POLICE COMMISSION

CATHERINE ADAMS, CHAIR
GERALD BAHOUTH, VICE CHAIR
MARY K. HERTOG, MEMBER
LEINA'ALA JARDIN, MEMBER
KEVIN MINCE, MEMBER
ROY MORITA, MEMBER
DEAN PIGAO, MEMBER

REGULAR MONTHLY TELECONFERENCE MEETING NOTICE AND AGENDA
Friday, October 22, 2021
9:00 a.m. or shortly thereafter

Microsoft Teams Conferencing Information
Click on the link below to join on your computer or mobile app by VIDEO

Or
Dial phone number and enter conference ID to call in and join by AUDIO:
Phone: +1 469-848-0234 United States, Dallas
Phone Conference ID: 981 522 193#

This meeting will be via Microsoft Teams conferencing only. Members of the public are invited to join this meeting by using the link above or calling the number above with the conference ID information. You may testify during the video conference or submit written testimony in advance of the meeting via e-mail, fax, or mail. To avoid excessive noise/feedback, please mute your microphone except to testify.

CALL TO ORDER

ROLL CALL TO ASCERTAIN QUORUM

APPROVAL OF AGENDA

ANNOUNCEMENTS:
Next Regular Scheduled Teleconference Meeting 9:00 a.m. Friday, November 19, 2021. Executive Session to follow.

PUBLIC TESTIMONY

OCTOBER 2021 EMPLOYEES OF THE MONTH
- Officers Aaron Bandmann, Derrick Kelley, Tyson Relacion, Robert Kerry and Christian Kau
- 911 Dispatchers Sarah Louxz, Christina Chong Tim and Kristin Minei

APPROVAL OF OPEN SESSION MINUTES
- September 24, 2021 Regular Monthly Meeting
CHIEF’S REPORTS:
- Administrative & Technical Reports
- Investigative Bureau Reports
- Patrol Bureau Reports
- Pertinent Announcements and or updates

BUSINESS
KPC 2021-34:
Discussion and decision-making on the permitted interaction group recommendations for Revision of Rule 8 and Rule 9 of the Kauai Police Commission Rules on Administrative Practice and Procedure.

KPC 2021-35:
Presentation on by the permitted interaction group on recommendations for Revision of Rule 10 of the Kauai Police Commission Rules on Administrative Practice and Procedure.

KPC 2021-36:
Discussion and decision regarding a request dated October 1, 2021 from Reid Kawane, Chair Charter Review Commission to Chair Catherine Adams, inviting the Commission to present proposals on any Charter amendments they would like the Charter Review Commission to consider.

KPC 2021-37:
Discussion and possible decision-making on how to conduct a more cohesive performance evaluation.

KPC 2021-38:
Public Announcements on the Police Commission’s disposition regarding complaints KPC 2021-007 and KPC 2021-008.

EXECUTIVE SESSION ITEMS
Pursuant to Hawai‘i Revised Statutes §92-4, §92-5 (a) (2) and (4). The purpose of this Executive Session is for the Commission to review and discuss charges brought against an officer in the Kaua‘i Police Department, where consideration of matters affecting privacy will be involved, provided that if the individual requests an open meeting, an open meeting shall be held; and to consult with its attorney on issues pertaining to the Commission’s powers, duties, privileges, immunities, and or liabilities as they may relate to the following agenda items:

ES KPC 2021-001:
Monthly update by Christian Jenkins, Lieutenant, Office of Professional Standards on the status of the Department’s disposition on formal notarized complaints that were filed with the Kaua‘i Police Department and with the Kauai Police Commission and referred to the Office of the Chief for further review.
ES KPC 2021-002:
Monthly update by Todd G. Raybuck, Chief of Police, Kaua'i Police Department or his
designated representative on any significant adverse incidents/events involving personnel in
the Kaua'i Police Department that could potentially impact the County, the Police Commission
and the Kaua'i Police Department.

ES KPC 2021-021:
New citizen complaint no. KPC 2021-006 received on July 22, 2021. The complaint alleges
officers allowed estranged spouse to remove firearms registered to the complainant from their
residence. (Deferred on August 24, 2021)

KPC 2021-025
Complaint KPC 2021-010 received on August 24, 2021. The complaint alleges abuse of power,
harassment and illegally destroying the complainant’s property.
(Referred to the Kauai Police Department on September 24, 2021)

ES KPC 2021-028:
New complaint no. KPC 2021-010 received on September 20, 2021. The complaint alleges that
911 dispatch conspired against the complainant. Peppered sprayed and was threatened by an
officer. Cellblock refused to give the complainant soap for a shower and a change of clothing.

ES KPC 2021-029:
New complaint no. KPC 2021-011 received on September 23, 2021. The complainant alleges
officers have been continuously stalking, targeting and attacking the complainant’s character
for several years now.

ES KPC 2021-030:
Pursuant to Hawai‘i Revised Statutes §92-4, §92-5 (a) (4), §92-9 (a) (1-4) and (b), the purpose of
this Executive Session is for the Commission to approve or amend the regular Executive Session
minutes of September 24, 2021. Where consideration of matters affecting privacy will be
involved and to consult with its attorney on issues pertaining to the Commission’s powers,
privileges, immunities, and or liabilities as they may relate to this item.

RETURN TO OPEN SESSION TO RATIFY THE ACTIONS TAKEN IN EXECUTIVE SESSION

EXECUTIVE SESSION: Pursuant to Haw. Rev. Stat. ("H.R.S.") §92-7(a), the Commission may,
when deemed necessary, hold an executive session on any agenda item without written public
notice if the executive session was not anticipated in advance. Any such executive session shall
be held pursuant to H.R.S. §92-4 and shall be limited to those items described in H.R.S. §92-
5(a).

ADJOURNMENT
cc: Deputy County Attorney Chris Donahoe
    Police Chief Todd G. Raybuck

WRITTEN TESTIMONY
Persons wishing to offer comments are encouraged to submit written testimony at least 24-
hours prior to the meeting and must indicate:

1. Your name and if applicable, your position/title and organization you are
   representing
2. The agenda item that you are providing comments on; and

Send written testimony to:
Police Commission
C/o Office of Boards and Commissions
Piikoi Building 4444 Rice Street, Suite 300
Līhuʻe, Hawaiʻi 96766
E-Mail: mromo@kauai.gov
Phone: (808) 241-4920

SPEAKER REGISTRATION
Prior to the Day of the Meeting: Persons wishing to testify are requested to register their
name, phone number, and agenda item via email at mromo@kauai.gov or by calling 808 241-
4920. On the Day of the Meeting: Persons who have not registered to testify by the time the
Commission meeting begins will be given an opportunity to speak on an item following oral
testimonies of registered speakers. The length of time allocated to person(s) wishing to present
verbal testimony may be limited at the discretion of the chairperson or presiding member.

SPECIAL ASSISTANCE
If you need an auxiliary aid/service or other accommodation due to a disability, or an
interpreter for non-English speaking persons, contact Mercedes Omo at (808) 241-4920 or
mromo@kauai.gov as soon as possible. Requests made as early as possible will allow adequate
time to fulfill your request. Upon request, this notice is available in alternate formats such as
large print, Braille, or electronic copy.
Event Detail

Police Commission Teleconference Meeting
Friday, October 22, 2021 @ 9:00 AM - 10:30 AM

This is done to satisfy the notice requirement of Hawaii Revised Statutes (HRS) Section 7.

Click on the link below for a pdf copy of the recorded agenda.
2021-10-22-0900-1030.pdf

When & Where:

Date / Time:
Friday, October 22, 2021 @ 9:00 AM - 10:30 AM
Hawaiian Standard Time

Venue:
V08
Kauai, Hawaii

Follow & Share:

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# OPEN SESSION MEETING MINUTES

**COUNTY OF KAUAI**

## Board/Commission

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<th>Kauai Police Commission</th>
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### Meeting Date

**September 24, 2021**

### Location

Microsoft Teams Teleconference Meeting

**Start of Meeting:** 9:00 a.m.

**End of Meeting:** 12:23 p.m.

### Present

Chair Catherine Adams; Vice Chair Gerald Bahouth; Commissioners: Mary K. Hertog, Leina'ala Jardin, Kevin Mince, Roy Morita and Dean Pigao. Also present: Board & Commissions Office Staff: Support Clerk Mercedes Omo; Administrator Ellen Ching; Office of the County Attorney: Deputy County Attorney Chris Donahoe; Kauai Police Department: Chief of Police Todd G. Rayback; Deputy Police Chief Stan Olsen; Assistant Chiefs Bryson Ponce and Elliott Ke; Captain Roderick Green; Lieutenant Christian Jenkins; Sergeants Darla Abbatiello and Ginny Pia; Employee of the Month Officer Bruce Nance; Chief’s Secretary Gayle Kuboyama and Councilmember Felicia Cowden. Public Testimony: Mr. Kamealoha Hanohano Pa-Smith.

### Absent

### Excused

### Subjects

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<tr>
<th>SUBJECT</th>
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<tr>
<td>Call To Order</td>
<td>At 9:00 a.m. Chair Adams called the meeting to order.</td>
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<tr>
<td>Roll Call to Ascertain Quorum</td>
<td>A roll call ensued with all seven (7) Commissioners present, including staff to conduct business.</td>
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<tr>
<td>Approval of Agenda</td>
<td>Vice Chair Bahouth moved to approve the agenda as written. Mr. Morita seconded.</td>
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**Chair Adams called for a roll call to ascertain quorum.**

**Chair Adams called for a motion to approve the agenda as written.**

Boards and Commissions Administrator Ching pointed out that correct motion would be to defer item KPC 2021-032. Chair Adams called on Vice Chair Bahouth to withdraw his motion and for Mr. Morita to withdraw his second.

