. 8 and went directly to Washington to move his household and to meet with federal transportation officials about Honolulu's proposed mass transit project. He returned to work in Honolulu Thursday.

Hirten said the question of his residency is the mayor's problem.

Lind and City Council Chairwoman Patsy Mink have suggested that the city go to court to challenge the constitutionality of the residency requirement.

Lind said he believes the law probably is unconstitutional, but that "as a responsible, elected official, the mayor needs to address that (matter) directly."

City Corporation Counsel Richard Wurdeman said he doesn't plan to challenge the law, saying it's the responsibility of the state

attorney general to question cabinet appointments.

"That seems to us to be a very irresponsible kind of attitude," Lind said.

Mink said she disagrees with Wurdeman but she said, "I don't know what else to do."

LIND AND Council member Marilyn Bornhorst also have raised questions about a proposed testimonial dinner planned to raise money to help pay Hirten's moving expenses.

Bornhorst said it would be a violation of the City Charter for Hirten to accept money from an organization other than the city.

The charter states it is illegal for elected or appointed city employees to "receive any compensation for his services as an officer or employee of the city from any source other than the city."

A spokesman for Fasi said a group of developers, the Oahu Development Conference, was planning the dinner. However, Aaron Levine, who heads the group, said today that members have no plans to do so.

Hirten said he had been contacted by businessmen who suggested the dinner.

Hirten said he would like to have the money, but he says he doesn't know if plans for a dinner are actually underway.

"I haven't the vaguest idea whether anything will happen or not," he said.

Hirten said he would not consider it unethical to receive funds from an outside group if the money came through a third party.

"I don't have any problems with it," he said.



John Hirten
Appointment protested

BY ACCEPTING the money, Hirten says he wouldn't feel obligated to favor proposals from the people who gave it to him.

"I'm not going to favor anybody," he said. "I don't have the ability to favor anybody. Everything I do is very much in the public interest."

If the dinner is scheduled, Lind said Common Cause may complain to the state Ethics Commission.

"The money is coming from the people who hope to benefit from particular policy decisions from Hirten's department," Lind said. "It seems to be a clearly unethical prospect."

"The administration seems to have signaled in this and other cases that they don't really care," he said.

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Hirten Hiring Under Fire from Lobby

By Kathy Subko
Star-Bulletin Writer

Common Cause has asked the state attorney general to investigate Mayor Frank Fasi's appointment of John Hirten as city transportation services director.

The citizens' lobbying group has asked state Attorney General Michael Lilly to determine whether Hirten's appointment violates a state law and if so, to take legal action.

Hirten moved from Washington, D.C., last week to accept a job from Fasi despite a state law requiring all city department heads to have a year's residency in the state prior to taking office.

Fasi says he does not plan to comply with the residency law because he believes it's unconstitutional.

"Common Cause believes that it is entirely inappropriate for the mayor or any other public official to adopt a position so openly contrary to law," Ian Lind, its executive director, said in a letter sent to Lilly yesterday.

Common Cause and City Council Chairwoman Patsy Mink have suggested the city go to court to challenge the constitutionality of the residency requirement.

BUT CITY Corporation Counsel Richard Wurdeman said he believes it's the state attorney general's responsibility to challenge the appointment.

"Under these circumstances, it would appear proper for the attorney general to intervene in order to enforce the residency requirement or to challenge its applicability," Lind wrote Lilly. "The alternative of private legal action would place the entire burden of enforcement upon individual citizens or public interest organizations such as our own."

Lilly could not be reached for comment.

Lind said his organization is not questioning Hirten's qualifications for the job.

"Our concern in this case is to assure that Hawaii's laws are enforced in an even-handed manner, and to see that the public has an appropriate means to hold elected and appointed officials accountable for their actions," Lind wrote.

Hirten was sworn in Jan. 8 and went directly to Washington, D.C., to move his household and to meet with federal transportation officials about Honolulu's proposed mass transit project.

Hirten lived in Honolulu a few years ago when he was a city transportation consultant. But he said he did not take steps to maintain his residency status after moving to Washington.

Upon returning to Honolulu last week, Hirten said the question of his residency is the mayor's problem.

State reviewing request for Hirten investigation

State Attorney General Michael Lilly said yesterday that he is "reviewing" a request by Common Cause/Hawaii that he investigate whether the appointment of John Hirten to be city transportation director violates a state residency law.

Lilly did not give any indication of when he would make a decision on what to do with the request.

In a letter to Lilly, Common Cause, a public interest lobbying group, said it is "entirely inappropriate" for Mayor Frank Fasi to ignore the law requiring city department heads to be residents of Hawaii for a year prior to appointment. Hirten

was a consultant on the Mainland when he was hired by Fasi to take over the job of transportation director.

Fasi has said he believes the residency requirement is unconstitutional and defended the appointment.

Ian Lind, Common Cause executive director, said in the letter that "while there may be legitimate disagreement as to the advisability of a residency requirement, it would certainly appear that the responsibility of a public official is to live within the law or to take direct steps to change that law either through legislative action or judicial challenge."

Don't want private funds, city transit chief says

City Transportation Director John Hirten yesterday said he doesn't want private interests to "supplement my salary with additional funds or to help defray my relocation costs."

In a written statement issued by the city Office of Information and Complaint, Hirten said: "I took a substantial cut in pay to accept this position; however, I did it willingly because of the challenge of dealing with

all aspects of transportation in Honolulu. I had no misconceptions regarding the salary. I accepted it — and have not sought supplemental pay."

Hirten, whose annual salary is \$56,532, said Mayor Frank Fasi approves of his position. (Fasi two weeks ago publicly encouraged private efforts to supplement Hirten's city salary. The lobbying organization Common Cause and others question-

ed the propriety of such efforts.)

Hirten said his statement was prompted by "speculation on the part of various persons in the community who had no basis for it." He had previously worked under Fasi as a transit consultant and said the termination of his contract by former Mayor Eileen Anderson "created a significant hardship at the time."

"I deeply appreciate the aloha expressed by the various persons in our community suggesting ways to assist me with the extraordinary costs involved in resettling in Honolulu," Hirten said.



John Hirten
"Took pay cut willingly"

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Aide Rejects Bid to Pay Moving Cost

By Kathy Subko
Star-Bulletin Writer

City Transportation Director John Hirten has turned down a proposal for a testimonial dinner to raise money to pay for his moving expenses.

Hirten said that because he took a substantial pay cut to take the city job, local business representatives apparently were considering raising money to defray Hirten's costs of moving from Washington, D.C.

City Councilwoman Marilyn Bornhorst said last week that she believes it would be illegal for Hirten to accept any money from an organization other than the city, under the city charter.

And members of the citizens' group Common Cause complained that it would be unethical for Hirten to accept money from people "who hope to benefit from particular policy decisions from Hirten's department."

At the time, Hirten said he was not aware of any firm plans for a dinner but he said businessmen had approached him with the idea.

Hirten said then that he did not have a problem accepting the money if it came through a third party rather than directly from developers or business representatives.

But in a statement issued yesterday, Hirten said he would not accept money from the community.

"I deeply appreciate the aloha expressed by various persons in our community, suggesting ways to assist me with the extraordinary costs involved in resettling in Honolulu," Hirten said.

HOWEVER, he said he willingly took a cut in pay to work for the city "because of the challenge of dealing with all aspects of transportation in Honolulu."

"I had no misconceptions regarding the salary," he said. "I accepted it and have not sought supplemental pay."

"For these reasons, I respectfully decline any efforts to supplement my salary with additional funds or to help defray my relocation costs."

"I certainly hope this will end any further speculation regarding my position in this matter," Hirten said.

Meanwhile, Common Cause also has protested Hirten's appointment as transportation director, which appears to violate state residency requirements.

State law requires all city department heads to live in the state for a year before taking office.

Although Hirten lived in Honolulu a few years ago when he was a transportation consultant for the city, he said he did not take steps to maintain his residency status while he lived in Washington, D.C.

Common Cause sent a letter to acting state Attorney General Michael Lilly last week asking him to look into the legality of the appointment.

Lilly said he assigned a deputy attorney to review the letter but would not comment on the appointment.

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Transportation Chief's Startup Problems

John Hirten, the new city transportation director, has wisely backed off from a proposed testimonial dinner to raise money to cover his expenses in moving to Honolulu from the Mainland. Hirten took a pay cut in accepting the job in the Fasi administration.

Initially, Hirten said he didn't see any problem in the testimonial dinner. But after the issue of conflict of interest was raised, he said he wanted no private funds to supplement his city salary.

Both Mayor Fasi and Hirten are better off without that kind of side-door financial aid. To have let it happen would have shown poor judgment. The proposal seemed to be unethical, if not clearly illegal. Hirten's position could have been badly compromised if he had accepted funds from persons doing business with the city.

Hirten still has another problem to resolve: the law requiring city department heads to have resided in the state for one year prior to taking office. The Fasi administration contends that the law is unconstitutional. But Common Cause has protested the Hirten appointment as a violation of the residency requirement and has asked the state attorney general to investigate.

The law may well be unconstitutional, but even if it is upheld in court, it is not sound policy. We should select department heads on the basis of qualifications, not residency. Hawaii already suffers from an image of exclusion toward outside professionals. Until this question is resolved, however, Hirten's actions as transportation director could be open to challenge.

Groups Support Attempts to Free More Information

By Stirling Morita
Star-Bulletin Writer

Ten years ago, state lawmakers were praised for their commitment to open up the government process to the public by passing the sunshine law.

Now, representatives of the news media and community groups are back at the State Capitol supporting moves to make more government information available to the public.

What happened since 1975? Legislators enacted a privacy code in 1980 that restricts the release of government documents.

After a Senate Judiciary Committee hearing yesterday, Chairman Anthony Chang said he favors a change in the privacy law. But he said he doesn't know if the committee will have time to draft a compromise measure by Friday's bill deadline.

If the Judiciary Committee isn't able to accommodate concerns expressed by state administrators and civic groups, then there won't be any amendments to the privacy law this year.

THE PRIVACY bill would allow release of government records unless it would be a clearly unwarranted invasion of a person's privacy. It would provide a balancing test between the public's right to such information and privacy.

Under the bill vague definitions of what records can be withheld from the public would be replaced with more specific language.

State health and welfare officials made suggestions for changes to the measure, noting that they didn't want personal information in their files available to the public.

Representatives of the news media and civic groups cited example after example of records that have been closed from public view because of the privacy law.

Ian Lind, executive director of Common Cause/Hawaii, said the 1978 constitutional amendment leading to the privacy code was intended to protect highly personal information such as records on personal finances, abortions and job evaluations.

BUT BECAUSE the Legislature

enacted an uncompleted version of the Uniform Law Commissioner's model privacy act, Hawaii's law is vague and allows government attorneys to keep records from the public, Lind said.

William Cox, managing editor of the Honolulu Star-Bulletin and a representative of the Honolulu Chapter of the Society of Professional Journalists

(Sigma Delta Chi), also supported the bill.

The measure "provides for protecting the privacy of individuals on such personal information as health and financial records while allowing public access — taxpayers' access — to records that are relevant to determining how government works," Cox said.

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Changes Needed in Privacy Law, Senators Told

By Stirling Morita
Star-Bulletin Writer

The people who are supposed to notify Hawaii residents that their cars are being recalled to correct defects can't.

That's because the company that does the notifying isn't allowed to see motor vehicle registration records here. Government officials are worried about someone's privacy being invaded.

Today, state Senate lawmakers weighing proposed amendments

to the state's privacy law heard about the recall situation and many others in which government withholds information from the public.

Representatives of news media and civic groups testifying to the Senate Judiciary Committee said changes in the privacy law are needed.

News media attorney Jeffrey Portnoy said that since the privacy law was enacted in 1980, he has battled government officials over release of salaries of university professors and records

governing milk inspection, pre-schools, the Board of Education, water, health and budgets.

The bill under consideration would provide a balancing test between the public's right to know what its government is doing versus an individual's right to privacy.

Supporters of the measure said the current law is too broad and vague, and permits the attorney general to interpret it too conservatively, keeping information away from the public.

The current privacy law "is ambiguous enough to encourage a great deal more secrecy about how government works — or doesn't work — than in any state I am familiar with," said Star-Bulletin Managing Editor William Cox.

"It is a law, as many of you know, that was written to try to protect privacy of individuals," Cox said. "Instead, it is being used to protect government from citizens — from accountability, from detecting poor per-

formance, from detecting waste in spending."

Ian Lind, director of Common Cause/Hawaii, said Hawaii Kai residents can't find out whether ambulance service there is adequate because records about ambulance runs are now considered private because they include the names of the people who sought help.

The proposed amendments list a number of specific instances where information could be released to the public, such as public employee salaries.

State health and welfare officials urged the committee to be cautious in making changes to the privacy law.

Robbie Alm, deputy director of the Department of Commerce and Consumer Affairs, said legislators might want to take a comprehensive review of the state open meetings and records law, as well as the privacy law.

This year is the 10th anniversary of the passage of Hawaii's first comprehensive open meetings and records law.

Sunshine Law: *It needs some shoring up, witnesses tell Senate panel*

By Jerry Burris
Advertiser Politics Editor

A decade after it was first passed, Hawaii's Sunshine Law on open meetings and records has begun to fall apart, a parade of witnesses told the state Senate Judiciary Committee yesterday.

Bureaucratic interpretation and the restraints of a 1980 "privacy" law have left Hawaii with a "national reputation for coming down on the side of privacy" rather than public disclosure, news-media attorney Jeffrey Portnoy told the committee.

The occasion was a hearing on a variety of bills aimed at "strengthening," "clarifying" or rewriting the state's basic law concerning citizen access to government files and public meetings.

Committee Chairman Tony Chang said after the hearing that his committee will attempt to draft a compromise package of sunshine legislation that can be considered by the Legislature this session.

But Chang noted it will be difficult to write legislation that adequately covers such complex and conflicting topics as privacy, attorney-client privilege, public access and citizen right-to-know.

The chairman said he'd hold a decision-making session of the committee today if a draft bill can be finished in time.

Portnoy said that when the Legislature first enacted its Sunshine Law 10 years ago, "it was hailed by many as one of the most progressive open-government statutes in the United States.

"Unfortunately, this spirit of open government has proven to be dif-

State needs more prison space and more choices, Ariyoshi says

The state should seek ways other than putting criminals behind bars — but at the same time should build more prisons, Gov. George Ariyoshi said yesterday.

He said he expects specific recommendations from a correction committee chaired by Andrew

Ariyoshi said he thought there is a need to build more prisons, and thus a \$1.5-million request for beds at the Halawa security facility. The Corrections Committee re-

out an appropriations measure for Halawa.

