

**HAWAI'I COUNTY POLICE COMMISSION
REGULAR SESSION MINUTES
MARCH 14, 2008
DEPARTMENT OF LIQUOR CONTROL, HILO**

INVOCATION

Commissioner Kaiwi gave the invocation.

CALL TO ORDER

Chair Lassiter called the meeting to order at 9:00 a.m.

ROLL CALL

Present:	Pudding Lassiter, Chair Thomas P. Whittemore, Vice Chair Louis Kaiwi, Commissioner Betsy Mitchell, Commissioner Melvin S. Morimoto, Commissioner	Also Present:	Lawrence K. Mahuna, Police Chief Derek Pacheco, Assistant Chief Henry Tavares, Assistant Chief Duane Rapoza, Captain Kay Nishibayashi, Accountant Lincoln S. Ashida, Corporation Counsel Josie Pelayo, Secretary
Absent:	Karolyn P. Lundkvist, Commissioner Anita Politano Steckel, Commissioner Michael B. Sumja, Commissioner Kaloa R. N. Robinson, Commissioner		

A quorum was present.

APPROVAL OF AGENDA

Vice Chair Whittemore moved to approve the agenda. Commissioner Kaiwi seconded the motion, and it carried unanimously.

STATEMENTS ON AGENDA ITEMS

HOPE CERMELT thanked the commission for accepting her letter. She stated that the officers who helped Ms. Erikson in finding her son were very helpful. She expressed deepest gratitude. During an incident in Oceanview, she called the police and was told that an officer wouldn't be there for an hour. They came in ten minutes. She was really impressed. She is from Alaska and wants to move down here. She is interested in the Chief's crime report. Her neighbor Donald said they took their neighborhood back. She can't say enough about thanking the men in blue.

Corporation Counsel Ashida stated that he knows Hope from the County Council, and that she is a lobbyist from Alaska. When she said something is good, she really means it.

APPROVAL OF MINUTES

Commissioner Kaiwi moved to approve the minutes of February 15, 2008, regular and executive sessions. Vice Chair Whittemore seconded the motion, and it carried unanimously.

PERSONNEL ORDERS

Commissioner Kaiwi moved to accept Personnel Orders Nos. 2008-010 to 2008-018. Vice Chair Whittemore seconded the motion, and it carried unanimously.

COMMUNICATIONS

Commissioner Kaiwi moved to accept the communications as listed. Vice Chair Whittemore seconded the motion, and it carried unanimously.

COMMITTEE REPORTS

- **Budget and Finance** (Whittemore/Kaiwi): No report.
- **Office Management and Staffing** (Lassiter/Morimoto): No report.
- **Rules and Policies** (Lundkvist/Mitchell): No report.
- **Contractual Services** (vacant): No report.
- **Public Relations** (Politano/Robinson): No report.

CHIEF'S REPORT

Including:

- **Crime:** A.C. Henry Tavares summarized the written report.
- **Traffic:** A.C. Pacheco summarized the written report. Numbers are down due to traffic enforcement and education. Things are going well with the eruption in Kalapana. Officers are assigned there to handle mostly the parking areas. The eruption is on State property, and State personnel are handling other concerns. In response to questions, he stated that there is no quota for citations. There has been a big decline in burglaries due to incarceration of the culprits. He thanked Commissioner Mitchell for serving on the commission.

Commissioner Kaiwi stated that people in the Panaewa area have been complaining about kids racing on the roads in the area. It usually happens when officers are not around. Officers have been catching people in the early evenings. He asked for more patrol later in the evening. Use of ATVs in the area has stopped. He thanked the department on behalf of the Panaewa community

- **Personnel:** Captain Duane Rapoza reported having 13 civilian and 63 sworn vacancies. The 72nd recruit class is currently in field training. The 73rd class is in the academic phase. The 74th class started on March 3rd. The 75th class has ten applicants going through the screening process. The 76th class has 29 applicants in the beginning stage of the process.

The cadet program is working very well. One cadet will be taking the recruit agility test on June 16. One student is in the University's Administration of Justice Program.

In response to inquiries by the commissioners, Captain Rapoza stated that they are in the process of hiring additional dispatch personnel who will start a 6-week training class.

They actively participate in job fairs throughout the state. Most recruits are local. They have had retired police officers from the mainland who go through the recruit class, and who have said that it's different from the mainland; they do well. Many of those who come from the mainland have lived here for 8-10 years. They also have interest from military personnel who adapt well to the structure.