**Chair Adams called for a motion to defer item KPC 2021-32.**
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<tr>
<td>Mr. Donahoe</td>
<td>Mr. Donahoe explained that because the item is to solely announce the Commission’s decision the proper motion is to defer item KPC 2021-32 until after the completion of Executive Session. Chair Adams asked Ms. Hertog to amend her motion as stated by Mr. Donahoe.</td>
<td>Ms. Hertog moved to defer item KPC 2021-32. Vice Chair Bahouth seconded.</td>
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<td><strong>Amended Motion</strong></td>
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<td>Ms. Hertog moved to defer item KPC 2021-32 until after the completion of Executive Session. Vice Chair Bahouth seconded. Hearing no objections from the Commissioners, Chair Adams called for a roll call vote. A roll call ensued and all seven (7) Commissioners voted in favor of the motion.</td>
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<tr>
<td>Announcements</td>
<td>Next Regular Scheduled Teleconference Teams Meeting – 9:00 a.m., Friday, October 22, 2021. Executive Session to follow.</td>
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<td>Public Testimony</td>
<td>None at this juncture.</td>
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<td>Employee of the Month for September 2021</td>
<td>Chief Raybuck called on Sergeant Darla Abbatiello to read the Commendation Report for Employee of the Month Officer Bruce Nance.</td>
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<td>Waimea District Officer Bruce Nance recently took on the challenge of becoming a Field Training Officer for two new police recruits. In his new position, he served as a positive role model and instilled the importance of being proactive, professional and having compassion for the public.</td>
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<td>Officer Nance exhibits great communication skills with his fellow officers and by far is a team player and leader amongst his peers. His motto is “one purpose, one goal, one department, and working together to make Kauai better.”</td>
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<td>He and his recruits are often busy with traffic enforcement, investigating cases and making routine beat checks. During the month of July, he and his recruits issued a combined total of 202 traffic citations, responded to 405 services calls and made a total of 72 arrests of which seven were felonies. Also, in the same month, Officer Nance and his recruits and beat partners, arrested 21 individuals for outstanding bench warrants valued at approximately 1.4 million dollars. Some of those individuals were difficult to apprehend; however, with intel gathered by Officer Nance, those subjects were located and arrested without incident.</td>
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<td>Sergeant Abbiatiello stated that Officer Nance’s commitment to the community and his fellow officers is commendable therefore she believes that he is truly worthy of receiving this special recognition for his dedication to serving the citizens of Kauai. She also recognized Officer Nance’s family and commended them for their unwavering support, patience and understanding.</td>
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<td>Sergeant Abbiatiello called on Officer Nance to say a few words.</td>
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<td>First and foremost, Officer Nance thanked God for protecting and keeping his family, new recruits and his fellow beat officers safe. He also thanked Sergeant Abbiatiello for recognizing them for their hard work. Chief Raybuck stated that he had the pleasure of meeting Officer Nance when he worked in the vice unit and got to see how hard he worked to carry out drug investigations. He mentoned how excited and motivated Officer Nance was to return back to patrol where he shared his knowledge on what he learned through his experience with the new recruits to help move them forward.</td>
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Chair Adams along members of the Commission expressed their appreciation and
gratitude for Officer Nance for his hard work and inspiring leadership to nurture a
climate of care, concern and civility.

Public Safety Committee Chair/Councilmember Cowden congratulated Officer Nance
for his accomplishments and thanked him for his hard work. She shared that as a
parent of a new recruit how good it is that the new recruits are given an opportunity
to work alongside officers who inspire them and who are making a difference in the
community.

Chair Adams thanked everyone for their comments, and then moved on to the
approval of the minutes.

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<th>Approval of Open Session Minutes</th>
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<td>Chair Adams called for a motion to approve or amend the minutes of August 27, 2021 Meeting.</td>
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<td>Ms. Jardin seconded. A roll call ensued with all seven (7) Commissioners present voting in favor of the motion.</td>
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<th>Chief’s Monthly Reports</th>
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<td>Chief Raybuck noted that he would like to defer his Monthly Reports to give Mr. Kamealoha Hanohano Pa-Smith the opportunity to provide testimony on the proposed Kapa’a police substation.</td>
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Chair Adams called on Mr. Smith to address the Commission.

Mr. Smith began by thanking Chair Adams and the Commissioners for the opportunity to share his thoughts on the proposed police substation. He shared that he is a native Hawaiian and an Aloha Aina Educator and graduated from Hawaii Pacific University and has a professional diploma in teaching and is licensed to teach in the Hawai‘i public school system.

Mr. Smith testified that he is here today to provide testimony in support of the Kapa‘a police substation. He does not have an issue with building a police substation at Mahelona because he knows that KPD has been looking for a place and because of climate change relocating the building up on the hill is a great idea. He stated that he is very familiar with the area above the Kaiākea fire station because it is a significant cultural site.

With regard to the police substation, as part of the discussion, it would be great if everyone could get together and figure out a way on how to incorporate Hawaiian chivalry and traditional Hawaiian knowledge into the building. He stated that building resiliency in the community will detour any negative interactions between law enforcement, Hawaiian people as well as others and will allow conversations to take place.