Ariyoshi said that although there is a need for more prisons, he wants to find ways of providing punishment short of putting criminals behind bars. For in-

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ences of the past several years have demonstrated an increasing philosophy toward more secrecy in government and governmental decision making," said Portnoy, a First Amendment attorney for The Advertiser, KHON-TV, KITV-TV and other media.

A major problem, witnesses told the committee, was the enactment in 1980 of a privacy law directed by the 1978 Constitutional Convention.

Government lawyers and administrators, fearful of criminal penalties for violation of individual privacy, have invoked the privacy act as a

"Evidence indicates that (the privacy law) has created a situation in which government agencies are required to treat a wide range of records dealing with activities and performance of government as confidential, although in many cases there is a legitimate public interest in their disclosure," said Common Cause/Hawaii Executive Director Ian Lind.

Honolulu Star-Bulletin Managing Editor William Cox said reporters for his newspaper have frequently run up against the privacy law while gathering news.

"It is a law, as many of you know, that was written to protect

privacy of individuals," Cox said. "Instead, it is being used to protect government from citizens."

One issue that drew disagreement even among supporters of greater "sunshine" is whether the law should be generally worded or whether it should contain specific lists of public and confidential information.

A key change, Portnoy said, would be to include the right of citizens and news media organizations to recover legal costs when they have to go to court to obtain public information.

His clients, he said, have spent "tens of thousands" of dollars in just a few specific courts cases over information access. Such costs, he said, tend to discourage attempts to obtain information.

There was no strong opposition to changes in the overall sunshine or open-meeting law, although the state attorney general did object to specific sections applying to the legal work of the attorney general's office. For instance, the office said it wants the right to withhold information gathered in preparation for a legal case even if such information might otherwise be publicly available.

"Any amendment that would erode the protection accorded to the work products of government attorneys would destroy the privacy of case preparation, which is essential to any attorney and would severely handicap the state's attorneys in representing the state," said testimony submitted by the attorney general's office.

The Honolulu Police Department had similar reservations concerning release of information dealing with investigations of crimes.

Vote Pending on Privacy Code

The state Senate Judiciary Committee will act tomorrow on a compromise bill to amend the privacy code and allow the release of more government records.

Chairman Anthony Chang said time is running out to approve the bill, adding it may be a tough job to accommodate both the concerns of the administration and the bill's supporters.

The compromise measure was prepared by Common Cause/Ha-

wai, a citizens' lobbying organization.

Ian Lind, Common Cause's executive director, prepared the draft that combines a freedom of information procedure with restrictions on what government records can be withheld because of privacy considerations.

The bill as it is now drafted would require government officials to respond to requests for records within 10 working days. It also specifies the types of

records that are private and can be withheld under the privacy law.

News media organizations and civic groups yesterday told the committee that the current privacy act is so vague that it allows government officials to withhold records that should be available to the public.

However, state administrators urged the committee to be cautious in changing the law, saying health and welfare records of individuals shouldn't be released.

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Wednesday, March 6, 1985

Freedom of Information Versus Right of Privacy

Freedom of information and the right of privacy are both cherished values of our democratic society. Sometimes they conflict with each other. Sometimes the right of privacy, which has to do with protecting individuals, is misused by government to justify withholding information from the public.

The *Star-Bulletin* supports the right of privacy as it pertains to the protection of individuals; we oppose government's use of it as a reason for more secrecy.

A bill now before the state Senate would improve the privacy law by allowing public access to government records that are relevant to learning how government works. At the same time it would protect individual privacy with regard to such personal information as health and financial records. To deal with instances of conflict between the public interest in disclosure and the right of privacy, it would establish a balancing test.

Two other bills before the Legislature would respectively expand and contract the kinds of meetings that can be held in secret. One would exempt county councils from the open meetings law. That should be defeated.

The other would narrow the law's exemptions, particularly those involving discussions between lawyers for an agency or board and its members. This proposal would permit necessary private meetings without tolerating misuse of the lawyer/client exemption.

Senator Urges Easing of State Privacy Law

By Stirling Morita
Star-Bulletin Writer

Senate Judiciary Chairman Anthony Chang yesterday recommended approval of a bill to change the state privacy law to give the public more access to government records.

If the rest of the committee follows Chang's recommendation, the measure will be sent to the Senate for a vote on Monday.

News media organizations and community groups have called for amendments to the 1980 privacy code, which they say restricts the release of records to the public.

Because of the privacy law, government officials won't release motor vehicle registration, public employee salary and other records.

The measure, proposed by Common Cause/Hawaii, would prohibit the release of records that would be "a clearly unwarranted invasion of personal privacy."

The bill's supporters say the privacy law is vague and doesn't give any guidance to government attorneys when they determine what records should be withheld from the public.

UNDER THE bill, an individual's medical, psychiatric, welfare, employment, income tax, financial and other records wouldn't be released by government officials. Also, criminal investigation reports would be exempt from disclosure.

But a public employee's title and pay would be public information.

The bill also permits the release of private information "if the public interest in disclosure clearly outweighs the privacy interests of the individual."

Eliminated from the proposal was a freedom-of-information provision that would have required government officials to respond to a request for records within 10 working days.

It also expands the definition of a public record to include government information stored in computers.

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Senate Measure Eases Access to Public Data

By Robbie Dingeman
and Gregg K. Kakesako
Star-Bulletin Writers

The state Senate is set to act Monday on changes to the state privacy law that would give the public greater access to government records.

But a measure calling for a statewide initiative law allowing voters to enact laws through the petition process is dead for this legislative session.

The privacy act amendments, supported by local news media and citizens' groups, won approval last night as Senate committees worked against a midnight deadline for sending bills to the Senate floor.

Proposed by Common Cause/Hawaii, the bill would allow the release of government records if the public interest in them clearly outweighed privacy interests of individuals.

The measure would prohibit the release of records that would be "a clearly unwarranted invasion of personal privacy."

Individual medical, psychiatric,

welfare, employment, income tax, financial and criminal investigation records would be exempt from disclosure.

But a state employee's pay would be public information.

OTHER measures making the Senate's midnight deadline would:

—Require immunization for admittance to Island public schools.

—Appropriate \$2.75 million for sugar research as long as the industry puts up a matching amount.

—Require drivers and front-seat passengers to buckle up or face a \$25 fine each.

—Appropriate \$5 million for construction of a general aviation airport at Dillingham air field at Mokuleia.

—Increase from 30 days to 90 days the suspension of a driver's license for first-time conviction for drunken driving.

SENATE Judiciary Chairman Anthony Chang early this morning said he was willing to approve his version of an initiative

proposal but ended up holding on to it because of opposition of Sen. Mary-Jane McMurdo.

McMurdo, who does not sit on the Judiciary Committee, said Chang's bill was far too restrictive.

She criticized Chang's measure because it would bar the use of initiative for matters concerning planning and zoning, judiciary, collective bargaining and finances.

"If you really believe in democracy, there's no way you can support it," McMurdo said. "Better no bill than a bad bill."

She and other initiative proponents said Chang's bill would hinder citizen participation in government rather than encourage it.

The state's four counties already have enacted ordinances allowing local initiative.

The House Judiciary Committee shelved three versions of initiative after holding a hearing on the matter, but supporters had hoped that body would reconsider if the Senate approved a bill.

Privacy Law Changes Win Senate Approval

By Robbie Dingeman
Star-Bulletin Writer

The head of the citizens' group Common Cause/Hawaii said yesterday his organization is "real pleased" that two measures calling for increased public access to government records and meetings have won Senate support.

One Senate bill attempts to provide more public access to government records while at the same time preserving each citizen's right to privacy. The second measure is designed to give the public a chance to participate in more governmental meetings.

The state Senate yesterday unanimously approved the proposals in a floor vote and sent them to the House for consideration.

Ian Lind, executive director of Common Cause/Hawaii, helped draft the open records proposal. If the measure earns full legislative approval in its present form, it will be "a useful advance over

the current statute," Lind said.

However, he believes the proposal can be improved. He plans to urge House lawmakers to further clarify the distinction the privacy measure makes between personal and public records.

THE PROPOSED changes in the state's privacy law would permit the release of government records if the public interest in them clearly outweighs the privacy rights of individuals.

Representatives of the news media joined with civic groups in supporting the measure. Proponents say the current privacy law is too broad and vague and keeps information from the public.

Although the current privacy law was designed to protect the individual, backers of the new law argue that it can be used to keep taxpayers from knowing what their government is doing.

Under the proposed changes to the privacy law, the following records would remain private:

Medical, psychiatric, income tax, employment, welfare, financial and criminal investigation.

THE SECOND Senate measure attempts to strengthen the state's sunshine law by specifying what types of government meetings can take place behind closed doors.

The proposed changes to the state's sunshine law would:

✓ Require a governmental board to give "reasonable opportunity" to allow the public to testify.

✓ Require the approval of the majority of a board to close a meeting. All members who voted to close such a hearing also would have to publicly announce and record their reason for doing so.

✓ Forbid a public official to require those who want to inspect records to state their reason.

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Wednesday, March 13, 1985

Progress in Legislature on Sunshine Measures

The sun was shining in the Hawaii Senate this week. That body unanimously voted in favor of two bills to make it harder for government to do business in secret. If the House concurs, Hawaii government could move from being one of the most closed in the nation to one of the most open.

Senate Judiciary Chairman Anthony Chang deserves praise for his hard work in finding a compromise that will protect the privacy of citizens and allow more scrutiny of how government is working — or not working.

A legislator who votes for these bills, which are now in the House, is taking a strong pro-citizen position. Open government is far more likely to be honest, responsive to citizens' concerns, and to search out waste than a government that can hide its actions from the people.

We urge the House to let the sunshine in.

Panel Chairman to Decide Next Week

Hearing Hinted on Two Privacy Bills

A hearing might be held on two Senate-passed bills to give the public more information about government operations, according to Dwight Yoshimura, chairman of the House Public Employment and Government Operations Committee.

He said he would decide after a Monday meeting with a supporter of the bills to change the state privacy code and sunshine law.

So far this year, similar House bills have been held in Yoshimura's committee without hearings.

Because of the limited amount of time to consider bills this year, Yoshimura said he intended to hold hearings on the House measures next year.

In order to pass this year, the two bills must clear both the House Public Employment and Judiciary committees and then a possible conference committee of House and Senate members.

Ian Lind, executive director of Common Cause/Hawaii, said he has talked to members of the

Public Employment and Judiciary committees.

"The general attitude seems to be a positive one from committee members who see this is a public concern and recognize that these bills are a serious and constructive attempt to correct the problem," Lind said.

BACKERS OF the bill to change the privacy law are news and civic organizations which contend that the 1960 privacy law has shut off the release of traditionally open records.

The measure would allow the release of records if they aren't "a clearly unwarranted invasion of personal privacy." It also would make more specific the types of records that could be withheld from the public.

Under the bill, such records would involve documents covering medical, welfare, personnel, tax, financial and other histories and criminal investigations.

The bill provides a balancing test between the public's right to information about its govern-

ment and the individual's right to privacy.

The bill amending the sunshine law would require boards to allow people to submit information or testimony on agenda items and allow boards to close meetings to talk to their attorneys about actual or threatened lawsuits.

The bill also requires a board

to give the public notice of a closed session and to state a reason for closing a meeting.

It also requires the state attorney general or county prosecutors to investigate complaints about open meetings violations. The measure gives any person the right to sue a board to prevent such violations.

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George Chaplin	<i>Editor-in-Chief</i>
Buck Buchwach	<i>Executive Editor</i>
John Griffin	<i>Editorial Page Editor</i>
Mike Middlesworth	<i>Managing Editor</i>
Gerry Keir	<i>City Editor</i>

Monday, March 18, 1985

Hope for sunshine?

Bills for more open government have been given a struggling second chance this year thanks to the state Senate which passed two measures calling for increased public access to official records and meetings.

Now the issue is up to the House where there has been less enthusiasm and the outlook for action is uncertain at best.

These measures are in response to a clear need to restore the balance between the state's sunshine and privacy laws and the principles they represent.

All too often in recent years, government officials and bureaucrats have used the privacy law to close records and meetings that should be open to the public. Cases in point involve child abuse, milk hearings, pesticides in our water supply, sewer records, government contracts,

and tax revenue estimates.

In some of those cases it took costly and time-consuming legal action by the media or others representing the public interest to release information or open meetings that officials wanted to keep private.

The two bills from the Senate judiciary committee, which were approved by the full Senate unanimously, are sensitive to the need for privacy when warranted and also the problem of it being used as an excuse for government secrecy.

The measures are now before the House Public Employment and Government Operations Committee. It will be a tight squeeze getting passage at this point, but the problem of excessive government secrecy carried out in the name of privacy is not one that should have to wait another year.



Ian Lind
"Hunting down secret meetings"

Ian Lind honored by journalists

By Robin Phillips
Advertiser Staff Writer

Ian Lind, executive director of Common Cause/Hawaii, was honored by Hawaii's professional journalists yesterday for "taking a strong stand for freedom of information and rigorously supporting an independent press, often in unpopular circumstances."

Howard Graves, president of the Hawaii chapter of the Society of Professional Journalists, told an audience of about 70 that Lind is "an industrious foe of closed government" and "a nagging toothache in the centers of power."

Lind, a long-time advocate of an open-door policy in government, said the society's Freedom of the Press Award represented appreciation for years of "hunting down secret meetings" in Hawaii government. But he said he has never seen himself as a hero and that he was thankful for the "support and encouragement" from the journalists he considers the real champions of the free press.

The award, which is reserved for non-journalists, was presented at the society's First Amendment brunch, which commemorates the March 16 birthday of James Madison. Madison, the fourth president of the United States, was principal author of the Bill of Rights, the first 10 amendments to the U.S. Constitution. The

First Amendment protects the freedoms of press, speech, religion, assembly and petition.

Guest speaker Pier-son Mapes, president of the NBC television net-



Mapes

work, told the audience that "favorable public opinion is almost as essential for the survival of a free press as the First Amendment itself."

He said two trends spell trouble for the press — a large number of libel cases aimed at the press, coupled with a tendency for the plaintiffs to seek "enormous sums" in punitive damages.

Although Mapes said many of the lawsuits are designed to impede or intimidate the press, he also said libel suits are only a symptom of a poor public opinion of the press.

"I think there can be only one answer: being more professional," he said, "by hewing even more closely to the time-honored principles of journalism, the standards of accuracy, honesty, fairness. It shouldn't take a libel suit to get a news organization to admit error."

Aloha!

Today is Monday,
March 18, 1985

Hawaii

Parents of fetus that was aborted at 19 weeks ask anti-abortionists to drop the issue
Page A-3

Ian Lind, executive director of Common Cause/Hawaii, is given Freedom of the Press Award by Hawaii's professional journalists
Page B-8

Freedom of Press Award

Common Cause Director Is Honored

By Carrie Pressly
Star-Bulletin Writer

A group of journalists yesterday honored Ian Lind, executive director of Common Cause/Hawaii, for his work toward keeping government open in Hawaii.

