

**HAWAI'I COUNTY POLICE COMMISSION
MINUTES – REGULAR SESSION
MAY 17, 2002
KEAUHOU BEACH RESORT**

CALL TO ORDER

Chair Okabe called the meeting to order at 10:08 a.m.

ROLL CALL

Present:	Wilfred M. Okabe, Chair	Also Present:	James S. Correa, Police Chief
	Horace S. Hara, Vice Chair		Lawrence Mahuna, Assistant Chief
	John M. Bertsch, Member		Thomas Hickcox, Assistant Chief
	Daniel C. Kama, Member		Wendell Paiva, Assistant Chief
	Phoebe M. Lambeth, Member		Gary Maesato, Business Manager
	Dwight K. Manago, Member		Lincoln Ashida, Corporation Counsel
			Josie Pelayo, Secretary
Absent:	Peter L. Hendricks, Member		
	Walter Moe, Member		
	Peter P. Muller, Member		

APPROVAL OF AGENDA

Commissioner Lambeth moved to amend the agenda by adding Complaint HPC 02-05 onto the agenda under executive session in order to speak to an officer and to add Personnel Orders 73-76 onto the agenda. Commissioner Hara seconded the motion, and it carried unanimously on a roll call vote.

STATEMENT ON AGENDA ITEMS (Open to the Public)

LILLIAN BEAUFRERE came before the commission and reported on the Solutions 2002 Conference. There were 163 people in attendance. She thanked Commissioners Okabe and Bertsch for attending, and briefly went over the written summary that she distributed. Next year's conference is scheduled for April 26, 2003.

ALBERT SCHISZLER came before the commission and spoke on his Complaint HPC 01-13, which involved his juvenile son. This case involves anger management problems with Puna Police officers and his son. Is concerned about psychological testing of officers. There is no retroactive testing of officers prior to Chief Carvalho. Until today his son has not been charged. His son was restrained and choked by a Puna officer. He has not been able to get any records of the arrest. His son still has no license. He had to pay for his impounded car. Family Court will not give him any records. He wants this information made public. His son was not being disrespectful. They forced his son to take a breathalyzer test. The amount of alcohol his son had in his system was not enough to get a cat intoxicated.

Corporation Counsel Ashida stated that the statute prohibits release of juvenile records. He asked Mr. Schiszler to consider the interests of his son.

Gabriel Schiszler came before the commission and stated that he was just hanging at the beach, and all of a sudden a cop vehicle came pulling up. They told him to put his hands on the car. Two other cop cars came up and they said it was him. One of them came up and started choking him

and didn't stop until he admitted to whatever the officer said he did. He was not drinking, that he knows of. He was handcuffed when the officer choked him. He did not drive away from the cops. He was already out of his car and had been there for 30 minutes to an hour.

Corporation Counsel Ashida informed Mr. Schizler that this portion of the meeting is public testimony. When the commission considers the case, they do it in closed session. During that session, they may wish to call back people in closed session. This is done because they might ask questions that might compromise a person's privacy rights. This is a public session and is being recorded. There is a possibility of prosecution in this matter, and now there is an impeachable statement, which is on the record, which could be used against his son. They are trying to protect his son's privacy. If the commission has questions, they will ask him privately.

WILDA SCHMEISSNER came before the commission to speak on Complaint HPC 02-11. On the day of the incident she was having a really rotten day, and her mind was full of a lot of stuff. She was walking down Alii Drive and was taking photos. She took photos of the officer, but it was not intended to harass her. Her middle finger was extended as she did exercises. She did not flip the officer off. Taking photos is not harassment. She spoke to Detective Moses Kaiwi in Internal Affairs, and he told her it was not against the law to take pictures, and that she did not approach the police. He also said that even if she did flip the officer off, the officer should be more tolerant as being a cop. She did not look at the officer funny, did not go near her, did not threaten her, did not harass her, and did not seek her out. The citation said it was for harassment. The officer had previously issued two TROs to her. She has had a lot of TROs against her. She admitted to having a temper problem, and she did yell at the officer.

