

**HAWAI'I COUNTY POLICE COMMISSION  
MINUTES – REGULAR SESSION  
MARCH 14, 2003  
HILO POLICE STATION TRAINING ROOM**

**CALL TO ORDER**

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

**ROLL CALL**

Present:	Horace S. Hara, Chair	Also present:	Lincoln S. Ashida, Corporation Counsel
	Dwight K. Manago, Vice Chair		Lawrence K. Mahuna, Chief of Police
	John M. Bertsch, Member		Wendell Paiva, Assistant Chief
	Paul M. de Silva, Member		Charles Chai, Assistant Chief
	Phoebe M. Lambeth, Member		James Day, Major
	Betsy Mitchell, Member		Josie Pelayo, Secretary
	Walter Moe, Member		

Absent: Peter P. Muller, Member

A quorum was present.

**APPROVAL OF AGENDA**

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

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

Corporation Counsel Ashida informed that the public may give statements on any agenda item, following which the commission will go into closed or executive session for more testimony. Normally, this involves complaints against police officers and if the officer consents to a closed session.

DEL PRANKE stated he spoke to Ms. Pelayo prior to the meeting and was informed that meetings at the police station have been rescheduled elsewhere. He came in an hour prior to the meeting, and the room and the parking area was not secured. This is a security problem.

They will be getting \$4 million from the feds to deal with the crystal meth situation. He is on a committee with the Mitch Roth of the prosecuting attorney's office to come up with new ideas. He hopes that part of this money will be used for a drug-testing lab on this island. People get arrested, but it takes 2-3 months to get the drugs tested on Oahu, and the people are back out on the street the next day. Having a drug-testing lab here would be a great asset and a good way to stop some of the drug problems.

Regarding the agenda, Mr. Pranke stated that there was no such thing as an executive session. The state law requires that the date, time, and place for an executive meeting be stated, same as any other meeting. There is no provision for an executive session in the state law. The executive sessions on the agenda are legally wrong. He asked the commission not to have its executive meeting that day.

ROGER CHRISTIE stated that he has three items on the agenda. Correspondence 03-13 is called ICE and Other Methamphetamine Use: An Exploratory Study. He stated that the marijuana eradication program on the Big Island has led to the methamphetamine epidemic. For the record, he wants to put on the table that if this is in fact the cause of the ice epidemic, that they uncause it by removing the marijuana eradication program from the police funding in the coming year.

Regarding Correspondence 03-12, he found it in the Guardian newspaper. It states that Jesus used cannabis in his holy anointing oil. He thinks they are going in the wrong direction with the war on drugs here. The more fear and punishment there is for drug abuse, the worse the problem gets.

Regarding Correspondence 03-14, in 1970 while in the army, he came across the phrase "ethno specific biological weapons." About seven years later he started seeing in the news that the aids virus was named that and was starting to appear around the United States. In this age of terrorism, when the federal government wants to vaccinate first responders and have citizens line up and take a mandatory smallpox vaccine or other vaccinations, it is sound judgment to question authority before taking any government shot for any reason. It's possible that in 1969, the United States spent tax dollars to create a man-made biological weapon known as the aids virus, a weapon of mass destruction. He called the police, fire, and civil defense to protect them.

DR. LEONARD HOROWITZ stated that he was there with a blessing of information that may be life saving. He is the author of the book, Emerging Viruses--Aids and Ebola. It has been reported that maybe 1% of the health care professionals nationwide have signed on to get mandatory smallpox vaccination.

The thesis that the aids virus is an ethno specific weapon is valid. His book, Emerging Viruses, states information from Correspondence 03-14 that appropriations were funded specifically for an immune system ravaging microbe. He followed the money, paper trail, and the scientific literature that led him to companies and individuals that created numerous aids-like and Ebola-like viruses about 15 years before the same people that produced them allegedly discovered it. Information is documented on a website called originofaids.com. He is concerned that populations that are being vaccinated and given tuberculosis skin testing may be injected with ethno specific weapons.

In response to questions from commissioners, Mr. Horowitz stated that this information has been publicized in his book. They have a database of 8,500 members of the mainstream media to which they send out press releases regarding bio-terrorist threat issues. He has a doctorate in medical dentistry and is licensed to practice in New York and Massachusetts. He moved here because he was literally directed by the great creator to be here.