The Hawaii Chapter of the Society of Professional Journalists, Sigma Delta Chi, presents its Freedom of the Press Award annually to a non-journalist "who has taken a strong stand for freedom of information and rigorously supported an independent press often in unpopular circumstances."

Lind told more than 70 people attending a "First Amendment Brunch" yesterday at the Pacific Club that he did not see himself

as the champion of freedom of information. But he said he was grateful for the support and encouragement given to him by the journalistic community.

The brunch was co-sponsored by the Hawaii Chapter of Women in Communications and the Honolulu Community Media Council.

GUEST SPEAKER Pierson G. Mapes, president of NBC-TV, told the audience that "full free press status today is denied to most of the press. The American public loses because it is cheated from the full investigation of the news."

Mapes said he believes that the print media enjoys more protection under the First

Amendment than does the electronic media. (The First Amendment was established to guarantee freedom of press, speech, assembly, religion and petition.)

One obvious reason for this, he said, is that print was the only form of news at the time the Bill of Rights was drafted.

"The First Amendment should be indivisible. It should apply to all of us or none of us at all," he said.

Mapes was referring to regulation of the broadcast media by the Federal Communications Commission. The commission's Fairness Doctrine requires a radio or television station to provide a candidate for political office with air time equal to any time that an opponent receives beyond the coverage of a news event.

ACCURACY, fairness and honesty are the only standards

journalists need, Mapes said.

"It doesn't take a Fairness Doctrine for a journalist to go to both sides for the story," he said.

Mapes said the equal time requirement is a threat to the First Amendment because it is obstructive.

When asked about the news media's responsibility to national security information, Mapes said, "The First Amendment stops when (national) security starts."

Wally Zimmermann, news director of KHON-TV, an NBC affiliate station, disagreed.

"Free press is responsible to the people, not the government," Zimmermann said. "I don't buy the idea that every military operation is done correctly by the military."



Ian Lind
Honored by journalists



Pierson G. Mapes
TV/Radio denied full freedom

Open-doors ^{3/22/85} measure moving along

But panel to hold on to public records bill

By Jerry Burris
Advertiser Politics Editor

A bill designed to keep the doors open during meetings of government boards will continue moving toward passage in the state House, according to the chairman of the committee that held a hearing on the measure yesterday.

But Rep. Dwight Yoshimura, chairman of the House Public Employment/Government Operations Committee, said a companion measure aimed at liberalizing the law on public records will be held for further study.

If the open-meeting bill clears Yoshimura's committee, it will go to the House Judiciary Committee for further review. It already has passed the Senate.

Yoshimura said his committee will leave the language of the open-meeting bill as drafted by

the Senate — but the committee report will note the concerns of those who testified.

The bill was praised by attorney Jeffrey Portnoy, representing The Advertiser, and by the citizen lobbying group Common Cause. Portnoy said the legislation would "close a loophole" in existing law that has led to an "increasingly disturbing trend which has evolved in our state toward a presumption of closed government."

But city Corporation Counsel Richard Wurdeman, in written testimony, argued that "sunshine," while a good idea, can be taken too far when it comes to government meetings. Attempts to conform with open-meeting "sunshine" laws have led to "numerous situations in which the orderly function of government has been thwarted or upset by overzealous attacks and baseless lawsuits," Wurdeman said.

"Despite the benefits which all of us agree are forthcoming from the sunshine law," he said, "it is important to recognize that there is a need not to be overly suspicious about the operations of government and to allow some measure of flexibility . . ."

Wurdeman also echoed recent statements by his boss, Mayor Frank Fasi, about the propriety of closed meetings with City Council members in mayoral offices.

"Sunshine is not necessarily all warmth and goodness," he said. "Ideas often must be brainstormed before being exposed to the glare of publicity. Cooperation between the executive and legislative branches is at least as desirable an objective as public sensation."

The measure that Yoshimura said he will hold in his committee attempts to strike a balance between the public's right to get at government records and the need to protect personal privacy. Portnoy and others have argued that in Hawaii, legal interpretations have fallen far too strongly on the side of protecting privacy.

Yoshimura said that he understands the concerns, but that the "privacy issue" requires further study between now and the 1986 session. "We'll have a hearing next year," he said.

Hawaii's Legislature is biennial and all bills introduced this year remain alive and in place until the adjournment of the 1986 session.

Honolulu Star-Bulletin
Friday, March 22, 1985

Sunshine Bill Wins House Panel's Okay

By Robbie Dingeman
Star-Bulletin Writer

A bill that would allow more "sunshine" into the meeting rooms of Hawaii's governmental boards won approval yesterday from the House Committee on Public Employment and Government Operations.

The House Judiciary Committee must now consider the measure before it can go to the full House for a vote.

Representatives of the news media joined civic groups in supporting the bill designed to strengthen the state's sunshine law by specifying what types of government meetings can take place behind closed doors.

Backers say it would give the public a chance to attend and participate in more governmental meetings.

The measure includes provisions that would:

- ✓ Require the approval of the majority of a board to close a meeting. All members voting to close such a meeting would have to publicly announce and record their reasons for doing so.

- ✓ Prohibit boards from discussing items of "reasonably major importance" at a meeting continued to a later date.

- ✓ Forbid a public official to force those who want to inspect records to reveal their reason.

- ✓ Require a governmental board to give "reasonable opportunity" to allow the public to testify.

Ian Lind, executive director of Common Cause/Hawaii, described the measure as "a real victory for supporters of openness."

He said he believes "the vast majority of the House wants to see this passed for the benefit of the public."

William Cox, managing editor of the Star-Bulletin, testified for the bill on behalf of the newspaper and the Hawaii chapter of the Society of Professional Journalists, Sigma Delta Chi.

"Open government is the best check we have that government will be responsible and honest," Cox said.

News media attorney Jeffrey Portnoy spoke in favor of the bill on behalf of The Honolulu Advertiser. He also has represented KHON-TV, KITV-TV and KGU radio.

The city's chief attorney, Corporation Counsel Richard Wurdeman, took the other side, however. He testified in favor of exempting county councils from the sunshine law. (The state Legislature already has exempted itself from the open-meeting law.)

"Sunshine is not necessarily all warmth and goodness," Wurdeman said. "Ideas often must be brainstormed before being exposed to the glare of publicity."

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Privacy Bill Put on Hold for a Year

Changing the state privacy code to give the public easier access to government records will have to wait until next year, Rep. Dwight Yoshimura said yesterday.

The chairman of the House Public Employment and Government Operations Committee said his panel will be able "to take a little closer look" at the bill in the second year of the biennial legislative session.

The committee should move "with caution" before making extensive changes in the privacy code, Yoshimura said.

He never did schedule a public hearing on the bill providing easier access to government information, which is supported by news and civic organizations. "We would have liked to see something come out of this issue," said Ian Lind, executive director of Common Cause/Hawaii. "It is a complex issue — balancing privacy and openness."

If holding the bill another year results in "a workable and solid statute, that may be worth it," Lind said.

"WE REALIZE it is a complex issue, and even we aren't completely clear on the implications of the issues," he said.

Lind said he hopes Yoshimura will work with various supporters of the bill to get it passed next year.

Representatives of the news media and community groups have called for amendments to the 1980 privacy code. They have said the law is so broad that it allows government attorneys to unfairly restrict the release of records to the public.

Because of the privacy law, government officials have refused to release information on motor vehicle registrations, public employee salaries and other records.

The measure, proposed by Common Cause/Hawaii, would have prohibited the release of

records that would be "a clearly unwarranted invasion of personal privacy." This restrictive standard would have compelled officials to release more government documents to the public.

THE BILL'S supporters have said the privacy law is vague and doesn't give any guidance to government attorneys when they determine what records should be withheld because of the privacy provision.

An individual's medical, psychiatric, welfare, employment, income tax, financial and other records would not be released by government officials under the bill. Also, criminal investigation reports would be exempt from disclosure.

But a public employee's title and pay would be public information.

The bill also would permit the release of private information "if the public interest in disclosure clearly outweighs the privacy interests of the individual."



Rep. Dwight Yoshimura
Moving "with caution"

House panel approves plan to strengthen 'sunshine law'

A bill designed to safeguard the public's right to know what is happening in government board meetings cleared one more hurdle last night.

The House Judiciary Committee approved the measure after holding a public hearing that drew testimony from 19 people. The bill now must go before the full House Monday for consideration.

The Senate gave its stamp of approval to the measure earlier this month, but the bill passed out of committee last night is different and will have to be re-examined by the Senate after it is passed by the House.

The measure is designed to strengthen Hawaii's Sunshine Law by guaranteeing the public more participation in public meetings.

The bill's proponents say the measure is necessary to shore up a 10-year-old state law that was originally hailed by many



Legislature '85

as one of the most progressive statutes in the nation but which has not lived up to its promise.

The proponents say loopholes in the existing law led to a government trend toward secrecy.

Opponents say the move to cast even more light on government board business would lead to the government being

disrupted by lawsuits and would prevent brainstorming by board members before ideas are unveiled to the public.

Specifically, the measure would amend various sections of the Sunshine Law to:

- Require government boards to allow at least written testimony from the public.
- Require that a majority of the board must vote to close a meeting. If it is closed, then the board's reasons for voting for the closed meeting must be publicly announced.
- Require that closed meetings with the board's attorney be limited to legal issues in which the board is a party.
- Prohibit the board from making a decision or deliberating toward a decision in a closed meeting, except for matters relating to the reason the meeting was closed in the first place.
- Permit persons bringing a successful lawsuit against a board for violating the Sunshine Law to recover legal costs.

Honolulu Star-Bulletin
March 28, 1985

Ex-Sen. Uwaine Repays Loan of \$25,000

Former state Sen. Clifford Uwaine says he has paid off a loan from his campaign fund used to defray his defense costs in last year's voter-fraud trial.

In a letter to the state Campaign Spending Commission, Uwaine said he repaid \$23,750 — the remaining balance of the loan from Friends of Clifford Uwaine Campaign Committee.

The former Democratic senator used \$25,000 of his campaign funds to pay his attorney, Renee Yuen, who defended him against charges of election fraud and conspiracy.

Common Cause/Hawaii raised questions about the Uwaine campaign loan, saying it believed the law doesn't permit personal use of such funds.

Under commission policy, Jack Gonzales, commission executive director, had cleared the Uwaine loan. But the commission later reversed its policy, saying it would forbid use of campaign funds for personal legal fees.

"I wish to express my appreciation to the Campaign Spending Commission for its patience in the repayment delay while the sale of my house was completed for the necessary funds," Uwaine said in the letter.

Uwaine has told reporters that he sold his Algaroba-Street condominium unit for \$77,000.

Uwaine said his legal expenses were about \$50,000 for his first trial that ended in a hung jury.

He faces a second trial on charges stemming from the old 19th House District voter fraud irregularities in 1982. That trial is scheduled to start in May.

House Judiciary Panel OKs New Version of Sunshine Law

Thursday, March 28, 1985 Honolulu Star-Bulletin A-7

By Carrie Pressly
Star-Bulletin Writer

The House Judiciary Committee last night approved a bill that supporters say would close some loopholes that now exist in the state's "sunshine" law.

The amended Senate bill now goes to the floor for a vote by the full House. The Senate, which unanimously passed the bill, must still approve the House amendments before the measure can be sent to the governor.

The amended Senate bill would:

- ✓ Require the approval of the majority of a government board to close a meeting. The vote would be announced publicly, but the members' reasons could be read later in the published minutes of the meeting.
- ✓ Allow written testimony. Oral testimony could be left to the board's discretion.

✓ Allow a board to close a meeting to discuss legal matters such as impending litigation. But the House committee sided with the attorney general's office and inserted language that would allow a board to close a meeting to discuss privileged attorney-client matters — a major concern for several of those who testified.

THOSE IN SUPPORT of the bill wanted to limit private consultations with a board's attorney to matters relating to litigation. This would prevent the exemption from becoming a loophole, they said. William Cox, managing editor of the Star-Bulletin, testified for the bill on behalf of the newspaper and the Hawaii chapter of the Society of Professional Journalists, Sigma Delta Chi.

He said closed meetings between boards and their law-

yers should be restricted to discussions of proposed or pending litigation.

An amendment proposed by the attorney general's office and approved by the committee to allow, among other things, a discussion of "legal issues" would permit boards to "circumvent the law by just having an attorney present," Cox said.

Deputy Attorney General Lawrence Lau, who proposed the

amendment, said he was concerned that the bill might otherwise limit attorney-client communications.

Government boards should be able to consult with their attorneys to obtain the best advice possible, "just as private parties do," he said.

AFTER THE HEARING, Ian Lind, executive director of Common Cause/Hawaii, said the problem with the language pro-

posed by Lau and adopted by the committee is that "a board could close a meeting any time it wanted to just to discuss the options it wanted to pursue on any given matter."

"We are saying those are the times the public should be given the opportunity to hear those options... Once there is a lawsuit, we are saying, 'Yes, privacy is a perfectly appropriate thing, but until then the meeting should be open.'"

