



HONOLULU CITY COUNCIL

Ke Kanihela o ke Kalana o Honolulu

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October 4, 2024

Council Chair Tommy Waters
Members of the City Council
530 S. King Street, Room 202
Honolulu, HI 96813

Dear Chair Waters,

SUBJECT: GAMBLING ROOMS TASK FORCE REPORT
Resolution 23-143, CD1, FD1, Establishing a Task Force
on Gambling Rooms

Resolution 24-143, CD1, FD1, in accordance with Section 92-2.5, Hawaii Revised Statutes, established a Gambling Rooms Task Force to advise and assist the Council on identifying and developing solutions to combat the ongoing proliferation of illegal game room operations in the City.

The members of your Gambling Rooms Task Force respectfully submit this report to the City Council in accordance with Resolution 24-143, CD1, FD1.

Mahalo,

A handwritten signature in black ink, appearing to read "Mark Clemente".

MARK ANTHONY CLEMENTE
Chair, Gambling Rooms Task Force

**Report of the
Task Force on Gambling Rooms
Regarding Illegal Game Room Operations
in the
City and County of Honolulu**

October 8, 2024

Relating to Res. 2024-243, CD1, FD1

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I. EXECUTIVE SUMMARY

On July 10, 2024, the Council of the City and County of Honolulu ("City Council") adopted Resolution 2024-143, CD1, FD1, *Establishing a Task Force on Gambling Rooms* to "advise and assist the City Council in identifying and developing solutions to combat the ongoing proliferation of illegal game room operations in the City." The City Council's Gambling Rooms Task Force ("Task Force") is composed of seven members, as follows:

1. One member from the Honolulu Police Department ("HPD");
2. One member from the Department of Planning and Permitting ("DPP");
3. One member from the Department of the Prosecuting Attorney ("PAT");
4. One member from the Department of the Corporation Counsel ("COR");
5. One member from the Office of Council Services ("OCS"); and
6. Two members of the public appointed by the City Council.

The Task Force was charged with submitting a written report of its findings and recommendations to the City Council no later than October 8, 2024, 90 days after the adoption of Resolution 2024-143, CD1, FD.

The Task Force met four times to discuss the issue of illegal gambling room operations in the City and County of Honolulu ("City"). Section IV of this report details the Task Force's recommendations.

II. INTRODUCTION AND MEMBERSHIP

Section 712-1220 of the Hawaii Revised Statutes ("HRS") defines "gambling" as engaging in an action whereby a person "stakes or risks something of value upon the outcome of a contest of chance or a future contingent event not under [the person's] control or influence, upon an agreement or understanding that [the person's] or someone else will receive something of value in the event of a certain outcome. Further, a "contest of chance" is defined as "any contest, game, gaming scheme, or gaming device in which the outcome depends in a material degree upon an element of chance, notwithstanding that skill of the contestants may also be a factor therein." (Emphasis added.)

Offenses Against Public Health and Morals, Gambling Offenses, HRS Chapter 712 Part III prohibits gambling in the State of Hawai'i ("State") and establishes the statutory gambling offenses. These offenses are divided into misdemeanors and felonies. Misdemeanors are punishable by up to one year in the county jail and/or fines up to \$2,000. Class C felonies are punishable by an indeterminate prison term of five years and/or fines not to exceed \$10,000. Class B felonies are punishable by an indeterminate prison term of ten years and/or fines not to exceed \$25,000. Social gambling, as defined by HRS Section 712-1231, is lawful.

HRS Chapter 712, Part V ("Nuisance Abatement"), establishes a civil cause of action authorizing the State's Office of the Attorney General, prosecuting attorneys of the respective counties, or any county resident to abate, prevent, and/or enjoin public and private nuisances in any "building, premises, or place" used to commit a gambling related offense. The statute allows the government and individuals to initiate a lawsuit against those causing the nuisance of illegal gambling.

Despite the State's prohibition, illegal gambling continues to be a pervasive problem that threatens public safety and welfare, particularly in the form of illegal video machine type game rooms with multiple electronic gambling devices. HPD reports that the department seizes an estimated 500 gambling machines in the City every year. HPD estimates that there are about 60 active game rooms in the City at the time of this report, which is down from 120 in July 2023.

Currently, there are two measures pending before the City Council, Bills 57 and 58 (2023), which are meant to provide further mechanisms to shut down illegal game rooms in the City. In addition, despite substantial efforts made by the Hawai'i State Legislature ("State Legislature") to enhance penalties relating to illegal gambling rooms, these game rooms and gambling devices continue to proliferate, posing a serious threat to public health and safety. The Task Force was established by the City Council to "devise solutions to address lack of enforcement and inadequate legal means to combat illegal gambling activities."