- **Finance:** In response to inquiries by the commissioners, Accountant Kay Nishibayashi stated that they are overextended in salaries and wage due to County Finance not budgeting for salary increases. There was a resolution from the County Council to the Mayor requesting additional items for the Police Department. She will forward a copy to the commission when she receives the report. Vice Chair Whittemore asked Ms. Nishibayashi to look into a possible discrepancy in the numbers of the CIP budget.

Commissioner Kaiwi stated that they need to budget for physical maintenance of all the police stations so that the Council knows that they need the money. Right now it's being done by Public Works, and the Police Department is on the bottom of their list.

- **Commendations:** Chief Mahuna stated that he is happy to have been graced with Commissioner Mitchell's presence. Her cookies have been great, and she has represented her district well. Chief Mahuna further reported having 9 commendations: South Hilo 2 involving 4 employees; Puna 1 from Commissioner Mitchell; North Hilo 1 involving 2 employees; Hamakua 1 involving 2 employees; and Kona 3 involving 5 employees.
- **Commanders' Meeting Minutes of February 19, 2008:** No discussion.
- **Other Departmental Activities:** Chief Mahuna reported that the State has been selected for a regional forensics computer lab, and it will be located in Honolulu. Having the lab in Hawai'i would be a boost for the criminal justice system. They have to provide an employee in order to be a member of the executive board. That would not work for them because they are on another island. He hopes they would be allowed to provide money in lieu of an employee. They will have to review their budget and see what accounts have extra funding and pull the money from there.

Land in Captain Cook has been secured for the South Kona police station, thanks to Councilwoman Brenda Ford. They expect to have a staff of 50, sworn and civilian.

The Taser program is going very well.

One cadet will be transitioning to the recruit program. They have processed tuition reimbursement.

He sent correspondence to the Governor addressing a bill on legal representation for police officers. If the law passes, Corporation Counsel must send his recommendation to the commission within seven days. The police department must give its investigation to

Corporation Counsel before the seven days in order for him to make a recommendation to the commission. Currently, there is no time limit.

The recent warrant sweep was a joint task force with participation from all counties. A grant was used to pay for some of the costs. They will be conducting these types of operations more often.

STATEMENTS ON COMPLAINTS (open to the public)

JENNY KRAUS (COMPLAINT HPC 07-055) stated that she hears about harassment all the time from the kids. Officer Castillo came by and told the kids, "I told you before no skateboarding on the sidewalk." She told the officer it was not illegal to sit or carry a skateboard. They were her kids, and they were outside her shop. She told him she had her rights and asked him to leave her shop. He went outside and told her son that he saw him skateboarding, and that he should have given him a ticket. She talked to Officer Kagimoto at the station, and he told her it was not illegal to carry or sit on a skateboard. Two of her sons and her niece were outside her shop sitting on their skateboard. They were not blocking the way. They were probably riding their skateboard on the sidewalk that day. She has been working with Officer Derr about the skateboarders. They are trying to get them a park and getting them off the street. The first offense is a \$25, not \$40 as the officer stated.

Vice Chair Whittmore stated that his son used to skateboard, and he used to get calls about it. When he was in the private business, they used to post signs that skateboarding was not allowed. The kids need to know what areas allow skateboarding and stay within the law.

Corporation Counsel Ashida stated that after reading the officer's report, he was concerned about obstruction of the sidewalk.

KRAUS stated that there were three kids, and their knees were crunched up. They were not blocking the sidewalk.

KENNETH LONG (HPC 08-04) stated that he is concerned about the unprofessional behavior of the officer when he presented the citation. He didn't tell him why he was stopped until after he wrote up the citation. He tried to develop a communication, but the officer didn't want to discuss it. When he asked to see the laser, the officer said he did not have time. So, there was no evidence. He wanted to discuss the scenario. He accelerated along with the line of traffic. He had to speed up when he pulled out and got into the line of traffic. The 45 mph speed limits are illegal and are being used for speed traps by officers. The speed limit signs are irrational. They don't follow federal guidelines. The state has not made traffic studies since 1987. He thinks when the officer saw his California driver's license, he thought "slam dunk." His insurance rate will increase. He was going 65 mph when he was pulled over. He was going with the flow of traffic. He believes the speed limit should be 60 mph.

Corporation Counsel Ashida stated that they do not have enough members to vote for an executive session. Quorum vote would be six. However, they could still move forward if they felt they had enough information.

STATUS REPORT OF REFERRED AND EXTERNAL COMPLAINTS: No discussion.