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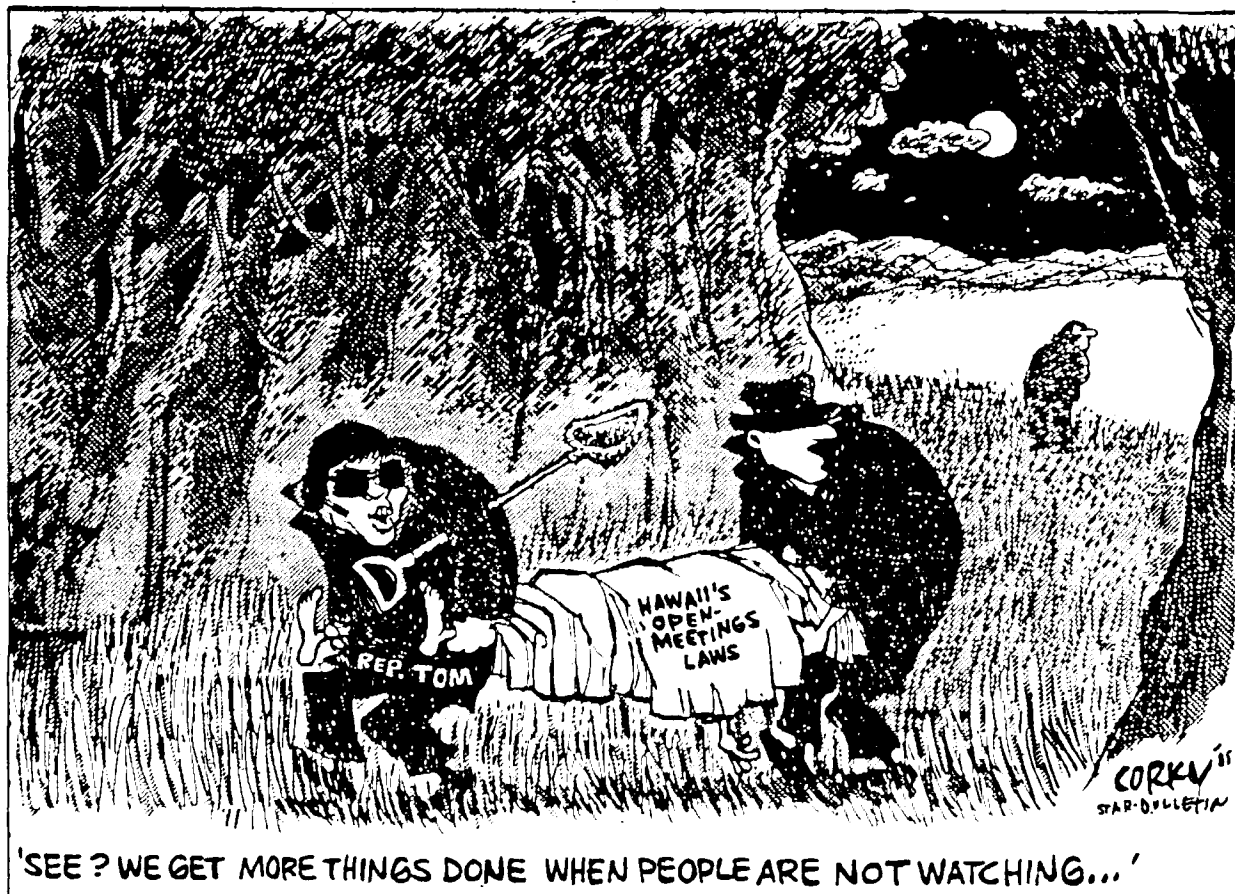
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A-18

Thursday, April 4, 1985



Conferees OK Measure to Let Citizens Testify Before Public Boards

By Robbie Dingeman
Star-Bulletin Writer

A bill that would require public boards and commissions to allow citizens to testify won approval yesterday by state House and Senate conferees.

The measure amending the state Sunshine Law now must be approved in floor votes by both the House and the Senate.

Members of the conference committee decided that the public should be allowed to present views orally or in writing as long as those testifying follow board rules.

Sen. Neil Abercrombie said he thinks it's important to allow people to present oral testimony because many people feel more comfortable speaking than writing.

Allowing oral testimony will encourage participation in the political process "if we establish that those who appear will be heard," Abercrombie said.

Conferees also approved an amendment which says that discussion of an item at a scheduled meeting can't be delayed to a later session unless the board continues the meeting "at a reasonable time and place."

ANOTHER CHANGE would limit boards from holding closed-door sessions while making decisions or deliberating toward a decision.

Under the new proposal, boards that go into executive sessions could only discuss matters directly related to the issue that prompted the closed meeting in the first place.

Supporters of the change say it would make it illegal for boards to have wide-ranging discussions on various topics even though they originally closed the meeting for a specific reason.

House Judiciary Chairman Terrence Tom estimated that about 1,100 members serving on 137 boards and commissions throughout the state would be affected by the changes in the law.

Ian Lind, executive director of the citizens' group Common Cause/Hawaii, said the bill includes some "pretty significant improvements" to the current law.

He said he was somewhat disappointed that the conferees failed to "close a loophole" in the law that allows boards to close meetings when members are discussing legal questions.

Cloudy Sunshine

As the introducer of the H.B. 1014, the companion bill to S.B. 1413, I want to comment on the amendments to the bill by the House Judiciary Committee.

The Sunshine Bill proposed by the House Judiciary Committee is not a step forward in providing accessible, open, and fair government; it may in fact be several steps backward. The House draft of S.B. 1413 opens up loopholes rather than close them which was the original intent of this bill.

The amendments by the House Judiciary Committee would be contrary to what was proposed. Specifically:

1—Boards and commissions may accept oral testimony. In other words, the board has the power to deny one to speak at a public meeting. This is currently done by the Board of Regents of the University of Hawaii.

2—Boards and commissions may close a hearing to discuss any legal issue. The real intention of a closed meeting is to discuss "actual, proposed, or threatened lawsuits." Thus, the amendment would enable the closing of all board meetings if anything "legal" were to be discussed.

3—Decisions would be allowed to be made in closed board meetings. This is contrary to the purpose of the board's representation of the public; the most important part of a board's duty is to inform the public as how, why and what decisions are made by them.

4—Allowing the boards to continue public hearings on items of "reasonably major importance" to a later date. This discourages people from participating in decision-making by breaking the continuity of the government process, whereby the public suffers at the discretion of the board.

Based on the principles embodied in the U.S. Constitution, our state Constitution states: "All political power of this state is inherent in the people and the responsibility for the exercise thereof rests with the people. All

government is founded on this authority."

Senate Bill 1413 should remain a bill for the people and not just for a select few. The people of Hawaii should be given what is rightfully theirs as freedom is a right not a privilege.

I would like to thank the League of Women Voters, Common Cause, Honolulu Community Media Council, Hawaii Council of Churches, Conservation Council of Hawaii and American Association of University Women for supporting "sunshine" in government.

Rep. Rod Tam

* * *

As a private citizen, I strongly agree with your April 3 editorial on the House Judiciary Committee's changes to the Sunshine Bill, "Public Loses When Secrecy Wins." The decision to allow members of boards and commissions to close their meetings to talk to their lawyer on any "legal issue" virtually gives them a free hand to hold secret meetings.

Rep. Terrance Tom has argued that the "attorney-client" privilege of full confidentiality should be protected for members of boards and commissions and their attorneys. But he seems to have forgotten that the state government should serve the people of Hawaii, not government bureaucrats and officials who are afraid of facing the public.

If he thinks that the "smooth functioning" of government will be interrupted by greater public access and participation, then he should clearly announce his stand when he seeks re-election next year.

He'll learn that democracy should not be sacrificed for the convenience and comfort of government leaders and their cronies.

Mahalo to Common Cause, Rep. Rod Tam, Sen. Neil Abercrombie, and the *Star-Bulletin* for refusing to allow the issue of open government to be swept under the rug.

George Miyamoto

Page 4

**PACIFIC
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Letters to the Editor

On legislative secrecy

Your "legislative wrap-up" was right on target in calling attention to the problem of legislative secrecy. For more than seven years, this has been a central concern of Common Cause/Hawaii. We have called public attention to this problem on numerous occasions, and have taken the legislature to court three times since 1980 in attempts to force more openness in critical areas. I invite any of your readers who share our frustration with legislation behind closed doors to contact me at the Common Cause office so we can work together more effectively to bring some "sunshine" into the halls of the capitol.

IAN Y. LIND
Executive Director
Common Cause/Hawaii

The News of the Summer

ka mahou ka uela



Common Cause watching BOR

by Jay McWilliams
staff writer

If the Board of Regents policy in selecting the new president is discussed at the scheduled executive meeting Thursday, then it would be improper to close that meeting to the public, according to the executive director of Common Cause.

Ian Lind, director of the non-partisan citizen's group, said, according to the state's Sunshine Law, the regents can close a meeting only when it is a personnel matter of privacy regarding a particular person and that the law is not meant to cover policy discussions.

The regents originally scheduled an executive session meeting for Tuesday. However, six-days notice of the meeting was not given as required by state law, so the meeting was cancelled.

Board secretary Tatsuki Shiramizu said another meeting, scheduled for 10 a.m. Thursday, will be an executive session to discuss what will happen with the interim appointments of president and chancellor, which come to an end June 30.

Originally, Tuesday's meeting was to be closed so that the regents could consult with their attorney. "I can see that it's legitimate to discuss with an attorney what they can pay (someone),"

Lind said. But "The whole last hiring process (for the president) was done in secret. Normally, the board argues that this avoids problems, but look what's happened.

"We have a telling example of what happens when you do things in secrecy."

Last week M. Cecil Mackey called the regents and turned down the job as president in response to what he called legislative inaction on the matter of his privately funded compensation package.

Mackey's package was attached to the executive pay bill, which would have raised the salaries of dozens of state officials, but the bill died during the 1985 legislative session.

Lind, who will convey his concerns to the regents about the closed meeting, said that this is a good time for an executive meeting by the regents, because there is substantial public interest in keeping things open.

Common Cause members "play both the role of lobbyists to get good laws passed and, once on the books, we serve as watchdogs to see that the laws are observed," Lind said.

It has sued the state Legislature three times in the last five years.

BOR Chair Julia Frohlich could not be reached for comment.

Court group may be violating state ethics laws, report says

By Jerry Burris
Advertiser Politics Editor

The state judiciary has created an unofficial and unregistered "political machine" that wields great political influence and may be violating state ethics laws, the citizen lobbying group Common Cause charged yesterday.

The organization published a report on the judiciary's "Hui O' Kokua," a voluntary group of court workers and administrators who are active in legislative lobbying, campaigning and fundraising.

Since the Hui is not registered as a lobbying group or as a political action committee and since some of its activities could take place on state time, Common Cause said, there may be violations of state ethics laws.

There were no specific instances cited which, on their face, would constitute a violation of state ethics laws. But the pattern of the Hui's activities raises ethics and legal questions, Common Cause said.

Much of the group's work involves providing food and refreshments to lawmakers during the busy legislative session. They also help prepare food, serve and otherwise assist at selected legislative fundraisers, Common Cause said.

The unofficial organizer and director of Hui O' Kokua is Tom "Fat Boy" Okuda, recently named acting administrative director of the courts. Okuda was home ill yesterday and not immediately available to comment on charges by Common Cause that some of the Hui's activities violate ethics rules about lobbyist registration and political activities by government workers.

Courts spokesman Carole Doda said her office received the Common Cause report late yesterday and would have to "look at it in detail before deciding on a course of action."

While the judiciary and Okuda have received high praise for their successful lobbying efforts, Common Cause said, their activities "go beyond legitimate agency lobbying . . . they compromise the



Tom Okuda
Director of Hui O' Kokua

independence, impartiality and objectivity of the courts and . . . they violate standards of ethical conduct applicable to public employees."

Much of Common Cause's report centers around longstanding lobbying efforts by Okuda and his courts personnel. Through food, small favors and — for a while — "mini luaus" complete with volunteer entertainment, the courts have won strong legislative support for their budget requests.

In addition, the court group provides opening day refreshments for some legislators and, according to Common Cause, helps selected candidates to organize fundraisers, campaign door-to-door and wave signs. This, Common Cause said, goes beyond "the simple participation of individual government employees in political affairs."

Specifically, the group says that:

- The judiciary political organization has failed to file reports with the state Ethics Commission disclosing contributions and expenditures made for lobbying. The law requires such disclosure when expenditures (including food and beverages) add up to more than \$275 during any six-month period, Common Cause said.

- (Ethics Commission executive director Catherine Chang said that generally public agencies would not be required to file if they are involved in lobbying. She said private reporting requirements hinge on whether someone is paid to lobby or is involved on other than the grassroots, volunteer level.)

- Okuda may have violated guidelines set up by the Ethics Commission if he solicited campaign contributions or volunteer help from court employees under his charge.

- The use of state time, equipment or facilities for "political purposes" would be a violation of ethics law. At least on some occasions, Common Cause alleged, food preparation or other activities related to fundraisers took place in court offices.

- The award of deputy sheriff's badges to selected legislators (as reported in The Advertiser in recent years) appears to be an "improper use of official position."

- The regular free meals and other services to legislators and their staff during sessions places the lawmakers in a "potentially compromising position that would appear to be prohibited by ethics law." The law says that no legislator should receive gifts or help that could be inferred as intended to influence or reward him.

In addition, Common Cause said there should be an investigation into allegations that court administrators routinely "fix" traffic tickets for legislators and others in violation of state law.

Okuda has said in the past that while his office cannot simply "fix" tickets, it can, under direct judicial supervision, dispose of some citations administratively.



Tom Okuda
Effective lobbyist

Lobbyist for State Courts Under Attack

By Lee Catterall
and Stirling Morita
Star-Bulletin Writers

Common Cause is accusing state Judiciary acting director Tom "Fat Boy" Okuda of violating state ethics rules restricting political activities of state employees.

A Common Cause report contends that Okuda's lobbying and food-catering activities at the Legislature violate numerous guidelines established by the state Ethics Commission.

The report criticizes Okuda for heading "an extensive political machine within the Judiciary" called Hui O'Okua. "The group provides food and 'volunteer' campaigners for legislators, fixes parking tickets and gives deputy sheriff badges as favors to some legislators," the report says.

Okuda was unavailable for comment yesterday and today. His secretary said yesterday he had not come to work because he was ill.

Chief Justice Herman Lum named Okuda acting chief administrator of state courts two weeks ago following the resignation of Lester Cingcade. Okuda had been a deputy director of state courts and director of the state Traffic Violations Bureau.

IAN LIND, executive director of Common Cause-Hawaii, said yesterday that copies of the report will be delivered to Okuda, Lum, legislative leaders and the Ethics Commission.

"Our intent is to push the Ethics Commission, the chief justice and legislative leaders to deal with the situation, in their own ways, in order to stop practices that politicize the Judiciary," Lind said.

"We feel real clear that all the activities, when taken into context, show it is an improper thing for the Judiciary to be doing," Lind said.

Hui O'Okua is violating a rule requiring any group providing more than \$275 worth of goods for political purposes during a

six-month period to register with the Ethics Commission as a political action committee, Common Cause contends.

Okuda's solicitation of "volunteers" for food-preparation and campaigning violates an ethics code, the report maintains.

State employees are not allowed to engage in political activities during their work hours. Judiciary employees' involvement in those activities and potential "favoritism" shown to them because of their participation violate other ethics codes, Common Cause contends.

COMMON CAUSE also criticizes public officials for neglecting to question Hui O'Okua activities that "have been generally known with the Judiciary, as well as throughout the Legislature, the press corps and the community of lobbyists and political observers," the report says.

The report says that newspapers have reported Okuda's activities only in "mildly critical

tones."

Part of the reason for the lack of criticism stems from "the personal effectiveness of Tom Okuda as a lobbyist," Common Cause says. "Okuda's political power has also inhibited criticism."

Such criticism "is necessary and long overdue," Common Cause says.

"Common Cause has received complaints that the organized political activities of the Judiciary go beyond legitimate agency lobbying, compromising the independence, impartiality and objectivity of the courts, and that they violate standards of ethical conduct applicable to public employees," Common Cause says in the report.

