

**HAWAII COUNTY POLICE COMMISSION
REGULAR SESSION MINUTES
SEPTEMBER 19, 2008
DEPARTMENT OF LIQUOR CONTROL, HILO**

INVOCATION

Commissioner Kaoiwi gave an invocation.

CALL TO ORDER

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

ROLL CALL

Present:	Pudding Lassiter, Chair	Also Present:	Lawrence K. Mahuna, Police Chief
	Thomas P. Whittemore, Vice Chair		Harry S. Kubojiri, Deputy Chief
	Richard J. Behenna, Commissioner		Paul Ferreira, Assistant Chief
	Louis Kaoiwi, Commissioner		Derek Pacheco, Assistant Chief
	Karolyn P. Lundkvist, Commissioner		Henry Tavares, Assistant Chief
	Melvin S. Morimoto, Commissioner		Melvin Yamamoto, Detective
	Anita Politano Steckel, Commissioner		Lincoln S. Ashida, Corporation Counsel
	Michael B. Sumja, Commissioner		Josie Pelayo, Secretary

APPROVAL OF AGENDA

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

STATEMENTS ON AGENDA ITEMS

JOSEPH BARROZA stated that he is a candidate for mayor. As a senior citizen, he has seen a lot, and it's time for him to step up. He saw the police arrest someone who was sick. The police jumped the guy. The person only needed medical. They should have called the paramedics instead of police. He would rather call the fire department. They handle it better. Mr. Barroza was given a complaint form.

APPROVAL OF MINUTES

Commissioner Lundkvist moved to approve the minutes of August 22, 2008, regular and executive sessions. Vice Chair Whittemore seconded the motion, and it carried unanimously.

PERSONNEL ORDERS

Commissioner Politano Steckel moved to accept Personnel Orders Nos. 2008-077 to 2008-88. Commissioner Lundkvist seconded the motion, and it carried unanimously.

COMMUNICATIONS

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

COMMITTEE REPORTS

- **Budget and Finance (Whittemore/Kaoiwi):** Vice Chair Whittemore reported that they just received a notice to submit the commission's 2009-10 budget. They will work towards a status quo budget.
- **Office Management and Staffing (Lassiter/Morimoto):** No report.
- **Rules and Policies (Behenna/Sumja):** Commissioner Sumja reported that he and Commissioner Behenna did a preliminary review of the commission's rules and they have identified areas where changes might be advised. They requested that the Chair send a letter (which they drafted) to the commission members, the Chief of Police, and Corporation Counsel requesting their ideas about possible rule changes. They would like to have this done by November 15. Their timeline is spring 2009. He and Commissioner Behenna will be going to the NACOLE conference to learn more about what other oversight bodies are doing.
- **Contractual Services (vacant):** No report.
- **Public Relations/Information (Lassiter/Behenna):** Commissioner Politano Steckel stated that she would like to continue working on the fallen police officers' monument and asked for assistance from other commissioners.

CHIEF'S REPORT

Including:

- **Crime:** Assistant Chief Tavares reported that they started a highly successful criminal enforcement unit whereby five officers selected from various watches focus on problems in the districts. They work various hours on a rotation basis. The operation is both covert and openly visible. A lot of officers are striving to be selected and feel that it is an honor to do this even though there is no pay increase.
- **Traffic:** Assistant Chief Pacheco reported that traffic accidents, fatalities, and DUIs are down. The Traffic Enforcement Unit has been selected for a State DUI award. Commissioner Kaoiwi stated that he had the opportunity to observe a roadblock in Pepeekeo during Labor Day. He commended the roadblock team for their good work.
- **Personnel:** Assistant Chief Ferreira reported having 11 sworn and 6 civilian vacancies. The next recruit class is scheduled to go out on December 17. They are targeting Nov. 16 to start the next recruit class. That would make them fully staffed. July 1999 was the last time the department was fully staffed.
- **Finance:** Accountant Kay Nishibayashi entertained questions regarding the budget. She stated that the Mayor's request to reduce the budget was only for this fiscal year. She believes they have enough funds for overtime for the rest of the year.

- **Commendations:** Chief Mahuna reported receiving 11 commendations since the last meeting. It seems that their level of commendations has risen.
- **Other Departmental Activities**
Chief Mahuna responded to Mr. Barroza's earlier comments. He stated that the police department is a law enforcement agency, not medical. When they respond, they observe the situation and act accordingly.

