

**HAWAII COUNTY POLICE COMMISSION
REGULAR SESSION MINUTES
MAY 15, 2009
AUPUNI CENTER CONFERENCE ROOM**

INVOCATION

Commissioner Kaiwi gave an invocation

Chair Whittemore introduced Carol Ignacio, the new commissioner from Council District 4.

Chair Whittemore recognized Commissioner Karolyn Lundkvist of Council District 5 for her five years on the Police Commission.

CALL TO ORDER

Chair Whittemore called the meeting to order at 9:10 a.m.

ROLL CALL (A quorum was present.)

Present:	Tom Whittemore, Chair	Also Present:	Harry S. Kubojiri, Police Chief
	Louis Kaiwi, Vice Chair		Paul K. Ferreira, Deputy Police Chief
	Richard J. Behenna, Commissioner		Marshall Kanehailua, Assistant Chief
	Carol R. Ignacio, Commissioner		Derek Pacheco, Assistant Chief
	Donn S. Mende, Commissioner		Henry Tavares, Assistant Chief
	Melvin S. Morimoto, Commissioner		James O'Connor, Captain
	Anita Politano Steckel, Commissioner		Molly Lugo, Deputy Corporation Counsel
	Michael B. Sumja, Commissioner		Josie Pelayo, Secretary

APPROVAL OF AGENDA

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

STATEMENTS FROM THE PUBLIC ON AGENDA ITEMS – None.

APPROVAL OF MINUTES

Commissioner Sumja moved to approve the minutes of April 17, 2009, regular and executive sessions. Commissioner Anita Politano Steckel seconded the motion. Discussion: Commissioner Behenna pointed out a correction to the heading on the executive session minutes. The motion carried unanimously.

PERSONNEL ORDERS

Vice Chair Kaiwi moved to accept Personnel Orders Nos. 2009-037 to 2009-047. Commissioner Morimoto seconded, and it carried unanimously.

COMMUNICATIONS

- Correspondence 09-09, from the Charter Commission informing of their schedule for department reviews. Vice Chair Kaiwi moved to accept. Commissioner Politano Steckel seconded, and it carried unanimously.

- Correspondence 09-10, from Police Chief Kubojiri, informing of National Police Week May 10-16, 2009. Vice Chair Kaouiwi moved to accept. Commissioner Ignacio seconded, and it carried unanimously.
- Correspondence 09-11, from the Rules and Policies Committee requesting input to a review of the rules. Commissioner Politano Steckel moved to accept. Commissioner Sumja seconded, and it carried unanimously.
- Honolulu and Maui Police Commission Minutes. Vice Chair Kaowi moved to accept the minutes listed on the agenda. Commissioner Mende seconded, and it carried unanimously.

COMMITTEE REPORTS

Chair Whittemore asked Carol Ignacio to serve on the Public Relations Committee along with Anita Politano Steckel. He asked Donn Mende to serve on the Budget and Finance Committee. He will talk with others about making other appropriate moves.

- Budget and Finance (Whittemore/Kaouiwi) – No report.
- Office Management and Staffing (Whittemore) – No report.
- Rules and Policies (Behenna/Sumja): Commissioner Behenna reported that they are at the tail end of information gathering at looking at the current rules, the county charter, and rules of the other police commissions in the state. He would like the commissioners to flag areas in the current rules that might be worth thinking over. It was his intention to send Correspondence 09-11 directly to the Police Chief and to Corporation Counsel for comments. Once they have all the input together, they'll be able to talk about it.

The second thing would be a mission statement which other commissions and departments have. This commission does not have a mission statement. A mission statement generally is short and focuses on what they are supposed to do and why. He'd like to plant it in their minds for future discussion.

Chair Whittemore encouraged Chief Kubojiri to look at the commission's rules and submit suggestions or comments on areas of concern.

Commissioner Behenna stated that they would like to finish the gathering of information by the end of the month so that they could proceed.

Deputy Corporation Counsel Lugo stated that regarding Commissioner Behenna's request that they submit recommendations to him by the end of the month, she wants to reiterate what Lincoln Ashida had said before that they cannot communicate outside of the meeting. If they have recommendations, they could bring them up now or it could be continued at the next meeting. They should not be e-mailing or communicating in violation of the Sunshine Law.

Chair Whittemore stated that the information is to be submitted to Josie, and then they could discuss it at the next month's meeting. They need to be respectful of the Sunshine Law. Once it's on the agenda, then it's for public discussion.