State employees who are lobbying for the state government are exempt from the regulations of Hawaii's lobbyists' law, said Catherine Chang, executive director of the Ethics Commission.

The law calls for registered lobbyists to submit annual

expenditure reports to the Ethics Commission.

LIND SAID the report will not be a formal complaint to the Ethics Commission, but noted that the commissioners can authorize an investigation of the matter on their own.

The Ethics Commission puts out a brochure detailing ethical guidelines that government officials and employees should follow during campaigning.

According to the brochure, officials and employees should "avoid soliciting from persons whom you inspect, regulate, or over whom you exercise direct discretionary responsibility."

Employees also should "avoid soliciting from persons you supervise," the brochure says. "Avoid using your position to intimidate or coerce anyone into making a campaign donation."

In addition, the brochure says officials and employees should "avoid using state time, equipment or personnel for political campaign purposes."

IN HAWAII

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A-16

Friday, July 5, 1985

Questionable Lobbying Practices at the Courts

The acting administrative director of the state judiciary, Tom "Fat Boy" Okuda has developed an extensive organization over the years that lobbies for his department at the Legislature. Favors such as food, campaign help and deputy sheriff's badges are dispensed to legislators who are sympathetic to Okuda's requests. There have been reports that legislators' parking tickets have been fixed.

Common Cause, an organization dedicated to good government, has now challenged these activities as possible violations of the state ethics code. It has called on the state Ethics Commission, Chief Justice Herman Lum, who is Okuda's boss, and the Legislature to take action against the alleged violations.

It is too early to judge whether anything unethical is going on, but the situation cries for inquiry. Questions have been raised with regard to solicitations of court employees, failure to register as a lobbying group and political activity during office hours.

There is no doubt that Okuda's lobbying, even if technically proper, has taken on extraordinary dimensions that may not be in the best interests of sound government. Certainly the judiciary, of all government branches, should not tolerate activities that cast a shadow on its integrity.

Legislators should also ask whether they have compromised themselves by accepting favors from Okuda and his lobbying group. The dispensation of deputy sheriff's badges to legislators is especially questionable.

Common Cause has raised questions that deserve to be answered.

Sheriff Seeks More Weaponry

Sniper-Scope, Laser Rifle and Three Uzi Machine Guns

By Stirling Morita
Star-Bulletin Writer

The state sheriff's office wants three more Israel-made Uzi machine guns, a laser-directed rifle and a special sniper scope for use at night.

But whether it will get them is uncertain.

The sheriff's office, which provides security for courthouses, transports prisoners and backs up other state agencies, had asked state lawmakers to approve the weaponry.

These would be additions to the sheriff's office arsenal that already includes two rapid-fire Uzis and two M-16 weapons. By comparison, the Honolulu Police Department's SWAT team has two Uzis, semi-automatic weapons and a sniper scope for use at night.

The sheriff's office "is building up a massive police agency which is wholly inappropriate and a tremendous waste of taxpayers' funds," Republican Rep. Fred Hemmings said yesterday.

BUT SHERIFF Frederick

Camino said, "We're not trying to build up an army. We're not trying to build a state police force. We have a hard time doing what we have to do now."

Because details of the new fiscal year budget aren't readily available, Camino and the judiciary's fiscal office don't know whether the sheriff's office has authorization to buy the additional Uzis and rifle scopes.

Judiciary budget officials noted that the sheriff's operating budget for 1985-86 is \$2.3 million, up 21 percent from last year's \$1.9 million. The office, staffed by 87 people, will get an additional 21 deputy sheriffs and clerical workers.

The sheriff's office comes under the jurisdiction of Tom "Fat Boy" Okuda, acting administrator of courts, who was accused by Common Cause this week of violating state rules that restrict political activities of state employees.

Common Cause said Okuda's lobbying and food-catering activities at the Legislature violate guidelines set by the state Ethics Commission.

Camino said, deputy sheriffs

need the Uzis to protect organized crime witnesses who appear in court and for use in threatening situations. Additional machine guns are needed by the sheriff's office to handle emergency situations in Neighbor Island courts, he said.

HONOLULU POLICE have a number of semi-automatic weapons while the sheriffs only have two M-16s, he said. The Uzis will cost about \$1,600 while the laser-directed rifle and night scope will cost about \$4,200.

The deputies also are called out to back up investigators for state agencies, including the Medicaid Fraud Unit and Investigations & Narcotics Control, he said.

Deputy sheriffs must pass 25 hours of extra training and qualify three or four times a year to use the Uzis, Camino said. The weapons are locked in a vault which is accessible only to two deputies, so there is very little chance they could be stolen, he said.

Deputies are permitted to carry the Uzis outside the courthouses or in basement parking areas, he said.

THE "STARLIGHT" scope could prove to be helpful "in any night-time situation where any agency needs our assistance," Camino said.

"This device allows for clear, uninterrupted vision in almost total darkness. This becomes extremely important in any protection/surveillance operations which occur during the hours of darkness or in a darkened building/courtroom," according to a sheriff's office memo.

The specially equipped rifle that directs the bullet aimed by a laser beam has proven to be a deterrent in hostage situations, Camino said.

Sheriffs used to be summoned to courthouses for potentially dangerous situations two or three times a month for two- or three-day periods, he said. But that has increased, and sometimes deputies are called out for eight- or nine-day periods, he said.

He said that for the first six months of 1985, sheriffs arrested 2,256 people compared with 1,164 for the same period last year.

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John Griffin	Editorial Page Editor
Mike Middlesworth	Managing Editor
Gerry Keir	City Editor

Monday, July 8, 1985

Unjudicious lobbying?

The unusual — and highly successful — lobbying of the state Judiciary at the Legislature is no secret. In fact, the activities in that regard of Tom "Fat Boy" Okuda, the Judiciary's deputy administrative director, were first noted in print in a 1982 Advertiser story.

Now Okuda is also acting administrator of the courts, and Common Cause, the private citizen's watchdog group, has charged his lobbying and other political activities have gotten out of hand.

IN A 23-PAGE report, **Common Cause** charges the Judiciary has created an organization that goes beyond lobbying into political campaign activities and fund-raising in ways that may violate state ethics laws.

In preface to a series of seven charges involving heavy food donations to legislators, reported campaign solicitations of employees, use of government time, deputy sheriff badges for favored lawmakers, and alleged traffic ticket fixing, the report says:

"While state law does not prohibit public workers from participating in politics, the creation of an agency-based political machine goes far beyond the simple participation of individual government employees in political affairs. It is reasonable, then, to ask whether it is proper for any state agency to move from routine lobbying into wholesale political action?"

THE COMMON CAUSE report is longer on questions than answers, and it relies heavily on newspaper reports (while terming them only "mildly critical"). But it merits more than silence from those involved.

It would seem that Chief Justice Herman Lum should be especially interested in the activities of Okuda's unofficial Judiciary group known as "Hoi O'Kukua." Any investigation might also take a special look into the sheriff's office.

The Judiciary may be a model of effective lobbying, but it also needs to set admirable ethical standards in the process.

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A-8

Tuesday, July 9, 1985

Sheriff's Office's Growing Arsenal

How much weaponry does the state sheriff's office need to perform its duties? That question is suggested by the sheriff's requests for three more Uzi machine guns, a laser-directed rifle and a sniper scope for night use. The office already has two machine guns and two M-16 rifles.

The state sheriffs are not supposed to constitute a state police force. Their duties entail providing security for courthouses, transporting prisoners, and assisting other state agencies such as the Medicaid fraud unit when needed.

The office's operating budget has been increased 21 percent in one year to \$2.3 million. The office staff of 87 persons will be enlarged by 21.

Undersheriff Frederick Caminos justifies the machine guns by citing the need to protect organized-crime witnesses making court appearances. He says the additional machine guns are needed to handle situations in Neighbor Island courts. The sheriff says the laser-directed rifle could be useful in hostage situations and the night scope could come in handy in protection/surveillance operations.

The continuing trials of underworld figures create an obvious need for effective security measures at the courts. But state Rep. Fred Hemmings calls the sheriff's office buildup "wholly inappropriate and a tremendous waste of taxpayers' funds." At a minimum, the growth of the sheriff's office and its arsenal calls for closer examination. Even though no one admits to an attempt to build a state police force, we seem to be heading in that direction.

The office is under the jurisdiction of Tom "Fat Boy" Okuda, the acting administrator of the state courts. Okuda was accused by Common Cause last week of possible violations of the state ethics code with regard to political activities of state employees.

The fact that the sheriff's office is under the jurisdiction of Okuda, whose activities are under challenge, is another reason to question the sheriff's budget requests.

Sheriff's Office Accused of Possibly Illegal Acts

By Stirling Morita
Star-Bulletin Writer

The state sheriff's office may be involved in possibly criminal activities, Republican Rep. Fred Hemmings charged today.

"In addition to empire building, there is evidence that the sheriff's office is involved in activities that may be criminal," Hemmings said at a State Capitol news conference.

Hemmings said he has turned over that evidence to the prosecutor's office.

The allegations involve possible obstruction of justice, questions about the way state money is spent and personal use of state equipment, Hemmings said.

There is evidence that the sheriff's office has withheld serving arrest warrants, he said.

HEMMINGS ALSO alleged that large amounts of state funds "are being misappropriated and fraudulently spent."

In January, 16 sheriff's deputies went to the Sheraton Motel for a three-day weekend staff meeting, he said. Hemmings said he has learned that the expenses of the trip were paid by the state and that the deputies also collected per diem expense allowances when they returned.

Rick Reed, administrative assistant to city Prosecutor Charles Mariland, said the Republican

prosecutor has received "information alleging wrongdoing" in the sheriff's office.

"We are reviewing that and other information that has been brought to our attention to see if, indeed, an investigation is warranted," Reed said.

HEMMINGS SAID taxpayer money is being wasted by the sheriff's office and called for elimination of the state judiciary's security and enforcement branch.

"In my ongoing investigation into the expenditures of the state judiciary, it has become painfully obvious that millions of dollars are being spent by (Tom) 'Fat Boy' Okuda in the sheriff's

department to build a statewide police force that is being grossly misused," Hemmings said.

Okuda is acting courts administrator and oversees the operation of the sheriff's office.

Hemmings says that what the sheriff's office is doing "is a wasteful duplication of the work of county police departments. Moreover, when the judiciary takes over police work, it is unconstitutional," he said.

The state courts system has increased the powers of the sheriff's office, "backing them up by a massive payroll and an outrageous array of communications equipment and weaponry far in excess of the intended scope of

the judiciary's needs," Hemmings said.

Both Okuda and Chief Justice Herman Lum are out of town, a judiciary spokesman said, and were unavailable for comment.

DEMOCRAT OKUDA has been the target of criticism by Common Cause/Hawaii. The public-interest organization has raised ethical questions about Okuda's lobbying techniques at the state Legislature.

According to Common Cause, Okuda asks judiciary employees to contribute food and money to a private group that provides food and help to lawmakers and legislative staffers.

Common Cause also raised

questions about Okuda's giving sheriff's badges to legislators and fixing parking tickets.

Over the years, the main function of the sheriff's office was to serve legal papers in civil lawsuits and subpoenas. In recent years, it has dramatically increased the number of deputy sheriffs and taken on other duties.

The sheriff's office now furnishes security for courthouses, arrests people who fail to show up in District Court, backs up other state enforcement agencies and coordinates a radio network for state agencies.

Just after statehood in 1959,

Sheriff Wants a Test Canine Unit Expanded at a Cost of \$111,292

By Charles Memminger
Star-Bulletin Writer

The state sheriff's office wants to expand a test canine program into a fully staffed unit which will include a \$13,000 vehicle for each dog's handler, thousands of dollars worth of training aids and nearly \$12,000 worth of food and veterinary treatment for a year.

The canine unit is part of an overall planned buildup in the sheriff's office, which includes more firearms, additional deputies and sophisticated communications systems.

The buildup has brought charges by some public officials that acting court administrator Tom Okuda and his assistant, Undersheriff Frederick Caminos, are at worst, trying to build a new statewide police force or at least duplicating services already provided by other agencies.

The total cost of the buildup would be \$111,292.

Neither Okuda nor Caminos could be reached for comment but Caminos has previously denied that such a police force was being built.

STATE REP. Fred Hemmings has criticized the growth of the sheriff's office as needless waste and duplication. City Prosecutor Charles Mariland has charged that the sheriff's office is trying to become a state police force.

Police Chief Douglas Gibb says his office gets along fine with the sheriff's but added that the state agency might be "going overboard a bit" because it is new.

U.S. Marshal Faith Evans said the sheriff's office duplicates services provided by other agencies. A legislative budget proposal for the sheriff's canine corps de-

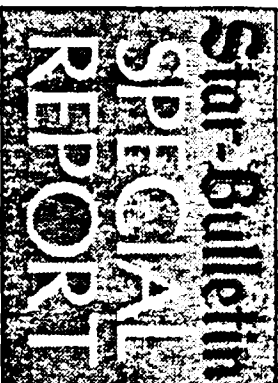
tails the planned rapid growth of that division, just one of several being beefed up.

The Honolulu Police Department already has a canine unit under its Tactical Operations Division that is empowered to operate islandwide.

In conjunction with the unit, TOD has several officers trained in bomb detection and disposal, an area also being developed within the sheriff's office.

BUT IF THE sheriff's budget requests are granted, its canine section will be bigger and better equipped than that of the Police Department despite the fact that the sheriff's main mission is court security.

Evans, whose agency is the federal equivalent of the sheriff's office, said bomb detection by dogs can best be handled by Honolulu police. The marshal's service depends



TOD has five dogs, two of which are trained to detect explosives, according to Maj. Joseph Aveiro. The dogs are transported in the officers' subsidized police cars after blankets are spread out to protect the interiors.

The dogs and trainers go through a four-to-five month training period. TOD bomb experts also go through yearly training at an Alabama FBI training center.

The sheriff's dog division will be much better equipped if its

Turn to Page A-16, Col. 1

Other Law Enforcers Scoff at Arms Request

By Charles Memminger
Star-Bulletin Writer

The Israeli-made submachine guns used by the state sheriff's office have no place in court-house security, two high-ranking law enforcement officials say.

The sheriff's office already has two Uzi submachine guns and is requesting three more for use in protecting organized crime witnesses who appear in court and for threatening situations.

But Police Chief Douglas Gibb and U.S. Marshal Faith Evans said in interviews that they believe the level of arms in the sheriff's office is excessive, especially regarding the Uzis.

"A MACHINE GUN isn't safe to use in a crowded situation," Gibb said. He said using an Uzi also requires special weapons and tactical operations training. Gibb said he thinks subma-

chine guns, in general, are "outdated."

