

**HAWAI'I COUNTY POLICE COMMISSION
REGULAR SESSION MINUTES
OCTOBER 19, 2001
WAIMEA COMMUNITY CENTER**

CALL TO ORDER

Chair Okabe called the meeting to order at 10:04 a.m.

ROLL CALL

Present:	Wilfred Okabe, Chair	Also Present:	James S. Correa, Police Chief
	Dwight K. Manago, Vice Chair		Lincoln Ashida, Corporation Counsel
	John M. Bertsch, Member		Josie Pelayo, Secretary
	Horace S. Hara, Member		
	Daniel C. Kama, Member		
	Phoebe M. Lambeth, Member		
	Clarence Mills, Member		
	Peter P. Muller, Member	Absent:	Walter Moe, Member

APPROVAL OF AGENDA

Commissioner Lambeth moved to approve the agenda. The motion was seconded by Vice Chair Manago and unanimously carried.

PUBLIC STATEMENTS ON AGENDA ITEMS: None

APPROVAL OF MINUTES

Vice Chair Manago moved to approve the minutes of September 21, 2001, regular and executive sessions. The motion was seconded by Commissioner Muller and unanimously carried.

PERSONNEL ORDERS

Commissioner Lambeth moved to approve Personnel Orders Nos. 2001-114 to 2001-124. The motion was seconded by Commissioner Mills and unanimously carried.

COMMUNICATIONS

Vice Chair Manago moved to accept the communications as listed. The motion was seconded by Commissioner Lambeth and unanimously carried.

COMMITTEE REPORTS

- **Budget and Finance:** Vice Chair Manago reported that the department is working on a status quo budget. However, they need to let the Mayor and the County Council know what is needed to get our police department into a better state of readiness so they can protect and help our citizens on this island. There are many areas that are short of police officers. They need to put the burden back to where it belongs which is the County Council and the Mayor. They are the ones who decide how much money is allocated to the police department. We need a police department that everyone can feel comfortable with and feel that they are getting the service they demand.

He expressed concern that due to the shortage of manpower in Kona, community-policing officers are now doing patrol work. A lot of times they have only seven patrol officers from Manuka Park to Waikoloa. That means two down south and five for the entire Kailua area. The calls for service are unbelievable and the officers have to prioritize their calls. If a

robbery occurs, people are being told to come down to the station. This is not only happening in Kona. Ka'u only has two officers on duty from Ocean View to Volcano. One incident in Ocean View, and that leaves Pahala completely uncovered. The police department is basically being given stones and slingshots to fight crime, and a lot of the criticism will come down on the police administration.

Chief Correa reported that if they don't have enough patrol officers to handle the core services, then they have to look at other avenues such as the community policing officers. The department has no cushion. If they have people out on injury, sick leave, or any kind of extended leave of absence, they don't have additional people to fill the gap during the interim period. Unfortunately, they have quite a few officers out for some reason. They have a lot of young officers and young families, and it's not unusual for officers to put in for four weeks family leave. The whole department faces this problem. There are areas that are affected more than others, and this reflected in the use of overtime.

Their budget has increased over the years but only as a result of some federally created positions. The county cellblock positions were mandated. Since 1994 they created 30 community-policing positions which were partly funded by the federal government and asset forfeiture. The county could have abolished the positions after three years but chose to absorb the costs.

Vice Chair Manago stated that the County Council needs to be shown what is needed to run a proactive police department. They need to be shown what type of service to expect for the amount of monies given to them. They also need to be shown what type of programs and proper protection can be afforded to the community if they are given additional funds.

Commissioner Hara stated that the results of September 11, the welfare rolls being cut, and the increase in the Big Island population is justification for going to the Mayor for a budget increase.

Chief Correa stated that he will work closely with the commission on the budget. It is not very complex because 78% is salaries and wages. Most of the other 22% is operating costs. Their equipment budget has been cut down to about \$50,000.

Chair Okabe stated that if they are not able to increase the budget, they will have to look at taking away from programs such as community policing and Hi-Pal.

- **Office Management and Staffing:** Chair Okabe reported that they are still working on upgrading the secretary's position.
- **Rules and Policies:** Commissioner Bertsch had no report. However, he questioned whether it was necessary to take the assistant chiefs and the business manager away from their daily workload and spend a great deal of time attending commission meetings.