- Contractual Services (vacant) – No report.
- Public Relations/Information (vacant): No report.
- Complaints Review (Kaoiwi/Morimoto): Commissioner Morimoto reported that they met with Detectives Alan Kimura and John Briski of Internal Affairs. The initial intent of visiting Internal Affairs was to get an overview of the ongoing complaints. They learned that they don't need to see the internal process such as interrogation of witnesses or what questions are asked because that borders on privacy laws. Internal Affairs has a mission statement, and it is fairly close to what they do as a civilian based commission. He appreciates the new format to the I.A.'s monthly reports. He wants clarity from the Chair and Internal Affairs on what their function is.

Chair Whittemore stated that the intent of the committee was to try to get a better overview of Internal Affairs. He talked to Lincoln Ashida about training for the commission, but it has been delayed until they have all the commissioners appointed.

Commissioner Morimoto stated that as a member of the complaints review committee, they wouldn't be able to answer questions about investigations because they are not that involved.

Chair Whittemore stated that they shouldn't. It's not their role to micro-manage. Too many times he sees too many questions that are a little bit more piercing than need to be. The committee will rotate in July.

Commissioner Behenna stated that several months ago, he and Commissioner Sumja presented a report on their attendance at the NACOLE conference. One of the attachments talked about minimum training program for civilian oversight bodies, and he would like them to reference it.

Chair Whittemore stated that they had several comparisons and cited San Jose and a couple other police departments. However, they have to remember that their role is not to reinvent the wheel. The wheel has been functioning well. They want to review it, but it's hard to find apples and apples when they get into a big group like that. Probably, the biggest equalizing comparative would be with local state-wide county commissions.

Commissioner Politano Steckel stated that comparisons are made with large cities, but there is information about commissions in areas much smaller than San Jose, San Francisco, or New York. They're dealing with 5,000 as opposed to 500, and there's a big difference.

Chair Whittemore stated that in reviewing the rules and policies, they want to find comparables but not restrict themselves to in-state. For those who have been to the nationals, perhaps there are clear apple to apple comparatives.

Commissioner Sumja stated that even though San Jose is a much larger area, there are other areas within their criteria that could work for them. Each group is unique, and they have ways of handling things that are effective. To not look at them would be a mistake.

Commissioner Morimoto pointed out the article regarding truthfulness in the Blues Quarterly dated May 5, 2009. He stated that it ties in with what the commission, Internal Affairs, and the Police Department does. He encouraged everyone to read the article.

CHIEF'S REPORT

Including:

- **Crime:** Assistant Chief Tavares summarized the written report. The Ka'u murder case has been completed, charged, and closed. Four detectives have been assigned to work on burglaries in Puna
- **Traffic:** Assistant Chief Pacheco reported that accidents, fatalities, and DUI arrests were down. They are trying to address parking violations in the Kanoelehua Avenue area down to Kings Landing. Parking spills onto the tsunami exit routes. They have been giving courtesy warnings and will start giving citations this week end. A lot of ideas are being brought up including acquiring land for parking. They are also looking at bus pickup and drop off. The danger here is a person, a child, coming out from between cars. The problem is more so on weekends and holidays.
- **Personnel:** Assistant Chief Kanehailua reported having 16 sworn and 17 civilian vacancies, 9 of which are school crossing guards. They have posted positions for an Administrative Major and Training Captain. They have about 20 officers who are in the military, 6 of whom have been deployed. This significantly affects the smaller districts. Kona will be getting 9 recruits. They are continuing towards full accreditation with a projected date of 2010. Chair Whittemore asked that they make a presentation to the commission on accreditation at a meeting that doesn't have a very long agenda.
- **Finance:** Assistant Chief Kanehailua summarized the written report. County Administration submitted the final budget to the Council. They expect approval by the end of June. Their \$52 million budget includes the mandated reduction.
- **Commendations:** Chief Kubojiri reported receiving 9 commendations since the last meeting.
- **Other Departmental Activities:** Chief Kubojiri reported that Commissioner Sumja rallied members of the community to attend a talk story session after the commander's meeting. It was very informal and meant to answer questions or address concerns members of the public had that they oftentimes don't come out and ask. Commissioner Sumja stated that

this was wonderful because people in the outlying districts don't normally have this. Chair Whittemore stated that they did something similar in Kona, and encouraged them to do it again. It would be helpful to get a real good view of the community. Chief Kubojiri stated that they plan on having these talk story sessions in every police district after every commanders' meeting. They don't want to censor who can and cannot participate. He wants to invite as many people as possible and asked the commissioners to invite people who have the pulse of the community. Chair Whittemore stated that no one knew about it in Kona. Chief Kubojiri stated that they utilized their CPOs and other personnel to get the word out and hopes to improve the process of involving people. He wants it to be an informal talk story session with no agenda. The commanders' meetings are usually the third Tuesday of the month, but because of other activities, it does change. The public is not invited to the commanders' meeting, only to the talk story session afterwards.