Chief Mahuna reported that they will be transitioning to a different semi-automatic weapon. Officers will be trained and re-certified for it.

The new communication system will cost about \$89 million. They have been in contact with the feds and coast guard about co-sharing, but they would have to come up with the lion's share of the cost. They currently have an analog/VHS system that is 35 years old, and parts are almost impossible to get. Manufacturers usually guarantee parts for up to 15 years. He may be able to get Clayton Yugawa of Data Systems to give the commission a briefing on the system. In 2013 they have to go to a narrow band. There is no way they could narrow band the system they now have. By law, he is prohibited from using asset forfeiture monies because it will be used by other agencies. It would probably have to be financed by a bond. They believe the 800 system is the way to go.

Chief Mahuna requested executive session to discuss a personnel matter.

Recess was called at 10:00 a.m. The meeting reconvened at 10:15 a.m.

EXECUTIVE SESSION

Commissioner Kaiwi moved to meet in executive session to discuss a personnel matter affecting the privacy of an individual and whereby a closed session was requested pursuant to the Hawai'i County Charter Chapter 2, Section 13-20 (b). Commissioner Lundkvist seconded the motion, and it carried unanimously. Executive session convened at 10:16 a.m.

Regular session reconvened at 10:30 a.m.

INVESTIGATION AND DELIBERATION OF COMPLAINTS

STATEMENTS ON COMPLAINTS (open to the public)

OFFICER WILLIAM BROWN (COMPLAINT HPC 08-18) stated that he was assigned by central dispatch to a domestic abuse in Mt. View. An assault had occurred. The victim gave information that she was slapped, choked, and pushed around. The suspect was her adult boyfriend. They proceeded to the house. They made contact with a female, the complainant. They told her why they were there. They asked if the suspect was home. They asked for consent to enter the home. The complainant is a resident, a tenant of the home. They asked if she lived there. She said yes. She did not acknowledge that the suspect was there. She let them in. They identified themselves and let her know of the severity of the situation. They did not have a search warrant. They had reasonable belief

that the party was there. If she denied them access, then they would have had to look for another avenue. They found the suspect in the complainant's bedroom. Officer Kelii informed her of the offense. He identified himself, and he was in uniform. She had called his rank and complained that the father of the suspect had complained about the situation. All three officers were there at the same time.

OFFICER SEAN PHELAN (COMPLAINT HPC 08-22) stated that his only involvement with the case was that he transported Mr. Enos. When he arrived, Enos was handcuffed. He was escorted to the blue and white by two other officers. Enos was not compliant and was fighting. He assisted the other officers in trying to get him into the vehicle. Enos continued to push back on them. They had to use some force to get him in the vehicle. He refused to listen to their commands. Once he sat in the vehicle, he became compliant. When putting Enos in the vehicle, he noticed, what he calls, road rash on his elbow, shoulder, and cheek. Enos had the injuries prior to him arriving. He did not complain about his injuries. When they got to the station, he was very compliant. The cellblock officer offered him medical assistance.

ERIK SMITH (COMPLAINT HPC 08-25) stated that he was at the Prince Kuhio shopping center when the security guard asked him to leave. He went to Quiznos and got a bottled water. He saw the security guard in the parking lot. A police officer came over asked why he was asked to leave the shopping center. An officer told him, "You know you're not going to get arrested." A second officer came, and he was in an angry mood, militant, and forceful. He was trying to relax and raised his hand, like, "Whoa." The officer pulled him out of his chair and tripped him. He must have grabbed him. He had some bruises. He didn't say, "You're under arrest." He just grabbed him. He hit his head. He was dripping blood every where. The officer put his boot on his head. He chipped his tooth. Upon questioning by commissioners, he stated that while at the cell phone company, he knocked some papers over when someone cut in line. The security guard asked him to leave the mall. He was upset because he had to leave the mall and couldn't get his cell phone. When he left the mall, he was cleaning his nails with a pocket knife. His main complaint about the officer is that he didn't read him his rights and the other officer was totally forceful. He was in jail for two days. He had his dog with him, but never got it back. They said it was at the Humane Society.

EXECUTIVE SESSION (closed to the public)

Commissioner Lundkvist 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 had been requested by 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 2:25 p.m.