He shared that he grew up in a time where his father was engaged in all kinds of political activities (Hawaiian activists) and police presence was always part of their lives and the interactions have not always been positive. As a take away from lessons learned from his childhood days, he asked how we as a community can do things better and forge new and better relationships. He suggested working with Hawaiian practitioners to build an Ahu (altar) somewhere on the property so that native Hawaiians can come to practice their cultural protocol and honor their native
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<td>Hawaiian history of the area. He shared that they are doing something similar in Hanalei near the landslide to dedicate and recognize the secret cultural sites within the area. He feels doing something similar at Mahelona will forge new and better relationships.</td>
<td>Chair Adams thanked Mr. Pa-Smith for his testimony, and then asked if anybody wanted to make a comment or ask questions. Chief Raybuck thanked Mr. Pa-Smith for taking the time, not just to be here today, but more importantly for reaching out to his office, public works to share his manao and passion for the Hawaiian culture, and for asking the county if it would consider incorporating Hawaiian history into the project. He pointed out that because he has first-hand knowledge about the culture and history of the land, he looks forward to having more conversations with him and with others and together they can find ways to embody the rich Hawaiian culture as they move forward. With no further comments, Chair Adams moved on to the Chief's Monthly Reports.</td>
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<td>In addition to his Monthly Reports, Chief Raybuck highlighted that during the month of August, the patrol bureau have been vigorously conducting traffic enforcement operations resulting in 291 citations from just a small number of officers involved in those traffic enforcement operations. He stated that their goal is to issue no tickets and having the patrol vehicle blue lights on at all times will help to keep the roadways safe to travel on because people are obeying the speed limits, and with the public's continued support to drive with Aloha it will reduce problems in the community. He then highlighted the partnership between ISB and PSB to increase community engagement as an annual goal. He shared that Detective Hanson Hsu went out and made contact with the properties along the Coconut Coast and initiated relationships. Also, ISB detectives along with patrol have been scheduling walks on the Kapa’a bath</td>
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<td>path to increase police presence and he has received positive feedback. He thanked Lieutenant/District Commander Danny Oliveria for his leadership. Recruitment – Unfortunately, they lost two of the seven background checks for the January recruit class, both individuals withdrew due to some conditions of employment. The five remaining are still going through the background process and if successful all five will enter into the January recruit class to offset some of the attrition that will occur over the next several months. Community events – Chief Raybuck joined Assistant Chief Elliott Ke, former Deputy Chief Mike Contrades, KCC representatives and the Committee on Native Hawaiian Advancement to congratulate 17 graduates of the program. Chair Adams thanked Chief Raybuck for his reports, and the move on to item KPC 2021-28.</td>
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<td>Business KPC 2021-28</td>
<td><strong>Discussion and decision-making on the permitted interaction group on recommendation for Revision of Rule 6 of the Kauai Police Commission Rules on Administrative Practice and Procedure.</strong> Chair Adams called on Ms. Hertog to address the Commission on the Group’s recommendation for revision of Rule 6 that was presented at the Commission’s last meeting. Ms. Hertog stated that at the last Commission meeting, the Group made a recommendation to remove the suite number of the address element because the Office of Boards and Commissions may have to relocate their office, but everything else in Rule 6 would remain the same. She asked the Commissioners if they were ready to make a decision to accept the Group’s recommendation or not. Chair Adams called for a motion.</td>
<td>Ms. Hertog moved to accept the Group’s recommendation. Mr. Morita seconded. Hearing no objections. Chair Adams called for a roll call vote. All seven (7) Commissioners voted in favor of the motion.</td>
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| KPC 2021-29 | **Discussion and decision-making on the permitted interaction group on recommendation for Rule 7 of the Kauai Police Commission Rules on Administrative Practice and Procedure.**  
Chair Adams called on Ms. Hertog to address the Commission on the Group’s recommendation for revision of Rule 7 that was also presented at the Commission’s last meeting. Ms. Hertog stated that because there was no recommendation proposed for Rule 7, she would move to accept Rule 7 as is. Chair Adams called for a second. | Ms. Hertog moved to accept Rule 7 as is. Vice Chair Bahouth seconded. Hearing no objections. Chair Adams called for a roll call vote. All seven (7) Commissioners voted in favor of the motion. |
| KPC 2021-30 | **Presentation on by the permitted interaction group on recommendations for Revision of Rule 8 and Rule 9 of the Kauai Police Commission Rules on Administrative Practice and Procedure.**  
Chair Adams called on Ms. Hertog to address the Commission on the Group’s recommendations for the revision of Rule 8 and Rule 9.  
Ms. Hertog pointed out that the Group made only one recommendation to correct an incorrect paragraph in Rule 8-5 that was published in the previous rules. As for Rule 9, no recommendations are being made for that rule.  
Chair Adams thanked Ms. Hertog and the Group for their work, and then noted that the decision would be made at the Commission’s next meeting in October. |                                                                                              |
| KPC 2021-31 | **Update by Police Chief Todd Raybuck regarding the proposed Kapa’a Police Substation.**  
Chair Adams called on Chief Raybuck to provide an update on the proposed Kapa’a police substation. |                                                                                              |
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<td>Chief Raybuck reported that the site for the proposed police substation is in the vicinity of the Mahelona Hospital in Kapa'a. He stated that they received public comments of support and in opposition of the project. He pointed out that the draft EA (Environmental Assessment) is in the final stages of preparation and once that is done Public Works will move forward to the next process.</td>
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<td>He thanked everyone in the community who came out to voice their support and concerns. He pointed that how important it is for KPD to hear from everyone who lives in the area, and then find ways to mitigate concerns that were brought forward by the community, and yet provide an increased availability and presence for their officers to serve that community.</td>
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<td>KPC 2021-32</td>
<td>Decision-making on a request for Legal Representation from Police Chief Todd Raybuck pursuant to HRS §52-D Determination of Scope of Duty to Chair Catherine Adams and the Kauai Police Commission in lawsuit, Civil No. 1:21-cv-364, that was filed by Plaintiff Paul N. Applegate versus County of Kauai; Kauai Police Department; Kauai Police Commission; Todd G. Raybuck, individually and in his capacity as Chief of Police for the Kauai Police Department; and DOE Defendants 1-100.</td>
<td>Item KPC 2021-32 was deferred until after the Commission returns from Executive Session.</td>
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<td>Communication KPC 2021-33</td>
<td>Two communications received on September 7, 2021 and September 10, 2021 from the Occupied Forces of Hawai‘i Army I Corps Kauai C.A. /M.G. /I.A.G. to the Kauai Police Commission Chair Catherine Adams regarding a military notice of protected property safeguards.</td>
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<td>Chair Adams called on Chief Raybuck to provide an update.</td>
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<td>Chief Raybuck stated that the Department received the same documentation. As he mentioned at the last Commission meeting, they have no information that would cause concerns on the safety of the community and their officers.</td>
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<td>Ms. Hertog pointed out that one of the documents dated January 17, 2021 declared war between Hawai‘i and the United States of America and because of her background that is quite concerning to her. Chief Raybuck stated that they will continue to monitor the organization to identify any potential threats and will disseminate any information on particular threats that needs to be addressed. But at this time, they have not identified any threats. He thanked Ms. Hertog for sharing her concerns and reiterated that the Department would continue to monitor the situation to determine whether or not there are any active threats. With no further questions or comments from the Commissioners or Chief Raybuck, Chair Adams called for a motion to receive both communications for the record.</td>
<td>Mr. Pigao moved to receive the two communications for the record. Mr. Morita seconded. A roll call ensued with all seven (7) Commissioners present voting in favor of the motion.</td>
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<tr>
<td>Executive Session</td>
<td>Pursuant to Hawai‘i Revised Statutes §92-4, §92-5 (a) (2) and (4). The purpose of this Executive Session is for the Commission to review and discuss charges brought against an officer in the Kaua‘i Police Department, where consideration of matters affecting privacy will be involved, provided that if the individual requests an open meeting, an open meeting shall be held; and to consult with its attorney on issues pertaining to the Commission’s powers, duties, privileges, immunities, and or liabilities as they may relate to the following agenda items:</td>
<td>At 9:48 a.m. Deputy County Attorney Chris Donahoe cited the Hawai‘i Revised Statutes to take the meeting into Executive Session.</td>
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<tr>
<td>ES KPC 2021-001</td>
<td>Monthly update by Christian Jenkins, Lieutenant, Office of Professional Standards on the status of the Department’s disposition on formal notarized complaints that were filed with the Kaua‘i Police Department and with the Kauai Police Commission and referred to the Office of the Chief for further review.</td>
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<td>ES KPC 2021-002</td>
<td>Monthly update by Todd G. Raybuck, Chief of Police, Kaua‘i Police Department or his designated representative on any significant adverse incidents/events involving personnel in the Kaua‘i Police Department that could potentially impact the County, the Police Commission and the Kaua‘i Police Department.</td>
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<td>ES KPC 2021-021</td>
<td>New citizen complaint no. KPC 2021-006 received on July 22, 2021. The complaint alleges officers allowed estranged spouse to remove firearms registered to the complainant from their residence. (Deferred on August 24, 2021)</td>
<td>—</td>
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<tr>
<td>ES KPC 2021-022</td>
<td>New citizen complaint no. KPC 2021-007 received on July 22, 2021. The complaint alleges that an officer refused to stop a crime that occurred on Larsen’s Beach. (Deferred on August 24, 2021)</td>
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<td>ES KPC 2021-023</td>
<td>New citizen complaint no. KPC 2021-008 received on July 22, 2021. The complaint alleges that officers violated the Hawai‘i turtle protection law, and then stalked the complainant who observed the violation. (Deferred on August 24, 2021)</td>
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<tr>
<td>ES KPC 2021-025</td>
<td>New citizen complaint no. KPC 2021-008 received on July 22, 2021. The complaint alleges that officers violated the Hawai‘i turtle protection law, and then stalked the complainant who observed the violation. (Deferred on August 24, 2021)</td>
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<tr>
<td>ES KPC 2021-025</td>
<td>New citizen complaint no. KPC 2021-009 received on August 20, 2021 via email. The complaint alleges abuse of police power, harassment at complainant’s residence and illegally destroying complainant’s property.</td>
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<tr>
<td>ES KPC 2021-026</td>
<td>Pursuant to Hawai‘i Revised Statutes §92-4, §92-5 (a) (4), §92-9 (a) (1-4) and (b), the purpose of this Executive Session is for the Commission to approve or amend the regular Executive Session minutes of August 24, 2021. Where consideration of matters affecting privacy will be involved and to consult with its attorney on issues pertaining to the Commission’s powers, privileges, immunities, and or liabilities as they may relate to this item.</td>
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</tr>
<tr>
<td>ES KPC 2021-027</td>
<td>Pursuant to Hawai‘i Revised Statute §92-5 (4), the purpose of this Executive Session is for the Commission to consult with its attorney on questions and issues pertaining to the Commission’s powers, duties, privileges, immunities, and liabilities on a request for Legal Representation from Police Chief Todd Raybuck to Chair Catherine Adams and the Kauai Police Commission in lawsuit, Civil No. 1:21-cv-364, that was filed by Plaintiff Paul N. Applegate versus County of Kauai; Kauai Police Department; Kauai Police Commission; Todd G. Raybuck, individually and in his capacity as Chief of Police for the Kauai Police Department; and DOE Defendants 1-100.</td>
<td>Chair Adams called for a motion to enter into Executive Session. Vice Chair Bahouth moved. Mr. Pigao seconded. A roll call ensued with all seven (7) Commissioners present voting in favor of the motion. At 9:52 a.m. the Commissioners entered into Executive Session.</td>
</tr>
<tr>
<td>Return to Open Session</td>
<td>At 12:16 p.m. the Commissioners returned to Open Session.</td>
<td></td>
</tr>
<tr>
<td>KPC 2021-32</td>
<td>Decision-making on a request for Legal Representation from Police Chief Todd Raybuck pursuant to HRS §52-D Determination of Scope of Duty to Chair Catherine Adams and the Kauai Police Commission in lawsuit, Civil No. 1:21-cv-364, that was filed by Plaintiff Paul N. Applegate versus County of Kauai; Kauai Police Department; Kauai Police Commission; Todd G. Raybuck, individually and in his capacity as Chief of Police for the Kauai Police Department; and DOE Defendants 1-100.</td>
<td>Chair Adams called on Deputy County Attorney Donahoe to address item KPC 2021-23. Mr. Donahoe announced that Chief Raybuck’s request for legal representation, pursuant to HRS 52D has been granted in Civil No. 1:21-cv-364.</td>
</tr>
<tr>
<td>Ratify the actions taken in Executive Session</td>
<td>Chair Adams called for a motion to ratify the actions taken in Executive Session.</td>
<td>Vice Chair Bahouth moved to ratify the actions taken in Executive Session. Mr. Pigao seconded. A roll call ensued with all seven (7) Commissioners present voting in favor of the motion.</td>
</tr>
</tbody>
</table>
## KPC Open Session Minutes—
Of September 24, 2021 Meeting

<table>
<thead>
<tr>
<th>SUBJECT</th>
<th>DISCUSSION</th>
<th>ACTION</th>
</tr>
</thead>
<tbody>
<tr>
<td>Adjournment</td>
<td>Being there were no further business to conduct, Chair Adams called for a motion to adjourn the meeting.</td>
<td>Vice Chair Bahouth moved. Ms. Hertog seconded. A roll call ensued with all seven (7) Commissioners present voting in favor of the motion. At 12:23 p.m. the meeting adjourned.</td>
</tr>
</tbody>
</table>

Submitted by: ____________________________  Reviewed and Approved by: ____________________________

Mercedes Omo, Staff Support Clerk  Catherine Adams, Chair

( ) Approved as circulated on
( ) Approved as amended. See minutes of ____________ meeting.
# KAUAI POLICE DEPARTMENT
## POLICE COMMISSION MONTHLY REPORT
### ADMINISTRATIVE AND TECHNICAL BUREAU

## REPORTING PERIOD
September 2021

## Budget Summary (Estimate): Period of August 2021

<table>
<thead>
<tr>
<th>BUREAU</th>
<th>BUDGET</th>
<th>EXPENDITURES TO DATE</th>
<th>ENCUMBRANCES TO DATE</th>
<th>BALANCE 8/31/2021</th>
<th>17% OF BUDGET</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chief's Office</td>
<td>$38,347,012.00</td>
<td>$5,693,019.04</td>
<td>$655,094.45</td>
<td>$31,998,983.45</td>
<td>17%</td>
</tr>
<tr>
<td>Administrative &amp; Technical Bureau</td>
<td>1,952,664.00</td>
<td>107,229.96</td>
<td>518,295.02</td>
<td>1,317,139.02</td>
<td>32%</td>
</tr>
<tr>
<td>Investigative Services Bureau</td>
<td>728,533.00</td>
<td>3,850.51</td>
<td>416,178.06</td>
<td>308,503.89</td>
<td>58%</td>
</tr>
<tr>
<td>Patrol Services Bureau</td>
<td>560,629.00</td>
<td>15,060.42</td>
<td>106,374.98</td>
<td>439,193.60</td>
<td>22%</td>
</tr>
<tr>
<td>Total General Fund</td>
<td>$41,578,838.00</td>
<td>$5,819,159.93</td>
<td>$1,695,858.11</td>
<td>$34,063,819.96</td>
<td>18%</td>
</tr>
<tr>
<td>Asset Forfeiture Funds</td>
<td>100,008.00</td>
<td>0.00</td>
<td>0.00</td>
<td>$100,008.00</td>
<td>0.00%</td>
</tr>
<tr>
<td>Salary &amp; Wages</td>
<td>18,733,279.00</td>
<td>2,924,772.50</td>
<td></td>
<td>15,808,506.50</td>
<td>16%</td>
</tr>
<tr>
<td>Overtime</td>
<td>2,538,207.00</td>
<td>364,288.15</td>
<td></td>
<td>2,173,918.85</td>
<td>14%</td>
</tr>
<tr>
<td>Fringe Benefits</td>
<td>15,399,759.60</td>
<td>2,379,805.57</td>
<td></td>
<td>13,019,953.43</td>
<td>15%</td>
</tr>
<tr>
<td>Total</td>
<td>36,671,245.00</td>
<td>5,668,866.22</td>
<td></td>
<td>31,002,378.78</td>
<td>15%</td>
</tr>
<tr>
<td>Payroll% of Budget</td>
<td>88%</td>
<td>15%</td>
<td></td>
<td>85%</td>
<td></td>
</tr>
<tr>
<td>Cumulative Overtime Hours</td>
<td>FY2021</td>
<td>FY2022</td>
<td>Overtime Variance</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Comparison through August</td>
<td>12,761</td>
<td>8,454</td>
<td>(4,307)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

