

**HAWAII COUNTY POLICE COMMISSION
SPECIAL MEETING MINUTES – REGULAR SESSION
DECEMBER 10, 2004
AUPUNI CENTER CONFERENCE ROOM**

CALL TO ORDER

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

ROLL CALL

Present: Horace S. Hara, Chair
Chief

Dwight K. Manago, Vice Chair
John M. Bertsch, Member
Karolyn P. Lundkvist, Member
Betsy Mitchell, Member
Peter P. Muller, Member

Also Present: Lawrence K. Mahuna, Police

Harry S. Kubojiri, Deputy Chief
James Day, Assistant Chief
John Dawrs, Major
Paul Ferreira, Captain
Henry Tavares, Captain
Lincoln Ashida, Corporation Counsel
Josie Pelayo, Secretary

Absent: James A. Frazier, Member
Pudding Lassiter, Member

A quorum was present.

APPROVAL OF AGENDA

Vice Chair Manago motioned to place Correspondence 04-78, from Kaniu Segovia, under Unfinished Business and then to approve the agenda as amended. Commissioner Muller seconded the motion, and it carried unanimously.

STATEMENTS ON AGENDA ITEMS

Corporation Counsel Ashida explained the difference between open and closed sessions. For personnel matters, officers have the option of giving a statement in executive session.

EXECUTIVE SESSION

Vice Chair Manago motioned to meet in executive session to consider discipline and charges against officers or employees of the Hawaii County Police Department where consideration of matters affecting privacy would 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 Lundkvist seconded the motion, and it carried unanimously. The commission convened into executive session at 9:19 a.m. and reconvened back into regular session at 9:30 a.m.

STATEMENTS ON AGENDA ITEMS (OPEN TO THE PUBLIC)

TIM REES, Correspondence 04-86: Spoke on his correspondence relating to vehicle safety inspections. Suggested that the vehicle inspection and vehicle registration effective dates be the same and safety stickers be eliminated. This would eliminate the problem of safety sticker thefts. Community relations between the police, prosecutors, district courts, and citizens would improve. He found six vehicles in the parking lot with expired safety

stickers. His solution would save the county from having a policeman pull over the vehicles.

BILL EGERS, Complaint HPC 04-47: Stated that he served on the County's real property tax review board, and that experience gives him appreciation for the Police Commission. He is there to improve police service. The officer should not be disciplined, but the matter should be discussed. He is an extremely deliberate and attentive driver. He was in the area of Keaau High School at 4:00 p.m. when he received his ticket. The only speed limit sign was one of 20 mph when children are present. He tried to talk to the officer and explain, but the officer was rude and abrupt. The area causes confusion, and he tried to talk to the officer about it. He could not read the citation or the officer's name or badge number. He had to go to the court to get a more legible citation.

KANIU SEGOVIA, Correspondence 04-78: Stated that she sent a letter to commend an officer and to point out that another officer was very rude to her. The incident involved her mentally ill and missing mother-in-law. One of the officers wouldn't listen to her and just shut her down. Officers need to continue to get training in handling families with members who are under distress. She wants to make sure that officers are trained, whether they are rookies or older. She has found that older officers are more willing to listen and are more compassionate. The officer stepped up into her face and asked if she was going to be a problem. She was trying to protect her mother-in-law who was incoherent and babbling. An EMT asked her if she knew what was wrong, and she told him that her mother-in-law was a schizophrenic with dementia. She did not initiate a police commission complaint because she did not intend to be punitive. Captain Webber called her and apologized. She hopes that the Captain would talk to the officer and that the budget includes funds for training. She believes that the problem was the officer's training or maybe his personality. Two officers that she spoke to responded differently. Captain Webber spoke to the officer, and he was surprised about the complaint because he didn't know he did anything wrong.

Vice Chair Manago stated that they have seen the Police Department's budget reduced from \$150,000 to \$75,000.

Corporation Counsel stated that the Chief and his highest-ranking officers heard her statement, and complaints are eventually referred to him.

KEHAULANI RHONDA PRIETO requested reconsideration of her complaint HPC 04-43. She gave the commission a copy of her police report in which the officer stated that \$5,000 bail/bond was posted. She also gave the commission a copy of the District Court receipt stating that \$10,000 bail/bond was posted. The officer said he gave her the warrant; he did not. This is written proof of her complaint.

STATEMENTS ON AGENDA ITEMS (EXECUTIVE SESSION) - Closed to the public
Vice Chair Manago motioned to meeting in executive session to consider discipline and charges against officers or employees of the Hawaii County Police Department where consideration of matters affecting privacy will be involved and a closed session is

requested; 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); and to work on the Chief of Police's annual evaluation pursuant to HRS 92-5 (a) (2) and Hawaii County Charter Section 13-20 (b).

Executive session convened at 10:06 a.m. Regular session reconvened at 10:27 a.m.

