

**HAWAII COUNTY POLICE COMMISSION
SPECIAL MEETING
REGULAR SESSION MINUTES
FEBRUARY 12, 2004
AUPUNI CENTER CONFERENCE ROOM**

CALL TO ORDER

Chair Hara called the meeting to order at 9:30 a.m.

ROLL CALL

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

A quorum was present.

APPROVAL OF AGENDA

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

STATEMENTS ON AGENDA ITEMS

GABRIEL MALANI business agent for the Hawai'i Chapter of SHOPO came before the commission and stated that he heard that the commission would be implementing changes and would be asking the police department for personnel records. SHOPO's position is that they will do whatever is necessary to block this through grievance or court procedures. SHOPO looks at the police commission as having a very simple task, to forward the complaint to the police department or to exonerate the officer. They believe that asking for personnel files is against the officer's rights. Under Article I of the SHOPO contract, the employer agrees that it shall consult with the union prior to the final formulation and implementation of personnel policies and practices affecting the employee relations on wages, hours, or conditions of his employment. He pointed out that he spoke of personnel records, not personal records.

UNFINISHED BUSINESS

Recommended procedures for investigating citizen complaints.

CHAIR HARA stated that when looking at the charter, he found that the commission's basic function is to receive citizen complaints on possible police misconduct. They are lay representatives of the community and do not have the background in the legal system that one commissioner has. He believes it is important that they continue being at the level of lay because they all have varied backgrounds. His personal feeling is that they keep out of the administrative operation of the department and focus on their primary duty which is to receive citizen complaints.

COMMISSIONER MOE stated that they are an oversight commission and should not be an investigative unit. Investigations should lie with the police department, and the police commission, as a civilian body, should oversee the conduct and review their findings.

CHAIR HARA stated that that was one of the suggestions in the draft.

COMMISSIONER BERTSCH stated that it's a great idea to reassess the policies and procedures of the commission's operations. They need to come up with the solution that everybody can work with and be comfortable with.

VICE CHAIR MANAGO stated that when the commission makes a decision, and the department comes up with a different decision, they need feedback as to the reason for the decision. They all want fairness for the officers. They need to take personalities out of their decision-making because commission membership, as well as the police chief, will change. They will also need input from SHOPO.

COMMISSIONER MITCHELL stated that they have seen the same officer doing the same thing to the public, and would like this corrected with training. They want information so that they can make a decision that is good for the officer and the public.

COMMISSIONER DE SILVA stated that they, as lay people, have had almost no training. No one trains them on civil service laws, Chapter 92, or the General Orders. They come in as commissioners and have no training. They want to be involved with having a check and balance on what the police department does. He read the IAU reports and came away impressed and having greater confidence. If they receive the proper training, then they can work with the police to make changes.

COMMISSIONER BERTSCH asked for input from the Chief.

CHIEF MAHUNA stated that they've all gotten the bad rap as to what happened in previous administrations but would like to move on. He has a budget that is almost impossible to run a police department. His training budget has always been cut. Commissioner Mitchell asked what kind of training people get after being found guilty of a certain infraction. Discipline is considered part of training. But, when the budget is cut to the point where it's difficult to conduct in-service training on current laws, policies, procedures, it's very difficult for to come up with proactive ways to minimize conduct. In the fourteen months that he has been Chief, they have taken tremendous strides as far as dispensing discipline. Problem officers have gotten letters about changing their behavioral pattern and the possibility of termination. SHOPO also agrees that a bad officer not only hurts the public, but also hurts individuals that have to work with that person. He recognizes that there is a need for change, but change for change itself is wrong. Change that has a specific objective and specific purpose is right. They do not want to take away the public's choice of going to the police commission with a complaint. If the commission sees an officer over and over again with a pattern of some sort, he would like to know about it and nip it in the bud.

COMMISSIONER DE SILVA stated that their purpose at this meeting is to make their recommendations to the department and SHOPO, not to negotiate with them. He reviewed the draft and clarified questions that the commissioners had.

COMMISSIONER BERSTCH stated that he has a tremendous amount of trust in the police department and IA to do investigations. If the commission feels that IA did not do a good job, then they could refer it to their investigator.

COMMISSIONER DE SILVA stated that he reviewed the IAU files and found the commission's investigative reports prominently in the files. The investigators relied on the commission's investigations. He believes that the current system is fine, but wants the ability to look into the files.