## Personnel Status: 09-30-2021

<table>
<thead>
<tr>
<th>AUTHORIZED</th>
<th>ACTUAL</th>
<th>VACANT</th>
</tr>
</thead>
<tbody>
<tr>
<td>2</td>
<td>2</td>
<td>11</td>
</tr>
<tr>
<td>Sworn</td>
<td>161</td>
<td>150</td>
</tr>
<tr>
<td>Civilian</td>
<td>73</td>
<td>55</td>
</tr>
<tr>
<td>County General Fund</td>
<td>63</td>
<td>50</td>
</tr>
<tr>
<td>Temporary &amp; Grant Fund</td>
<td>4</td>
<td>1</td>
</tr>
<tr>
<td>Temporary [SANE]</td>
<td>6</td>
<td>4</td>
</tr>
<tr>
<td>Total</td>
<td>236</td>
<td>207</td>
</tr>
</tbody>
</table>

1 | Page
<table>
<thead>
<tr>
<th>Recruitment</th>
<th>Status</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>95th, 96th &amp; 97th Police Recruit Classes</strong></td>
<td>11 Vacancies</td>
<td><strong>Written test date September 21, 2021</strong>&lt;br&gt;Confirmed by HR to take written – 29&lt;br&gt;Showed to take written – 14&lt;br&gt;No show Written – 15&lt;br&gt;Failed Written Exam – 3&lt;br&gt;Passed Written Exam/names referred – 11&lt;br&gt;Failed PRST – 2&lt;br&gt;No Show PRST – 2&lt;br&gt;Number of applicants moved to background phase – 7</td>
</tr>
<tr>
<td></td>
<td></td>
<td><strong>Written test date September 22, 2021</strong>&lt;br&gt;Confirmed by HR to take written – 9&lt;br&gt;Showed to take written – 3&lt;br&gt;No show Written – 6&lt;br&gt;Failed Written Exam – 1&lt;br&gt;Passed Written Exam/names referred – 2&lt;br&gt;Failed PRST – 1&lt;br&gt;Number of applicants moved to background phase – 1</td>
</tr>
<tr>
<td></td>
<td></td>
<td><strong>Written test date September 25, 2021 (CNHA Police Exam Prep Class)</strong>&lt;br&gt;Confirmed by HR to take written – 12&lt;br&gt;Showed to take written – 12&lt;br&gt;Failed Written Exam – 7&lt;br&gt;Passed Written Exam/names referred – 5&lt;br&gt;Failed PRST – 2&lt;br&gt;Number of applicants moved to background phase – 3</td>
</tr>
<tr>
<td></td>
<td></td>
<td><strong>COMBINED TOTAL: January 1, 2021 – September 27, 2021:</strong>&lt;br&gt;Confirmed by HR to take written – 194&lt;br&gt;Showed to take written – 119&lt;br&gt;Failed Written Exam – 38&lt;br&gt;Passed Written Exam/names referred – 82 (69% pass rate)&lt;br&gt;(*2019 - 64% pass rate / *2020 - 58% pass rate)&lt;br&gt;Failed PRST – 20 (73% pass rate)&lt;br&gt;(*2019 - 83% pass rate / *2020 - 88% pass rate)&lt;br&gt;No Show PRST – 7&lt;br&gt;Number of applicants moved to background phase – 55&lt;br&gt;(*2019 - 34 after 24% loss to pre-psych / *2020 - 24 after 22% loss to pre-psych)&lt;br&gt;Withdraw – 7&lt;br&gt;Disqualified – 18&lt;br&gt;Background Investigation – 16&lt;br&gt;Conditional Job Offer – 7&lt;br&gt;Hired – 7 (95th Recruit Class start date July 1, 2021)&lt;br&gt;*96th Recruit Class start date January 3, 2022&lt;br&gt;*97th Recruit Class start date July 1, 2022</td>
</tr>
<tr>
<td>Criminalist III</td>
<td>1 Vacancy</td>
<td><strong>Posted August 22-31, 2021</strong>&lt;br&gt;Referred – 4&lt;br&gt;Pending interviewed – 4</td>
</tr>
<tr>
<td>Accountant II</td>
<td>1 Vacancy</td>
<td><strong>Posted May 2 – 11, 2021</strong>&lt;br&gt;Referred – 7&lt;br&gt;Withdrew – 4&lt;br&gt;Interviewed – 3 (August 10, 2021)&lt;br&gt;Background Investigation – 1</td>
</tr>
<tr>
<td>Police Records Unit Supervisor</td>
<td>1 Vacancy</td>
<td>No active recruitment or posting at this time – Revising Job Description</td>
</tr>
<tr>
<td>Police Equipment Maintenance Coord.</td>
<td>1 Vacancy</td>
<td>No active recruitment or posting at this time – Revising Job Description</td>
</tr>
<tr>
<td>Police Investigative Operations Assistant</td>
<td>1 Vacancy</td>
<td>No active recruitment or posting at this time</td>
</tr>
</tbody>
</table>
| Administrative Support Assistant | 1 Vacancy | **Posted April 18 – 27, 2021**  
Applied – 53  
Referred – 16  
Withdrew – 7  
Interviewed – 9 (August 3 & 4, 2021)  
Background Investigation – 3 |
|-----------------------------------|-----------|----------------------------------|
| Emergency Services Dispatcher     | 2 Vacancies | **COMBINED TOTAL: May 16 – August 4, 2021**  
Applied – 29  
Confirmed by HR to take written – 16  
Showed to take written – 9  
Failed Written Exam – 2  
Names Referred by HR – 6  
Withdrew – 2  
Disqualified – 2  
Background Investigation – 2 |
| Public Safety Worker I            | 2 Vacancies | **Posted August 8 – 31, 2021 (Written Exam September 296, 2021)**  
Applied – 10  
Names Referred by HR – 9  
No show written exam – 8  
Failed Written Exam – 1  
*No names left to move to interview process. HR will re-post on October 3, 2021 for open recruitment* |
| Background Investigator           | 1 Vacancy | No active recruitment or posting at this time (Contract Hire Positions) |
| Public Safety Worker Trainee      | 2 Vacancies | No active recruitment or posting at this time |
| Police Apprentice                 | 2 Vacancies | No active recruitment or posting at this time |
| Forensic Nurse (SANE)             | 2 Vacancies | No active recruitment or posting at this time (Contract Hire Positions) |
| Clerk (Off duty)                  | 1 Vacancy | No active recruitment or posting at this time |

**Firearms Registered: September 2021**

<table>
<thead>
<tr>
<th></th>
<th>Imported</th>
<th>Domestic</th>
<th>Total</th>
<th>Total Registered</th>
</tr>
</thead>
<tbody>
<tr>
<td>Handguns</td>
<td>109</td>
<td>106</td>
<td>215</td>
<td>316</td>
</tr>
</tbody>
</table>

**Firearms Registered: January - September 2019**

<table>
<thead>
<tr>
<th></th>
<th>Handguns</th>
<th>Rifles</th>
<th>Shotguns</th>
<th>Registered</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total</td>
<td>710</td>
<td>1265</td>
<td>269</td>
<td>2,244</td>
</tr>
</tbody>
</table>

**Firearms Registered: January - September 2020**

<table>
<thead>
<tr>
<th></th>
<th>Handguns</th>
<th>Rifles</th>
<th>Shotguns</th>
<th>Registered</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total</td>
<td>1142</td>
<td>1790</td>
<td>363</td>
<td>3,295</td>
</tr>
</tbody>
</table>

**Firearms Registered: January - September 2021**

<table>
<thead>
<tr>
<th></th>
<th>Handguns</th>
<th>Rifles</th>
<th>Shotguns</th>
<th>Registered</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total</td>
<td>1253</td>
<td>1683</td>
<td>508</td>
<td>3,444</td>
</tr>
</tbody>
</table>

**Bench Warrant Tracking:**

<table>
<thead>
<tr>
<th>Warrants Received</th>
<th>Warrants Served</th>
<th>Warrants Recalled</th>
<th>Outstanding Warrants (2-Year Total)</th>
</tr>
</thead>
<tbody>
<tr>
<td>297</td>
<td>158</td>
<td>80</td>
<td>746</td>
</tr>
</tbody>
</table>

**Received Warrant Type:**

<table>
<thead>
<tr>
<th>Total Warrant Intake</th>
<th>Bench Warrants</th>
<th>eBW Traffic</th>
<th>eBW Criminal</th>
<th>Juvenile Warrants</th>
<th>Arrest Warrants</th>
</tr>
</thead>
<tbody>
<tr>
<td>297</td>
<td>2</td>
<td>120</td>
<td>169</td>
<td>0</td>
<td>6</td>
</tr>
</tbody>
</table>
### Received Legal Service (Non-Warrant):

<table>
<thead>
<tr>
<th>Summons / Other</th>
<th>TRO Family</th>
<th>Protective Order</th>
<th>TRO Civil</th>
<th>Subpoena Civil/OPA</th>
<th>Total Legal Service Intake for Month</th>
<th>Grand Total for Year</th>
</tr>
</thead>
<tbody>
<tr>
<td>2</td>
<td>30</td>
<td>10</td>
<td>0</td>
<td>46</td>
<td>385</td>
<td>2,674</td>
</tr>
</tbody>
</table>

### Served Legal Service (Non-Warrant):

<table>
<thead>
<tr>
<th>Summons / Subpoena</th>
<th>TRO Family</th>
<th>Protective Order</th>
<th>TRO Civil</th>
<th>Total Legal Service for Month</th>
</tr>
</thead>
<tbody>
<tr>
<td>0 / 48</td>
<td>17</td>
<td>9</td>
<td>16</td>
<td>90</td>
</tr>
</tbody>
</table>

