

**HAWAI'I COUNTY POLICE COMMISSION
REGULAR SESSION MINUTES
APRIL 16 2004
OHANA KEAUHOU BEACH RESORT**

CALL TO ORDER

Chair Hara called the meeting to order at 9:03 a.m.

ROLL CALL

Present:	Horace S. Hara, Chair	Also Present:	Lawrence Mahuna, Chief
	Dwight K. Manago, Vice Chair		Harry Kubojiri, Deputy Chief
	John M. Bertsch, Commissioner		James Day, Major
	Paul M. de Silva, Commissioner		Lincoln Ashida, Corporation Counsel
	James A. Frazier, Commissioner		Josie Pelayo, Secretary
	Pudding Lassiter, Commissioner		
	Betsy Mitchell, Commissioner		
	Pete Muller, Commissioner		

APPROVAL OF AGENDA

Commissioner Mitchell motioned to approve the agenda. Vice Chair Manago seconded the motion. Discussion: Vice Chair Manago asked to add correspondence from Solutions 2004 regarding the Neighborhoods in Action Conference onto the agenda and to label it 04-16. The motion carried unanimously with the addition of Correspondence 04-16.

STATEMENTS ON AGENDA ITEMS - Open to the public

(Corporation Counsel to give an explanation of statements.)

SCOTT GASTON, COMPLAINT HPC 04-04, came before the commission and summarized his written complaint. His daughter had been dating a 21-year old man and she tried to run away. They called the police department for assistance. An officer called back and told them not to do anything that they would regret. His wife intercepted the boyfriend's phone call giving their daughter his location. He caught the boyfriend and his wife called the police for assistance. While she was calling the police, the boyfriend ran away, so she told the police where they could intercept him. The police never came. His complaint is not against a specific officer but against the police department who let them down with their services.

OFFICER EDMOUNDSON, COMPLAINT HPC 04-02, came before the commission in response to a complaint filed by Elizabeth Hall who was involved in a traffic accident on January 5, 2004. Officer Aurello made contact with Mrs. Hall, and he contacted the other party. Two witnesses at the scene said they saw Mrs. Hall cross the white line. He determined that the witnesses were unbiased and based his report on their statements. They were very busy that night, and he did not talk to Officer Aurello until after their shift at about 11:00-11:30.

On January 11 Mrs. Hall contacted him and informed him that the report was wrong. She submitted a typewritten statement, and he made a supplementary report giving her side of the story. The witnesses came to him, and told him what they saw. He did not know the other party or the witnesses and was not trying to be partial. He does not remember putting his hand on his gun to intimidate them, and if he did, it was out of habit in the way he stands (showed example). The do not take photographs unless it's a fatality. He was not trained in skid marks and could not determine if they were made by Mrs. Hall. He was not trained in witness bias. He reviewed the report, his captain reviewed it, and he was not told to redo it.

He does not think he did anything wrong. They do not give citations for moving violations if they do not observe it. If there is a serious injury they may do an investigation. There were no serious injuries in this case. It is against general orders to give names of witnesses. According to the witnesses, Mrs. Hall was in the right turn lane and she crossed the white line. He had three witnesses in the other vehicle and two other witnesses who said she was in the right hand turn lane. Mrs. Hall said that she was not in the right hand turn lane and that the witnesses were wrong. He based his report on what the witnesses said. Usually vehicle #1 is more at fault. He put all his information in his notebook and finished his report at the station.

OFFICER TUCKLOY AURELLO, COMPLAINT HPC 04-02, came before the commission in response to this complaint. He responded to the accident, as did Officer Edmondson. At the accident scene, he only talked to Mrs. Hall, not the other witnesses. He gave her information to Officer Edmondson to fill out his report. Days later, Mrs. Hall came to see him and asked why she was listed at Vehicle #1. He told her to talk to Officer Edmondson because he didn't know what the other witnesses had said. He only spoke to Officer Edmondson about what Mrs. Hall had told him. Mr. Hall contacted him and asked why the other person was not cited. He told Mr. Hall that they don't cite unless they witness the violation.

