

**HAWAII COUNTY POLICE COMMISSION
REGULAR SESSION MINUTES
AUGUST 22, 2008
KING KAMEHAMEHA BEACH HOTEL**

INVOCATION

Commissioner Kaiwi gave the invocation.

CALL TO ORDER

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

ROLL CALL

Present:	Thomas P. Whittemore, Vice Chair Richard J. Behenna, Commissioner Louis Kaiwi, Commissioners Karolyn P. Lundkvist, Commissioner Melvin S. Morimoto, Commissioner Michael B. Sumja, Commissioner	Also Present:	Lawrence K. Mahuna, Police Chief Derek Pacheco, Assistant Chief Henry Tavares, Assistant Chief Marshall Kanehailua, Major James O'Connor, Captain Josie Pelayo, Secretary
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Absent: Pudding Lassiter, Chair
Anita Politano Steckel, Commissioner

APPROVAL OF AGENDA

Commissioner Kaiwi moved to approve the agenda. Commissioner Sumja seconded the motion, and it carried unanimously.

STATEMENTS ON AGENDA ITEMS – None.

APPROVAL OF MINUTES

Commissioner Sumja moved to approve the minutes of July 18, 2008, regular and executive sessions, with the noted revisions. Commissioner Morimoto seconded the motion, and it carried unanimously.

PERSONNEL ORDERS

Commissioner Lundkvist moved to approve Personnel Orders Nos. 2008-062 to 2008-76. Commissioner Sumja seconded the motion, and it carried unanimously.

COMMUNICATIONS

Commissioner Kaiwi moved to accept the correspondence as listed. Commissioner Sumja seconded the motion, and it carried unanimously.

COMMITTEE REPORTS

- Budget and Finance (Whittemore/Kaiwi): Commissioner Kaiwi reported that they looked over the final budget for 2008-09, and it is well-prepared. Vice Chair Whittemore stated that the Mayor's office has alerted all department heads that there may be as much as a 4% cut due to possible revenue decline

- Office Management and Staffing (Lassiter/Morimoto): No report.
- Rules and Policies (Behenna/Sumja): Commissioner Sumja stated that the committee will meet monthly to review the rules and recommend possible amendments. They expect the process to be completed by the spring of 2009. Commissioner Behenna stated that the revisions will be presented to the Corporation Counsel, the Chief, and the commissioners for review. He asked the commissioners for input by November 1. The written report was submitted for filing.
- Contractual Services (vacant): No report.
- Public Relations/Information (Lassiter/Behenna): No report.

CHIEF'S REPORT

Including:

- **Crime:** AC Tavares reported that for the month of July 2008, the department received 8,643 calls for service. Up to July 2008, there were 740 serious crimes. Areas I and II Criminal Investigation Units investigated 192 of those cases, 100 in Area I and 92 in Area II. Commissioner Behenna stated that he is interested in rates and asked for the population of Area I and Area II. Assistant Tavares stated that he didn't know what the numbers were. Vice Chair Whittemore stated that police department's geographic delineation is not consistent with the county's districts. Commissioner Behenna stated that if the department could put together reports with insight to trends, it would be very helpful. Vice Chair Whittemore stated that he likes pictures; graphs are great and stand out. He will work with AC Tavares and his staff to start this. AC Tavares suggested that they call him prior to the meeting with questions that need to be researched. He further stated that all crimes are investigated. Patrol officers complete investigations that do not meet the criteria for being referred to Criminal Investigation Section. The Criminal Investigation Unit investigates the more serious crimes such as thefts over \$300 and murder. Sex assaults will go to the Juvenile Aid Section. Noisy neighbors will go under miscellaneous service calls.
- **Traffic:** AC Pacheco stated that, as requested at the last meeting, the written report was revised. Citations were down, probably due to recruits on other assignments. Commissioner Behenna stated that he would like to see breakdowns in various age groups, including 65+. He is looking at trends. AC Pacheco stated that he will see if their system can provide the information. In response to Commissioner Sumja's inquiry into criteria for driver checks, AC Pacheco stated that if a driving impairment is reported to them, they can direct the matter to Traffic Services. They could ask for medical certification. He reiterated that it has to be brought to their attention. Commissioner Morimoto pointed out the high number of speeding citations in Kona. AC Pacheco stated that the Traffic Enforcement Unit is supervised by one person in Hilo, and the numbers are not separated by districts. Vice Chair Whittemore asked if there was a program in