The Task Force is comprised of seven members, as follows:

1. Member from the HPD: Major Mike Lambert;
2. Member from the DPP: Director Dawn Takeuchi Apuna;
3. Member from the PAT: Deputy Prosecuting Attorney Gabriel Huntington;
4. Member from the COR: Deputy Corporation Counsel Kurt Nakamatsu;
5. Member from the OCS: Legislative Analyst Kamakana Watanabe;
6. Member of the public: Mr. Mark Clemente, appointed by Councilmember Matt Weyer; and
7. Member of the public: Ms. Kathleen Lee, appointed by Councilmember Tyler Dos Santos-Tam.

To ensure efficiency and accuracy, the members of the Task Force unanimously appointed the following officers:

Mr. Mark Clemente, Chair;
Major Mike Lambert, Spokesperson; and
Legislative Analyst Kamakana Watanabe, Secretary.

The Task Force met on August 14, 2024, August 23, 2024, September 6, 2024, and September 27, 2024.

III. DISCUSSION

A. Overview of the current process to close illegal gambling rooms.

The HPD's Narcotics Vice Division ("NVD") is the primary investigator for game room related offenses. The NVD receives complaints via multiple sources, including 911, Crimestoppers, the NVD tip line, as well as the offices of elected officials on behalf of their constituents, then the NVD documents and catalogues the complaints for disposition. Thereafter, officers within the NVD's Gambling Unit attempt to validate the existence of a game room through covert investigations. The investigations into probable game room locations can take weeks or months to complete, depending on the complexity of the possible location and the HPD's prioritization of geographic areas.

Once probable cause to support an arrest or search warrant for a violation of the gambling laws has been established, officers execute appropriate enforcement actions, including obtaining and executing a search warrant. HPD then follows up with the owners of the property where the game room is located to encourage the permanent closure of the location. In many cases, the property owner has leased the property to another party and is not in direct control of the gambling operation. Nonetheless, it is arguable that the property owners and managers of those locations profit from the illegal gambling rooms through the rent collected from the room's illegal operations.

The following are the Hawai'i statutes most commonly utilized by the HPD during the investigation process:

HRS § 712-1222 Promoting gambling in the second degree. (1) A person commits the offense of promoting gambling in the second degree if the person negligently advances or profits from gambling activity.

(2) Promoting gambling in the second degree is a class **C felony**.

HRS § 712-1226 Possession of a gambling device. (1) A person commits the offense of possession of a gambling device if the person manufactures, sells, transports, places, possesses, or conducts or negotiates any transaction affecting or designed to affect ownership, custody, or use of any gambling device, knowing it is to be used in the advancement of gambling activity which is not social gambling.

(2) Possession of a gambling device is a **misdemeanor**.

HRS § 712-1230 Forfeiture of property used in illegal gambling. Any gambling device, paraphernalia used on fighting animals, or birds, implements, furniture, personal property, vehicles, vessels, aircraft, or gambling record possessed or used in violation of this part, or any money or personal property used as a bet or stake in gambling activity in violation of this part, may be ordered forfeited to the State, subject to the requirements of Chapter 712A.

HRS § 712-1270 Places used to commit offenses against public health and morals or other offenses, a nuisance. Every building, premises, or place used for the purpose of violating: (1) Those laws pertaining to offenses against public health and morals contained in this chapter, except offenses under part IV that do not involve the manufacture or distribution of drugs and activities under part III that involve only social gambling as defined in section 712-1231(a) . . . is a nuisance that shall be enjoined, abated, and prevented, regardless of whether it is a public or private nuisance.

The HPD supports legislation that further reduces the financial incentives of property owners who operate game rooms on their property or renting it out to game room operators, by enforcing the civil code violations that are commonly seen during the investigation of these establishments. Enforcement of civil code violations allows HPD officers to quickly inform property owners and property managers of the suspected illegal activities occurring at their property in the hope that, if they are not directly involved, the owners and managers will work to remove the tenants and terminate the activity.

The HPD also seeks to encourage the compliance of property owners that continue to allow game rooms to exist on their property by seeking criminal charges against them if they continue to advance the gambling activity by refusing to assist in the abatement of the illegal operation.

B. Discussion of current obstacles and barriers to community engagement, law enforcement, and prosecution.

The current obstacles and barriers to community engagement in shutting down illegal gambling room operations expressed by the community generally are:

1. Fear of retaliation: community members may fear for their own/their loved ones' safety and security, and the repercussions of reporting criminal activity;
2. Distrust in government agencies and/or concerns that no action will be taken even if illegal activity is reported: community members may feel like reporting illegal activity will not result in any changes, especially since gambling rooms have been around for some time. Even after reporting illegal gambling rooms, the process to shut them down takes time, and in that time, more criminal activity occurs in neighborhoods and commercial spaces;
3. Lack of knowledge and/or education regarding the reporting process: community members may not know about the appropriate resources when it comes to informing law enforcement of illegal activities in their neighborhood (phone numbers, online resources, etc.); and

4. Language barriers: individuals in communities with immigrant populations may not feel comfortable turning to law enforcement to report illegal activities if they have challenges with the English language.