TIM REES stated that he didn't think he represented himself well, and would avail himself to anyone who wanted to contact him.

APPROVAL OF MINUTES

Vice Chair Manago motioned to approve the minutes of November 19, 2004, regular and executive sessions with a change to the executive session title. Commissioner Bertsch seconded the motion, and it carried unanimously.

PERSONNEL ORDERS

Vice Chair Manago motioned to accept Personnel Orders Nos. 2004-140 to 2004-151. Commissioner Muller seconded the motion. Discussion: Commission Bertsch inquired why the note, "Including but not limited to work assignments, training assignments, promotions, reallocations, severance from service, automobile allowances, and appointments," was added to the agenda. Corporation Counsel Ashida stated that OIP recommended it. The motion carried unanimously.

COMMUNICATIONS

Vice Chair Manago motioned to accept the communications as listed. Commissioner Muller seconded the motion. Discussion: Vice Chair Manago inquired whether it was appropriate for them to accept correspondence from Paul de Silva whose letterhead states, "Hawaii County Police Commissioner," since he is no longer a Police Commissioner. Corporation Counsel Ashida recommended that they just let it go.

COMMITTEE REPORT

- Budget and Finance (Hara/Manago): Vice Chair Manago reported that the Police Department submitted their supplementary draft of the budget along with a summary. Ms. Pelayo reported that she received it the day before and would be forwarding a copy to the commissioners.
- Office Management and Staffing (Muller/Mitchell): No report.
- Rules and Policies (Bertsch): Commission Bertsch stated that they are waiting for Corporation Counsel's opinion on terminology for dispositions before making changes to the rules. He would like to get this for the January meeting. Also, the meeting time will be changed to 9:00 a.m. With these, the committee can start assembling changes.
- Contractual Services (Frazier): No report.

- Public Relations (Hara/Lassiter): No report.

CHIEF'S REPORT

Including:

- Crime: Major Day gave a fast recap of events. Burglaries in South Hilo have gone up a bit. In the case of man in Puna who held a woman for two months, he was charged with attempted murder. There was a home invasion in Puna. With neighborhood checks, they were able to identify all the people involved. They continue to do well in their fight against crystal meth. They are working harder, but the demand for drugs is still there.
- Traffic: Commissioner Hara stated that following the last meeting, Travis Loop of West Hawaii did a good job in publicizing the traffic problems. Major Dawrs stated that the news article, and then two announcements, and Commissioner Frazier's letter to the editor helped. He summarized the written traffic report. Commissioner Bertsch inquired into whether they would be issuing more radar equipment to patrol rather than to mostly TEU, to which Chief Mahuna stated that it would depend on the budget. Deputy Chief Kubojiri stated that every district has radar for its use. However, Major Dawrs reported that although the radars are getting old, they do try to put them on the streets every day. TEU is not just tasked with giving citations, they also have many other duties including traffic fatality investigations.
- Finance: With regards to the written report, Vice Chair Manago asked Captain Ferreira to look into the accuracy of the numbers for the commission's staff salary. There were no questions to the written report.
- Personnel: Captain Ferreira reported having 66 sworn vacancies in the field. However, with the recruit class, they have 51 vacant numbers. The current recruit class will be assigned to the streets in June 2005. Another class is being processed. They will have continuous recruitment beginning next week, whereby anyone may fill out an application at anytime. They continue to look seriously into the reserve and internship program.

With regards to promotions, the Chief makes the notifications. Either the Deputy or one of the Assistance Chiefs makes personal contact with regrets to the individual officers. Human Resources issues the Personnel Orders.

- Commendations: Chief Mahuna reported receiving eight commendations since the last meeting. Every time someone gets a commendation, they reinforce their mission statement. Many officers have asked for a small copy of their goals and mission statement as a reminder, so they are now looking into obtaining copies for the vehicles.
- Commanders' Meeting Minutes: No discussion.

- Other Departmental Activities: Chief Mahuna reported that he will be attending a HIDTA, High Intensity Drug Trafficking Area Conference in Washington, D.C. along with Sergeant Ernest Saldua who will be receiving an award for "Outstanding Investigative Effort."

They are working with the U.S. Attorney's office to effectively conduct the Weed and Seed Program in Pahoehoe.

All commanders were given instructions to come up with island-wide proactive enforcement plans of action for traffic enforcement during the holidays.

The following promotions will be effective December 16: James Day, Assistant Chief of Area I Operations; Ronald Nakamichi, Assistant Chief of Area II Operations; Derek Pacheco, Major, Area I Operations; Sam Thomas, Major, Technical Services; and Paul Ferreira, Major, Administrative Bureau.

- Chief's Goals and Objectives and Year-End Report: No discussion.