effect that drove the moving/regulatory number up 50%. AC Pacheco said that there was no program for that.

- **Personnel:** Major Kanehailua reported that they have 47 sworn vacancies, of which 37 are authorized recruits. So, the vacancy is actually 10. Continuous recruitment will be terminated because the vacancy will be down to 5 in November. Continuous recruitment for the cadet program will also end because there will be no positions to transition into. Four cadets transitioned to the recruit program, and they now have only four cadets left from the original program.

In response to questions, Major Kanehailua stated that all incoming officers know that they may have to live in Kona. However, after 18 months, they can put in a request for transfer. Seniority is factored in. Every district commander puts in requests to increase their staff, but they have to go to the County Council to request additional positions. AC Pacheco stated that every year during the budget process, their prioritized list is submitted to County Finance. However, the Mayor makes the final decision. Commissioner Kaiwi stated that some incentives need to be developed to assist people who live in one district and must commute to another district. The commissioners need to lobby the County Council for additional funds. They have a revolving door of people moving back home to the east side of the island.

Major Kanehailua stated that the exit interview form was given to the commission. Human Resources addresses concerns with the section. Commissioner Behenna stated that it would be useful to put together an analysis of exit interviews by departments. He would like to know the percentage of sworn personnel who leave every year.

Chief Mahuna stated that there is a litany of reasons why a person leaves the police department. He has seen a trend due to economics. People come into the police department not necessarily wanting to be there. They found that a lot of people who came into the police department thought it would be cake walk, but into the training they found they had to have a certain amount of sacrifice and commitment. They spend a lot of money on background checks. They spend about \$80,000 to \$100,000 to train each recruit. He would rather have them leave in the beginning rather than later. It's rare for a 10-year veteran to leave. A veteran officer would more likely leave for another law enforcement agency. They also take people from other agencies. The exits are usually from 0 days to one and a half months. That last recruit class started out with 20 people; today they have 17.

They are about a year, a year and a half away from CALEA (Commission on Accreditation for Law Enforcement Agencies). With this accreditation, they have to provide rules and procedures and use them everyday.

- **Finance:** Major Kanehailua stated that their targeted expenditures was 8.3%. They expended 8.4% of all salaries and wages accounts. Monies have been allocated for the Pahoia station which is in the design phase.

Vice Chair Whittemore inquired where they would make their 4% budget reduction as requested by the Mayor. Chief Mahuna reported that they have already implemented it by cutting down on training and trips, including out-of-state training. He spoke of the difficulty he had with a web-phone seminar in which he probably got only about 5% of what the presenter was saying. They are not going to reduce personnel. It is very difficult to make a 4% reduction in two months. They had budgeted \$1 million for additional blue and whites for the next year. That has been put on hold for a year.

- **Commendations:** AC Tavares reported receiving 18 commendations since the last meeting.
- **Other Departmental Activities:** Commissioner Sumja inquired about a story in the Honolulu Advertiser about Honolulu police officers manipulating the computer system in order to get choice special duty jobs. Chief Mahuna stated that it was an IT problem that went array. Hawai`i County's system has firewalls and backups.

Chief Mahuna reported that they are working on a systemic fleet maintenance program which is above and beyond the manufacturer's warranty.

Commissioner Behenna inquired whether Hawai`i County would have jurisdictional issues such as the recent incident at Iolani Palace in Honolulu. Chief Mahuna stated that they have concurrent jurisdiction with other agencies, and they wouldn't have a problem here.

