

**HAWAI'I COUNTY POLICE COMMISSION  
REGULAR SESSION MINUTES  
MAY 16, 2003  
OHANA KEAUKOU BEACH RESORT**

**CALL TO ORDER**

Chair Hara called the meeting to order at 10:00 a.m.

**ROLL CALL**

Present:	Horace S. Hara, Chair	Also Present:	Lawrence K. Mahuna, Police Chief
	Dwight K. Manago, Vice Chair		Harry S. Kubojiri, Deputy Chief
	John M. Bertsch, Member		Lincoln S. Ashida, Corporation Counsel
	Paul M. de Silva, Member		Josie Pelayo, Secretary
	Phoebe M. Lambeth, Member		
	Betsy Mitchell, Member	Absent:	James A. Frazier, Member
	Walter Moe, Member		
	Peter P. Muller, Member		

A quorum was present.

**APPROVAL OF AGENDA**

Commissioner Lambeth moved to add to the agenda Correspondence 03-44, request for legal counsel by Officers Roger Kalua and Manuel Benevides in CV 03-00203; Correspondence 03-45, request for legal counsel by Officer Roylen Valera in CV 03-1-0082; and Correspondence 03-46, request for legal counsel by Officer Marshall Ney in CV 03-1-0082. Vice Chair Manago seconded the motion, and it carried unanimously.

Commissioner Lambeth moved to approve the agenda as amended. Vice Chair Manago seconded the motion, and it carried unanimously.

**STATEMENTS ON AGENDA ITEMS - Open to the public**

**LESLIE TUET** read a letter that he distributed to the commission. He stated that more officers are needed to enforce the laws, and taxes need to be raised in order to hire more officers. There are many traffic problems, and laws for giving drivers' licenses should be made stricter.

In response to Mr. Tuet's statement, Vice Chair Manago stated that they have requested additional funding, and the Traffic Enforcement Unit has increased their presence.

**THOMAS RUSSI** asked if he would be allowed to play a tape recording and asked for the difference between giving the commission a piece of paper and playing a tape. He has a complaint against another board for violation of the Sunshine Law. He recommended that police officers tape record statements.

Corporation Counsel Ashida stated that it would be all right to listen to the tape if it was agendized. If it were slanderous, he would advise the commission not to listen to it in open session. Tape recording of statements by police officers is an operational matter and not within the commission's jurisdiction. He could consider bringing it up with the police chief.

**STATEMENTS ON AGENDA ITEMS – Closed to the public (executive session)**

Commissioner Lambeth moved 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 a closed session is requested and to consult with Corporation Counsel on questions and issues pertaining 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 Manago seconded the motion, and it carried unanimously.

The commission convened into executive session at 10:25 a.m., and reconvened back into open session at 10:45 a.m.

### **APPROVAL OF MINUTES**

Commissioner Mitchell moved to approve the minutes of April 11, 2003, regular and executive sessions. Commissioner Lambeth seconded the motion, and it carried unanimously.

### **PERSONNEL ORDERS**

Vice Chair Manago moved to accept Personnel Orders 2003-047 to 2003-062. Commissioner Muller seconded the motion, and it carried unanimously.

### **COMMUNICATIONS**

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

Vice Chair Manago asked Chief Mahuna to review Correspondence 03-31.

### **COMMITTEE REPORTS**

- **Budget and Finance** (Hara/Manago): The committee had no report.
- **Office Management and Staffing** (Muller/Mitchell): The committee had no report.
- **Rules and Policies** (Moe/Bertsch): The committee had no report.
- **Contractual Services** (de Silva/Frazier): The committee had no report.
- **Public Relations** (Hara/Lambeth): Chair Hara reported that this is police week, and the department had a very nice ceremony at the Hilo police station.

### **CHIEF'S REPORT**

- **Crime:** Deputy Chief Kubojiri summarized the written report.

Vice Chair Manago thanked the chief for the recent drug busts in Ka'u, Kona, and Waimea and stated that many people are applauding it.

- **Traffic:** Deputy Chief Kubojiri summarized the written report.
- **Personnel:** Chief Mahuna reported having 38 sworn and 11 civilian vacancies. They are trying some innovative methods of using more experienced officers from the mainland and other counties. Although the person comes in as a recruit, training time is decreased.
- **Finance:** Chief Mahuna summarized the written report.

- **Commendations:** Chief Mahuna reported receiving 14 commendations since the last meeting.
- **Other Departmental Activities:** Chief Mahuna reported that they have brought back the quarterly newsletter which provides a means for more communication and kudos to the employees.

Chair Hara commended Chief Mahuna on the very impressive quarterly report. He stated that it is a very good tool for recognizing police officers and employees, and that it would be nice to include their families in recognition and promotional ceremonies.

Chief Mahuna reported that he and Deputy Chief Kubojiri have been attending more community meetings around the island. They attended a meeting in Kohala regarding the nuisance abatement law. This will be handled by the attorney general's office, and they now have a call-in number. They also attended a community meeting in Ka'u in which some family members of people arrested in recent drug busts thanked them for the arrests. The people there were thankful for the sweeps and the inclusion of the ice task force. Ice has been affecting families and the community like a form of social terrorism.