MAJOR DAY explained that when drivers request a copy of a report, they only get their information, and the names of others are blackened out. The insurance company can obtain the report with a subpoena.

TIMOTHY HALL, Elizabeth Hall's husband came before the commission in his wife's absence. One of the persons in the accident had a neck fusion injury. His wife was injured. They are now being sued. Seven lawyers will not take their case because they were placed in box #1. The police said it was a civil matter, but they did not investigate and do their job. His wife was not in the turning lane. The people could have planted information in the witnesses. The officers were not unbiased. His wife's story was not in the report until one month later. Captain Dawrs told him that they couldn't take them out of box #1. He paid for his own accident reconstructionist.

OFFICER EDMOUNDSON came before the commission a second time to answer more questions. He stated that they did not conduct an investigation because when he talked to the people at the scene, none of them said they had injuries. However, because an infant was involved, they decided to go to the hospital for a check. The accident information exchange form is usually left blank when given to people.

LILLIAN BEAUFREERE came before the commission and spoke on Correspondence 04-16, Solutions 2004, Neighborhoods in Action. The conference will be held on May 1, 2004, from 8:00 a.m. to 4:30 p.m. at the Waikoloa Beach Marriott. They will be covering drug court, youth builders, traffic, animal control, and property crimes.

MICHAEL BARSELL, COMPLAINT HPC 04-08, came before the commission and summarized his written complaint against Officer Danny Freeman. The day after his last presentation to the commission, Officer Freeman, while off-duty, drove by his house. On January 17, 2004, as he was going home, he saw Officer Freeman at the stop sign at the corner of his block (Barsell's). Freeman glared and stared at him. The next day he served Officer Freeman a restraining order. He wants Officer Freeman to stay away from his residence. He has a video of Officer Freeman staring at him. His classification #4 is the criminal act of stalking.

STATEMENTS ON AGENDA ITEMS (EXECUTIVE SESSION) - Closed to the public
Vice Chair Manago motioned to meet in executive session 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 Muller seconded the motion, and it carried unanimously. Discussion: Corporation Counsel Ashida stated that the commission would be meeting in executive session to discuss Correspondence 04-11 from SHOPO which indicated that a lawsuit might be filed against the police department. This deals with potential litigation against the county, and state law allows this confidential attorney discussion. The motion carried unanimously.

The commission convened into executive session at 10:40 a.m. and reconvened back into regular session at 11:14 a.m.

APPROVAL OF MINUTES

Commissioner Frazier motioned to approve the minutes of March 19, 2004, regular and executive sessions with noted corrections. Commissioner Muller seconded the motion, and it carried unanimously.

PERSONNEL ORDERS

(Including but not limited to work assignments, training assignments, promotions, reallocations, severance from service, automobile allowances, and appointments.)

Vice Chair Manago motioned to accept Personnel Orders Nos. 2004-022 to 2004-034. Commissioner Frazier seconded the motion. Discussion: Commissioner Frazier recognized Officer Keoki Frias of District 9 for his good work as Officer of the Year. The motion carried unanimously.

COMMUNICATIONS

Vice Chair Manago motioned to accept Correspondence 04-10 to 04-16. Commissioner Muller seconded the motion, and it carried unanimously.

COMMITTEE REPORT

- Budget and Finance (Hara/Manago): The committee had no report.
- Office Management and Staffing (Muller/Mitchell). The committee had no report.
- Rules and Policies (Bertsch/de Silva):
Review of draft of revised rules: Commissioner de Silva stated that the draft was distributed to all members, but only Commissioner Frazier gave input. He included standards of conduct which he sent to the keynote speaker of the upcoming Police Commission Conference because it will be a topic of discussion. He would like to wait on the rules until after the conference.
- Contractual Services (Frazier): Commissioner Frazier stated that they received notice from county purchasing consummating the agreement with Dan Boe of Legal Eyes.
- Public Relations (Hara/Lassiter): The committee had no report.