Recess was called at 10:44 a.m. The meeting reconvened at 10:55 a.m.

INVESTIGATION AND DELIBERATION OF COMPLAINTS

STATEMENTS ON COMPLAINTS (open to the public)

MURIAL HARDISTY (Complaint HPC 08-19) stated that when the officer came to their home, he accused them of being trouble makers.

MURIAL HARDISTY (Complaint HPC 08-20) stated that the officer chased her daughter into their home. He had his Taser on and came right in. Her complaint is that it could have been handled in a more respectful, more civil way. There is tension between them and their neighbor and the police in the middle. The officer could have been less judgmental. He said they were guilty. He wouldn't listen to anything they had to say. They have had mediation with their neighbor. They have had accusations and law suits. This has been going on for 50 years with her husband's family and the neighbor. With her it has been going on 13 years.

STEVE HARDISTY (husband) stated that when the officer first came to the house, he said, *"I'm sick and tired of coming over here. Why should I believe you? I believe them."* Another evening, he came shining the flashlight into their window and starting pounding on the door. It's his attitude. He judged them. He was not neutral. In another incident, the same officer

told his son to shut his mouth. They have not had any problems with other officers. Other officers are calm. They say why they are there, and they leave.

MURIAL HARDISTY stated that officers have been to their home about a thousand times.

KATHY HARDISTY (18 year old daughter) stated that the officer told her she was under arrest. She didn't want it done outside. She told him he couldn't arrest her in front of the house, so she resisted and went into the house. The officer came in the house with the Taser on. She was involved in both incidents

LIEUTENANT JEREMIE EVANGELISTA (Complaint HPC 08-17) stated that he reviewed Mr. Malani's complaint but doesn't understand it and doesn't feel comfortable about it. The date of incident doesn't match the police records. At court, Mr. Malani told him he was going to sue him and have his job. Judge Takase told Mr. Malani it was not within her jurisdiction, and that he should go to the Police Commission. The complaint is beyond the 60-day deadline. He has had problems with this man before, and it has been problematic. He arrested him twice. On January 26, 2007, he saw Mr. Malani walking in a public place, and he knew there was a warrant for his arrest. During the arrest, Mr. Malani resisted and received an injury above his eye. He was transferred to the Kona cellblock.

Commissioner Kaiwi stated that the complainant complained that he was injured during his arrest. It looks like he is trying to sue the officer or the department. If he has PTSD, it's a veteran's issue.

EXECUTIVE SESSION

Commissioner Morimoto moved to meet in executive session to consider discipline and charges against officers or employees of the Hawaii County Police Department and to consider personal matters affecting the privacy of individuals for which an executive session has been requested by the individuals involved, pursuant to HRS 92-5 (2) and Hawaii County Charter Section 13-20 (b). Commissioner Sumja seconded the motion, and it carried unanimously. Executive session convened at 10:50 a.m.

Regular session reconvened at 11:50 a.m.

STATEMENT ON COMPLAINT

LESLIE MALANI (Complaint 08-17) stated that he is a disabled veteran. He was denied his right to the hospital. He was sent to the Kona station. They sent in the paramedics. He needs his police report for that day. He called 911. If a police report was made, his bill would be paid by the VA. He was not given treatment. If the commission does nothing, he'll do the same to the officer. He was denied treatment twice. The date of incident was January 28, 2007. He took the bill to the police department, and they said they don't have to do anything because they don't have a report of him getting hurt.

Commissioner Kaiwi told Mr. Malani that he knew he had an injury and questioned him whether he called the VA within 72 hours of his injury. He, too, is a veteran and knows that the VA has to be called within 72 hours.

Mr. Malani stated that he didn't call the VA until he got the bill. He was in jail for three days. When he was at Ace Hardware, he told the officer to serve him the warrant. The officer told him to get on the ground. His complaint is that he was refused medical treatment in Waimea. He had asked the Police Commission for a copy of the police report.