**UNFINISHED BUSINESS:** None.

### **NEW BUSINESS**

- **Correspondence 03-41**, from the City of Miami requesting job classification information. Chair Hara stated that this should be forwarded to Civil Service.
- **Correspondence 03-42**, from Dana Kelley requesting the commission's assistance in reopening a theft case. Commissioner Lambeth moved to refer the letter to Chief Mahuna, as this is an operational matter. Vice Chair Manago seconded the motion, and it carried unanimously.
- **Correspondence 03-43**, from the National Association for Civilian Oversight of Law Enforcement (NACOLE), informing of its annual conference September 21-24, 2003. Chair Hara informed that the commission has budgeted for two people to attend, and in the past, the chair and vice chair attended the conference.

### **EXECUTIVE SESSION**

Vice Chair Manago 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 a closed session is requested and to consult with Corporation Counsel on questions and issues pertaining 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). Commissioner Muller seconded the motion, and it carried unanimously.

The commission convened into executive session at 11:15 a.m., at which time Commissioner Muller asked to be excused from the meeting. The commission reconvened back into open session at 12:15 p.m.

### **ACTION ON EXECUTIVE SESSION MATTERS**

- **Correspondence 03-40**, request for legal counsel by Detective Lucille Melemai in CV No. 02-1-0368. Commissioner Lambeth moved to approve legal counsel as the officer acted within the course and scope of her duties as a police officer. Vice Chair Manago seconded the motion, and it carried unanimously.
- **Correspondence 03-44**, request for legal counsel by Officers Roger Kalua and Manuel Benevides in CV 03-00203. Commissioner Lambeth moved to approve legal counsel as the officers acted within the course and scope of their duties as police officers. Vice Chair Manago seconded the motion, and it carried unanimously.
- **Correspondence 03-45**, request for legal counsel by Officer Roylen Valera in CV 03-1-0082. Commissioner Lambeth moved to approve legal counsel as the officer acted within the course and scope of his duties as a police officer. Vice Chair Manago seconded the motion, and it carried unanimously.
- **Correspondence 03-46**, request for legal counsel by Officer Marshall Ney in CV 03-1-0082. Commissioner Lambeth moved to approve legal counsel as the officer acted within the course and scope of his duties as a police officer. Vice Chair Manago seconded the motion, and it carried unanimously.

### **Investigation of Complaints**

**Complaint HPC 02-32:** Complainant alleged that during his arrest following an argument with his girlfriend, an officer choked him, threw him onto the hot asphalt, and used profanity. Akal's investigation was reviewed.

Commissioner de Silva moved to sustain the charge of excess use of physical force. Commissioner Lambeth seconded the motion, and it carried unanimously.

**Complaint HPC 01-27:** Complainant was arrested during a DUI stop. She alleged that an officer used excessive force during her arrest. Akal's investigation was reviewed at the last meeting, but the case was deferred in order for the commission to obtain additional information.

Commissioner Lambeth moved that they could not make a conclusive decision due to the lack of medical records. There was no second, and Commissioner Lambeth withdrew her motion.

Commissioner de Silva moved to sustain the charges of malicious use of physical force, mistreatment of person in police custody, excessive use of physical force, overbearing conduct, and conduct towards the public. Commissioner Lambeth seconded the motion, and it carried unanimously.

**Complaint HPC 02-65:** Complainant was arrested for violating a TRO. She alleged that the captain should not have ordered her arrest. The complaint was deferred at the last meeting after the commission was notified that the complainant would be withdrawing her complaint.

Commissioner Lambeth moved to accept the complainant's request to withdraw her complaint. Vice Chair Manago seconded the motion, and it carried unanimously.

**Complaint HPC 03-05:** Complainant alleged that when officers responded to her complaint about a careless motorist, an officer took the motorist's statement, but not hers. She also alleged that the officer laughed while listening to the motorist, and would not let her borrow his pen.

Commissioner Lambeth moved to exonerate the officer on the charge of performance of duty. Commissioner Manago seconded the motion, and it carried unanimously.

**Complaint HPC 03-06:** Complainant alleged that an officer issued her a citation, and then told her brother, who is a police officer, about the citation.

Vice Chair Manago moved to exonerate the officer on the charge of performance of duty. Commissioner Mitchell seconded the motion. Commissioner Lambeth cast a nay vote, Commissioner de Silva abstained, and the motion died due to lack of a quorum vote.

Commissioner Bertsch moved to defer the complaint to the next meeting. Vice Chair Manago seconded the motion. Discussion: Commissioner Lambeth stated that even though a citation is a public record, the officer should not have given out the information. The motion carried with Commissioner de Silva abstaining.

**STATEMENTS FROM THE PUBLIC:** None.

**ANNOUNCEMENTS**

Chair Hara announced that the next monthly meeting is scheduled for June 20, 2003, at 10:00 a.m., at the Hilo Hawaiian Hotel. At that time the police department will present a training session on the use of the canine unit.

Chair Hara also announced that the Solutions 2003 Seminar is scheduled for Saturday, May 17, at the Waikoloa Beach Marriott and Outrigger Resort. Vice Chair Manago will attend.

**ADJOURNMENT**

The meeting was adjourned at 12:30 p.m.

SUBMITTED:

APPROVED:

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JOSIE PELAYO, SECRETARY

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HORACE S. HARA, CHAIR