Chief Kubojiri reported that they had to cut their budget by 10% for the upcoming fiscal year. Every department had to make the same required cut. The Mayor submitted a balanced budget to the Council. The Mayor stated that he will not touch the vacancies for first responders. However, civilian staff is subject to justifications.

Chief Kubojiri reported that the CPOs and SROs are on a five-year rotation so that others can have the same opportunity. It is a promotion upward to PO III. CPO is a concept, and they want all patrol officers to have that philosophy.

Chief Kubojiri reported that in allocating personnel, they have to factor in not only population, but also geography and calls for service. Other factors that come into play that commanders have to deal with are military deployment, FLMA, and workers comp. Fortunately, they will soon have a full complement of officers.

Recess was called at 10:35 a.m. The meeting reconvened at 10:50 a.m.

INVESTIGATION OF COMPLAINTS

STATEMENTS ON COMPLAINTS:

CAPTAIN GUILLERMO (Complaint HPC 09-15 and 09-18) stated that historically, this homestead had hunting in the area. However, the district grew and homes came out in the area. They have had calls from people in the area about gunshots. Their intent was to contact people in the area, in the evening, and inform them about the night time hunting violation and the types of violations that they could be arrested for. Their intent was to educate the community. He gave the commission the flyer that was distributed. Since these handouts were given out, the calls for service about gunshots have dramatically decreased. They did not have roadblocks. They had three officers in vehicles with their dome lights on. People were held up for a couple minutes at the most. They kept a log of the vehicles. These are all private lands. Above the private property is DLNR land. The Catholic Church owns about 300 acres that no one maintains. Hunting has been done for generations. Their approach was to education people about safety issues. Discharging a firearm in a residential area is illegal. The land owned by the Catholic Church is one of the problem areas, and the complaints came from residents in that area. He is sure the flyers changed the habits.

CHRISTOPHER VANDERFORD (Complaint HPC 09-10) stated that he has the officer's police report which is proof they were doing what they weren't supposed to be doing. He was never told why he was arrested. The judge said he didn't do anything wrong. He pulled up to three officers who had no jurisdiction on private roads. The officers pulled him over. He was attacked and arrested and not told why. He made them take him to the hospital. He is on Social Security disability. They were rude to him and he responded in the same manner. In his complaint, he said the officer was on some sort of stimulant because he was bouncing on the balls of his feet. He didn't try to bribe the officers; the twenty dollar bill just came out.

RODOLFO JOHNSON (Complaint HPC 09-21) explained that he was doing a traffic stop when another driver, the complainant, approached him and blew his horn at him. It was unusual because his lights were flashing and there was enough room for him to drive through. Five other vehicles drove through during the stop. He had stopped a driver who was driving without his lights. He had just seen the man at the Chevron station, told him to turn his lights on, and let him on his way. He had to stop the complainant to see why he had done that and if there was an emergency. The man was enraged when he stopped his car. He said he was there to pick up his wife. His demeanor was aggressive. He needed to remind him that he was interfering with a police operation. It was 12:30 a.m. He gave the commission a drawing of the scene.

OFFICER JO AOKI (Complaint HPC 09-23) stated that he got a report of a domestic in which two female parties were fighting in the residence. When he got there, a female party was walking away from the driveway. He explained to her that he was responding to a domestic about two females fighting. He told her to stop and talk to him. She was arrested for domestic abuse. Initially, he put her in the escort position and returned her to the residence. She was intoxicated. The victim, the mother, said the daughter was out drinking. She came home, they got into an argument, and she slapped the mother.

EXECUTIVE SESSION

Commissioner Sumja moved to meet in executive session to consider discipline and charges against officers or employees of the Hawai'i County Police Department where consideration of matters affecting privacy would be involved and to consult with Corporation Counsel on questions and issues that pertain to the commission's powers, duties, privileges, immunities, and liabilities pursuant to HRS 92-5 (2) and Hawai'i County Charter Section 13-20 (b). Vice Chair Kaiwi seconded, and the motion carried unanimously. Executive session convened at 11:35 a.m.

Regular session reconvened at 2:46 p.m.