BARBARA NAKAMOTO spoke on Complaint HPC 02-65. She has had many problems with her son-in-law who took out two TROs against her. One was dismissed when she went to court in Keaau. People who were renting the upstairs were moving out, and the furniture in

that home belonged to her. The TRO was on her, and she could not go on the premises, so, on the day they left, she hired people to move the furniture. Her son-in-law called the police, and under Captain Osorio's instructions, the officers made them take the furniture back to the home. She feels that she was arrested unnecessarily. She had done nothing to be arrested. She wants her named cleared and to get back the money she paid to the movers.

In response to questions from Commissioner de Silva, Mrs. Nakamoto stated that her daughter owns the house. She was married when she bought the house. She used her own earnings, and her husband had nothing to do with the house. The furniture came with the house. She was not aware that if a couple is married, and one person spends his income to purchase furniture that the furniture belongs to the husband and wife jointly.

Commissioner Manago read the portion of the TRO that stated: "You or anyone acting on your behalf are ordered as follows: "Do not visit or remain within 100 yards of any place where the plaintiff lives or works." The order was set on December 17, expires on March 5, and the incident happened on December 21, after the TRO was issued. According to the documents she violated the TRO by sending someone to the house that was listed on the TRO. The officer had the right to arrest her for violating the TRO.

Mrs. Nakamoto explained that there were two TROs, one she went to court for, and it was dismissed. The one that was ongoing at the time that she hired the people to get my stuff did not state that. She further stated that during the four-month ordeal, she met almost all of the officers, and they were all very kind and nice. Her specific complaint is that Captain Osorio should not have instructed the officers to arrest her.

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

Vice Chair Manago moved to consider discipline and charges against officers or employees of the Hawai'i County Police Department where consideration of matters affecting privacy will 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 Lambeth seconded the motion, and it carried unanimously.

DEL PRANKE stated that an executive session was not allowed in the Sunshine Law, although there is an executive meeting.

CORPORATION COUNSEL ASHIDA stated that there is a section in the Charter, Section 13-20 that allows it, and the Charter is consistent with the Sunshine Law. Under HRS 92-5 (A) (2), the Sunshine Law states that the board may hold a meeting closed to the public to consider the hire, evaluation, dismissal, or discipline of an officer or employee or of charges brought against that officer or employee. The agenda indicates that the meeting is for Friday, March 14, 2003, at 10:00, at the Hilo Police Station.

Mr. Pranke stated that the public meeting had been noticed, but not the executive meeting.

Corporation Counsel Ashida stated that the law allows them to go into executive session. They both have a different opinion of the interpretation of the law, so he suggested that they ask OIP to render an opinion.

Commissioner Lambeth motioned for a recess. Commissioner Bertsch seconded the motion, and it carried unanimously.

Recess was called at 10:50 a.m. The commission convened into executive session at 11:13 a.m. The commission reconvened back into regular session at 11:20 a.m.

### **APPROVAL OF MINUTES**

Commissioner Lambeth moved to approve the regular and executive session minutes of February 21, 2003. Vice Chair Manago seconded the motion, and it carried unanimously.

### **PERSONNEL ORDERS**

Commissioner Lambeth moved to accept Personnel Orders Nos. 2003-025 to 2003-031. Vice Chair Manago seconded the motion, and it carried unanimously.

### **COMMUNICATIONS**

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

Regarding Correspondence 03-16, the Hawai'i County Cost of Government Commission Report, Corporation Counsel Ashida expressed concern over the recommendation to combine the Fire and Police Commission into one Public Safety Commission since both have different functions.

Commissioner de Silva moved that the Chair send a letter to the Mayor stating the commission's opposition to combining the Fire and Police Commissions into one Public Safety Commission. He also stated, parenthetically, that the day they do that is the day he submits his resignation. Commissioner Moe seconded the motion, and it carried unanimously.

### **COMMITTEE REPORTS**

- Budget and Finance (Hara/Manago)

- Recommendations to the County Council on the 2003-2004 Budget

- The written recommendations were distributed, and Vice Chair Manago presented the recommendations and justifications for allocating \$200,000 to the training budget, allocating \$500,000 to the new equipment budget, funding of 10 training positions per year, and funding of 6 new positions for the special hard drug task force. Also recommended were new police stations for the Puna and South Kona Districts.

- Commissioner Moe moved to support and approve the recommendations. Commissioner Lambeth seconded the motion, and it carried unanimously.

DISCUSSION: Commissioner Moe inquired into whether the department had discussed land availability with Shipman for the new police station in Puna. Chief Mahuna stated that Shipman would make the land available at no cost to the County. However, statistics indicate that lower Puna is where most crimes are located, so they would like to move the station further down the road on Route 130 around the 6-7 mile marker. Shipman's property goes to the 3-mile marker.