The foremost barrier faced by the HPD and PAT to enforcing the law against illegal gambling room operations and prosecuting violators lies in connecting the employees and/or operators of the illegal game rooms to the owners and proprietors of the property on which the illegal game room(s) operate.

In June 2022, the State Legislature enhanced the penalties for the offense of Promoting Gambling in the First Degree to a B Felony and for the offense of Promoting Gambling in the Second Degree to a C Felony under HRS Chapter 712, Part III. The enhancement has enabled PAT to prosecute cashiers and security guards of illegal game rooms, leading to felony convictions.

During the 2024 session of the State Legislature, PAT proposed a change to the State's gambling statute that removed a loophole that prevented PAT from prosecuting owners or others having substantial proprietary control over the game rooms. On July 9, 2024, Act 249 of the 2024 Session Laws of Hawai'i went into effect, successfully closing that loophole. PAT works closely with the HPD to investigate and bring charges against illegal gambling room owners and others having substantial proprietary control under this new, stronger statute. However, there are additional tools that would be helpful to PAT and the HPD in pursuing the closure of game rooms. These tools are discussed in Section IV(B) below.

The largest barrier faced by the DPP to assisting in the enforcement of the laws against illegal gambling room operations is the lack of a mandated systematic process for the HPD to notify the DPP of pending gambling room enforcement operations in which the DPP's assistance would be useful. Last year, the HPD and the DPP conducted a joint operation, denominated "Operation Follow Through," to shut down illegal gaming rooms in HPD District 5 (Kalihi). Operation Follow Through was highly effective due, in part, to the inclusion of DPP in the enforcement effort via DPP's issuance of notices of building, electrical, and zoning code violations soon after an HPD operation to close a suspected illegal game room. In order to continue and expand on the success of this effort in other HPD districts, DPP has indicated that the department will need a systematic process for notification from HPD of intended game room enforcement actions, as well as HPD assistance and support to DPP employees involved in those actions.

C. Discussion of funding and staffing concerns.

The Task Force discussed concerns regarding the City's lack of sufficient funding and staff to stand up the education programs necessary to inform communities impacted by illegal gambling rooms of the resources available to them to assist in combatting those operations. The Task Force found that the lack of sufficient

information to the community often leads to fear and apathy when it comes to taking action in reporting criminal activity within their neighborhoods.

The Task Force noted that methods for reporting illegal activities should be efficient and fairly easy. To accomplish that goal, the Task Force determined that additional funding of the HPD and PAT is needed to improve and expand these reporting mechanisms.

The Task Force discussed the DPP's concern that, depending on the number of operations the HPD conducts to close suspected illegal gambling rooms, the DPP may require additional staff to support the HPD. However, at this time, if the current estimate of one HPD illegal gambling room operation per week is maintained, the DPP estimates that it has sufficient staffing. The DPP intends to continue to monitor the situation and may request additional resources if needed.

IV. RECOMMENDATIONS

In order to better address the City's gambling room problem, the Task Force recommends that the City develop preventative societal programs, as well as improving and funding the specific enforcement mechanisms detailed below.

A. Preventative Societal Programs.

With regard to preventative societal programs, the Task Force recommends:

1. The implementation of the following programs in all nine City Council districts:
 - a. Financial literacy workshops;
 - b. Employment Programs;
 - c. School and Family Programs, including:
 - (1) Support Groups, including Intervention Programs;
 - (2) Recreational Programs;
 - (3) Private/public partnerships, including:
 - i. The Hawai'i State Department of Education ("DOE");
 - ii. The Hawai'i State Department of Health ("DOH"); and
 - iii. Nonprofit organizations; and
 - d. Community Surveys.
2. The creation and distribution of Public Service Announcements ("PSAs") having the following elements:
 - a. Defined objectives;
 - b. Clearly targeted audiences;
 - c. Clear messaging and calls-to-action for community members; and
 - d. A plan for evaluation and follow-up, using metrics gained from the PSA to develop future plans and additional programs and campaigns.

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3. Funding and implementation of resources to enable and empower community members to report illegal gambling activities, including but not limited to:
 - a. Dedicated hotlines (phone);
 - b. Dedicated website (including chat assistance); and
 - c. App development.