Chief Correa stated that it is important to have his staff attend the meetings so that they could provide information to the commission. It is also important that his staff has first hand knowledge of what transpires at the meetings.

- **Contractual Services:** Commissioner Kama asked for an explanation on his role on the contractual services committee. Chair Okabe responded that the committee basically works on the investigator's contract. Commissioner Kama could follow-through and find out the status of the contract. Ms. Pelayo reported that she spoke to Bill Gray, Purchasing Director, and was informed that they are waiting for the contractor's tax clearance before finalizing the contract.
- **Public Relations:** Chair Okabe reported that last week he sat on the Sunshine Law Panel. Not very many people attended, mostly those who frequented the commission's meetings. Privacy issues were brought up and that when an officer requests executive session, they need a specific reason for it.

Corporation Counsel Ashida stated that executive session has to be determined on a case-by-case basis. First, the commission has to determine whether there is a significant privacy interest under Section 92-5. It's the commission's call. An allegation was made that when an officer requests executive session, the secretary makes the call.

Commissioner Hara stated that when there is a complaint against any officer, there is a potential for disciplinary action if it is sustained, so it does affect his privacy.

Corporation Counsel Ashida reported that OIP seems to indicate that just because it's a disciplinary matter doesn't mean it equals a privacy interest. They did indicate that it's a policy decision that the commission can make. They can set parameters of privacy. It is not defined anywhere in Chapter 91, 92, or 92-F, which means they are not wedded to a definition of that, and they can set the scale that is appropriate.

Commissioner Lambeth stated that OIP makes recommendations, and the discretion is left up to the commission. What they recommend is not the law.

Corporation Counsel Ashida stated that she is absolutely correct, but the court looks to their opinion as guidance.

Commissioner Mills stated that the discretionary powers rest with the commission. Someone might argue with them, but all they have to do is follow their rules.

Corporation Counsel Ashida stated that OIP also stated that the spirit of the law is to promote openness. So, if they decide to close a meeting, they need to be on solid ground.

Commissioner Muller stated that when an officer calls, he should be asked why he wants an executive session.

Corporation Counsel Ashida stated that was an excellent suggestion and that is only for when people come before the commission with their complaint. The commission's deliberations can still be kept closed. If the commissioners believe they don't want any part of any possible slander or defamatory action brought by anyone, they can inform people that they can do it outside of the meeting but not in the meeting. The commission could look into fashioning

this into a policy decision. It is within the commission's discretion to regulate the conduct of the meeting. They would not be infringing on First Amendment rights because a person could say what he wanted to at any other time or place other than the commission's meeting.

Chair Okabe suggested that the Committee on Rules and Policies work on this, but Commissioner Mills stated that he didn't want this to be a part of the commission's rules.

Commissioner Mills reiterated that it's the commission's decision whether or not to go into executive session.

EXECUTIVE SESSION

Vice Chair Manago moved to meet in executive session to consider charges against a police officers where matters affecting privacy will be considered, and a closed meeting is requested by individuals involved. The motion was seconded by Commissioner Mills and unanimously carried. The commission convened into executive session at 10:52 a.m. and then reconvened back to regular session at 11:25 a.m.

Corporation Counsel Ashida informed that if the commission wishes, the chief may sit in on any executive session. It is their opinion that the entire county is the client. So, another county employee acting within the scope of his or her employment may also sit in executive session.

CHIEF'S REPORT

- **Crime:** Assistant Chief Paiva reported on some of the more serious cases that they have been working on. On Thursday morning South Hilo Patrol officers responded to a shooting in the Keaukaha area of Hilo. They found a male with a gunshot wound who later expired. A 51-year old female was arrested.

Homicide detectives are completing the murder investigation of a 6-year Hawaiian Beaches girl. They arrested and charged a 14-year old suspect, and he is being held by juvenile authorities on Oahu. At one point they had about 18 people working on the case. They encumbered a very large amount of overtime, but it was necessary and justified. When they executed a search warrant of the suspect's house, they discovered drugs and drug contraband. The parents were arrested.

