

**HAWAI'I COUNTY POLICE COMMISSION
REGULAR SESSION MINUTES
MAY 18, 2007
COUNTY'S AUPUNI CENTER CONFERENCE ROOM**

INVOCATION

Commissioner Robinson gave the invocation.

CALL TO ORDER

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

ROLL CALL

Present:	Pudding Lassiter, Chair	Also Present:	Lawrence K. Mahuna Police Chief
	Melvin S. Morimoto, Vice Chair		James Day, Assistant Chief
	Louis Kaiwi, Commissioner		Paul Ferreira, Assistant Chief
	Karolyn P. Lundkvist, Commissioner		Marshall Kanehailua, Captain
	Betsy Mitchell, Commissioner		Craig Higaki, Detective
	Kaloa R. N. Robinson, Commissioner		Melvin Yamamoto, Detective
	Anita Politano Steckel, Commissioner		Lincoln S. Ashida, Corporation Counsel
	Thomas P. Whittemore, Commissioner		Josie Pelayo, Secretary

Absent: Michael B. Sumja, Commissioner

A quorum was present.

APPROVAL OF AGENDA

Commissioner Lundkvist moved to approve the agenda. Commissioner Mitchell seconded the motion, and it carried unanimously.

STATEMENTS ON AGENDA ITEMS – None.

APPROVAL OF MINUTES

Commissioner Lundkvist moved to approve the minutes of April 20, 2007, regular and executive sessions. Commissioner Mitchell seconded, and it carried unanimously.

PERSONNEL ORDERS

Commissioner Lundkvist moved to accept Personnel Orders Nos. 2007-033 to 2007-044. Commissioner Robinson seconded, and it carried unanimously.

COMMUNICATIONS

Commissioner Lundkvist moved to accept the communications as listed. Commissioner seconded the motion.

Discussion:

Correspondence 07-12 from J. R. Andrade regarding kids in neighborhood, Vice Chair recommended that they refer this to Chief Mahuna and to close the file.

Correspondence 07-13, invitation to the annual National Association for Civilian Oversight of Law Enforcement Conference (NACOLE) September 25-28, 2007: Chair Lassiter stated that they have funds for two people to attend the conference. Attendees must attend all sessions. She pointed out that commissioners whose term ends this year are not eligible to attend this out-of-state conference. (See meeting of 5/18/04.) Commissioner Kaoiwi stated that their secretary will be working for the commission long after each member's five-year term. He recommended that she attend the conference if no one else is able to. Chair Lassiter stated that she would like to attend the conference but is willing to pay her own expense to get there because she attended last year's conference. Commissioner Kaoiwi stated that if they have the funds in their budget, they should pay for three people to attend because it does benefit all attendees. Commissioner Politano Steckel and Secretary Pelayo expressed interest in attending the conference.

The motion to accept the correspondence carried unanimously.

COMMITTEE REPORTS

- Budget and Finance (Whittemore/Kaoiwi): 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:** AC Day reported that they are doing well in their clearance rate and are hitting the national average for burglary clearances. He attended the County Council meeting when Councilman Jacobson made an amendment to not accept federal monies for marijuana eradication, and it passed. They don't have an end date for their marijuana eradication. It ends when they run out of funds. The second reading is on June, and the Chief will be there to speak to the Council. This is the only county that will not accept funds for marijuana eradication. Marijuana grants can only be used for marijuana and nothing else.

Corporation Counsel Ashida stated that the County Council took the money out of the general funds of the annual budget. In the future, every time the federal government wants to give money, it has to go before the County Council for a resolution to accept the money. The bottom line is that the police are charged with enforcing the law. Marijuana is illegal. The only exception is possession of limited quantities for medical use when a person has a certificate from the Department of Public Safety. Those people are not being targeted. They are targeting the fields of marijuana, the dealers. He suggested that they ask their council member why they are cutting funding and preventing the police from eradicating a drug that is illegal,

what was their reason, and if it was factual. The money comes from federal funds, not the county's general funds. Marijuana is still illegal under federal law.

A.C. Day stated that all the grants are specific. The marijuana grant can only be used to eradicate marijuana. The hard drug grant can only be used for hard drugs.

- **Traffic:** A.C. Day reported that the "Click It or Ticket" campaign is going on statewide. They are doing DUI roadblocks in the afternoons with participation from different high school groups.
- **Personnel:** A.C. Ferreira reported having 38 sworn and 13 civilian vacancies. The 70th recruit class just graduated. The 71st class is expected to hit the road in February. They hope to have 20 recruits in the 72nd class. The department averages 25 losses in personnel each year due to retirement, separation, etc. Hopefully, the new SHOPO contract will make a difference in retention and recruitment.

