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November 2, 2020

MEMO TO: Moana M. Lutey
Corporation Counsel

F R O M: Michael J. Molina, Chair Michael J. Molina
Governance, Ethics, and Transparency Committee

SUBJECT: **AUTHORIZING THE ADOPTION OF A REVISED RECORDS
DISPOSITION SCHEDULE FOR THE DEPARTMENT OF POLICE
IN ACCORDANCE WITH SECTION 46-43, HAWAII REVISED
STATUTES** (GET-38)

At its meeting of August 25, 2020, the Governance, Ethics, and Transparency Committee recommended adoption of a proposed resolution approving a revised Records Disposition Schedule for the Department of Police.

The Department's revised Records Disposition Schedule was not reviewed and approved by the Records Disposition Committee in accordance with Section 2.84.060, Maui County Code ("MCC").

The Department previously revised its Records Disposition Schedule in 2010 (Resolution 10-36); however, the revised schedule was not reviewed and approved by the Records Disposition Committee either.

May I please request a legal opinion and response to the following:

1. Is the Department's Records Disposition Schedule, as revised in 2010 by the adoption of Resolution 10-36, binding even though the revised schedule was not reviewed and approved by the Records Disposition Committee?

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2. Is the Department in violation of Section 2.84.060, MCC, for failing to transmit their revised schedules to the Records Disposition Committee for review and approval?
3. Act 177 (2005) amended Section 46-43, Hawaii Revised Statutes, by deleting the requirement for a Records Disposition Committee and assigning the responsibility of determining the care, custody, and disposition of records to each county's Director of Finance. This statute appears to make Chapter 2.84, MCC, obsolete or in need of amendment or repeal. To comply with State law, what steps can be taken to ensure the Department's revised Records Disposition Schedules are not held up pending amendments to Chapter 2.84, MCC?

I would appreciate receiving a response by **November 13, 2020**. To ensure efficient processing, please include the relevant Committee item number in the subject line of your response.

Should you have any questions, please contact me or the Committee staff (Shelly Espeleta at ext. 7134, or Pauline Martins at ext. 8039).

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cc: Mayor Michael P. Victorino