Chief Correa reported that in this investigation they had the opportunity to use two Honolulu crime scene technicians who worked at the crime scene on Friday, Saturday, and Sunday. They recovered substantial evidence that assisted them in the case. Of significance is that they applied to the Byrne Memorial Grant for two technician positions. These positions had been approved, but they were waiting for \$34,000 in matching monies. They are looking for \$34,000 in their budget so that they can fill the two positions.

On the previous Sunday evening, they investigated an officer-involved shooting in the Hawaiian Shores area which is just across from Hawaiian Beaches. A male suspect had injured himself and continued to injure himself. While officers and paramedics were at the scene, the suspect became agitated and moved on the officer with the weapon he used to injure himself. The officer had no recourse but to fire one shot, thus disabling the individual. He was treated at Hilo Hospital.

They completed a year-long undercover investigation which was funded by a Byrne Memorial Grant. They recognized that they had a problem with property crimes, specifically in Hilo and Puna. They were not able to pinpoint how the stolen properties were being disposed. Subsequently, they opened a shop in Hilo that was run by an undercover police officer as the front for a fencing operation. They were successful in identifying individuals involved in residential burglaries in Hilo and Puna and made significant cases which will be referred to the prosecutor's office for grand jury action. They also made several drug cases as well as a gambling operation that was conducted within their shop.

Two old cases, the Chiquita homicide that occurred about 13 years ago and the Peter Kema case have been referred to the prosecutor. The Morton Bassan (Ka'u Gold Oranges) case is still under investigation, and the investigative reports have been referred the prosecutor. They are also working on some major cases in West Hawai'i.

- **Traffic:** Assistant Chief Hickcox entertained questions on the traffic report that was distributed. In response to Vice Chair Manago's inquiry, he stated that they have had two to three DUI roadblocks in the past month. However, most of the funds have been exhausted

He also reported on enhanced security issues as a result of September 11. For the past three weeks they have been assessing various sites and gathering information for input into a database. Officers are being educated in response issues for weapons of mass destruction and have procedures and policies in place. However, they are lacking in personal protective equipment for their first responders. To date they responded to 18 anthrax cases, none of which were positive. They are now working with a checklist to see whether or not an officer needs to respond, otherwise only fire personnel responds. Officers are being educated to look for sites in the area of fuel, power, and water. Homeland defense now rests on the police department.

The Special Response Team was scheduled to receive their advance training from the Honolulu Police Department last week, but because of the incidents in Honolulu, that was cancelled. It has not yet been rescheduled.

- **Personnel:** Chief Correa reported having six sworn and five civilian vacancies. They will be initiating another recruit class soon.
- **Finance:** Chief Correa reported that they have made all their budget cuts, but they are still short \$1.8 million. Monies for position vacancies are being used to pay overtime. When funds are exhausted, compensatory time off will have to be taken.
- **Commendations:** Chief Correa reported receiving fifteen commendations since the last meeting.

UNFINISHED BUSINESS: None

NEW BUSINESS

- **Consideration and Investigation of Complaint HPC 01-38:** Complainant alleged that the police department is not enforcing the boom box and leash laws. Commissioner Mills moved to decline further investigation because the complainant is not specific as to accused or the misconduct. The motion was seconded by Vice Chair Manago and unanimously carried.
- **Status Report of Complaints Referred to the Police Chief.** No discussion.
- **Consideration & Investigation of Complaint HPC 01-27.** Complainant alleged that during their arrest for DUI an officer used force in putting on the handcuffs, was disrespectful, and used improper language. Commissioner Lambeth moved to accept the complaint for further investigation. The motion was seconded by Commissioner Mills and unanimously carried.
- **Deliberation of Complaint HPC 00-42.** Complainant alleged that officer failed to arrest a man for violating a restraining order and filed an incorrect report. Commissioner Mills moved to exonerate the officer on the charges of Standard of Conduct and Falsification of Records and to sustain the charges of Performance of Duty and Obedience to Laws, Written Orders, and Policies. The motion was seconded by Commissioner Lambeth and unanimously carried.

ANNOUNCEMENTS

The next monthly meeting is a special meeting scheduled for November 30, 2001, at the Ohana Keauhou Beach Resort, 78-6740 Alii Dr., Kona.

ADJOURNMENT

The meeting was adjourned at 12:10 p.m.

SUBMITTED:

APPROVED:

JOSIE PELAYO, SECRETARY

WILFRED M. OKABE, CHAIR