Commissioner Whittemore stated that in last week's newspaper, a woman alleged discrimination in hiring. The police department was one of the departments mentioned. There has to be another side to the story.

A.C. Ferreira stated that according to the article, she applied for ten different positions. She went to eight different interviews at different departments, and she wasn't selected for any of them. That might be saying something for the candidate as opposed to the employers. No one has raised issues with them.

Commissioner Kaiwi reported that he spoke with the Chief about a nurse for the cellblock. Right now, when an inmate needs medication, he has to be transported to the hospital. This takes about 2 ½ hours. If that person has to go twice a day, they lose 5 hours of an officer's work time. He doesn't want the liability to be put on the police officer, supervisor, or even the Chief as to dispensing medication or injections. The Chief stated that they have been requesting a nurse for years but always gets turned down. They need to lobby the Council to at least give them an LPN to work in the cellblock.

- **Finance:** No discussion to the written report.
- **Commander's meeting minutes of April 17, 2007:** No discussion.
- **Other Departmental Activities:** Chief Mahuna reported that there is a misconception that they are targeting people with marijuana certificates. He will not allow his people to waste their time on seven plants (medicinal use). The federal government may deputize county employees to conduct federal eradication programs. They always find marijuana with ice, cocaine, and heroin. It is used in combination with

other drugs. Marijuana is still illegal, and they have an obligation to protect our children and community.

Chief Mahuna further reported that the "Click it or Ticket" program has been positive for our county. They have about 92-94% usage rate which is probably the highest in the state. He believes this is a program that will save lives.

Commissioner Politano reported that Chief Mahuna suggested placing the fallen officers' monument in the police station, right in front of his office. She felt this was an excellent location.

- **Commendations:** Chief Mahuna reported receiving 10 commendations since the last meeting. This is a reflection of their core values.

Chair Lassiter presented Chief Mahuna with a letter of commendation and plaque for all those officers who participated in the Merrie Monarch Parade.

Recess was called at 10:35 a.m. The meeting reconvened at 10:54 a.m.

INVESTIGATION AND DELIBERATION OF COMPLAINTS

STATEMENTS ON COMPLAINTS (open to the public)

STEVEN WATERS (Complaint HPC 07-01) stated that on the day he was arrested, he had a TRO against his landlord who had been stealing his things. Officer Lee said she wanted to see the TRO. He told her that his girlfriend had it and that his girlfriend had a TRO against him. Officer Lee told him that he had better *F 'n* get it. So, he went and got it from his girlfriend. Charmaine Campbell is his witness who saw Officer Brown put his foot on him and hold him down when he re-broke his rib.

JACQUELINE CHOW HOW (Complaint HPC 07-19) came before the commission to answer questions. She stated that they went from her home on Haihai St. to Komohana and then down Mohouli to Kinoole. They turned around at the Kinoole Baptist Church. Her boyfriend had been drinking after work before he picked her up. He had been telling her about his work day, and it didn't occur to her to go to the police station. She did not see him being pushed.

NICOLE JUDALENA (Complaint HPC 07-21) stated that she was at Lincoln Park when her friend locked herself in the restroom. She went to talk to her friend when police officers knocked her down and threw her over. She was thrown in jail. Her complaint is against the 15-20 officers who were there. She was knocked out and didn't recognize any of the police officers. The police report is different from what happened. They called her Josie, a different name. She was not drinking. She and the girls were only drinking coffee. They threw her in solitary and made her walk around in her underpants. The sergeant would not give her her backpack and her medication.

CHARMAINE CHAMPBELL (Complaint HPC 07-01) stated that they were trying to move a vehicle off the street when Officer Lee came out of the car. Mr. Waters was yelling, and Officer Lee told him to do something to make her arrest him. Mr. Waters had a TRO against his landlord who kept going into his house and taking things. The landlord kicked him out of the house, so they were moving everything to his girlfriend's house. The TRO against his landlord was at his girlfriend's house. His girlfriend had a TRO against him. Earlier in the day, officers came by. They knew about the TROs. Officer Lee made him get the TRO from his girlfriend, and when he got it, she arrested him. Mr. Water then had a seizure and fell on the ground. Officer Brown held him down on his side with his foot because epileptics need to be put on their sides. It took about 2-3 minutes. She told officers that he had a broken rib. Mr. Waters was the one who called the police, and they arrested him.

EXECUTIVE SESSION

Commissioner Lundkvist moved to meet in executive session to consider discipline and charges against officers or employees of the Hawaii 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 that pertain to the commission's powers, duties, privileges, immunities, and liabilities pursuant to HRS 92-5 (2) and Hawaii County Charter Section 13-20 (b). Commissioner Whittemore seconded the motion, and it carried unanimously. Executive session convened at 11:30 a.m.