CHIEF'S REPORT

Including:

- Crime: Major Day answered questions on the crime report. The only significant case was the murder investigation of Jonna Metter which should be going to the prosecutor soon.
- Traffic: Chief Mahuna reported that the majority of the accidents that resulted in fatalities have been caused by inattention and speed. The recent death of four people in Puna involved crystal meth. They are taking proactive measures such as putting officers on overtime on the Queen K Highway.

Chair Hara stated that getting the public involved with calling in reckless drivers will help to prevent accidents.

- Personnel: Major Day reported having 43 sworn and 10 civilian vacancies. Seventeen recruits will graduate in May.
- Finance: Major Day answered questions on the written financial report. The new accountant has been hired. They have had a lot of overtime due to weather problems and manpower shortage.
- Commendations: Chief Mahuna reported receiving 14 commendations since the last meeting. Due to their mission statement, he anticipates more commendations.
- Commanders' meeting minutes: Chair Hara stated that they did not receive a copy.
- Other departmental activities: Chief Mahuna reported that the County Council would be discussing the fleet vs. subsidized vehicle issue in Kona. The Legislative Auditor's report cited some old case experiments going back to 1973. They found that whether or not the cars were blue and white or whether the number of blue and white vehicles were increased, the citizens did not have any feeling that there were safer or that they had less of a fear of crime and that the crime trends did not go down. The county is looking at smart cars that have mobile data terminals that can retrieve information. However, they will need a digital microwave system for this, which they don't have. They will also need maintenance facilities for the fleet. He doesn't think the county could afford the vehicles at this point. They could put more blue and whites in areas like Kona where people want the visibility. Personally, he would rather spend the money in training. They will be attending a symposium on fleet cars and management. A procurement officer will also be attending to look at the numbers. They need to take a serious look at whether or not this will work and whether or not the county can afford these cars.

Chief Mahuna reported that in the past six months that the ice task force has been in operation, they have executed close to 1,000 warrants. It is noteworthy not only of the units but also of the individual efforts. They are looking at dismantling major operations and also anyone who takes over the operations. He has gotten many phone calls from people stating that they feel safer. They have made it clear to Senator Inouye that it's more than a law enforcement effort. They also need treatment facilities, programs that are compatible with ice usage, and they need to take a holistic approach.

Chief Mahuna stated that Solutions 2004 is a good idea. The police department needs to get more involved in community efforts to try and help people to police themselves.

Chief Mahuna asked for the commission's assistance in getting the county council to approve an increase in police officers. He wants to start the accreditation process which will take 2-3 years. He will need six full-time people to work on it, but he cannot short patrol by pulling officers to do the work. They are also working seriously on the South Kona and Puna stations.

Chair Hara asked Chief Mahuna to get together with his leadership and incrementally come up with their needs and timeline. The county council will not have money to fund the entire package in one fiscal year. If they know what is needed, it will be easier for the commission to lobby their council member.

Chief Mahuna asked for the commission's assistance in getting a document from all the police commissions supporting the constitutional amendment to Megan's Law. Perhaps this could be a topic for the commissioners' meeting next month.

Chair Hara reminded the commissioners of Police Week May 10-16 and a ceremony on Wednesday, May 12, at 11:00, at the Hilo Police Station.

Deputy Chief Kubojiri introduced the Captain Steven Guillermo, the new commander of North Kohala.

UNFINISHED BUSINESS

- Correspondence 04-9, Darlene Tomel's request to withdraw her Complaint HPC 03-31. Chair Hara stated that they would like to have a written withdrawal from the complainant. He asked Chief Mahuna for their assistance in contacting Ms. Tomel who was recently incarcerated on Maui. In the meantime, they will again have to defer her request for withdrawal. Commissioner Frazier asked to put a cap on the timeline if every effort is made to contact her. Chair Hara stated that they will defer this for another month, and if they are unable to contact her, they could accept her telephone request for withdrawal.