### Training Provided by Kaua‘i Police Department:

<table>
<thead>
<tr>
<th>No</th>
<th>Order No.</th>
<th>Start Date</th>
<th>End Date</th>
<th>Training Description</th>
<th>Personnel</th>
<th>Instruction Hours</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>20-20056</td>
<td>9/2/21</td>
<td>9/23/21</td>
<td>SRT Training</td>
<td>12</td>
<td>16</td>
</tr>
<tr>
<td>2</td>
<td>21-21001</td>
<td>9/3/21</td>
<td>9/24/21</td>
<td>HIBS Training</td>
<td>2</td>
<td>16</td>
</tr>
<tr>
<td>3</td>
<td>21-21051</td>
<td>9/7/21</td>
<td>9/9/21</td>
<td>10th Annual SART Summit: An MDT Conference</td>
<td>6</td>
<td>24</td>
</tr>
<tr>
<td>4</td>
<td>21-21053</td>
<td>9/15/21</td>
<td>9/15/21</td>
<td>General Dynamics of Sex Abuse</td>
<td>3</td>
<td>8</td>
</tr>
<tr>
<td>5</td>
<td>21-21056</td>
<td>9/30/21</td>
<td>9/30/21</td>
<td>TFO Quarterly Firearms re-qualifications</td>
<td>10</td>
<td>10</td>
</tr>
<tr>
<td>6</td>
<td>21-21057</td>
<td>9/11/21</td>
<td>9/16/21</td>
<td>HI-SCAN HiTraX Single View online Operator Training</td>
<td>5</td>
<td>3</td>
</tr>
<tr>
<td>7</td>
<td></td>
<td>9/1/21</td>
<td>9/30/21</td>
<td>95th Recruit Class Training</td>
<td>5</td>
<td>168</td>
</tr>
</tbody>
</table>

**Totals:** 43 Personnel, 245 Instruction Hours

### Training Attended Off Island: Provided by Outside Agency:

<table>
<thead>
<tr>
<th>No</th>
<th>Order No.</th>
<th>Start Date</th>
<th>End Date</th>
<th>Training Description</th>
<th>Personnel</th>
<th>Instruction Hours</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>21-21052</td>
<td>9/21/21</td>
<td>9/24/21</td>
<td>2021 Bi-annual Narcotics K-9 Training</td>
<td>3</td>
<td>8</td>
</tr>
</tbody>
</table>

**Totals:** 3 Personnel, 8 Instruction Hours

### Training Attended On Island: Provided by Outside Agency:

<table>
<thead>
<tr>
<th>No</th>
<th>Order No.</th>
<th>Start Date</th>
<th>End Date</th>
<th>Training Description</th>
<th>Personnel</th>
<th>Instruction Hours</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>21-21054</td>
<td>9/4/21</td>
<td>9/6/21</td>
<td>Search &amp; Rescue Tracker Course—Level 1</td>
<td>5</td>
<td>8</td>
</tr>
</tbody>
</table>

**Totals:** 5 Personnel, 8 Instruction Hours

---

**SUBMITTED BY:**

MARK OZAKI  
Captain, ATB

**APPROVED BY:**

ELLIOTT KE  
Assistant Chief, ATB
GENERAL CRIMES SECTION

MAJOR INCIDENTS / NOTABLE HIGHLIGHTS

HOMICIDE: 0
ROBBERY: 0
DEATH RELATED INVESTIGATIONS: 11 (7) Autopsies
RECKLESS ENDANGERING: 1
SEXUAL ASSAULT: 5
ASSAULTS: 2
FEELONY POSSESSION LOADED FIREARM: 0
MISSING PERSON: 2 (unfounded)
RUN AWAY JUVENILE IN DANGER: 0
TERRORISTIC THREATS: 2
ABUSE FAMILY HOUSEHOLD MEMBER (FEELONY): 4
CUSTODIAL INTERFERENCE: 2
CHILDREN JUSTICE CENTER FORENSIC INTERVIEWS: 2
COVID 19 VIOLATIONS: 0

MEETINGS: (VIA ONLINE)

09-07-2021 Hawaii Sex Assault Response Team meeting.
09-10-2021 Lethal Assessment Program meeting.
09-10-2021 Children Justice Center Multi-Disciplinary Team meeting.
09-23-2021 CJC Case reviews/ case tracking.
TRAININGS:

09-03-2021  Man Tracking Search and Rescue Training (SAR TRACKER1) course 3 days. (3) Detectives and (1) K9 attended.

09-07-2021  (1) Lieutenant Multi-Disciplinary Team Response to missing children. 3 day Course online virtual training.

09-07-2021  (3) Detectives (3) SANE attend Sex Assault Summit online training 3 days.

SPECIAL FOCUS SECTION

MAJOR INCIDENTS / NOTABLE HIGHLIGHTS

UNATTENDED DEATH= 6

EXPLOSIVE ORDINANCE RESPONSE= 0

THEFT= 0

BURGLARY= 20

MISSING PERSON= 0

FIREARMS= 10

SEX ASSAULT= 4

UCPV= 1

UEMV= 1

ASSAULT= 3

MEDICAL CALLS= 1

DRUG CASES= 1

ARSON= 2
MEETINGS:

September 8, 2021  LT. Nagahisa participated as a panel member for the Dispatch Interviews.


September 15, 2021  LT. Nagahisa attended a “Workday” Ambassador meeting.

September 20, 2021  LT. Nagahisa participated as a panel member for the Dispatch Interviews.

September 21, 2021  LT. Nagahisa attended monthly OPA Meeting.

September 30, 2021  LT. Nagahisa attended monthly Lieutenant’s meeting with the Chief.

TRAININGS / PRESENTATIONS / PUBLIC SPEAKING / OTHERS:

September 2, 2021  Detectives DeBlake, Nii, Hsu – SRT Training.

September 3-5, 2021  Detective Hsu – SAR Tracker1 Training.


September 8, 2021  LT. Nagahisa – Dispatch Interviews, panel member.


September 10, 2021  Detectives Nii & Hsu – weekly Bomb Training.

September 15, 2021  Detectives Hsu & Hamberg – General Dynamics training.

September 17, 2021  Detectives Nii & Hsu – weekly Bomb Training.


September 24, 2021  Detectives Nii & Hsu – weekly Bomb Training.

September 30, 2021  Detectives Hsu & Nii – TFO Firearms training.
COMMUNITY ACTIVITIES AND INVOLVEMENT:


CRIME SCENE AND LABORATORY SECTION:

TRAININGS ATTENDED
Criminalist (3) – Oder 21-21058 BluePaz First Responder Health and Wellness Conference
Criminalist (2) PDMs fentanyl training refresher
Criminalist (3) Kaua‘i seabird fallout and monitoring -online

TRAININGS INSTRUCTED
Criminalist (1) – Continue QC MBIS, ten print recognition, face biometrics, OTN reports with trainee

MEETINGS:

Criminalist (1) – OSAC Task Group Conference Calls
Criminalist (2) Helicopter mass casualty follow-up meeting
Criminalist (1) Teleconference: Carmen accreditation manager
Criminalist (1) ICAC investigators – explicit juvenile content data
Criminalist (1) Roth Shepard’s Architect Tyler decontamination stations and questions from environmental architect

SUMMARY

For the CSLS this month, there was a total of thirteen call outs and twenty new case assignments. CSLS trainee continues to make progress in training and completing daily biometric and QC Ten-Print. September saw an uptick in fentanyl cases, in response CSLS provided all substations with collections kits for unknown and or suspected substances. In addition, a chemical hazard trainer will arrive on 10/19/21 to train 12 KPD personnel on how to operate the handheld spectrometer used for unknown substance as well chemical spills, suspicious substance/package screening, suspicious drugs, clandestine labs, illegal dumping sites, and arson investigations. Two of the KPD participants have received previous training.

CSLS continues to participate in community engagement efforts and have secured a date with Waimea High School for Science Week. We will present lectures and an actual crime scene. This month one criminalist began Shearwater fallout monitoring duties.
VICE SECTION

NOTABLE HIGHLIGHTS

1. Fentanyl Investigation: The Vice Section conducted surveillance in the Kapaa Area based on information received regarding a possible drug sale involving Fentanyl. As a result of that investigation, the Vice Section seized 3 vehicles as evidence and arrested 6 suspects. Search warrants were executed resulting in the seizure of 0.5 grams of fentanyl, 0.9 grams of methamphetamine, $250 in cash, as well as drug related paraphernalia. The investigation is ongoing.

2. Fentanyl Investigation: On 09/14/21, the Vice Section conducted an investigation in the Lihue area resulting in the seizure of 193.6 grams of methamphetamines, 8.8 grams of heroin, 201 M30 Oxycodone pills believed to contain fentanyl (preliminary test indicated fentanyl, pending lab results for verification) and $31,232 in cash. This investigation is ongoing.

3. Fentanyl Investigation: 09/29/2021 The Vice Section conducted a drug investigation after arresting a male subject for outstanding warrants. During the arrest, 15.9 grams of methamphetamines was discovered on his person. A K9 screening was conducted on his vehicle and the K9 alerted to the odor of drugs. The vehicle was seized, and warrants obtained. On October 5, 2021, the warrant was executed and the following was recovered: 50.7 grams of Methamphetamine, .7 grams Heroin, .5 grams Fentanyl, $798 cash, and related drug paraphernalia.

MEETINGS/TRAINING/SCREENINGS

1. Multidisciplinary Team Response To Child Sex Trafficking: On September 7 through 9, One officer attended online training regarding child sex trafficking for a total of 14 hours.

2. 2021 Bi-Annual Narcotics Canine Training: On September 21 through the 24, two K9 Officers and two K9s and one Supervisor attended the K9 Bi-annual training held on Oahu. This training consisted of hands-on training with the dogs, presentations on health and safety of the animals, help tips for K9 supervisors, new trends in training and training aids.

3. Rappel Refresher Training: On September 29, 2021 a rappel refresher course at KPD was conducted for the Vice Section.

Submitted by:

Bryson M. Ponce
Assistant Chief
10-11-21
K-6
ISB
1600 hours
1. **MAJOR INCIDENTS**

**MAJOR T.C.**
On 09/06/21, Patrol officers responded to the report of a lone motorcyclist involved in a fatal traffic collision in Kapaa. The Traffic Safety Section responded and took over the investigation.

**DISORDERLY CONDUCT**
On 09/14/21, Patrol officers responded to a call of a disorderly conduct in Lihue involving a 60-year-old male subject yelling and threatening to harm himself. Crisis Negotiators responded to the scene to assist. After a lengthy negotiation the subject was taken into custody without incident.

