

**HAWAI'I COUNTY POLICE COMMISSION  
MINUTES – REGULAR SESSION  
JUNE 21, 2002  
WAIMEA CIVIC CENTER**

**CALL TO ORDER**

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

**ROLL CALL**

Present: Wilfred M. Okabe, Chair  
Horace S. Hara, Vice Chair  
John M. Bertsch, Member  
Peter L. Hendricks, Member  
Daniel K. Kama, Member  
Phoebe M. Lambeth, Member  
Dwight K. Manago, Member  
Walter Moe, Member  
Peter P. Muller, Member

Also Present: James S. Correa, Police Chief  
Lawrence Mahuna, Assistant Chief  
Wendell Paiva, Assistant Chief  
Gary Maesato, Business Manager  
Lincoln Ashida, Corporation Counsel  
Josie Pelayo, Secretary

**APPROVAL OF AGENDA**

Commissioner Lambeth moved to approve the agenda with the addition of Corresp. 40, request for legal counsel by John Talich in CV 02-1-0128, to communications. The motion was seconded by Vice Chair Hara and unanimously carried.

Clarence Mills, who retired as a police commission in March, was presented with a retirement badge and plaque of appreciation for his five years of volunteer work on the commission.

**STATEMENT ON AGENDA ITEMS (Open to the Public)**

Corporation Lincoln Ashida addressed the public on making statements to the commission on complaints against police officers. He stated that the Hawai'i County Police Department, through Chief Correa, has consistently and without exception, promoted openness in government and participation in matters that come before the police commission. Statements on agenda items can be made open to the public or in executive session which is closed to the public. However, if a person elects to make a statement in public session, anything said that might be inflammatory, libelous, or slanderous might be basis of a cause of action for a police officer to bring a private lawsuit against that individual. That might happen and is a risk a person takes.

He also stated that because of his concerns for any action or slander, libel, or defamation, he advised his clients, the police commission, that they do not ask any questions or engage in a debate while someone is making a statement in an open session. If they have questions, they are to go in executive session and the ask questions.

He also stated that he would like to make it clear that he is the attorney for the police chief and his administration and the police commission. There is a slight difference between the rank and file police officers and his client the police chief. It's not his place to advise the public of their rights or responsibilities to the extent only that the Office of Information Practices has advised that it would be permissible for the public to make a statement.

DIANE PAULSON came before the commission to speak on her complaint HPC 02-17 which concerns statements in the executive session minutes of March 15, 2002.

Commissioner Lambeth expressed concern over Ms. Paulson speaking about the executive session minutes, to which Corporation Counsel Ashida stated that she does it at her own peril if any party named in it is impacted.

DIANE PAULSON stated that in the executive session minutes Sergeant Hyland Char stated that for over two years, with every little thing that her husband did, she made a complaint. He made it sound like her ex-husband was an upstanding citizen. For the record, she pulled out photographs of her ex-husband's marijuana crop, drugs, his connection with a heroin addict, and a check written to a heroin addict for \$2,500. She stated that he is not an upstanding citizen. He is a drug addict and he slandered her. This was minimized in Sergeant Char's statement and she found it very offensive. In the minutes it also stated that Sergeant Char stated that Officer Kepo'o was assigned to her harassment case. However, Officer Kepo'o told her that he was not assigned to her case. So, her complaint is that it is her opinion that Sergeant Char failed to abide by the General Order rules of conduct for police officers which is truthfulness and to be courteous. She hopes there is some sort of reprimand for a man who has not treated her well.

#### **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. (Pursuant to HRS 92-5 (2) and Hawai'i County Charter Section 13-20 (b)). The motion was seconded by Commissioner Muller and unanimously carried. The commission convened into executive session at 10:25 a.m., and reconvened back into regular session at 12:10 p.m.

#### **APPROVAL OF MINUTES**

Commissioner Lambeth moved to approve the minutes of May 17, 2002, regular and executive sessions. The motion was seconded by Commissioner Muller and unanimously carried.

#### **PERSONNEL ORDERS**

Commissioner Manago moved to accept Personnel Orders Nos. 2002-77 to 2002-90. The motion was seconded by Vice Chair Hara and unanimously carried.

#### **COMMUNICATIONS**

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

#### **COMMITTEE REPORTS**

- Budget and Finance (Manago/Okabe). The committee had no report.
- Office Management and Staffing (Hara/Muller). The committee had no report.
- Rules and Policies (Moe/Bertsch). The committee had no report.
- Contractual Services (Kama). The committee had no report.
- Public Relations (Lambeth/Okabe). The committee had no report.