ACTION ON EXECUTIVE SESSION MATTERS

- **HPC 09-04:** Complainant alleged that an officer would not discuss his parking ticket with him, and that the officer pushed him. Vice Chair Kaiwi moved to refer the complaint to the Chief for an Internal Affairs investigation. Commissioner Sumja seconded, and it carried unanimously.

- **HPC 09-07:** Complainant alleged that an officer wouldn't accept a copy of his automobile insurance certificate. Vice Chair Kaiwi moved that there was insufficient evidence to prove the complainant's allegation. Commissioner Morimoto seconded, and it carried unanimously.
- **HPC 09-08:** Complainant complained about the manner in which two police vehicles were driven. Commissioner Sumja moved that there was insufficient evidence to prove the complainant's allegations. Vice Chair Kaiwi seconded, and it carried unanimously.
- **HPC 09-09:** Complainant alleged that an officer's accident report was incomplete and obscured the facts. Commissioner Behenna moved to defer the complaint for additional information and to ask the officer to be present. Commissioner Politano Steckel seconded, and it carried unanimously.
- **HPC 09-10** Complainant alleged that three officers did not have probable cause or jurisdiction for his traffic stop. Commissioner Morimoto moved that there was insufficient evidence to prove the complainant's allegation. Commissioner Ignacio seconded, and it carried unanimously.
- **HPC 09-13** Complainant was cited for speeding. He alleged that the radar reading was inaccurate. He complained about the manner in which the officer spoke to him and his attitude. Commissioner Behenna moved to defer the complaint to the next meeting in Hilo in order for the complainant to attend. Commissioner Sumja seconded, and it carried unanimously.
- **HPC 09-14:** Complainant alleged that during his arrest for DUI, the handcuffs were too tight, and the officer would not loosen them. Vice Chair Kaiwi moved that there was insufficient evidence to prove the complainant's allegation. Commissioner Ignacio seconded the motion, and it carried unanimously.
- **HPC 09-15:** Complainant alleged that officers were pulling people over to inform them of a no hunting restriction. Commissioner Behenna moved that there was insufficient evidence to prove the complainant's allegation. Commissioner Politano Steckel seconded, and it carried unanimously.
- **HPC 09-16:** Complainant alleged that his traffic stop and arrest for DUI was a warrant-less stop. Vice Chair Kaiwi moved that there was insufficient evidence to prove the complainant's allegations. Commissioner Morimoto seconded the motion, and it carried with ayes from only Kaiwi and Morimoto. Commissioner Behenna moved to defer the complaint in order for the commission to review the complainant's medical records. Commissioner Sumja seconded. The motion carried with nays from Kaiwi and Morimoto.

- **HPC 09-18:** Complainant alleged that officers were stopping people to inform them of a no hunting restriction. Commissioner Behenna moved that there was insufficient evidence to prove the complainant's allegation. Commissioner Ignacio seconded, and it carried unanimously.
- **HPC 09-20:** Complainant was involved in a traffic accident. He alleged that an officer harassed him by citing him for open container and no insurance card in his vehicle. Commissioner Behenna moved to refer the complaint to the Chief for an Internal Affairs investigation. Commissioner Sumja seconded, and it carried unanimously.
- **HPC 09-21:** Complainant alleged that an officer conducted an unnecessary stop on him and yelled at him because he tooted his horn at the officer who had been blocking the driveway in a hospital entrance. Commissioner Morimoto moved that there was insufficient evidence to prove the complainant's allegations. Commissioner Politano Steckel seconded, and it carried unanimously.
- **HPC 09-23:** Complainant alleged that during her arrest, an officer used excessive and unnecessary force, and that he had an abusive attitude with females. Vice Chair Kaiwi moved that there was insufficient evidence to prove the complainant's allegations. Commissioner Mende seconded, and it carried unanimously.

Commissioner Behenna stated that he believes that whether or not a complaint is being investigated by Internal Affairs should not be a consideration.

STATEMENTS FROM THE PUBLIC ON AGENDA ITEMS

ANNOUNCEMENTS

- Chair Whittemore announced that the next monthly meeting will be on June 19, 2009, at 9:00 a.m., at the Department of Liquor Control, Hilo Lagoon Centre, 101 Aupuni St., Suite 230, Hilo. He also announced that he would not be at the next meeting, and Vice Chair Kaiwi will chair the meeting.
- Collection of files and documents. – Done.

ADJOURNMENT

The meeting was adjourned at 3:17 p.m.

SUBMITTED:

Josie Pelayo

Josie Pelayo, Secretary

APPROVED:

Tom Whittemore

Tom Whittemore, Chair