**UCPV**
On 09/16/21, Patrol officers arrested a 49-year-old male suspect in Lihue wanted for unauthorized control of a propelled vehicle that occurred earlier in Hanalei.

**UCPV**
On 09/16/21, Patrol officers arrested a 30-year-old male suspect for unauthorized control of a propelled vehicle that occurred in Kealia.

**SUICIDE**
On 09/23/21, Patrol officers responded to a call in Kapaa of a male subject who was unresponsive. ISB responded to the scene and took over the investigation.

**BURGLARY 1ST**
On 09/25/21, Patrol officers arrested a 60-year-old male subject who forcibly entered the residence of a family member without authorization and barricaded himself inside. Crisis Negotiators responded to the scene to assist. After refusing to come out for several hours, the subject finally exited the residence where he was taken into custody without incident.

**UEMV/ASSULT 1ST**
On 09/27/21, Patrol officers arrested a 39-year-old male subject for Unauthorized Entry into a Motor Vehicle and Assault 1st.

**ATTEMPTED SUICIDE**
On 09/28/21, Patrol personnel assigned to cellblock observed a male inmate attempting to commit suicide. Cellblock personnel quickly responded to prevent the inmate from harming himself. The subject was then placed into a suicide prevention cell and additional measures were taken to ensure the inmate’s safety.
2. SPECIAL PROJECTS

TRAFFIC ENFORCEMENT  During the month of September, a total of 39 traffic enforcement projects were conducted island wide using traffic enforcement grants. The following is a breakdown of the types of grants and results:

- Speed Enforcement -10 speed enforcement projects were conducted which resulted in 130 speeding citations being issued and 6 warnings.

- Seatbelt Enforcement – 14 seatbelt projects were conducted which resulted in 116 seatbelt violation citations being issued and 34 warnings.

- Cell phone Enforcement – 15 handheld device projects were conducted which resulted in a total of 115 cell phone violation citations being issued and 29 warnings.

COVID COMPLIANCE  During Labor Day weekend (9/3/21-9/6/21), PSB Officers conducted COVID compliance checks in high traffic public areas to ensure residents and visitors were following Governor Ige’s Order for Labor Day Weekend.

DHHL  On 09/08/21, Patrol officers assisted the Department of Hawaiian Homelands with backroads clean up in Anahola and the issuance of trespass warnings.

3. COMMUNITY ORIENTED POLICING

Patrol officers conducted a total of 45 Community-Oriented-Policing projects during the month of September. Highlights include the following:

- Patrol officers walked and rode the Kapaa bike path and interacted with community members.

- Patrol officers interacted with students and staff members, monitored school crossings, and assisted with traffic control, at various elementary, middle, and high schools around the island.

- Members of Patrol administration walked on Rice Street and interacted with community members and business owners.
# Kauai Police Department

## Police Commission Monthly Report

### Patrol Services Bureau

**Traffic Enforcement Summary**

**Reporting Period: September 2021**

### Misc

<table>
<thead>
<tr>
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**Kauai Police Department**
**Police Commission Monthly Report**
**Patrol Services Bureau**
**Arrest Summary**
*Reporting Period September 2021*

### Adult Arrest Summary

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### Juvenile Arrest Summary

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### Current Period to Prior Period Comparison

- **LIHUE**: 128 to 147
- **WAIMEA**: 26 to 32
- **KOLOA**: 21 to 29
- **KAWAIHAU**: 95 to 39
- **HANALEI**: 12 to 8
- **Others**: 6 to 4

- **LIHUE**: 10 to 9
- **WAIMEA**: 2 to 6
- **KOLOA**: 1 to 0
- **KAWAIHAU**: 4 to 7
- **HANALEI**: 0 to 2
- **Others**: 0 to 1
Kauai Police Department
Police Commission Monthly Report
Patrol Services Bureau
Calls for Service and Incident Summary
Reporting Period September 2021

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Current Period to Prior Period Comparison

Submitted by:

Roderick Green

Digitally signed by Roderick Green
Date: 2021.10.14 11:36:12 -1000

Roderick B. Green
Captain
K-23
Patrol Services Bureau
RULE 8  DECLARATORY RULING BY THE COMMISSION

Rule 8-1  Petition. Any interested person may petition the Commission for a declaratory order as to the applicability of any statute or of any rule or order of the Commission.

Rule 8-2  Form, Contents and Rejection. The petition shall be submitted in duplicate to the Police Commission. The petition need not be in any special form but it shall contain:

a. A statement of the nature of each petitioner's interest, including reasons for the submission of the petition.

b. A designation of the specific provisions, rule or order in question.

c. A complete statement of the relevant facts.

d. A statement of the position or contention of the petitioner.

e. A memorandum of authorities, containing a full discussion of the reasons, includes any legal authorities, in support of such position or contention.

f. The name, address and telephone number of each petitioner.

g. The signature of each petitioner.

Any petition which does not conform to the foregoing requirements may be rejected by the Commission.

Rule 8-3  Processing of Petition. The petition shall be processed in the manner provided by Rule 3-6.

Rule 8-4  Non-issuance of Declaratory Order. The Commission may for good cause refuse to issue a declaratory order. Without limiting the generality of the foregoing, the Commission may so refuse where:

a. The question is speculative or purely hypothetical and does not involve an existing situation or one which may reasonably be expected to occur in the near future.

b. The petitioner's interest is not of the type which would give him standing to maintain an action in a court of law.

c. The issuance of the declaratory order may adversely affect the interest of the County in any litigation which is pending or may reasonably be expected to arise.

d. The matter is not within the jurisdiction of the Commission.

Rule 8-5  Consideration of Commission. Within forty-five days, after a hearing is held in the manner provided for by Rule 3-6 (7-6), the Commission shall either deny the petition, stating its reasons therefore, or issue a declaratory order. Upon the
disposition of the petition, the petitioner shall be promptly notified by the Commission.

RULE 9  COST OF RULES

Rule 9-1  Cost. Compilation and supplements of these rules shall be made available free of charge upon request by state officers in the case of a state agency and by county officers in the case of a county agency. Copies may also be made available, free of charge, to agencies of the federal government or of other states having a need for the rules. As to all other persons, the price for copy of these rules shall be charged in accordance with prices set forth by the Office of the County Clerk, County of Kaua‘i.
1 Oct 2021

Attached are 2 documents – the first is the NEW RULE 10 Version 1 October 2021 dealing with Complaints. The second document is our current complaint Rules from current Rule 3 – it is included so you can compare and contrast the 2 versions.

The current rules on Complaints are only 6 pages and don’t provide enough information about the complaint process for the lay people, like us, to know, understand, and carry out the duties assigned to the Police Commission by the County Charter. Because of increased scrutiny on police departments, and Police Commissions, it is important, especially when three new Commissioners come aboard in 2022, to have rules that guide us through the complaint process.

Because our current rules are so minimal all of us current Commissioners have had to learn our way through the complaint process as On-the-Job-Training. Think about it: The Time frames to file a complaint, on the proper form, notarized, not notarized, complaints from inmates, third party complaints, police department employees filing complaints against the Chief through the citizen complaint process, how does the Mayor’s Complaint Policy interface with the Commissions Complaint Policy. And, since last year and the MOU, the Commission is supposed to be the ONLY place where citizens file complaints.

Speaking of the MOU, how will new Commissioners even know it exists and what it says unless we get it into our rules? We had learn about all of those things on the fly.

But don’t let the new Rule 10 verbiage scare you. A lot of the pages are discussion.

Rule 10 should be written so a brand-new Commissioner, new county attorney, or new Boards and Commissions Administrator, could read the rule and understand the whole complaint process. We tried to put into written form the things that we actually do in regards to complaints, what types of complaints we take, and what type we don’t, and how we go about investigating them.

Everything is **color-coded** Below is the key:

- **Existing Verbiage is in BLACK**
- **Discussion points are in RED**
- **New Verbiage is in BLUE**
- **Verbiage in BLACK and Shaded Yellow is from our existing rules and is part of Mark’s MOU**
- **Verbiage in BLUE and Shaded Yellow is new and is from Mark’s MOU**
- **RECOMMENDATIONS are in PURPLE.**
- **Chris’ changes are in green**

---

1

Existing Verbiage in BLACK – **Discussion in RED** – **New verbiage in BLUE** – Verbiage in BLACK and Shaded Yellow is existing verbiage that is part of Mark’s MOU – **New Verbiage in BLUE and Shaded Yellow is from Mark’s MOU** – Recommendation in PURPLE—Chris’ changes in green
RULE 10  CITIZEN COMPLAINT PROCESS

Added a General opening to set tone for this rule.

RULE 10-1  General

A. Authority and Responsibility. Section 11.03 of the Kauai County Charter, General Powers of the Commission, and Rule 2-1 of the Police Commission Rules on Administrative Practice and Procedure, list the duties of the Police Commission.

Rule 2-1, Subsection “c” states that the Police Commission shall:

Receive, consider and investigate charges brought by the public against the conduct of the department or any of its members and submit a written report of its findings to the Chief of Police within ninety (90) days.

All of the other islands start their rules about complaints by referring to “Public Charges” then they say that Public Charges are “herein” called complaints. New verbiage below to use one common term when referring to complaints.

B. Commonly Accepted Terminology. For purposes of this rule, and whenever used for Police Commission business, the words “Public Charges”, “Allegations”, “Citizen Complaint”, and “Complaint” are synonymous.

To maintain commonality of verbiage between the Police Department, the Police Commission, the Office of Boards and Commissions, in dealings with other islands, and other law enforcement agencies, the commonly utilized words “Citizen Complaints” and “Complaint” are adopted.

C. Complaint Defined. For purposes of the Police Commission Administrative Rules a Complaint is defined as:

“An expression of dissatisfaction by a member of the public, made in writing, properly filed with the Police Commission, alleging improper conduct by an employee of the Kauai Police Department, or dissatisfaction with a departmental policy/procedure. For purposes of this rule employee includes the Chief of Police.”

Item d below clarifies that citizen complaints against Chief must FIRST go through the Mayors Policy

D. Complaints Against Chief of Police. All complaints against the Chief of Police filed through the Office of Boards and Commissions shall initially

2
be subject to the county policy regarding *Discipline of Department Heads Subject to Removal by Boards and Commissions*, until the method of investigation is determined. See Rule 11. We will work on Rule 11 next.