B. Enforcement Mechanisms.

With regard to resolving barriers to the enforcement of City and State laws banning illegal gambling rooms, the Task Force recommends:

1. Enacting ordinances to:
 - (a) Authorize the HPD to act as the agent of a land owner or landlord to enter the property and enforce provisions of the lease preventing illegal activity on the property. This allows law enforcement, rather than a landlord, to confront often dangerous operators of illegal businesses. Many cities, including Los Angeles, California, have implemented similar laws (See Los Angeles Municipal Code, Section 41.24);
 - (b) Impose a mandatory fine of \$5,000 for violations of the nuisance abatement laws under HRS Sections 712-1270 to 712-1281. Adding a fine to the nuisance abatement law would help remove the financial gain from renting to a property on which to operate a game room at a premium rate;
 - (c) Impose regulation and registration of gaming devices similar to those adopted in Portland, Oregon (See Portland City Code, Chapter 14B.110); and
 - (d) Impose mandatory cooperation and a process between the HPD and the DPP to provide systematic notice, hand-off and assistance from/by the HPD to the DPP to ensure comprehensive DPP code enforcement of game rooms. Specific process details can be adopted under this mandate via administrative rules or a memorandum of agreement between the DPP and the HPD.

Based on the above legislative recommendations and the limitations of Bills 57 (2023) and 58 (2023), the Task Force recommends the City Council take no further action on Bills 57 (2023) and 58 (2023), and instead pursue the creation of a new bill(s) to address (a)-(d) above.

2. Supporting the HPD in:

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- (a) Formulating and implementing a systematic and/or programmatic notification process of enforcement actions for which the DPP's assistance would be helpful; and
 - (b) Ensuring HPD officer assistance to DPP employees when assisting in operations involving gambling rooms, including ensuring their safety.

C. Funding.

With regard to funding better community awareness, engagement, and support and to close and stop the proliferation of illegal gambling room in the City, the Task Force recommends that the City Council provide the following funding through the annual budget ordinances and other means, as appropriate:

Community

1. For community programs that empower community members to help address the problem of illegal gambling rooms in the City's annual budget;
2. For PSAs and media campaigns, e.g., \$30,000 for an initial media campaign that includes placement in local TV stations, radio, and internet and production costs;
3. For the creation and distribution of community surveys that address illegal gambling rooms;
4. For the development and staffing of dedicated phone hotlines, a website, and/or an app that would provide community members an efficient, accessible method to communicate issues and report illegal gambling room operations, in the City's annual budget;
5. Funding and/or staffing for the development of partnerships with the DOE to create educational programs for community members; and
6. Funding and/or staffing for the development of partnerships with the DOH for programs addressing gambling addiction treatment;

Agency

7. In addition to the staffing already included in the current HPD operating budget, a special fund should be dedicated annually specifically for the purposes of addressing game rooms. After the inaugural year of funding, the recurring rotation of an annual allotment would vary based on the year in rotation, as described below:

Annually:

- Four (4) – Investigators to Attend
- Global Gaming Expo ("G2E") \$15,000;

- Amusement Expo International \$15,000;

Every 3rd Year:

- Gaming Laboratories International ("GLI") certificate training \$55,000;
- Power and Hand Tool replacement \$3,500; and

Every 5th Year:

- Moving Truck \$70,000.

A special fund would ensure that monies intended for game rooms would not be repurposed or absorbed by other initiatives over time. The fund could include the cost of all agencies participating in the initiative. The initial year during which the initiative begins would be considered year zero and would include all items listed above at an estimated cost of approximately \$158,000. Thereafter, years one, two, and four of the rotation are estimated to cost approximately \$30,000, annually. The third year of the rotation is estimated to cost \$88,500, annual. Finally, the fifth year of the rotation is estimated to cost approximately \$100,000, annual. The rotation would then begin again at the funding of year one. This prescribed rotation of funding would ensure that HPD investigators are well trained and equipped to combat the game rooms in to the future;

8. Increase PAT's annual technology budget to support gambling prosecutions with an additional \$10,000 to \$20,000. This increase would support digital storage devices for computer forensic evidence, computer hardware and software necessary for conducting computer forensic investigations;
9. Include a one-time budget line item for a Faraday Box for the HPD Narcotic/Vice Gambling Detail in order to preserve mobile phones for forensic evidence extraction at an estimated cost of \$5,000-\$10,000; and
10. Although the DPP has no current budget recommendations for the City Council, because, as previously stated, based on the HPD's current estimate of one illegal gambling room operation per week, the DPP anticipates being able to assist in those HPD operations without requiring additional resources. However, should the number of operations rise, the DPP may need additional resources, including inspector staffing.

V. CONCLUSION

The City Council's Gambling Rooms Task Force hopes that the discussion and recommendations, as detailed above, will assist the City Council in addressing the pervasive public health and safety threats presented by the proliferation of illegal gambling rooms in the City.