

Statement of Professor Williamson Chang

Aloha and welcome to the William S. Richardson School of Law at the University of Hawai‘i . My name is Williamson B.C. Chang and I have been a Professor at the William S. Richardson School of Law since 1976. Thank you for coming to this press conference.

I want to make it clear that I am acting and speaking in my individual capacity, and not on behalf of the University of Hawai‘i, or its Law School. The same disclaimer applies to those who also signed the letter. I will now introduce those who chose to come to this conference and then read the names of others who have signed the letter.

The purpose of this press conference is to address a letter I wrote to the Attorney General of the United States, Eric Holder, on September 17, 2014.

First, I want to make clear that my letter of May 17th was an act legally compelled by federal law. In short, this is a case of reporting, not judging. Under section 4 if there is evidence of a felony one must report.

Sometime prior to May of this year, the Office of Hawaiian Affairs, an agency of the State of Hawai‘i, contracted for the preparation of a memorandum titled in part, “. . . Hawaii as an Independent State and the impact it has on the Office of Hawaii Affairs.”

That memorandum was not made public. The State agency, the Office of Hawaiian Affairs refused to make it public until a Freedom of Information Act request was filed by Reporter Rob Perez of the Honolulu Star-Advertiser. Finally, OHA released the memorandum it contracted for on August 25, 2014. The OHA memorandum obtained by the Star-Advertiser finds sufficient evidence of the crime of “pillaging”. [See pages 30-32 of the memorandum contracted by OHA]

The release of the memorandum was publicized in a front page story in the Star-Advertiser under the Headline: “Memo Implies Nation Effort leads to War Crimes.” Thus, since August 25, 2014, the date of the publication of that Star-Advertiser article, there has been public information of the possibilities of felonies amounting war crimes at OHA. To my knowledge, since August 25, 2014 there has been no public refutation of these conclusions.

Once the memorandum became public and once I had knowledge that there was evidence of felony in violation of Section 2441, I was obligated to report under Section 4, of the United States Criminal Code.

Section 4 states as follows:

Whoever, having knowledge of the actual commission of a felony cognizable by a court of the United States, conceals and does not as soon as possible make known the same to some judge or other person in civil or military authority under the United States, shall be fined under this title or imprisoned not more than three years or both.

The word “cognizable” in its ordinary and plain sense means—“capable of being judicially heard and determined” or “capable of being known.”

My responsibility was to report, not to judge whether the evidence is sufficient as a matter of law. Investigation, prosecution and judgment, under the statute, is the province of others—legal authorities who have the power to evaluate the evidence and take appropriate action if necessary.

I make the analogy to the crime of child abuse. If a fifth grade child comes into a classroom day after day with serious bruises, almost every jurisdiction has laws which requires that said student’s teacher, as well as others, report the evidence of such bruises to the appropriate child protection authorities. Like the legal obligation under Section 4, here, that reporting obligation under the child abuse law calls for immediate action.

The teacher in such a case is not a trained child abuse specialist. The teacher is not a doctor. Yet, the protection of children would not be effective if only trained doctors could report child abuse. Like child protection laws, Section 4 deems all [“Whoever”] to have a duty to report federal felonies that constitute war crimes. I believe that by reporting my actions have now lessened the legal exposure of others to make any similar report.

Second, I would like to say that the underlying issue of war crimes raised here are serious and critical issues to Hawai‘i the United States and the world at large. But the validity of such claims was not mine to judge nor do I claim expertise in the area of war crimes. Such expertise is not required by the duty to report under Section 4.

The University of Hawai‘i, particularly its Law School and its faculty, have the resources, expertise and diversity of viewpoints to professionally approach these questions. Moreover, the University and the Law School can also seek the input of international publicists and other experts in these fields.

These issues should be openly and publicly discussed at forums and symposia in an academic setting here in Hawai‘i and elsewhere.

For far too long, these important questions have not been addressed for various reasons, mostly for reasons of fear. In the well-known words of former President Franklin Delano Roosevelt, we, here in Hawai‘i, “have nothing to fear but fear itself.”

We have nothing to fear from the truth. After all these are the Hawaiian Islands, a place that has always been destined to serve as a model for living in aloha, kuleana and pono.

Mahalo and thank you very much for coming.