

# ILLEGAL FIREWORKS TASK FORCE

August 24, 2010

## DRAFT MINUTES

### I. Meeting called to order – 10:04 AM

#### Members present

##### Voting members:

Co-chair Will Espero, Senator, Chair of the Senate Committee on Public Safety and Military Affairs

Co-chair Faye Hanohano, Representative, Chair of the House Committee on Public Safety

David Chang, appointee of the Governor

Chad Cloutier, representative of the fireworks industry

Domingo Cravalho, Jr., Hawaii Department of Agriculture

Jerald Farley, representative of the fireworks industry

Velma Fish, Federal Aviation Administration

Clayton Frank, Hawaii Department of Public Safety

Ray Galas, appointee of the Senate President

Lynne Goto Uyema, City and County of Honolulu Office of the Prosecuting Attorney

Peter Hanano, County of Maui, Office of the Prosecuting Attorney

Harry Kubojiri, County of Hawaii Police Department

Mar Labrador, appointee of the Speaker of the House of Representatives

Danny Matsuura, County of Maui Police Department

Michael Moses, City and County of Honolulu Police Department

Bruce Murley, U.S. Customs and Border Protection

Manuel Neves, City and County of Honolulu Fire Department

Darryl Perry, County of Kauai Police Department

Edward Texeira, Hawaii Department of Defense

##### Non-voting members:

Socrates Bratakos, City and County of Honolulu Fire Department

Joseph Dietrick, Federal Aviation Administration

Michelle N. Kidani, Senator, 17th District

Duane Okamoto, Hawaii Department of Agriculture

Enriqueta Tanaka, representative of the shipping industry

**Members not present:**

Vic Angoco, representative of the shipping industry  
Jordan Lowe, Federal Bureau of Alcohol, Tobacco, Firearms and Explosives  
Darryl Oliveira, County of Hawaii Fire Department  
Gareth Sakakida, representative of the trucking industry  
Ty Torco, Federal Bureau of Alcohol, Tobacco, Firearms and Explosives  
Davis Yogi, Hawaii Department of Transportation

**Others present:**

Stephen Kishida, Honolulu Fire Department; Marlene Uesugi, Office of Senator Will Espero; Kaliko Chun, Office of Representative Faye Hanohano; Charlotte Carter-Yamauchi and Kammy Chan, Legislative Reference Bureau; members of the public

**II. General Business**

A. Meeting dates and times

Future meetings scheduled as follows: 10:00 a.m. on September 21, October 19, November 16, and December 14

B. Presentation schedule

The following preliminary scheduled of presentations was established:

- County police departments – September 21
- Fireworks industry; Hawaii Civil Defense – October 19
- Shipping industry; container inspectors; Federal Aviation Administration; Coast Guard – November 16
- Cultural organizations – December 14

C. Conduct and work of the task force

- Public input: Brief discussion concerning public input; various alternatives were discussed
- Final report: Brief discussion of the following:
  - General format and contents of the final report
  - Means of reaching agreement or consensus over the final product
- Addition of members to the task force: Suggestion was made that a representative of the Transportation Security Administration be invited to join the task force. There was also discussion that the following be invited to attend future task force meetings:

- A representative of a company that imports explosives or aerial fireworks
- A representative of the military with experience in explosive ordnance devices

### III. Substantive Matters

#### A. Goals and objectives

The following were raised as issues to be addressed:

- Determine how to best provide law enforcement with additional resources to address illegal fireworks, especially on New Year's
- Determine what resources will be needed to increase the percentage of containers inspected
- Increase collaboration with the fireworks industry
- Define what are "illegal" fireworks and examine the differences between the illegal fireworks problem in the City and County of Honolulu and the other counties

#### B. Presentation by the Hawaii Department of Agriculture by Duane Okamoto, Deputy to the Chairperson of the Board of Agriculture, and Domingo Cravalho, Jr., Plant Quarantine Branch Inspection and Compliance Section Chief

Highlights of the presentation:\*

- Nearly ninety per cent of Hawaii's consumer goods are imported, potentially providing transport of invasive species into the State
- The Hawaii Department of Agriculture Plant Quarantine Branch (hereinafter referred to as HDOA) is the first line of defense against invasive species and is responsible for inspecting and clearing cargo to prevent the entry of invasive species
- The biosecurity program, which was established in 2008 pursuant to state law (section 150A-51, HRS, *et seq.*), encompasses four aspects that focus on controlling, preventing, and eradicating invasive species:
  - Pre-entry – Inspection programs at the port of departure
  - Port of entry – Inspection, quarantine, and treatment programs at ports throughout the State
  - Post-entry – Measures to eradicate, control, or suppress pests
  - Growth of agriculture – Promoting the production of agricultural commodities in Hawaii to reduce the amount of cargo shipments

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\* A copy of the HDOA's notes from the presentation is available on the Capitol website at <http://www.capitol.hawaii.gov/>.

- HDOA collaborates with federal government agencies to inspect items entering the State:
  - HDOA inspects domestic cargo
  - Federal agencies inspect items entering the State from foreign countries
- The establishment of a joint inspection facility would facilitate cooperation and communication between the state and federal agencies
- HDOA bases its inspection of containers on a risk assessment matrix of cargo
- Consolidated cargo containers are problematic for the HDOA. When the contents of a container are described as "freight of all kinds," the HDOA relies upon the company that deconsolidates the shipment to contact the HDOA if agricultural products are found

B. Presentation by the Hawaii County Police Department

The presentation was deferred to September 21

C. Fireworks discussion

1. A clear statement is needed of what constitutes "illegal" fireworks

- Recognition that it involves both illegal fireworks or explosives and legal fireworks that then become illegal after importation
- These include but are not limited to:
  - Consumer fireworks that are legally imported but are subsequently used in a manner that falls outside of the permit parameters
  - Fireworks (such as aerial devices for use in a fireworks display that may be legally imported but are diverted into the hands of consumers)
  - Fireworks that are imported, stored, sold, or possessed without a proper license
  - Improvised explosive devices or other illegal devices, such as bombs or other explosive devices that sound like fireworks

2. Discussion of problems with prosecuting illegal fireworks offenses

- Difficulty proving criminal cases which require proof beyond a reasonable doubt
  - Lack of adequate resources resulted for a time in Honolulu Police Department (HPD) not having trained and certified experts to conduct necessary chemical tests and analysis of fireworks to prove substance illegal under statutory provisions. It was noted that HPD now has several trained and certified personnel
  - Under some fact patterns, it is difficult to prove certain elements of the offense

- Difficulty securing evidence
  - Rather than involving organized crime, fireworks offenses often involve individuals in isolated incidents
  - Fireworks offenses do not generally give rise to "tips" to law enforcement similar to those frequently received in relation to drug offenses
- Insufficient collaboration between state and federal agencies may be a factor

### 3. Possible solutions to be explored

- Increase fireworks related fees to provide resources for addressing illegal fireworks
- Decriminalize fireworks offenses in favor of civil fines to make enforcement easier
- Allow the county fire departments to use the license fees collected pursuant to section 132D-11, HRS, to be used for enforcement and education
- Explore whether the State may use Homeland Security funds to combat illegal fireworks
- Increase percentage of containers entering the State that are inspected
- Improve communication and cooperation among various state and federal agencies
- Fund joint inspection facility on Oahu to facilitate inspection process and improve agency cooperation and communication

## **IV. Public Comments**

There were no comments or questions from members of the public present at the meeting.

## **V. Adjournment** – The meeting was adjourned at 11:50 a.m.