INVESTIGATION AND DELIBERATION OF COMPLAINTS

HPC 07-55: Complainant alleged that an officer harassed kids for sitting on and leaning against their skateboards outside of her skate shop. Ms. Pelayo stated that the officer was notified of the complaint, but did not respond.

Commissioner Kaiwi stated that the sidewalks are four feet wide. He believes the officer did his job. He went around the block and they still ignored him. He moved that there was insufficient evidence to prove the complainant's allegations. Vice Chair Whittemore seconded the motion.

Discussion:

Morimoto: Krauss said her kids were probably riding their skateboard on the sidewalk. According to the officer's report, they were skateboarding, and they were blocking the public access. He asked for Corporation Counsel's opinion on the law.

Ashida: The complaint is that the officer was basically rude and gave wrong information. He said it was a \$40 fine when it was \$25. The allegation is about the officer's conduct towards the kids.

Whittemore: Krauss spoke glowingly of Officer Kagimoto who responded the way she wanted it to happen.

Vice Chair Whittemore seconded the motion.

Roll call vote: Aye: Whittemore, Mitchell, Lassiter, Kaiwi
Nay: Morimoto
The motion died.

Discussion:

Morimoto: They are looking at allegations of how the officer responded to her. He cannot whole heartedly say the officer did not say what she said.

Whittemore: She was told it was illegal to block the sidewalk. It's a skateboard store, the kids congregate in the area.

Morimoto: The complaint is harassment of the kids. She's looking at the best interest of her kids, so he finds sufficient evidence.

Whittemore: He respects his sufficient evidence. However, she has a skateboard store. She and her kids have to set the example. The store has been there for awhile, and he can't believe this is the first time with this problem.

Ashida: Officers have different personalities. There's a range. Officer Castillo may have had a history with the kids.

Ms. Pelayo stated that a previous opinion by Deputy Corporation Counsel Takase was that if they cannot get an affirmative quorum vote, it will be held over. Officer Castillo will be asked to attend the next meeting.

HPC 08-01: Complainant alleged that an officer failed to serve and protect when she complained about a neighbor's dog on her property. Vice Chair Whittemore moved that there was insufficient evidence to prove the complainant's allegations. Commissioner Morimoto seconded the motion, and it carried unanimously.

HPC 08-04: Complainant alleged that an officer operated a speed trap, was unethical, demeaning, and unprofessional.

Discussion:

Kaoiwi: That speed limit has not changed. He said the officer set up a speed trap.

Morimoto: Regardless, he was speeding.

Whittemore: Asked if an officer has to show the laser reading when asked.

Chief: The officer is not compelled to show it. It is a judgment call for the officer.

Whittemore: He admitted to speeding.

Ashida: For their purposes, he says the officer was unethical, demeaning, and unprofessional.

Pelayo: The officer called and said he couldn't be at meeting but did submit a written response.

Whittemore: He likes having officers present to see their demeanor. He said when he turned around and came back, the officer was ticketing another person. That shows he was not being targeted.

Commissioner Kaoiwi moved that there was insufficient evidence to prove the complainant's allegations. Commissioner Morimoto seconded the motion, and it carried unanimously.

HPC 08-06: Complainant alleged that during a traffic stop by an on-duty officer, a second officer not in uniform, threatened him and struck his car with his hand and dented it. The second officer then tried to take the laser gun from the on-duty officer. While this was happening, complainant drove away.

Ms. Pelayo stated that complainant requested deferral to a Hilo meeting. It will be deferred.

HPC 08-07: Complainant stated that they were stopped for driving through a red light. She alleged that an officer pulled the driver out and about four officers manhandled him and put

him on the ground on the flooded street. Vice Chair Whittemore moved to defer the complaint to the next meeting in Hilo and to ask the officer to respond to the allegations. Commissioner Morimoto seconded the motion, and it carried unanimously.

STATEMENTS FROM THE PUBLIC ON AGENDA ITEMS: None.

ANNOUNCEMENTS

- Chair Lassiter announced that the Police Commission's next monthly meeting will be on April 18, 2008, at 9:00 a.m. at the Waimea Civic Center Conference Room, 67-5189 Kamamalu St., Waimea.
- Collection of files and documents. – Done.

ADJOURNMENT

The meeting was adjourned at 11:46 p.m.

SUBMITTED:

Josie Pelayo

Josie Pelayo, Secretary

APPROVED:

Pudding Lassiter

Pudding Lassiter, Secretary