### **CHIEF'S REPORT**

- Crime – Assistant Chief Paiva summarized his written report.

Chief Correa reported that property crimes are their major crimes and are driven up by drug problems. They will be sponsoring a methamphetamine conference in August.

- Traffic – Assistant Chief Paiva summarized his written report.
- Personnel – Assistant Chief Mahuna reported having nine sworn and eleven civilian vacancies.

Chief Correa reported that on June 17, he met with the police chiefs from the other counties to discuss recruitment and retention. Every year they lose an average of 14 officers. It costs \$92,000 to train an officer. They are now competing with other law enforcement agencies and companies, and they need to make the job more attractive. The dispatcher's position is even harder to fill.

- Finance – Business Manager Maesato read his summarized report.

Chief Correa reported that the County Council removed the police commission's office from the budget.

*Lunch recess was called at 12:40 p.m., and the meeting reconvened at 2:05 p.m.*

- Commendations – Chief Correa reported receiving 17 commendations since the last meeting.

### **UNFINISHED BUSINESS**

#### **NEW BUSINESS**

- Corresp. 31, officer requests response from commission.  
The commission took no action because the case is closed and is moot.
- Corresp. 33, commission's response to concerns.  
Accepted for filing only.
- Corresp. 36, commission's attendance to NACOLE conference in November.  
Commissioner Manago stated that in the past it has always been the Chair and Vice Chair who attended the conference. If the members want a change, a motion could be made. None made.
- Corresp. 38, request for reconsideration of Complaint HPC 02-11.  
No motion was made. The commission's previous decision stands.

### **ACTION ON EXECUTIVE SESSION MATTERS**

- **Corresp. 37**, request for legal counsel by Lieutenant Donald Watson in FEP No. WH-11252; EEOC 37B-A2-00157. Vice Char Hara moved that the officer was acting within the scope of his duty. The motion was seconded by Commissioner Lambeth and unanimously carried.

- **Corresp. 40**, request for legal counsel by former Police Officer John Talich in CV No. 02-1-0128. Commissioner Lambeth moved that the officer was acting within the scope of his duty. The motion was seconded by Commissioner Muller and unanimously carried.

- **Investigation and Deliberation of Complaints**

**Complaint HPC 01-46:** Complainant alleged that during a traffic stop an officer pulled out his weapon, choked him, threw him to the ground, and pounded his head. (Akal's investigation reviewed.) Commissioner Lambeth moved to exonerate the officer on the charges of Standard of Conduct; Performance of Duty; Obedience to Laws, Written Orders, Policies; and Malicious Use of Physical Force. The motion was seconded by Commissioner Kama and unanimously carried.

**Complaint HPC 01-48:** Complainant alleged that officers did not do a proper investigation on his complaint of burglary to his home. (Akal's investigation reviewed.) Commissioner Lambeth moved to exonerate all three officers on the charges of Standard of Conduct and Obedience to Laws, Written Orders, and Policies; and to not sustain the charge of Performance of Duty. The motion was seconded by Commissioner Moe and unanimously carried.

**Complaint HPC 02-16:** Complainant alleged that someone filed a false report, and he was then falsely arrested. Commissioner Moe moved to decline investigation because there was no misconduct on the part of the officer. The motion was seconded by Commissioner Muller but died when the rest of the members voted nay to the motion. Commissioner Bertsch moved to accept the complaint for further investigation. The motion was seconded by Commissioner Lambeth and carried with nay votes by Commissioners Moe and Muller.

**Complaint HPC 02-17:** Complainant alleged that an officer was untruthful when he made a statement to the police commission. Commissioner Moe moved to decline further investigation because the complaint was unfounded. The motion was seconded by Commissioner Muller and carried with a nay vote by Commissioner Bertsch.

- **STATUS REPORT OF COMPLAINTS REFERRED TO CHIEF CORREA.** There were no questions to the Chief's written report.

### **ANNOUNCEMENTS**

Chair Okabe announced that the next monthly meeting is scheduled for July 26, 2002, at the Keauhou Beach Resort

### **ADJOURNMENT**

The meeting was adjourned at 2:20 p.m.

SUBMITTED:

APPROVED:

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JOSIE PELAYO, SECRETARY

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WILFRED M. OKABE, CHAIR