UNFINISHED BUSINESS

- Correspondence 04-74, request for legal counsel by Officer Walter K. Ah Mow, III, in CV04 005738PK brought by Thomas Schmidt. Vice Chair Manago requested an executive session in order to consult with Corporation Counsel.
- Correspondence 04-79, regarding Chief Lawrence Mahuna's proposal for salary increase and car allowance. Chair Hara stated that they all received Vice Chair Manago's written proposal. The Salary Commission is to consult with boards and commission who have appointing authority.

Vice Chair Manago motioned to accept his proposal for presentation to the Salary Commission. Commission Bertsch seconded the motion.

Discussion: Commissioner Bertsch stated that he is in full agreement, but it seems that there must be a better methodology. In correspondence from the Maui Police Commission, they say that the chief shall have a percentage about the highest paid employee, so at no time would any employee make more than the Chief. Vice Chair Manago stated that on Maui, the Deputy Chief makes 10% more and the Chief 15% more than the highest paid employee. During Kauai's search for a new Chief, they did not have a large number of applicants, and ended up hiring a lieutenant. When Chief Correa left, he took a position that paid \$110,000 a year. They are not looking at an exorbitant salary, but one that is fair. Subordinates should not be making more than the Chief and Deputy Chief. If all sections get raises, then the Chief and Deputy Chief should, too. Chair Hara stated that the gun and uniform allowance was changed to standard of conduct pay, and that doesn't look good in the eyes of the public. Vice Chair Manago stated that he left the specific amount out because he wanted recommendations from the other commissioners. Chief Mahuna stated that he has a

recommendation, but he is leaving it up to the commission. Chair Hara requested a copy of the Chief's recommendation.

The motion carried unanimously.

- Correspondence 04-81, Mayor's request for fleet implementation working group representative. Vice Chair Manago motioned to appoint Commissioner Lassiter to the committee. Commissioner Bertsch seconded the motion, and it carried unanimously.

NEW BUSINESS

- Correspondence 04-84, request for legal counsel by Officer Chad Taniyama in CV04 00573SPK brought by Thomas Schmidt. Vice Chair Manago motioned to approve legal counsel. Commissioner Bertsch seconded the motion, and it carried unanimously.
- Correspondence 04-85, request by Sharon Selwyn for reconsideration of Complaint HPC 04-39. Corporation Counsel Ashida stated that if there were no motion, the matter dies. No motion was made.
- Request by Kehaulani Prieto for reconsideration of Complaint HPC 04-43. No motion was made.
- Selection of Chair and Vice Chair for 2005. Vice Chair Manago motioned to select John Bertsch as Chair. Commissioner Mitchell seconded the motion, and it carried unanimously. Commissioner Bertsch motioned to select Commissioner Lassiter as Vice Chair. Vice Chair Manago seconded the motion, and it carried unanimously.

EXECUTIVE SESSION

Vice Chair Manago motioned to consider discipline and charges against officers or employees of the Hawai'i County Police Department where consideration of matters affecting privacy would be involved and a closed session is requested; 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); and to work on the Chief of Police's annual evaluation pursuant to HRS 92-5 (a) (2) and Hawaii County Charter Section 13-20 (b). Commissioner Bertsch seconded the motion, and it carried unanimously.

Executive session convened at 11:35 a.m. Regular session reconvened at 12:15 p.m.

ACTION ON EXECUTIVE SESSION MATTERS

- Correspondence 04-74, request for legal counsel by Officer Walter Ah Mow in CV04 005738PK. Commissioner Bertsch motioned that the officer acted under the color of authority and to provide legal. Vice Chair Manago seconded the motion, and it carried unanimously.

Investigation and Deliberation of Complaints.

HPC 04-07: Complainant alleged that hospital personnel called the police for assistance, and when they arrived, an officer used excessive force. Commissioner Bertsch motioned to exonerate the officer on all charges. Commissioner Lundkvist seconded the motion, and it carried unanimously.

HPC 04-46: Complainant saw an officer enter a truck when no one was around. He alleged that this was an illegal search. Commissioner Muller motioned to exonerate the officer on the charge. Vice Chair Manago seconded the motion, and it carried unanimously.

HPC 04-47: Complainant alleged that he received a traffic citation that was illegible, and the officer was rude. Commissioner Lundkvist motioned to sustain the charges. Commissioner Bertsch seconded the motion, and it carried unanimously. Chair Hara stated that they would send a memo to the Chief regarding the illegible citation.

- Chief of Police Evaluation: Chair Hara reported that they would individually complete the Chief's evaluation form and send it to Ms. Pelayo by January 7 in order for them to continue with the evaluation at the January meeting.

ANNOUNCEMENTS

- Collection of files and documents. - Done.
- Ms. Pelayo announced that the next meeting would be on January 21, 2005, 9:00 a.m., at the Dept. of Liquor Control in Kona, Hanama Place, across the street from the Mayor's Kona Office.

ADJOURNMENT

The meeting was adjourned at 12:20 p.m.

SUBMITTED:

APPROVED:

JOSIE PELAYO, SECRETARY

HORACE S. HARA, CHAIR