VICE CHAIR MANAGO motioned to vote for Proposal #1. Commissioner de Silva seconded the motion.

Discussion:

COMMISSIONER MOE spoke against the motion, stating that Proposal #2 has a lot of opportunity to do a good job.

COMMISSIONER BERTSCH spoke against the motion. He stated that they have faith in IA. Proposal #2 has a cleaner approach to handling it, and leaves less to subjectivity.

VICE CHAIR MANAGO stated that being independent of the police department is very important. If they use an independent entity, citizens cannot say the police department had a hand in their decision.

COMMISSIONER BERTSCH stated that they are not eliminating the arm of the private investigator. They are actually gathering more information by using IA as a tool, then exercising their ability to privately investigate.

VICE CHAIR MANAGO stated that the majority of their decision will be based on what IA tells them. That is an arm of the police department. Their decision should not be an influence of the police department. An independent arm would give the citizens a better feeling of not having an influence of the police department. In previous administrations, there was a perception of them protecting their own. He's not dealing with personalities. He's dealing with concepts.

The motion carried with ayes by Commissioners Frazier, de Silva, Mitchell, Manago, and Lambeth. Commissioners Bertsch and Moe vote nay.

CHAIR HARA stated that once the procedures are set, they would like to have it published and made available at every police station.

CHIEF MAHUNA stated that he would like a legal opinion regarding #6. For #11, he would like to do it for a year and come back with recommendations.

CHAIR HARA stated that for #13, he would rather have a statement that appropriate disciplinary action was taken rather than the specific discipline. Commissioner de Silva asked how they would know if the discipline was fair. Chief Mahuna stated that he would like Corporation Counsel's opinion on this.

CHIEF MAHUNA stated that in #12, if a police commissioner is present, shouldn't that person be able to explain to the rest of the commission.

CHAIR HARA stated that #13 could be a written response.

COMMISSIONER DE SILVA will make the recommended changes for the next meeting.

MR. MALANI stated that he has seen a lot that violates their contract. The bottom line is that they have to confer.

CHAIR HARA asked Mr. Malani to discuss the commission's recommendations with their membership. He also invited Mr. Malani to the next meeting scheduled for February 20.

Lunch recess was called at 12:12 p.m.

The commission reconvened at 1:45 p.m. Commissioner Moe was not present.

EXECUTIVE SESSION

Commissioner Lambeth motioned to meet in executive session pursuant to HRS 92-5 (a) (8), to deliberate or make a decision upon a matter that requires the consideration of information that must be kept confidential pursuant to a state law. Vice Chair Manago seconded the motion, and it carried unanimously.

The commission convened into executive session at 1:46 p.m.

- Request for Proposal No. 2097: Furnishing investigative services for the Hawaii County Police Commission – Interview applicants and deliberate.

The commission reconvened into regular session at 3:20 p.m.

ACTION ON EXECUTIVE SESSION MATTERS

Selection of Investigator for Request for Proposal No. 2097.

COMMISSIONER FRAZIER motioned to select applicant #3. Commissioner Bertsch seconded the motion, and it carried with ayes by Frazier, Mitchell, Bertsch, Lambeth, and Manago. Hara and de Silva recused themselves, although Hara was excused before applicant #3 was interviewed.

COMMISSIONER DE SILVA motioned that the Police Commission request an opinion from the Corporation Counsel relating to how the Police Commission can obtain subpoena power, in addition to that it currently possesses for contested cases, to compel the attendance of witnesses before the Police Commission and to compel the production of documents and things. Commissioner Mitchell seconded the motion, and it carried unanimously.

COMMISSIONER FRAZIER stated that Purchasing will be notified of the commission's decision and thank you letters will be sent to those interviewed.

STATEMENTS FROM THE PUBLIC ON AGENDA ITEMS - None

ANNOUNCEMENTS

Vice Chair Manago announced that the next monthly meeting is scheduled for February 20, 2004, at 9:00 a.m., at the Waimea Civic, next to the Police Station.

ADJOURNMENT

The meeting was adjourned at 3:25 p.m.

SUBMITTED:

APPROVED:

JOSIE PELAYO, SECRETARY

HORACE S. HARA, CHAIR