Lunch recess was called at 11:58 a.m.

Commissioner Robinson departed.

Regular session reconvened at 2:06 a.m.

Commissioner Mitchell departed.

ACTION ON EXECUTIVE SESSION MATTERS

Complaint HPC 06-13: Complainant was arrested for disorderly conduct. She alleged that an officer used physical force on her. Her case was referred to Internal Affairs for investigation. She expressed disagreement with the findings. Vice Chair Morimoto stated that the case was settled by the Administrative Review Board and is no longer within the commission's purview. Commissioner Whittemore expressed concern about the officer's use of profanity. He suggested sending a letter to the chief regarding this and suggesting additional training for officers in dealing with the public and the use of profanity.

Complaint HPC 06-22: Complainant alleged that he was assaulted and should have been treated at the scene rather than taken to the police station first. Commissioner

Lundkvist moved to refer this complaint to the Chief for further investigation by Internal Affairs. Commissioner Kaiwi seconded the motion, and it carried unanimously.

Complaint HPC 07-01: Complainant alleged that an officer (#1) used profanity against him when he was arrested for violating a TRO. He also alleged that he had a seizure during the incident and another officer (#2) held him down and he re-broke his ribs. Commissioner Whittemore moved to refer the complaint to the Chief for investigation by Internal Affairs into the actions of Officer #1 and that there was insufficient evidence in the allegations against Officer #2. Commissioner Kaiwi seconded the motion, and it carried unanimously.

(Same complainant in HPC 07-12, 13, 14, 22, 23)

Complaint HPC 07-12: Complainant alleged that an officer said something to him which he felt was not too kind.

Complaint HPC 07-13: Complainant alleged that an officer and his partner told him to leave Keikiland Park. He felt they were rude.

Complaint HPC 07-14: Complainant alleged that while sitting at the beach, three officers came and asked him if he was all right. They reminded him of the closing time, which he didn't take too kindly.

Complaint HPC 07-22: Complainant alleged that officers questioned him three times, once was after he was attacked by a young man.

Complaint HPC 07-23: Complainant alleged that he was threatened by a man. He alleged that officers asked him what happened and mentioned the hospital. He felt they were not kind.

Commissioner Lundkvist moved that there was insufficient evidence to prove the complainant's allegations in HPC 07-12, 07-13, 07-14, 07-22, and 07-23. Commissioner Kaiwi seconded the motion. Discussion: Vice Chair Morimoto stated that they could decline further investigation because there was no misconduct. The motion carried with a nay vote from Vice Chair Morimoto.

Complaint HPC 07-18: Complainant alleged that an officer had no right to call him about removing his daughter from his property. Commissioner Kaiwi moved to refer the complaint to the Chief for investigation by Internal Affairs. Commissioner Whittemore seconded the motion, and it carried unanimously.

Complaint HPC 07-19: Complainant alleged that he was entrapped, provoked, and bullied by an off-duty officer prior to his arrest for DUI. Commissioner Kaiwi moved that there was insufficient evidence to prove the complainant's allegations. Commissioner Lundkvist seconded the motion, and it carried unanimously.

Complaint HPC 07-21: Complainant alleged that she saw 15-20 officers talking to a woman who locked herself in the restroom at Lincoln Park. So, as a concerned citizen, she went to talk to the woman. She alleged that the officers threw her to the ground and she was taken to jail. Commissioner Lundkvist moved that there was insufficient evidence to prove the complainant's allegations. Commissioner Kaiwi seconded the motion, and it carried unanimously.

UNFINISHED BUSINESS

Correspondence 07-11, final draft of suggested improvements to the Police Commission's investigative process.

Chair Lassiter stated that if they go along with this, they would no longer be deciding on cases. Not all of them would participate in the effort, and they wouldn't have the opportunity to discuss it anymore. It would double the work for Internal Affairs.

Vice Chair Morimoto stated that this came about because they don't have the resources to fully investigate a complaint.

Commissioner Whittemore stated that he liked leaving it "as is" but still having the ad hoc committee and making referrals to Internal Affairs. There is value in having all commissioners seeing the whole case.

Commissioner Morimoto suggested that they postpone this matter until all commissioners are present. (Mitchell, Robinson, and Sumja were absent.)

This matter will be placed on August's agenda.

STATEMENTS FROM THE PUBLIC ON AGENDA ITEMS – None.

ANNOUNCEMENTS

- Chair Lassiter announced that the Police Commission's next monthly meeting would be on June 15, 2007, 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 2:32 p.m.

SUBMITTED:

APPROVED:

Josie Pelayo

JOSIE PELAYO, SECRETARY

Pudding Lassiter

PUDDING LASSITER, CHAIR