JIM WILERSON came before the commission and stated that about eight months ago he purchased a motor home to use as a job site office. It was stored at Allied Cold Storage when it disappeared. He filed a report and placed an ad in West Hawai'i Today and offered a reward. He mentioned to the cashier that it was probably somewhere in Ocean View Estates, and she said she would keep her eyes open. That night the cashier's husband called stating that he thought he knew where the motor home was in Ocean View. He went to Ocean View the next day and got there at about 8:00 a.m. He observed the motor home for about half an hour. He made the call to the police about an hour later at the home of the guy that called him. The officers showed up about 9:30. He didn't want to be around the guy, so he left and drove around for about 10-15 minutes. As he was coming back to the property, he saw the suspect leaving. The officers left immediately after he got there, after the suspect had driven away. The officers explained that they had another call that they had to respond to. He understood it to be a burglary in progress. The officers came back later. He asked them to come into the motor home and asked if they had seen the drug paraphernalia and probably stolen TVs. One of the officers told him, "Jim, we never saw these TVs or VCR if you want to take them." He came unglued, and told them to get out of there.

STATEMENTS ON AGENDA ITEMS (Executive Session)

Commissioner Lambeth moved 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. The motion was seconded by Vice Chair Hara and

unanimously carried. The commission convened into executive session at 11:05 a.m. and then reconvened back into regular session at 1:00 p.m.

APPROVAL OF MINUTES

Commissioner Lambeth moved to approve the minutes of April 19, 2002, regular and executive sessions. The motion was seconded by Commissioner Manago and unanimously carried.

PERSONNEL ORDERS

Commissioner Manago moved to approve Personnel Orders 2002-59 to 2002-76. The motion was seconded by Vice Chair Hara and unanimously carried.

COMMUNICATIONS

Commissioner Lambeth moved to approve the communications as listed. The motion was seconded by Commissioner Bertsch and unanimously carried.

COMMITTEE REPORTS

- **Budget and Finance (Manago/Okabe):** Commissioner Manago expressed concern over the high amount of overtime due to shortage in manpower. He would like approval to start a funded training pool of officers so that the department could pull officers from this pool to fill vacancies. Hilo has about 14 more officers than Kona, and Kona's overtime, so far this year, is about \$100,000. Shortage of manpower in Kona is due to long-term worker's comp and other things. The department knows that every year an average of 15 people retire or resign, so they have to start projecting for that.

Chief Correa reported that they provide a level of service based on the amount of resources they have, and they are trying to provide the best level of service. There are a lot of activities that need to be attended to such as overtime for court and special investigations. This is healthy overtime. Unhealthy overtime is overtime that is needed because of shortage of manpower for essential or core activities. It takes nine months to get through a recruit class, and sometimes it takes another nine months to get through the recruitment process. That's where the shortfall is. If they had additional personnel to run through the training, they could catch up instead of always falling behind. They just started a recruit class of ten.

- **Office Management and Staffing (Hara/Muller):** Vice Chair Hara reported that he and Commissioner Muller spoke with Ms. Pelayo regarding the reallocation of her position, and she does not want to pursue the matter.
- **Rules and Policies (Moe/Bertsch):** Commissioner Bertsch reported that he would be looking into a format for the commission's meetings.
- **Contractual Services (Kama):** The committee had no report.
- **Public Relations (Lambeth/Okabe):** Chair Okabe reported that he and Commissioner Bertsch attended the Solutions 2002 Conference. He found it to be beneficial to the commission and the police department. This past Wednesday, he attended the Police Week Ceremony and addressed the members.

CHIEF'S REPORT

- **Crime:** Assistant Chief Paiva summarized the report that was distributed. He also reported on Kenneth Kaleikini, aka Hawaiian, who was involved in a kidnapping and escape attempt at an Oahu prison last night. Mr. Kaleikini was arrested last month in a joint raid conducted by Kona Vice Section detectives, Ka'u officers, and members of the Special Response Team. Mr. Kaleikini had been the subject of an investigation by Kona Vice over a period of time. As a result of a warrant of his residence, they recovered three firearms, drugs, and money. Kona Vice is also working with ATF to seek federal prosecution.

Chief Correa reported that earlier this month they met with a steering committee for a meth-amphetamine conference scheduled for August 27 in Hilo. The conference is to put together a strategic plan for Hawai'i County to address the meth-amphetamine problem. Among those in attendance were representatives from the offices of the U.S. Attorney, DEA, Public Safety, and Attorney General.

Chief Correa reported on the "Safe Neighbor Program," an initiative put together by President Bush and run by the U.S. Attorney's office in conjunction with ATF. This is to address any type of gun violence or anyone who commits a crime of violence using a gun and has a previous history that prevents him from ownership of a firearm—domestic violence, felon, use of a gun in a commission of a drug crime, and stealing guns. If there are cases involving gun violence, and the perpetrator meets a certain criteria, they will take the case to federal court. The thresholds for the feds to take cases have been lowered considerably. The federal system does not allow people to be released on bail before the trial. For the most part, they must serve their entire sentence, and federal prisons have space available.