NEW BUSINESS

- Correspondence 04-10, Corporation Counsel Ashida's comments on the commission's Recommendations for Improvement to the Disciplinary System of the Hawai'i County Police Department. Commissioner de Silva motioned to defer this to the next meeting in Waimea. Commissioner Frazier seconded the motion, and it carried unanimously.
- Correspondence 04-11, from Corporation Counsel Ashida regarding a prohibited practice complaint filed by SHOPO. Vice Chair Manago motioned to defer this to the next meeting. Commissioner de Silva seconded the motion, and it carried unanimously.
- Correspondence 04-12, from Commissioner de Silva requesting an inquiry into the alleged attendance of two Hawai'i County Police Commissioners in a proceedings of the Administrative Review Board. Commissioner de Silva stated that his motion is on file and is a public record, so he will not read the entire motion. However, he amended the motion to read as follows:

Paragraph 8, . . . Improvement to the Disciplinary System of the Hawai'i County Police Department.

The Commission shall request:

- Written statements by any commissioners who may have attended the Administrative Review Board hearings in Kona on or about March 12, 2004, describing the facts and circumstances of the matter of inquiry to be submitted to the Police Commission at least 10 days before the next meeting in May.
- A written report by the Chief of Police or his designate describing the facts and circumstances of the matter of inquiry at least 10 days before the next meeting.

Commissioner de Silva motioned on the contents of his written motion. Commissioner Muller seconded the motion, and it carried unanimously. Commissioner de Silva stated that it is his understanding that inherent in the motion is the appearance of the commissioners and the chief at the next meeting so that they could ask questions on their statements. Chair Hara also asked that the Assistant Chief be present.

- Investigation and Deliberation of Complaints

HPC 04-02: Complainant alleged that two officers failed to maintain an impartial attitude towards her by putting her at fault in a vehicle accident. Chair Hara stated that Mrs. Hall is out of town and requested a deferral to the next meeting. Commissioner de Silva motioned to defer the complaint to the next meeting. Commissioner Lassiter seconded the motion, and it carried unanimously.

HPC 04-04: Complainant alleged that they called the police department for personal assistance, but no one came down to their home. Vice Chair Manago motioned to accept the complaint for further investigation. The motion was seconded by Commissioner Muller and unanimously carried.

HPC 04-08: Complainant alleged that an officer stared at him while he drove by and then passed by his house again. Commissioner Lassiter motioned to accept the complaint for further investigation. Vice Chair Manago seconded the motion, and it carried unanimously.

EXECUTIVE SESSION

Vice Chair Manago motioned to meet in executive session 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 Muller seconded the motion.

Discussion:

Chair Hara stated that they will be meeting in executive session to discuss Correspondence 04-14 from Chief Mahuna regarding fair compensation for EM personnel and the status of complaints referred to the chief.

Commissioner de Silva objected to having Correspondence 04-14 in executive session.

Chief Mahuna stated that the officer was not present, and he did not want to infringe on the officer's rights.

Corporation Counsel Ashida stated that if there were discussion about exact salaries of individuals, OIP has said that that is a matter of personal privacy.

The motion carried unanimously.

The commission convened into executive session at 12:07 p.m. and reconvened back into regular session at 12:25 p.m.

ACTION ON EXECUTIVE SESSION MATTERS

Correspondence 04-14: Vice Chair Manago motioned to defer this to the next meeting in order for Chief Mahuna to provide the commission with a structured plan for compensation of EM personnel. Commissioner Muller seconded the motion, and it carried unanimously.

STATEMENTS FROM THE PUBLIC ON AGENDA ITEMS: None

ANNOUNCEMENTS

Chair Hara announced that the next meeting is scheduled for May 21, 2004, at 9:00 a.m., at the Waimea Community Center, next to Waimea ballpark, across from Daniel Thiebaut Restaurant.

Chief Mahuna stated that he was just informed by Deputy Chief Kubojiri that Civil Service is working on a compensation package. He will try to get it for the next meeting.

ADJOURNMENT

The meeting was adjourned at 12:27 p.m.

SUBMITTED:

APPROVED:

JOSIE PELAYO, SECRETARY

HORACE S. HARA, CHAIR