*Item E.* tells KPD / county employees, and Future Commissioners, that this complaint process is not for internal complaints.

**E. Internal Complaints.** The Complaint process as detailed in Rule 10 is not the proper method for police department, or other county employees, to file complaints against other police department employees, including the Police Chief, for alleged inappropriate behavior, or violation of police department or county policy.

**F. Memorandum of Understanding.** A Memorandum of Understanding exists regarding the duties and responsibilities of the Police Commission and the Police Department in the Complaint process. The MOU is an annex to this chapter.

New rule 10-2 added to explain terminology and Key dates utilized in the Complaint process.

**Rule 10-2. Terminology and Key Dates Utilized in Complaint Process.**

<table>
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<tr>
<th>A. <strong>Aggrieved Person.</strong> The individual reportedly injured or offended by the actions of the Department or one of its employees.</th>
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<tbody>
<tr>
<td>B. <strong>Allegation.</strong> A claim, assertion, or accusation of an act, or omission, that has not yet been proven to be factual.</td>
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<tr>
<td>C. <strong>Anonymous Complaint.</strong> Any complaint where the complainant withholds his/her identity.</td>
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<tr>
<td>D. <strong>Closing Correspondence.</strong> A letter sent to a complainant upon the conclusion of an investigation notifying them of the findings. This correspondence is required in all cases.</td>
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<tr>
<td>E. <strong>Complainant.</strong> One who files a complaint.</td>
</tr>
<tr>
<td>F. <strong>Date Filed.</strong> The date a complaint is filed or received by the Office of Boards and Commissions. The date a complaint is “filed” with the Office of Boards and Commissions is not the date the complaint is “Officially Received” by the Commission.</td>
</tr>
<tr>
<td>G. <strong>Date Officially Received.</strong> The date a complaint is “officially received” by the entire Police Commission at a meeting.</td>
</tr>
<tr>
<td>H. <strong>Departmental Allegation/Complaint.</strong> An allegation which is solely against a Department policy or procedure, and no employee misconduct is alleged.</td>
</tr>
<tr>
<td>I. <strong>Frivolous Complaint.</strong> A complaint which is totally and completely without merit, or which is filed for the sole purpose of harassing an employee. This includes complaints which are questionable or irrational.</td>
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</table>
J. **Off-Duty Allegation.** A complaint stemming from an employee's off-duty actions.

K. **Preponderance of Evidence.** Evidence of greater weight or more convincing than the evidence offered in opposition. It is not determined solely by the number of witnesses, but by the derived significance of all evidence and the totality of circumstances.

L. **Rescinded Complaint.** A complaint in which the complainant, after having initiated the complaint process, specifically requests to withdraw all of the allegations.

M. **Third-Party Complaint.** A complaint brought by any person or group, who is not a witness or party to an alleged act of misconduct or neglect of duty. We have discussed third party complaints before, and our practice has been NOT to accept them. There are however, a few times when it would be in the best interest of Commission to accept third party complaints. Continue reading next rule 10-4 for when we would or would not accept third party complaints.

N. **Key Dates and Timelines.**

The below key dates reflect CURRENT policy. They are included as a PLACEHOLDER for now. They are subject to change after the working group discusses and we formulate recommendations.

See New Discussion on these dates under rule 10-4-B

30 days – The time from date of occurrence for citizen to file a complaint.

60 days – The time from the date the complaint is “received” by the entire Commission to completion of the investigation.

90 days – The time from the date the complaint is “received” for the Commission to submit a written report of its findings to the Chief of Police.

New Rule 10-3 is ENTIRELY NEW. It was developed to explain what types of complaints the Commission will and will not handle. This will be important going forward, especially with new Commissioners, and new attorneys, so they won't have to learn all of the things it has taken all of us currently on the Commission years to master and fine-tune.

**RULE 10-3. Receive, Consider, and Investigate.**

A. **Overview.** The Commission will receive and consider all complaints properly filed through the process described in Rule 10-4. However, only those complaints listed in item B below will be referred for investigation. Complaints listed in item C. below will not be investigated.

Complaints not investigated by the Commission will be referred to KPD.

B. **Types of Complaints Investigated.**
1) **Misconduct.** Any complaint that alleges an element of misconduct, malfeasance (wrongful act), misfeasance (wrongful exercise of authority), and non-feasance (omission of act that ought to have been performed)) by an employee of the department.

2) **Policy / Procedure.** Any complaint regarding a policy or procedure of the department.

   **Examples:**
   - A person dislikes the KPD policy of officers being assigned to public schools. The person files a complaint against this departmental policy.
   - A group files a complaint against the KPD involvement in anti-marijuana "Green Harvest" operations.

3) **Third Party - With Standing.** A complaint filed by an uninvolved parent (guardian) on behalf of a minor under the age of 18 years, or a relative of a person who is physically / mentally unable to file a complaint, or on behalf of a deceased person.

4) **Off-Duty Conduct Complaint.** Allegations of off-duty conduct that is illegal in nature, or other misconduct in which there is a clear connection to the employee's employment by the department. The fact the allegedly aggrieved party is simply aware of the employee's position does not alone provide a connection to the Department.

   **Example:** The departmental employee dislikes his daughter's new boyfriend. The employee tells the boyfriend to stop seeing his daughter or he will impound the boyfriend's car. The boyfriend files a complaint against the employee.

   The departmental employee's threat to impound the boyfriend's car is directly connected the employee's police powers / authority and is a violation of departmental policy. This type of complaint would be investigated.

5) **Other.** Any complaint that the Police Commission believes to be in the best interest of the employee, or the department, the County, the complainant, or the aggrieved party to investigate.
C. Types of Complaints Not Investigated.

1) **No Jurisdiction.** Complaints outside the Police Commission’s authority and jurisdiction.

2) **Meritless, No Factual Basis, Bad Faith.** Complaints with no factual basis, or totally and completely without merit, or which is filed for the sole purpose of harassing an employee. This includes complaints which are questionable or irrational.

3) **Anonymous.** Complaints where the identity of the complainant is unknown.

4) **Third-Party – No Standing.** Complaint brought by any person or group, who is not a witness or party to an alleged act of misconduct or neglect of duty. This includes complaints by non-involved relatives, parents of children over the age of 18 years, and attorneys acting on behalf of a client.

5) **Off-Duty Conduct.** Complaint where there is no connection between the employee’s off duty conduct and their employment with the department.

   **Example:** A tree in the departmental employee’s yard falls and destroys a neighbor’s fence. The departmental employee refuses to pay for the damages. The neighbor files a complaint against the employee.

   This is a civil matter and there is no connection between the employee being a member of KPD and the precipitating incident. This type of complaint would not be investigated by the Commission.

D. Disposition of Complaints Not Investigated.

1) **Refer to Police Department.** Complaints not investigated by the Commission will be referred to the department for disposition as appropriate.

2) **Advise Commission.** The department shall advise the Commission of its action on complaints so referred.

The first three rules were pretty simple - we now get into the time frames to file a complaint, notarized complaints, and how complaints are investigated.
From this point to the end we refer a lot to Mark’s MOU. Any place new verbiage from the MOU is referred to, or part of the verbiage is utilized it is shown in **BLUE with Yellow Shading**.

Below is *New* Rule 10-5. It is the old Rule 3-1-g. In the old rule many of the sections did not have headers. - headers added to make it easier to find specific information.

**Rule 10-4  Filing of Complaints — Requirements and Initial Steps.**

**A. Office of Boards and Commissions.** All complaints against the conduct of an employee and/or the department shall be filed with the Office of Boards and Commissions.

1. **Complaints shall be in writing on KPC Form 91-001.** *(from Mark’s MOU)* KPC Form is available on line *(insert link)*.

**DISCUSSION** - Do we really care if the complaint is on the “proper form”? A complaint is a complaint – would we really reject a complaint just because the person filed it on lined paper instead of the proper form. Our past practice has been to NOT reject complaints not filed on the “Proper Form.

The form is available on-line, but what if a person doesn’t have a printer, or can’t drive to Lihue to get a form from Boards and Commissions?

**RECOMMENDATION:** we change A-1 above to read “Complaints shall be in writing, preferably on KPC Form 91-001, or plain paper.

The next item which is in current policy, and in Mark’s MOU, requires that complaints be notarized.

2. **All complaints must be notarized.**

The rules of all the other county commissions also / still require their complaints to be notarized.

Based on the current nationwide climate toward police - Do we want to change, or recommend to the commission that we partially or totally do away with the requirement for notarization?

**We need to ask ourselves WHY we even require a complaint to be notarized.** Do we do so to make it harder for a person, or to discourage a person to file a complaint? **complaints.**
In the past when commissioners asked why complaints had to be notarized the response was to verify that the person filing the complaint is the person they say they are.

A person has to sign the Commission Complaint form KPC Form 91-001 which has the following verbiage “do hereby affirm that the information given by me is true and correct to the best of my knowledge and belief.”

So, when a person files a complaint, they put their name on the complaint form and sign that everything is true and correct – why then do we need them to notarize?

DECISION?? We can either totally do with the requirement to notarize, or we can keep the requirement to notarize.

OR,

Maybe there is a way to compromise – How about if a person files a complaint in person at Boards and Commissions and presents ID that shows they are the person filing the complaint then NO need to notarize. The employee taking the complaint makes a copy of the person’s ID and notes on the form that they verified the person’s identity.

Conversely, if they mail in their complaint, or it is filed in person by someone other than the complainant, then it MUST be notarized.

RECOMMENDATION: We change the CURRENT Rules on Filing of Complaints from the way it is written above

TO

Rule 10-4 Filing of Complaints – Requirements...

A. Office of Boards and Commissions. All complaints against the conduct of an employee and/or the department shall be filed with the Office of Boards and Commissions.

1. Complaints shall be in writing, preferably on KPC Form 91-001, or plain paper.

2. Complaints presented in person, at the Office of Boards and Commissions by the complainant, do not require notarization upon presentation of photo identification.

3. Complaints filed other than those filed in person by the complainant, require notarization. Even for the complainant, filing by mail, or electronically is not considered in-person.
Depending on our final decision on notarization the below may or may not be needed.

3. In lieu of a notarized statement, an unsworn declaration may be made by an incarcerated person, in writing, subscribed as true under penalty of law, and dated, in substantially the following form:

   I, (name of person), do declare under penalty of law that the foregoing is true and correct.