Vice Chair Whittemore stated that he did not request police reports from the commission and that paying his bill is another subject.

EXECUTIVE SESSION

Commissioner Sumja moved to meet in executive session to consider discipline and charges against officers or employees of the Hawaii County Police Department pursuant to HRS 92-5 (2) and Hawaii County Charter Section 13-20 (b). Commissioner Morimoto seconded the motion, and it carried unanimously. Executive session convened at 12:10 p.m.

Regular session reconvened at 12:30 p.m.

ACTION ON EXECUTIVE SESSION MATTERS

- **Complaint HPC 07-47:** Complainant was involved in an altercation and alleged that an officer cursed at him. In December 2007, the commission found insufficient evidence to prove his allegation. The complainant now requests that the commission considers additional information. Commissioner Morimoto moved that there was insufficient evidence to prove the complainant's allegations. Commissioner Kaiwi seconded the motion, and it carried with Commissioner Sumja recusing himself.
- **Complaint HPC 08-14:** Complainant alleged that she was still in her drive-way when an officer cited her for driving in his path. She also alleged that the officer told her to shut up. Commissioner Lundkvist moved to defer the complaint in order for the complainant to attend the meeting. Commissioner Morimoto seconded the motion, and it carried unanimously.
- **Complaint HPC 08-17:** Complainant alleged that he was injured during his arrest and was not given medical assistance. The complaint was received 19 months from the date of the incident. Commissioner Behenna stated that he is inclined to decline the complaint due to the 60-day rule and looked at it as a procedural issue. Commissioner Sumja agreed. Commissioner Morimoto stated that although the complaint was received beyond 60 days, both the complainant and the officer came to the meeting and provided a statements. He felt that they should render a decision. Commissioner Kaiwi felt that the complainant was using the system to get his medical bill paid. Ms. Pelayo stated that she told the complainant that he would have to request payment from the County Clerk's office, not the Police Commission. Commissioner Lundkvist moved that there was insufficient evidence to prove the complainant's allegations. Commissioner Morimoto seconded the motion, and it carried unanimously.

- **Complainant HPC 08-19:** Complainant alleged that while investigating a neighbor's complaint, an officer did not keep his judgment to himself. Commissioner Kaiwi moved to refer the complaint to the Chief for an investigation by Internal Affairs. Commissioner Behenna seconded the motion, and it carried unanimously.
- **Complaint HPC 08-20:** Complainant alleged that while investigating a neighbor's complaint, an officer aggravated the situation. Commissioner Kaiwi moved to refer the complaint to the Chief for an investigation by Internal Affairs. Commissioner Behenna seconded the motion, and it carried unanimously.
- **Complaint HPC 08-24:** Complainant was involved in a hit-and-run. He complained about the manner in which the officer conducted himself. Commissioner Lundkvist moved that there was insufficient evidence to prove the complainant's allegations. Commissioner Kaiwi seconded the motion, and it carried unanimously.

STATEMENTS FROM THE PUBLIC ON AGENDA ITEMS – None.

ANNOUNCEMENTS

- Vice Chair Whittemore announced that the Police Commission's next monthly meeting would be on September 19, 2008, at 9:00 a.m. at the Department of Liquor Control in the Hilo Lagoon Centre, 101 Aupuni St., Suite 230, Hilo.
- Collection of files and documents – Done.
- Commissioner Lundkvist stated that she would like to invite the commissioners to her home for lunch after the September or December meeting.
- Ms. Pelayo stated that a tour of the Criminal Investigation Division is scheduled for September after the meeting.

ADJOURNMENT

The meeting was adjourned 1:00 p.m.

SUBMITTED:

Josie Pelayo

Josie Pelayo, Secretary

APPROVED:

Thomas P. Whittemore

Thomas P. Whittemore, Vice Chair