All automatic-firing weapons have been removed from the Police Department except in the Tactical Operations Division, Gibb said. TOD has two Uzi weapons used by the SWAT team.

Gibb said he thinks the sheriff's office had an "excessive" number of arms in view of the fact that its duty is mainly court security.

Evans said the U.S. Marshal's Office, whose mission for the federal government is similar to that of the state sheriff's office, also does not use automatic weapons. She also said an Uzi has no use in courthouses.

"It is not a weapon that is recommended by my agency in a court security setting," she said. Instead, deputy marshals

Turn to Page A-16, Col. 1

Sheriff's Office Accused of Possible Illegalities

Continued from Page One

the sheriff's office became part of the attorney general's office, but in 1975 it was transferred to the control of the judiciary.

HEMMINGS HAS been examining the judiciary's financial plans and looking for waste of state funds.

The sheriff's office "has claimed a broader range of alleged activities and duties" to win large budget increases, Hemmings said.

The sheriff's office received a 21 percent increase in its budget to \$2.3 million in the 1985-86 fiscal year. Its staff will increase from 87 to 108 deputy sheriffs and clerical workers.

DETAILS OF THE equipment authorized by the Legislature aren't readily available, but the sheriff's office had requested the following:

- Three additional Uzi submachine guns, a laser-directed rifle and a sniper scope for use at night costing a total of about \$5,800. The sheriff's office already has two Uzi submachine guns.

- Video equipment so "the personnel involved in all investigations of the judiciary would have the proper investigative tools to properly process any crime scene or complex investigation," a sheriff's office memo

says. The cost of the equipment was estimated at \$44,816.

- Five air-conditioned, "police package" cars which cost \$16,800 each.

- A microwave radio communications system for the sheriff's office on Maui. Estimated cost was \$46,150.

- Dog-unit equipment, food and transportation at a cost of more than \$100,000.

- Mobile computer equipment so deputy sheriffs, while in their cars, can check criminal histories of people. The cost was estimated to be about \$68,000.

HEMMINGS SAID the sheriff's office has "used this artificial expansion to justify huge budgetary increases. The majority leadership (Democrats) at the state Legislature has allowed this to happen."

It appears that the budget of the sheriff's office has quadrupled in the past four years, Hemmings said. But it is difficult to get specific figures without breakdowns of the judiciary budget, he said.

"The above expansion has resulted in the sheriff's office serving some criminal arrest warrants formerly handled by the police, processing search warrants, allegedly providing trained dogs to both the military and

county agencies and 'fixing' traffic tickets," Hemmings said.

These activities violate the constitutional doctrine of separation of powers among the three branches of government, Hemmings said.

That doctrine "repudiates the advisability of the judiciary branch's being active in the enforcement of laws," he said.

During the news conference today, Hemmings asked KGMB-TV reporter Matt Levi whether he was on the payroll of the sheriff's office and if it was a conflict of interest for him to cover the story.

Levi said he wasn't employed by the sheriff's office and later told Hemmings that he thought it was improper for the legislator to falsely accuse Levi. Levi has taught self-defense classes for the sheriff's office on an unpaid basis.

Use of Submachine Gun

Continued from Page One

depend on shotguns in special security situations.

THE SHERIFF'S office has attracted some attention to itself by requesting more weapons, leading some to speculate that it is trying to become a full-fledged police agency.

Tom Okuda, acting administrator of courts, is on vacation and could not be reached for comment about Gibb and Evan's remarks. His assistant, Undersheriff Frederick Caminos, did not return calls requesting comment.

Caminos, however, has previously defended the arms buildup in his office. He said deputies are given 25 hours of extra training and must qualify to use the Uzis.

"We are not trying to build up an army," Caminos has said. "We are not trying to build a state police force. We have a hard time doing what we have to do now."

Gibb said the Police Department gets along well with the sheriff's office. He said that the sheriff's office is starting as a new agency and may be "going overboard a bit."

Sheriff Wants Canine Funds

Continued from Page One

budget is improved.

THE SHERIFF'S office is asking for:

- \$91,000 for vehicles to transport seven dogs. The vehicles would be used on traffic warrant "sweeps" and special searches. "The dogs would be caged in the rear of the vehicle, the deputies . . . in front and the custodians . . . in the rear seat area," the proposal said. The \$91,000 would be for just the purchase, not for upkeep.

- \$7,792 for dog food for a year.

- \$4,200 for veterinary care, cleaning and vitamins.

- \$1,600 for two bomb-protection vests.

- \$2,000 for a "combination safe for the storage of training narcotic aids." The proposal does

not say why the the dogs would need to be trained for narcotics detection while their duties would be court security and bomb detection.

- \$200 for water canteens for dogs.

- \$3,000 for leather training equipment and attack suits.

- \$500 for bowls, pans, towels and grooming tools.

- \$1,000 for holding cages.

A SCALED-DOWN version of the canine corps involving a few dogs already is in effect on a test basis.

According to a legislative report, in a one-year period, those dogs took part in 20 explosive searches, seven support searches for the military and two evacuation searches.

Despite the the availability of TOD's trained bomb experts, the sheriff's office has hired on contract a former New York detective as a bomb expert.

Sheriffs under fire

Office questioned over delaying scheduled arrests

By James Dooley
and Jerry Burris
Advertiser Staff Writers

The powerful state Sheriff's Office, already under criticism for its expensive "empire building" and political lobbying activities, faces new questions over its practice of delaying scheduled arrests in certain traffic cases.

Republican state Rep. Fred Hemmings yesterday questioned the legality of the practice and has asked City Prosecutor Charles Marsland to investigate it.

Marsland spokesman Rick Reed said information from Hemmings and others is being reviewed to "determine whether an investigation is warranted."

State Undersheriff Frederick "Cappy" Caminos told his staff on June 20 that he and Acting Court Administrator Thomas "Fat Boy" Okuda had "authority to discharge anyone held on a warrant or to request a warrant be put on hold,"

Related story on Page E-2

according to staff meeting minutes obtained by The Advertiser.

Courts spokesman Carol Dodd said yesterday that authority to briefly "delay service of warrants" was granted to Okuda in late June by District Court Administrative Judge Kenneth Harada. Such authority, she said, is to be used when questions about a warrant's validity cannot be quickly resolved.

Okuda delegated the authority to Caminos, Dodd said.

In any event, Hemmings argued, the power of the armed Sheriff's Department to make investigations and arrests, along with other quasi-police activities, such as developing a court-run "canine corps," may violate the state Constitution's separation-of-powers mandates.

The Judiciary has moved into direct law enforcement activities that should be reserved for the police and the attorney general, he said.

The Sheriff's Office, which began growing in 1976 when it took over court security duties from the attorney general, has been under fire on several fronts recently.

Three courts workers were indicted by the attorney general on computer fraud charges arising out of alleged traffic ticket "fixing" schemes.

And, the public interest group Common Cause earlier this month issued a report that contends the Judiciary's successful lobbying efforts, led by Okuda, may violate state ethics laws.

Hemmings claimed he was receiving information from an unnamed source within the Sheriff's Office.

"In my ongoing investigation into the expenditures of the state Judiciary, it has become painfully obvious that millions of dollars are being spent by 'Fat Boy' Okuda in the Sheriff's Department to build a statewide police force that is being grossly misused," Hemmings said.

"What they are doing is a waste-

ful duplication of the work of county police departments. Moreover, when the Judiciary takes over police work, it is unconstitutional."

He said he would ask the Legislature to abolish the Sheriff's Office and would ask the attorney general to review the legality and constitutionality of its actions.

State Chief Justice Herman Lum and Okuda, acting courts administrator, are both out of state and were unavailable for comment yesterday.

However, courts spokeswoman Dodd said Acting Chief Justice Edward Nakamura would be "in telephone contact very soon" with Lum.

The Judiciary "has begun to take a serious look at the allegations," she said.

"If there is any substance to the allegations, remedial action will be taken," she said.

Acting Attorney General Corinne Watanabe said Hemmings' allegations would be reviewed by her department if a request is made.

Honolulu Star-Bulletin
July 17, 1985

Answers Needed on the Sheriff's Office

The more we learn about the state sheriff's office the stranger it seems.

A previous report described a drastic and questionable expansion in staff, weaponry and communications equipment. Now we find that in addition the office wants to establish a permanent canine program to detect bombs.

And state Rep. Fred Hemmings charges that the office may be involved in criminal activities related to obstruction of justice, expenditure of public funds and personal use of state equipment. He has turned over evidence related to those allegations to the city prosecutor.

A further complication is that the office is under the jurisdiction of Thomas "Fat Boy" Okuda, whose lobbying activities have been questioned by Common Cause.

The office's requests for the canine program and submachine guns have been criticized by two law enforcement officials, Chief Douglas Gibb of the Honolulu Police Department and U.S. Marshal Faith Evans. Evans, whose marshals perform a mission at the federal level that is similar to the sheriff's at the state level, says her staff does not use automatic weapons. Gibb agrees that such weapons have no place in courthouse security.

As for the canine program, the Honolulu Police Department already has one under its Tactical Operations Division. Evans says bomb detection by dogs can best be handled by the Honolulu police unit. Establishment of such a program by the sheriff's office appears to be wasteful duplication. And the sheriff's requests would create a program bigger and better equipped than the police department's.

Obviously there is a need to provide protection for the courts and particularly for witnesses against the threat of violence. But the sheriff's office seems to be growing beyond reasonable bounds. It is time for the responsible officials of the Ariyoshi administration to come forward and respond to these charges.

Honolulu Star-Bulletin

A GANNETT NEWSPAPER

Lobbyist's Specialty: Food and Valentine Sweets

By Shirling Morita
Star-Bulletin Writer

A lobbying group made up chiefly of state and judiciary employees has spent \$2,364 this year to give Valentine's Day candy to the governor and feed other top politicians.

The spending was reported last week by Employees for Good Government Service (EGGS). EGGS is an apparent offshoot of the Hui O'Koku, a lobbying group for the judiciary. Hui O'Koku had provided funds and workers for lobbying and food-catering activities at the state Legislature.

EGGS filed a lobbyist expense report with the state Ethics Commission on July 10. It detail-

ed the group's payments for food and candy used in lobbying activities at the State Capitol during the first six months of 1985.

Neither Hui O'Koku nor EGGS had ever provided an expense report to the Ethics Commission until recently.

EGGS paid \$29.56 for each box of Valentine's Day candy for Gov. George Ariyoshi, House Speaker Henry Peters and Senate President Richard Wong, said Clyde Namuo, the group's vice chairman and Circuit Court legal documents officer.

An additional \$188.94 was spent to provide food for a party by Maui Rep. Herbert Honda on the opening day of the 1985 Legislature, Namuo said.

Star-Bulletin SPECIAL REPORT

THE GROUP paid \$678.92 to provide lunches for the House and Senate Judiciary committees and \$1,317.91 for food for the House Finance and Senate Ways and Means committees, Namuo said. Whether committee staffers or legislators ate the food isn't known, he said.

Those legislative committees oversee the judiciary's \$44 million budget.

EGGS' report was filed after Common Cause/Hawaii accused state judiciary acting director Tom "Fat Boy" Okuda of violating the ethics code with his lobbying activities.

But Namuo said the expense report wasn't filed because of Common Cause's charges, but came after a meeting with state ethics officials in late June. Ian Lind, Common Cause's executive

director, said the public-interest organization started looking at Okuda's lobbying activities in early June.

Judiciary employees and the state sheriff's office have come under heavy criticism recently.

Republican Rep. Fred Hemmings has charged that the sheriff's office may be involved in possibly illegal activities and may be fraudulently spending taxpayers' money. He has referred criminal allegations to the city prosecutor's office.

CHIEF JUSTICE Herman Lum, who oversees the judiciary and sheriff's operations, is out of town, but Acting Chief Justice Edward Nakamura yesterday said Lum will conduct a "full

inquiry" into the allegations when he returns.

Common Cause criticized Okuda for running "an extensive political machine within the judiciary" named Hui O'Koku. Namuo said EGGS is technically a separate organization, but includes Okuda as a member.

Okuda is on vacation and has not been available for comment. EGGS first took out its state tax license in March 1983 and received its tax-exempt status from the Internal Revenue Service in August 1983, Namuo said.

Namuo at first believed that EGGS wasn't required to file lobbyist expense reports, as required by law, because the

Lobbying Group Donates Food, Valentine Candy

Continued from Page One

group didn't spend \$275 per legislator. But, Namuo said, he found out that if a group spent more than \$275 for a six-month period for lobbying, it had to submit a report.

The report didn't list contributors to EGGS' account. Unless a contributor donated money specifically for lobbying activities, the group doesn't feel it should list the donor's name, Namuo said.

EGGS RECEIVES its money from fund-raising activities such as the sale of sweetbread at the state Farm Fair, he said.

"We don't have that much money," Namuo said. "We have to work hard to raise funds."

The group has about 50 members, and about 75 percent of them are judiciary or state employees, Namuo said. The other

members are friends of the courts who work in private industry, he said.

Chairman of the group is Roy Murayama, a deputy sheriff, Namuo said. Murayama was a defense witness in the first trial of former state Sen. Clifford Uwaine on conspiracy and election-fraud charges.

Last year, Murayama testified that he accompanied fellow deputy sheriff Harry Hirao from Ross Segawa's fund-raiser in July 1982 to a party in Uwaine's office. Hirao, who was illegally registered at the party to vote in the 19th House District, had testified that he and others had cooked for former Democratic candidate Segawa.