Chief Correa further reported that through the Bureau of Justice Administration, they are applying for a community policing officer school resource program. This would be for a school resource officer in and around the community of a designated school. The grant provides \$125,000 for an officer for a three-year period. The county would have to look for 25% matching funds. They have applied for six officers in six locations—Keaau, Hilo, Waiakea, Honokaa, Kealakehe, and Konawaena. These are newly created positions, like CPOs in the schools. Currently their CPOs do a considerable amount of work in the schools. This would allow the CPOs to work more in the community. The department of education is agreeable to this, and it would be a win-win situation for everyone.

Vice Chair Hara inquired into whether they could attend the monthly commanders' meetings. This would enable them to do assessments of the Chief and operations of the police department and help them to do the Chief's yearly evaluation. Chief Correa reported that his staff meetings are operational meeting. He will get back to the commission on this matter.

- **Traffic:** Assistant Chief Hickcox summarized the report that was distributed. He also reported that they have started the statewide "Click It or Ticket" program. Funds were received through grants. They have also applied for two discretionary grants, which would be an additional \$50,000 for East and West Hawai'i individually for additional seatbelt enforcement. This enhances their ability to insure occupant safety.

- **Personnel:** Assistant Chief Mahuna summarized the personnel report that was distributed. The 61st recruit class was started yesterday. They were able to get only ten recruits out of about 400 applicants. The screening process, which includes psychological and drug screening, is quite extensive.
- **Finance:** Business Manager Maesato read the financial report that was distributed.
- **Commendation:** Chief Correa commended the commission and staff for a well-done State Police Commission Conference. He does embrace the system that the commission has developed for Hawai'i County, and feels they have the public's confidence and trust in this system. Vice Chair Hara thanked the Chief and his staff for helping with the conference.

Chief Correa further reported that they received 15 commendations since the last meeting.

UNFINISHED BUSINESS – None

NEW BUSINESS - None

ACTION ON EXECUTIVE MATTERS

- **Request for legal counsel by Officer Juergen Canda in Civil No. 02-1-0107**
Corporation Counsel Ashida reported that this lawsuit was filed in state court after a federal court jury found in favor of the officers and the county. The facts are the same. The commission had previously determined that the officer had acted within the course and scope of his duties, and so formal action by the commission is not needed.
- **Investigation and Deliberation of Complaints**
Complaint HPC 02-09: Complainant's motor home was stolen. He alleged that when it was located, the officers should have arrested the suspect at the scene but did not.

Commissioner Manago moved to accept the complaint for further investigation. Commissioner Lambeth seconded the motion, and it carried unanimously.

Complaint HPC 02-11: Complainant was cited for "flipping the bird" at officers. She alleged that this is abuse of power.

Vice Chair Manago moved to exonerate the officer. The incident occurred but was lawful and proper. Vice Chair Hara seconded the motion.

Discussion: Commissioner Lambeth suggested to the complainant that in the future, if she comes across an officer, to walk the other way because it seems that every time she meets one of them, there's a problem. Commissioner Bertsch stated that she is challenging the actual intent of the ticket. This is more of a legal matter, not a matter for the commission.

The motion carried with Commissioner Lambeth casting a nay vote.

Complaint HPC 02-13: Complainant alleged that during his juvenile son's arrest, an officer choked him. He also alleged that his son was held unlawfully and his car impounded illegally.

Commissioner Manago moved to accept the complaint for further investigation. Commissioner Lambeth seconded the motion, and it carried unanimously.

Complaint HPC 02-14: Complainant stated that an officer was rude and discourteous when she went to the police station.

Commissioner Lambeth moved to decline further investigation because there was no misconduct on the part of the accused officer. Commissioner Manago seconded the motion, and it carried unanimously.

- **Status report of complaints referred to Chief Correa:** Chief Correa reported that there are two cases pending.

ANNOUNCEMENTS

Chair Okabe announced that the next monthly meeting is scheduled for June 21, 2002, at the Waimea Civic Center, the building next to the police station.

ADJOURNMENT

The meeting was adjourned at 1:35 p.m.

SUBMITTED:

JOSIE PELAYO, SECRETARY

APPROVED:

WILFRED M. OKABE, CHAIR