Commissioner Bertsch inquired as to why they were requesting 10 training positions when they have historically lost 15 officers a year. Chief Mahuna responded that 5 positions are usually command positions and 10 are lower ranking positions.

- 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) – The committee had no report.
- Public Relations (Hara/Lambeth) – The committee had no report.

### **CHIEF'S REPORT**

- Crime: Assistant Chief Paiva summarized the written report. Commissioner Moe asked that they identify Puna in the report.
- Traffic: Major Day summarized the written report.
- Personnel: Chief Mahuna introduced Charles Chai, the newly appointed Assistant Chief of Administration, who summarized the written report.
- Finance: Accountant Nori Ishii summarized the written report.
- Commendations: Chief Mahuna reported receiving eight commendations since the last meeting.
- Other Departmental Activities: Chief Mahuna reported that they are looking at the records management system coming on line soon, and local area networks have been set up.

The \$10 million digital microwave system should start by the middle of next month. They will retrofit all of their microwave-powered repeaters to 6 gigahertz digital.

They have embarked on strategic planning training sessions which include all commanders, and they have developed specific vision and mission statements (copies distributed). It is concise, to the point, and envisions all of the things that they want in this community. It also takes on the community policing philosophy. They tried to emphasize the spirit of aloha because it is something that is unique to Hawaii and the Big Island.

An "ice hotline" will soon be in place, and someone trained in vice activities will answer it. The Big Island ranks #1 in ice use of 8<sup>th</sup> to 12<sup>th</sup> grade students. They will further report on the problem at the next meeting.

They have recently responded to complaints of drivers on the Queen K Highway going 80-90 mph and passing on the right. Officers are now being mandated to do checks and take preventative and proactive measures.

**UNFINISHED BUSINESS:** None

**NEW BUSINESS**

Correspondence 03-17, Mayor Kim's request for the commission to discuss the location of the commission's meetings. Chair Hara reported that he took it upon himself to move the remaining three meetings scheduled for the police station to: June 20 – Hilo Hawaiian Hotel and September 26 and December 19, to the County Council room. He explained that the commission's regular monthly meetings are set for the third Friday of the month, but many times the County Council room is reserved for council or departmental meetings. When meetings are held at the station, officers can continue working while waiting to be called to make a presentation to the commission. Commissioner Lambeth moved to approve the new meeting locations. The motion was seconded by Commissioner Bertsch and unanimously carried.

**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 will 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 12:25 p.m. and reconvened back into regular session at 12:53 p.m.

**ACTION ON EXECUTIVE SESSION MATTERS**

- Investigation and Deliberation of Complaints  
Complaint HPC 02-63: Complainant alleged that an officer confiscated her bracelet for which she has a receipt. Commissioner Lambeth moved to exonerate the officer on the charges of standard of conduct and performance of duty. Commissioner Moe seconded the motion, and it carried unanimously.

Complaint HPC 02-65: Complainant was arrested for violating a TRO. She alleged that she should not have been arrested, and should be reimbursed for costs incurred. Vice Chair Manago moved to defer the complaint to the next meeting in order for the commission to review additional documents. Commissioner de Silva seconded the motion and it carried unanimously.

Complaint HPC 03-03: Complainant alleged that an officer harassed her by questioning her about a vehicle accident three times in one night at her place of employment. Commissioner Lambeth moved to decline further investigation of the complaint because it was received more than 60 days from the date of the incident. Vice Chair Manago seconded the motion, and it carried unanimously.

Complaint HPC 03-04: Complainant alleged that while being questioned at the police station, he saw a picture of himself with an unprofessional notation on it. Commissioner Bertsch moved to sustain the charge of conduct towards the public against an unidentified employee. Commissioner Lambeth seconded the motion, and it carried unanimously.

**STATEMENTS FROM THE PUBLIC** - None

**ANNOUNCEMENTS**

Chair Hara announced that the next monthly meeting is scheduled for April 11, 2003, at 10:00 a.m., at the Waimea Civic Center. He also reminded the commissioners of the State of Hawaii Police Commissioners' Conference in Honolulu, April 24-26.

**ADJOURNMENT**

The meeting was adjourned at 1:05 p.m.

SUBMITTED:

APPROVED:

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JOSIE PELAYO, SECRETARY

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HORACE S. HARA, CHAIR