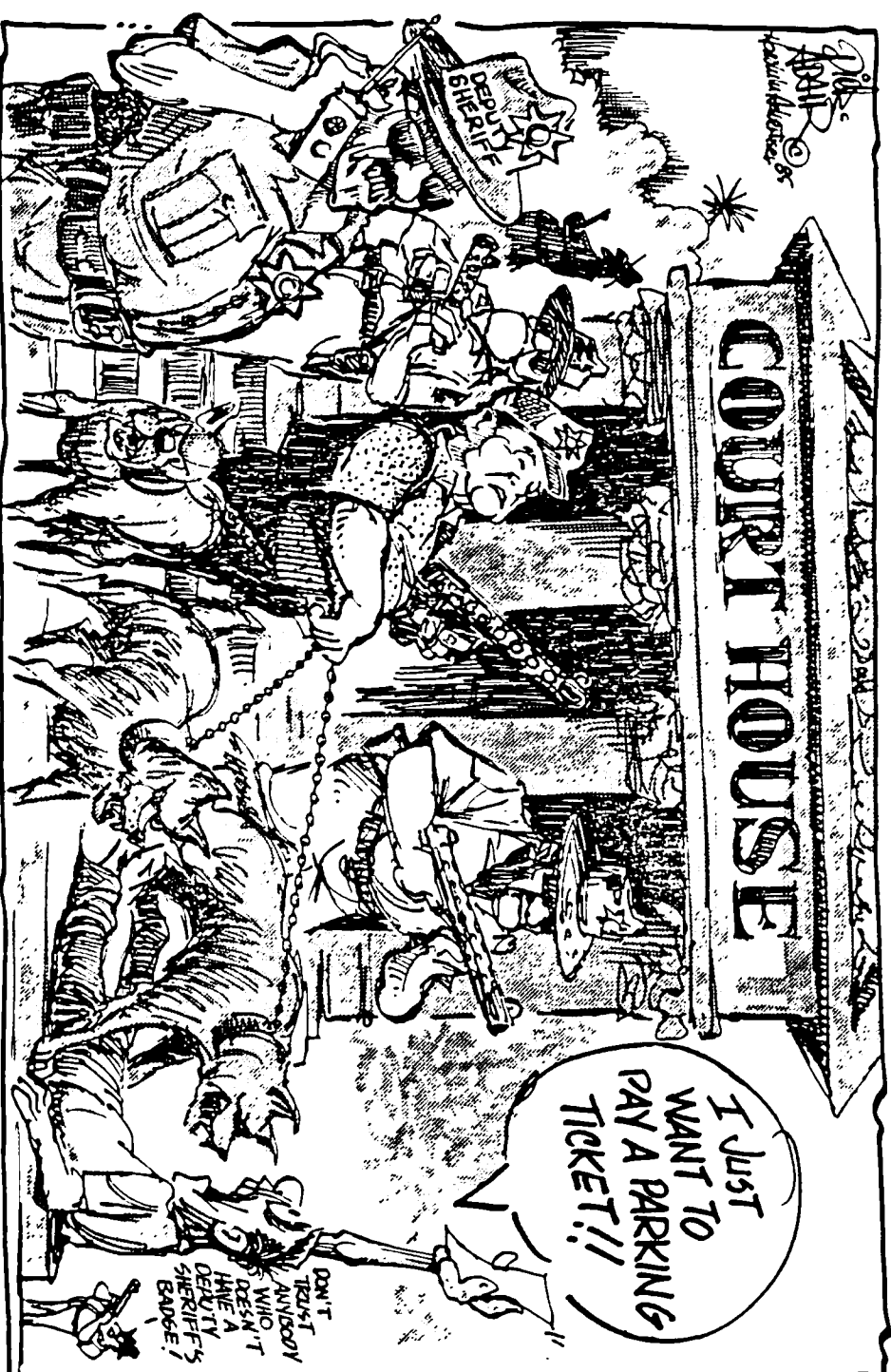
Namuo said EGGS' goals are "to work for good government, better government and good legislation — things we construe will improve government."

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Thursday, July 18, 1985



The Honolulu Advertiser.

Aloha!

Today is Saturday,
July 20, 1985
Hawaii

Sheriff arrests: 6-month delays

By James Dooley
Advertiser Staff Writer

The state Sheriff's Office has delayed making arrests in some District Court traffic cases for six months or more. The Advertiser has learned. The delays go well beyond a 30- to 60-day lag time that one District Court employee said normally occurs between the signing of a warrant by a judge and the execution of a warrant by a deputy sheriff.

In one case, two warrants for the arrest of a Kaneohe woman were issued in June and July 1984 by District Court judges but have not yet been executed, court documents show.

The warrants were put on "hold" after the woman told Sheriff's Office personnel that she had already paid fines and cleared the cases, state Undersheriff Frederick D.C.K. "Cappy" Caminos said yesterday through court spokeswoman Carol Dodd.

The same circumstances applied, Dodd said, to a warrant issued last September for the arrest

of another Kaneohe woman cited earlier in the year for driving her car without a front license plate.

But that woman told The Advertiser this week that she had paid a fine for the offense at District Court last year after being telephoned about the matter by Caminos.

At least two other warrants issued last year that bear the handwritten notations "on hold per C. Caminos" and "hold per U/S" (undersheriff) have not yet been executed, it was learned.

Dodd said earlier in the week that authority to "hold" warrants was granted to acting Court Administrator Tom Okuda and Caminos in late June by District Court Administrative Judge Kenneth Harada.

She said the authority to hold up arrests was necessary in situations in which a claim that a traffic fine had already been paid could not be readily checked.

On holidays and weekends, she said, computer

See Some on Page A-4

Court budgets passed with a scant review

By Jerry Burris
Advertiser Politics Editor

The state court system, under fire for its lobbying methods, has been given a virtual "blank check" from lawmakers who approve judicialary budgets without seeing details on how the money will be spent.

In fact, for the past four years, the judiciary budget

has exceeded spending ceilings set by the state Constitution. While it is legal to go above the ceiling, it requires special legislative authorization that was not granted until this year.

The judiciary budget has exceeded its constitutional ceiling every year since 1982, said Senate Ways and

See Judiciary on Page A-4

Judiciary given 'blank check'

from page one

Means Chairman Mamoru Yamasaki. In that year the judiciary's operating budget was \$27.5 million. It stands at \$44.3 million this year.

Yamasaki acknowledged yesterday that lawmakers have voted for multimillion-dollar judiciary budgets without the specifics that accompany spending requests from the rest of the state administration.

Instead, the judiciary budget is broken into five general categories with no accompanying item-by-item "work sheets."

By contrast, even the University of Hawaii, which has constitutional "autonomy" to manage its own affairs, must submit to detailed budget review by lawmakers who go over virtually every item, from secretarial salaries to computer purchases.

Not so with the judiciary, which since 1979 has had the legal right to submit its budget directly to the Legislature without prior review by the governor or the state administration.

The 1978 Constitutional Convention looked upon the judiciary as a separate branch of government and gave it the right to fight for its money separate from the overall state budget.

Republican State Rep. Fred Hemmings recently charged that the court system's budget is bloated, full of waste and fraud and is approved without any significant legislative review.

As a result, Hemmings suggested, the court system has improperly ventured into the area of police work with its deputy sheriffs and their canine corps, Uzi machine guns and arrest powers.

The citizen lobbying group Common Cause, while acknowledging the judiciary's effectiveness at getting what it wants out of the Legislature, has raised ethical and legal questions about its finely honed lobbying apparatus.

For the current fiscal year, the judiciary was given an operating budget of some \$44.3 million, about \$2 million more than a spending ceiling set by law.

The budget was broken into five general categories: appeal, circuit, family and district courts and support services.

"That's all we had," Yamasaki said.

"I don't think we have the detail and the breakdown of the executive (budget)," Yamasaki said. He pointed out, however, that the court system is a "separate branch of government."

"We didn't have the time to break it down into line items. The subject matter committee (judiciary) did not come up with detail."

Yamasaki suggested that legislators will demand more information next year.

"From here on we're going to pay a lot more detail to what they want to buy," he said. "I was surprised to see what the Sheriff's Office wanted to spend for guns, for instance."

"I don't think if we knew they were purchasing that kind of material we would have allowed it. I don't think we're trying to create a statewide police force."

Yamasaki agreed that the unspecified budget amounts awarded the judiciary could be termed a "blank check," but he added, "I don't think that was the intent."

In addition to seeking more detail in the future, Yamasaki said, he intends to put tighter restraints on the overall amount the court system receives.

To a great extent, Yamasaki said, the growth of the judiciary's budget was the result of voter pressure to get tough on crime and speed up sentencing.

This occurred at about the same time 1978 Constitutional Convention had freed the judiciary from administration budget review and in tandem with legislative expansion of court duties.

"There was a real holler from the public," he said.

On an informal basis, most of the legislative work on the judiciary budget is handled by the House Finance Committee, which traditionally is "loaned" judiciary staff support during the session.

House Finance Chairman Ken Kiyabu has been unavailable this week to discuss details of the judiciary budget and the activities of the Sheriff's Office.

But House Speaker Henry Peters yesterday defended the Legislature's treatment of the court system.

"I really think it's unfair," Peters said. "Crime is everybody's business."

In fact, Peters argued, "on a comparison basis with the Prosecutor's Office, the judiciary is not getting enough."

Some Sheriff's Office arrests delayed for 6 months or more

from page one

records cannot be examined and judges are not available for consultation.

Rather than risk exposure to false-arrest suits later, execution of warrants is held up briefly, she said.

Dodd said yesterday that Okuda, who is attending meetings on the Mainland, told her by telephone that "he has practiced the temporary withholding of warrants for many years."

Okuda said District Judge Millard White approved the practice "in the 1950s," according to Dodd.

Okuda sought a "clarification" of the practice this year and received formal approval of it from Judge Harada, she said.

But she said she did not know why some warrants signed by judges more than a year ago still had not been executed.

Camino has referred all questions about the matter to Dodd.

State Rep. Fred Hemmings said in a press conference Tuesday that he had referred information about the holding back of warrants to the city Prosecutor's Office for investigation.

Dodd said Chief Justice Herman Lum, who is out of state until early August, will ask that an inquiry be conducted into that and other matters after he returns.

Hemmings' comments were the second public criticism to be leveled against the state judiciary this month.

The public interest group Common Cause issued a report July 3 contending that extensive political lobbying efforts at the Legislature, led by Okuda, might violate state ethics laws.

Following issuance of that report, a lobbying organization made up primarily of judiciary workers filed a disclosure statement with the Ethics Commission about lobbying efforts made during the first six months of this year.

The group, Employees for Good Government Service, was formed in 1983 but had never before filed a report with the Ethics Commission.

Clyde Namuo, vice chairman of the group and head of the legal documents section of state Circuit Court, said this week he had believed that the group only needed to file with the Ethics Commission if it had spent more than

\$275 per state legislator within a six-month period.

But Namuo said that after he checked with the Ethics Commission, he learned that the group should file because it had spent more than \$275 on lobbying activities during the six-month period.

He said there was "no consideration being given" to filing reports for lobbying activities undertaken in 1983 and 1984.

Namuo said the report filed July 10 was unrelated to Common Cause's criticism of lobbying activities by the judiciary.

The report said the group had spent \$1,998 this year on food given to members of the House and Senate Judiciary Committees and to the House Finance Committee and the Senate Ways and Means Committee.

Another \$88 was spent on three boxes of candy given on Valentine's Day to Gov. George Ariyoshi, House Speaker Henry Peters and Senate President Richard Wong, Namuo said.

And \$189 was spent on food provided for a party hosted by Rep. Herbert Honda on the opening day of this year's legislative session.

Namuo said about 75 percent of the group's members work at the judiciary.

Chairman of the group is Lt. Roy Murayama, who heads the penal summons division in the Sheriff's Office.

Namuo was asked if Murayama was in charge of preparation of food given to legislators.

"No comment," he said.

Murayama could not be reached for comment.

The District Court building at the corner of Alakea and Hotel streets contains kitchen facilities on a mezzanine level that is not accessible to the public.

Namuo was asked if Sgt. Gordon Lee of the Sheriff's Office, a licensed masseur, provides massages to legislators and legislative staffers as part of the group's lobbying activities.

"No comment," he said.

Lee told The Advertiser he has provided massages during the legislative session on his own time. He said he does so because he has friends who work there.

Namuo said the bookkeeper for the group is Paul Murato, an employee in the fiscal division of District Court.

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A-12

Monday, July 29, 1985

The State's Response to Judiciary Problems

A letter from a spokesman for Gov. Ariyoshi, published Saturday, chided us for an alleged ignorance of Hawaii government as expressed in a July 17 editorial criticizing the state sheriff's office.

The governor has apparently taken cover behind the constitutional separation of powers rather than confront the questionable activities in the sheriff's department, and elsewhere in the judiciary, as reported in recent *Star-Bulletin* articles.

The sheriff's office has been growing at an alarming rate in terms of staff, weaponry and equipment. These include submachine guns, dog teams and other combat items which some law enforcement officials consider unnecessary. There is concern that the sheriff's staff is becoming a paramilitary state police force.

The judiciary branch, of which the sheriff's office is a part, has been accused by Common Cause of possible violations of the state ethics code in the lobbying activities of some of its employees. These activities are largely the work of acting courts administrator Tom "Fat Boy" Okuda, an influential and evasive official who has thus far stonewalled the allegations. Okuda is a member of the Democratic Party's Central Committee and is chairman of a golf tournament next month to raise funds for the party.

Chief Justice Herman Lum, who heads the state judiciary, is attending a series of bar association events in Britain. Lum's subordinates are obeying a code of silence until his expected return in early August. It's another Hawaii situation where no one seems to be in charge.

To all this the governor replies in effect that it is not his department, that he only handles the executive branch.

The constitutional separation of powers also embodies checks and balances. The governor of Hawaii appoints the chief justice, who heads the judiciary. The governor signs the budget for the operation of the judiciary, and thereby assumes a measure of responsibility for its activities.

Moreover, the governor is the leader of the Democratic Party in Hawaii, and in that role is involved in whatever Democrats do. Democrats control state government in Hawaii in all three branches — executive, legislative and judicial — and have for more than two decades.

As leader of *all* the people, the governor should not wash his hands so quickly of a situation in which a well-connected state official is building an armed empire at public expense and answering to no one.

ACLU sues to abolish state residency requirement

By Ken Kobayashi
Advertiser Courts Writer

The American Civil Liberties Union filed a federal lawsuit yesterday in behalf of a would-be state messenger challenging Hawaii's residency requirement for applicants for state and county jobs.

The challenge was filed in behalf of John Perry, a Hawaii Pacific College student.

The suit said Perry was hired as a part-time messenger with the state Attorney General's Office, but fired on his first day of work Feb. 4 when he said he was an Alaska resident. According to the ACLU, the state



law violates federal constitutional rights to due process, equal protection and the right to travel.

The suit names Gov. George Ariyoshi and acting Attorney General Corinne Wanabe as defendants and asks for a declaration that the law is unconstitutional. It also seeks \$1,684,400 for Perry.

This is the second challenge by the ACLU here to state residency laws. In 1977, federal Judge Samuel King struck down a one-year residency requirement for state and county jobs. Ariyoshi had suggested such legislation as part of his major growth and population control program.

After King's ruling, state lawmakers took another tack and passed the current law which doesn't require applicants to reside here for a particular period of time, but requires them to be residents at the time of the application.

In a statement yesterday, ACLU Executive Director Vanessa Chong said similar residency requirements in

other states have been struck down. "For example, the U.S. Supreme Court this year declared a New Hampshire Supreme Court rule unconstitutional that would limit bar admission to state residents only," she said.

Attorney Daniel R. Foley represents Perry.

Another provision of the residency law was cited by Common Cause/Hawaii earlier this year in connection with Mayor Frank Fasi's appointment of John Hirten as city transportation director.

The law requires state and county officials, such as city department heads, to be residents for at least one

year prior to their appointment.