ACTION ON EXECUTIVE SESSION MATTERS

- **Complaint HPC 08-18:** Complainant alleged that when officers came to her house for an assault complaint, they did not show identification, asked her to open a locked gate, and did not have a search warrant. Commissioner Lundkvist moved that there was insufficient evidence to prove the complainant's allegations. Commissioner Morimoto seconded the motion, and it carried unanimously.
- **Complaint HPC 08-21:** Complainant alleged that an officer did not have probable cause for a traffic stop, followed him home, and then used the electronic control device on him. Commissioner Kaiwi moved to refer the complaint to the Chief for an investigation by Internal Affairs. Vice Chair Whittemore seconded the motion, and it carried with ayes by Kaiwi, Lundkvist, Whittemore, Lassiter, and Sumja. Nays were called by Behenna, Morimoto, and Politano Steckel. Commissioner Behenna also moved that the complaint be referred to the Chief for customer service, procedural, and operational concerns as presented in the complaint. Vice Chair Whittemore seconded the motion, and it carried unanimously.
- **Complaint HPC 08-22:** Complainant alleged that officers beat him during his arrest. Commissioner Kaiwi moved that there was insufficient evidence to prove the complainant's allegations. Vice Chair Whittemore seconded the motion, and it carried unanimously.
- **Complaint HPC 08-23:** Complainant alleged that officers did not respond immediately about her children's father breaking a TRO, and that he was released after his arrest. Ms. Pelayo reported that the complainant has withdrawn her complaint. Since filing the complaint she has spoken to the police and has a better understanding of the situation.
- **Complaint HPC 08-25:** Complainant alleged that during his arrest, he was pushed to the ground and his head stomped on. Commissioner Lundkvist moved that there was insufficient evidence to prove the complainant's allegations. Commissioner Morimoto seconded the motion, and it carried unanimously.
- **Complaint HPC 08-26:** Complainant alleged that the Hawai`i State Police Force is harassing him through a network of radio waves. Commissioner Lundkvist moved that there was insufficient evidence to prove the complainant's allegations. Vice Chair Whittemore seconded the motion. *Discussion:* Commissioner Morimoto stated that he would like to decline further investigation because it is speculative or purely hypothetical and not based on facts. Commissioner Behenna agreed and stated that this is not within their jurisdiction and they have no control over state police or airways. The motion carried unanimously.
- **Complaint HPC 08-27:** Complainant alleged that an officer questioned her minor daughter at school without first contacting her. Commissioner Kaiwi moved to refer the complaint to the Chief for customer service, procedural, and operational concerns as

presented in the complaint. Vice Chair Whittmore seconded the motion. *Discussion:* Commissioner Behenna stated that the officer got his instructions from JAS and made the matter more complicated. Procedures do not seem to have been followed. The officer relied on JAS to tell him what to do. Commissioner Lundkvist stated that both parents knew about their relationship. Corporation Counsel Ashida stated that the JAS detective had recently been promoted and may not have gotten proper training. Anytime there is a report of a sexual assault of a juvenile, all interviews of children are at the children's justice center, unless of circumstances such as hospitalization. A 12-year old and a 15-year old were bumping and grinding at school. According to Hawai'i law, this is not illegal. If it were a 16-year old, it would be a crime. The officer made a big case out of something that should not have been.

- **Complaint HPC 08-28:** Complainant alleged that an officer harassed and threatened him because of a personal matter. Commissioner Lundkvist moved that there was sufficient evidence to prove the complainant's allegations. Commissioner Morimoto seconded the motion, and it carried unanimously. Corporation Counsel Ashida was asked to send a letter to the Chief addressing the commission's concerns.

STATEMENTS FROM THE PUBLIC ON AGENDA ITEMS – None.

ANNOUNCEMENTS

- Corporation Counsel Ashida stated that the commission should go through the police department for business cards. Ms. Pelayo will requisition the business cards for Commissioners Behenna, Politano Steckel, and Sumja. The cards will have the county seal and term dates.
- Chair Lassiter announced that the Police Commission's next monthly meeting would be on October 17, 2008, at 9:00 a.m. at the Kona Department of Liquor Control, 75-5722 Hanama Place, Suite 1107, Kailua-Kona.
- Collection of files and documents – Done.

ADJOURNMENT

The meeting was adjourned at 2:40 p.m.

SUBMITTED:

Josie Pelayo

Josie Pelayo, Secretary

APPROVED:

Pudding Lassiter

Pudding Lassiter, Chair