Hirten had been a consultant in Sacramento when Fasi selected him.

At the time, Corporation Counsel Richard Wurdeman said the law is "arguably unconstitutional."

Although Common Cause/Hawaii asked the state Attorney General's Office to review the appointment, no court action has been filed and Hirten remains on the job.

Star-Bulletin

Sheriff's Funds

It is beyond belief that the sheriff's department — whose main functions are to serve summons and secure the courtroom — should be asking for dogs, handlers, vans and guns — and all that for a department whose budget has increased almost tenfold in the last decade.

Thank heaven for Rep. Fred Hemmings, who has enough concern as to where this is leading to start an investigation. His suggestion that the department be abolished is an excellent one.

My question is: Why we don't have narcotics dogs at the airport and docks to sniff out the huge quantities of drugs supposedly being shipping out of Honolulu daily?

Ruth M. Haupt

* * *

I enjoy reading about a seemingly power-hungry citizen getting stopped in his tracks! "Fat Boy" Okuda (honcho of Hawaii's sheriff's department) apparently has abused the success he has won.

If Okuda is indeed guilty of abusing his position to win the favor of Hawaii's lawmakers, he needs to be replaced. It's what's best for all of us.

Good luck to Common Cause of Hawaii and Republican Rep. Fred Hemmings in making room for a more responsible person to run the sheriff's department and control the finances there.

We need more good, honest leaders. After all, there's plenty of necessary government intervention. We can do without power-hungry and money-hungry individuals interfering unnecessarily.

Lori E. Anderson

Honolulu, Hawaii

Aug. 3, 1985

• 24 Pages, Two Sections

HOME EDITION

SATURDAY

Honolulu Star-Bulletin

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AWCANNETT NEWSPAPER

Court Office Used for Democrat Business

By Stirling Morita
Star-Bulletin Writer

There was Democratic Party business going on at the Honolulu District Court building on Alakea Street yesterday.

It took place in the second-floor office of Pat Tanaka, head of counseling services and probation for District Court.

Taking two hours of vacation time, he had a meeting with members of a special committee soliciting prizes for the upcoming Democratic Party golf tournament, Tanaka said.

Tanaka said he sees nothing wrong with holding the meeting in a government facility because he was working on his own, not the state's time. Every time he works on party business, he said,

he takes time off from his job.

However, guidelines issued by the state Ethics Commission say: "Campaign activities such as fundraisers or political meetings may not be held at state facilities unless the facilities are generally available to the public for the same or similar purpose."

PAST ETHICS Commission rulings say: "Political activities constitute a private business purpose and should be kept separate from state time, facilities and equipment."

"As far as I'm concerned, if anybody wants to use it (his office), fine," Tanaka said.

Asked about his philosophy on work and party politics, Tanaka replied: "As long as it doesn't

interfere with work or with judgment, it really doesn't matter.

Ordinarily, such committee meetings would be held at night and away from state offices, Tanaka said. But yesterday, he said, he had taken time off and had most of the tournament prize information in his office so he summoned committee members.

Members of his prize committee are Gail Okawa, secretary for Democratic Party; Party Chairman James Kumagai; Hale Sato, facilities manager for District Court; Karen Horita, an aide to Senate President Richard S.H. Wong; and Anita Templer, an advertising executive.

TANAKA SAID He met with

Templer and C. Douglas Eagleson, director of the state Democratic Party.

But Eagleson said he only dropped by Tanaka's office to talk to him about various things, including the golf tournament, and didn't attend any committee meeting.

"I don't care to see my name in print," Eagleson said.

Eagleson warned a reporter that he would not provide information in the future if his name appeared in the article.

Tanaka's boss, Tom "Fat Boy" Okuda, acting administrative director of the courts, is chairman of the Democrats' golf fund-raising event set for Tuesday at Milliani Golf Club.



OUTRICKS AT WORK—Pat Tanaka, a District Court employee, discusses yesterday's Democratic Party business meeting in his courthouse office. —Star-Bulletin Photo by Dean Sensui.

Bornhorst Calls City Briefings Illegal

By Kathy Subko
Star-Bulletin Writer

City Councilwoman Marilyn Bornhorst says it's illegal for her colleagues to attend special "briefings" arranged by the city administration to review major proposals before the issues are discussed at regular Council meetings.

City Managing Director D.G. "Andy" Anderson this week invited Council members to his office for a series of workshops on upcoming administration projects.

Anderson said the briefings are "to advise and inform the City Council of what the administration is doing and thinking to get their input."

But Bornhorst says the meetings violate the state's "sunshine" law governing open meetings and has refused to attend the sessions.

"There's no doubt in my mind that they're illegal," she said. "It's also bad policy."

Under the sunshine law, designed to promote open government meetings, government bodies are not allowed to deliberate towards a decision in private.

The law also requires advance public notice of Council meetings.

Ian Lind, executive director of Common Cause Hawaii, agreed with Bornhorst.

"THE STATE law would seem to apply to all matters before the Council," Lind said. "It (Anderson's workshops) would certainly seem to be contrary to the sunshine law requirements."

"They (Council members) are down to talking nitty gritty or policy it seems," Lind said. "It would certainly seem to be the kind of discussion that I think the public would have a real interest in."

Anderson said the meetings in his conference room are open to the public. He invited members of the news media to attend after reporters learned of the briefings.

Notice of the meetings was not posted with other Council agendas.

However, Anderson yesterday directed his staff to give public notice of future briefings.

Anderson said he decided to hold the workshops after Council members Rudy Pacarro and

Patsy Mink complained that the administration presented its plans for a garbage-to-energy project to the public before going to the Council.

Anderson said he hopes the briefings will result in faster Council approval of administration projects.

HE SAID the meetings "avoid the necessity of making nine different presentations."

He said the workshops allow the administration to answer Council questions in advance and to research problem areas ahead of time.

On Monday, Council members Mink and Tony Narvaes attended a workshop on the proposed housing for the homeless in Maui.

Yesterday, Anderson and representatives of Castle & Cooke gave a presentation about proposed land use changes to Mink, Narvaes, Pacarro, George Akahane, Toraki Matsumoto and Leigh-Wai Doo.

Bornhorst refused to attend. Council members Welcome Fawcett and David Kahanu had other commitments.

Lind said he believes the administration's proposals should

be discussed in public at committee meetings.

Some Council members agreed saying the briefings just add more meetings to their workload.

"As chairman of my committee I don't need to have workshops to discuss matters that are before the committee," Narvaes said.

KAHANU, WHO has yet to attend one of Anderson's briefings, said the administration's proposals "should be downstairs with everything else."

But Mink, Pacarro, Akahane and Doo said they believe the meetings are worthwhile and legal as long as decisions aren't made.

"I think it's a useful effort on the part of the administration to alert members who are interested on what's coming down the pike," Mink said. "It's only informational."

"This is only to inform us about what negotiations are being carried on," she said.

Mink said she thought the media was informed in advance of the meetings.

Doo said, "I'm always in favor of more information."

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A Political Meeting in Court Building

Common Cause recently accused the acting director of the state judiciary, Tom "Fat Boy" Okuda, of violating state ethics rules which restrict political activities of state employees. The public interest group specifically cited Okuda's food-catering activities at the state Legislature, which it said involves state judiciary employees in an organization called Hui O'Kokua.

Okuda is also a member of the state Democratic Party's Central Committee, and was chairman of a party golf tournament held as a fund-raiser yesterday at Mililani Golf Club.

The Common Cause charges seem partially borne out by a meeting last week at the Honolulu District Court building. A *Star-Bulletin* reporter, Stirling Morita, found the head of counseling services and probation for the District Court conducting a meeting of a committee soliciting prizes for the golf tournament. The meeting was being held in the office of the official, Pat Tanaka.

Tanaka said he took two hours' vacation time for the meeting. He said he saw nothing wrong with holding it in a government facility.

But the state Ethics Commission has said that such meetings may not be held at state facilities unless they are available to the public for similar purposes.

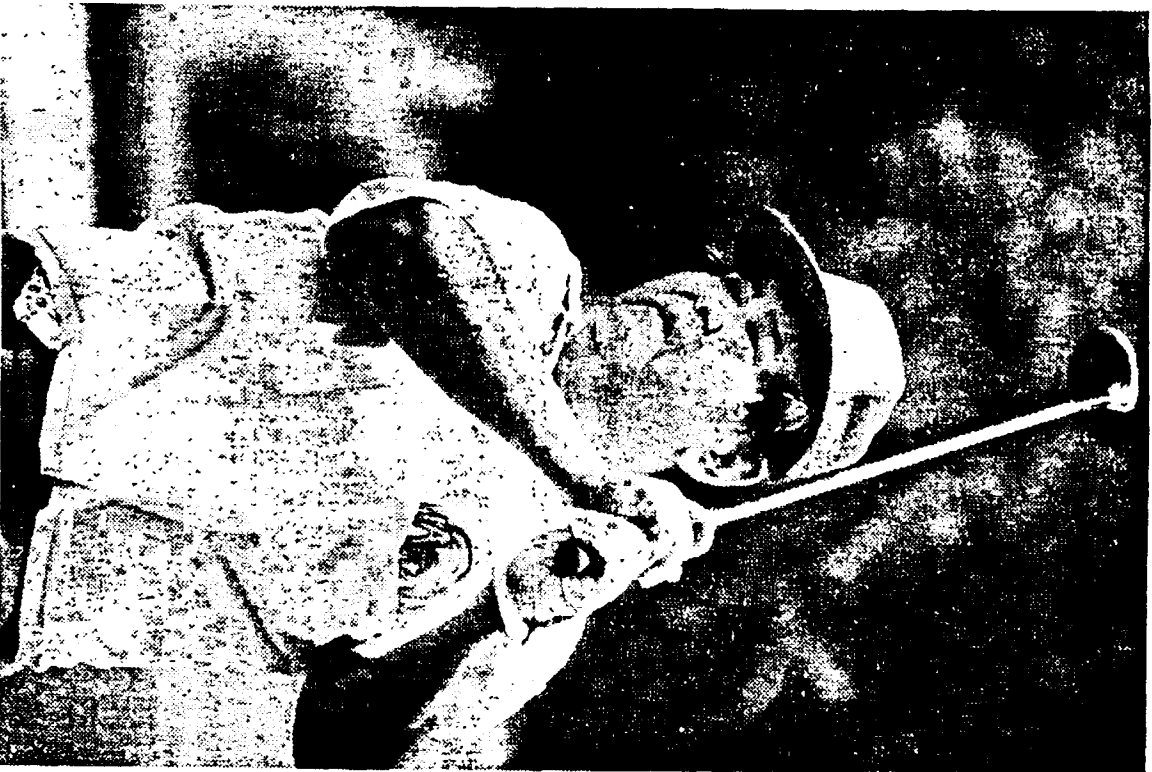
Tanaka's response to this was that it was okay with him if anyone wanted to use his office.

No one is likely to make such a request, and if anyone did it could easily be denied. This is a case in which the line between official duties and political activities has been smudged if not clearly violated.

The incident might not be so disturbing if it were isolated. Apparently it is not. There are reports that judiciary employees regularly prepare food for political events during office hours.

In addition, Okuda's group is accused of fixing parking tickets and giving deputy sheriff's badges to legislators as favors. And the sheriff's office, which is under the jurisdiction of the judiciary, has been growing at an unusual rate in staff and weaponry.

So far the Democratic organization, including Gov. Ariyoshi, has deflected questions about the situation in the judiciary. The golf tournament meeting indicates that little has changed. We think the voters deserve an explanation — and action.



DEMOCRAT DRIVE—Tom "Fat Boy" Okuda, acting administrative director of the state courts, tees off at the Democratic Party golf tournament yesterday at Milliani Golf Course. —Star-Bulletin Photo by Dean Sensui.

Lobby Group Says Workers Roll Sushi to Aid Politicians

By Stirling Morito
Star-Bulletin Writer

State judiciary supervisors have recruited their court workers to roll sushi for political fund-raising events while working on taxpayers' time, Common Cause/Hawaii says.

Those supervisors have used threats to compel their employees to work on political events, Ian Lind, Common Cause executive director, said yesterday.

Lind said he has gathered information supporting his charges after talking to numerous court employees. Common Cause already has accused Tom "Fat Boy" Okuda, acting administrative director of the courts, of violating the state Ethics Code because of his legislative lobbying techniques.

The sushi is prepared in the second-floor kitchen at the Honolulu District Court building, Lind said. The tiny kitchen is accessible only to authorized personnel and contains a huge rice cooker.

SUPERVISORS solicit employees while on the job, Lind said.

"The implicit or explicit threats fall into two categories: one, you might make your fellow employees unhappy by not helping; or, two, you might get shifted to an undesirable job

where you stand up instead of sit down or process paper work instead of a job where you work on your own," Lind said.

On the day of a politician's fund-raiser, each court division sends over shifts of workers to roll sushi, although they are supposed to be working for the state, Lind said.

Such activities appear to violate the state's Ethics Code, he said. The Ethics Commission already has determined that a legislator cannot send a campaign donation solicitation to a state worker at his office.

Signup sheets to help raise funds for a judiciary-based lobbying group are also passed through state offices during work hours, Lind said.

A few weeks ago, court officials circulated signup sheets to man a food booth at the state Farm Fair at McKinley High School, Lind said. That booth sold stew and pizza to raise money for the Employees for Good Government Service (EGGS), a lobbying group mostly composed of state and judiciary employees.

COMMON CAUSE has also found that 16 legislators have used EGGS to help them with cooking food for their fund-raising events, Lind said. Most of those lawmakers sit on the

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Lobby Group Sees Ethics Violations

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committees that control the judiciary budget.

Okuda and the sheriff's office have also been criticized by Republican Rep. Fred Hemmings for wasting taxpayers' money by duplicating other law enforcement agencies' functions.

Okuda numerous times yesterday declined comment on the charges leveled at him and the judiciary's political activities.

"Now is not the time and place to talk about things," Okuda said before the start of the Democratic Party golf tournament at the Milliani Golf Course.

"I'm not trying to be a hard head," Okuda said. "Now the timing isn't right. Timing is everything. When the time is right, I'll talk."

Okuda asked news reporters to be "patient," noting that he must first discuss the charges with Chief Justice Herman Lum. Lum has been out of town for several weeks and is scheduled to return to Honolulu at the end of the week.

Okuda was chairman of the Democrats' fund-raising tournament, which cost golfers \$100 each.

For a month, he has not answered the Star-Bulletin's requests for interviews.

Okuda was clad in a red cap and a white knit shirt — both bearing the name of Island Termite — and baggy shorts.

A television reporter asked Okuda: "What's your hand-icap?"

"KHON Star-Bulletin, Advertiser," Okuda quipped.