   Dated:

   Signature

If we change the requirement about "On proper form" then the below would be eliminated

4. Complaints not on the proper form, (or not notarized), shall be considered incomplete and returned to the complainant. Paraphrased from Mark’s MOU. Subject to change if we change the requirement of "proper form".

The next section in our current rules deals with the time limits that a person has to file a complaint. Here is the way it reads now. It is all existing verbiage.

B. Time Frames for Filing Complaint.

1. Complaints shall be filed with the Office of Boards and Commissions no later than thirty (30) calendar days after the date of occurrence.

2. Complaints filed after the thirty (30) day period will not be investigated unless the Commission finds good cause for an extension of time.

3. However, in no event may the Commission consider a complaint filed more than 180 calendar days after the date of the occurrence.

DISCUSSION ON CURRENT RULES

1. TIME LIMITS: Kauai give 30 days from date of occurrence. Honolulu gives 60 days, Maui gives 60 days, Hawaii gives 90 days.

RECOMMENDATION – We should change our time limit to file a complaint from the current 30 days to 60 days.

2. EXTENSION of TIME – GOOD CAUSE:
Honolulu grants an extension of time after their 60-day time limit for the following reasons: Excusable neglect (not defined) or if the complainant discovers evidence / facts that were not discoverable within the 60-day limit, and for "any other reason justifying relief from the 60-day period".

The other islands do not give extensions.

RECOMMENDATION – Change it to read:

2. The Commission may grant an extension of time to file a complaint if the complainant provides compelling justification or good cause for relief from the 60-day period. Lack of knowledge of the 60-day period within which to file a complaint is not compelling justification.

Reasoning – By keeping it simple and making the complainant provide justification it gives us the discretion to give an extension of time.

3. **180 Days:** In our current rules we state that “However, in no event may the Commission consider a complaint filed more than 180 calendar days after the date of the occurrence, regardless of justification.

There is no explanation in our current rules about how or why the 180-day limit was made a rule, or when an extension would be granted to file a complaint up to 180 days.

Given the current mood of the country in regards to the police and the incident with George Floyd in which the officer had 17 complaints we may want to write our rules so that it shows we take will take extra steps when there is a serious allegation (Criminal conduct, Excessive Force, Sexual or Racial Discrimination)

RECOMMENDATION - We retain the 180 limit, BUT, we specify the 180 day time limit is ONLY for complaints of a serious allegation (Criminal conduct, Excessive Force, Sexual or Racial Discrimination).

Next, I don’t think any of us were aware until we dealt with the complaint several months from an incident that occurred in 2016, that KPD is can take complaints up to 1 year from the date of occurrence. AND, that the SHOPO contract prohibits KPD from investigating complaints that are over 1 year old.

We have nothing in our current rules that mention this KPD 1-year limit.

RECOMMENDATION - We add an item 4 to this section that states

4. “In no case shall the Commission consider any complaint filed over one (1) year after the precipitating event, regardless of justification”.

Reasoning – Limiting complainants to one year aligns our rules with KPD rules.
C. **Date Filed with Office of Boards and Commissions.** The date the Office of Boards and Commissions receives the complaint is considered the “filing date”. This date shall be noted on the first page of the form in the space provided and signed for by the recipient.

The date filed / received by the Office of Boards and Commissions is not the date when a complaint is “officially received” by the Commission.

D. **Informally Received Complaints.** Any complaints alleging officer misconduct received informally by an individual Commissioner or by Department personnel shall be referred to the Office of Boards and Commissions for proper filing and processing.

When all requirements stated above have been met, the complaint shall be officially received the date of the next Commission meeting, as permitted by law. All such officially received complaints shall be reviewed by the Commission to determine if the complaint should be referred for investigation.

**Proposed NEW E. Officially Received:** When all requirements stated above have been met, complaints shall be officially received the date of the next Commission meeting, as permitted by law. The date the complaint is officially received begins the sixty (60) days in which the complaint investigation shall be completed. Clarifies when the 60-day clock starts. The Commission can extend the 60-day deadline to complete the investigation if compelling justification or good cause exists. The extension will be in 30-day increments.

**Proposed NEW F. Complaints Received, Considered and Investigated.** The Commission shall receive and consider all complaints properly submitted within the proscribed time frames. However, only those complaints listed in Rule 10-3-B will be referred for investigation. Clarifies that Commission will receive and consider all complaints but will not investigate all complaints.

G. **Written Acknowledgement.** The Commission Chair shall provide written acknowledgment of the receipt and status of such complaints to the Commission members, the Commission Investigator, the Chief of Police and the complainant.

H. **Employee Notification.** The Chief of Police shall notify the employee in question of the complaint according to department rules and regulations.

Existing Verbiage in BLACK — Discussion in RED — New verbiage in BLUE — Verbiage in BLACK and Shaded Yellow is existing verbiage that is part of Mark’s MOU — New Verbiage in BLUE and Shaded Yellow is from Mark’s MOU — Recommendation in PURPLE — Chris’ changes in green
I. **Commencement of Investigation.** The Commission Investigator shall not commence the investigation of such complaints until after the employee in question has been notified of the complaints. The restriction shall not apply in circumstances where, despite good faith efforts, the employee cannot be notified.

J. **Confidentiality.** The Commission shall keep any and all discussions concerning complaints confidential and discuss them only in Executive meeting.

Below is NEW Rule 10-5. It describes the New process for investigating citizen complaints. Most the verbiage below is drawn from Mark’s MOU. Any place Mark uses the word “Charge” it has been changed to “Complaint”

**RULE 10-5 Investigation of Citizen Complaints Filed with the Police Commission.**

A. **Initial Review for Criminal Conduct.** After a complaint is properly filed with the Office of Boards and Commissions, staff will forward the complaint to the Chief of Police to determine if the complaint involves possible criminal conduct.

1. If no criminal conduct is involved the complaint is referred back to the Police Commission to be “officially received” at the next Commission meeting.

2. At the discretion of the Police Commission, if the citizen’s complaint involves possible criminal conduct, investigation of the citizen’s complaint may be deferred pending the completion of the criminal investigation. A deferral may constitute a compelling justification or good cause to extend the deadline to complete the investigation.

ALL NEW VERBIAGE - Below commits to, in writing, what we actually do in Executive session to receive and consider a complaint.

B. **Receive, Consider, Investigate.**

1. The Commission, in Executive meeting, shall receive all properly filed complaints submitted by the Office of Boards and Commissions.

2. The Commission shall consider the merits of the complaint and determine if the complaint meets the criteria for investigation. See Rule 10-3-B.

3. Complaints which meet the criteria shall be investigated.
4. Complaints which do not meet the criteria for investigation shall be referred to the department. See Rule 10-3-D.

NEW DISCUSSION - Below C is all new verbiage. It describes the actual investigative processes utilized by the Commission. Our current rules don’t contain enough information, actually, they contain no information, on EXACTLY how we go about investigating a complaint, what information we review, and where we obtain that information.

The current rules on “investigations” are in old rule 3-1. They are restated in Mark’s MOU -

The current rules, much of which are also in the MOU, don’t give any clue how the investigation is done. The current rules pre-date the way we are doing thing now, and don’t take into account body cameras, or that the Commission has become much more active in asking for information from KPD.

C. Investigative Process. The Commission may elect to utilize any of three (3) methods to conduct its’ investigation. Regardless of which investigative method is utilized, the complaint finding is solely the decision of the Commission.

1. Police Commission Investigative Process. Commissioners review all available information, including but not limited to: Body Camera Video, Audio files, reports, statements of KPD Employee(s), Complainant, Witnesses, applicable law, and KPD Policy, to render a finding.

2. Office of Professional Standards Investigative Process. At the request of the Commission, working through the Chief of Police, the Office of Professional Standards reviews all information associated with the complaint and provides a summary to the Commission. The Commission considers all information and renders a finding.

3. Independent Investigator Investigative Process. The Commission may opt to engage an Independent Investigator. Acting on behalf of the Commission the Independent Investigator obtains all information pertinent to the complaint and submits a written report to the Commission. The Commission considers the Independent Investigator’s report and renders a finding.
NEW RULE RULE 10-6 Types of Investigators.

A. The Commission may utilize two different types of investigators.

1) Police Department Investigator. The investigator may be a member of the police department assigned by the Chief of Police:

As a Commission we need to discuss the use of KPD to investigate our complaints. While we may have absolute confidence KPD does a good job, and does not hide anything from us, the OPTICS are potentially bad.

We are supposed to be the place citizens can file a complaint and be assured they get an unbiased investigation. But that’s really not how it consistently works.

We can pretty much decide on an allegation when there is Body Camera footage and audio. But what about those complaints when these items are not available?

Given the current environment nationwide, we might want to consider an increased use of Independent Investigators rather than have KPD investigate complaints when there is no evidence for us to review and report their findings to us. This is especially true when there are serious allegations (criminal conduct, sexual / racial allegations, or excessive use of force.

Honolulu County has actual civil service positions of “Police Commission Investigator” and as of 2018 they have 3 investigators. As the Working Group we recommend the increased use of an Independent Investigator based on the discussion above.

2. Independent Investigator. The investigator may be hired or contracted by the Commission. The process of securing an Independent Investigator shall be done by the Office of Boards and Commissions.

- In securing an Independent Investigator the Office of Boards and Commissions shall ensure the Investigator is experienced in conducting police related citizen complaint investigations.

- Additionally, the Independent Investigator shall have the following qualifications: A minimum of three (3) years of active experience in general investigative work; be licensed as private detective in accordance with the provisions of Hawai’i Revised Statutes, Chapter 463; have a high school diploma; have a current driver’s license and a vehicle for use on the job; be familiar with the Kaua’i community and the procedures of the Kaua’i Police notice to perform investigative tasks for the Commission; possess a character above reproach; and have no felony or misdemeanor convictions.
Below is old rule 3-g-4. It was previously buried in a very long paragraph. It is presented in a new format with added verbiage to make it easier to read. Headers were added each of the different items.

All of the below is existing verbiage from old rule 3-g-4. It is broken up for clarity with headers added. Verbiage is unchanged.

**RULE 10-7. Investigative Process and Timeframes.**

A. **Investigator Duties.** The investigator shall conduct all investigations in a proper and ethical manner; shall obtain all information pertinent to the complaint; and shall upon completion of the investigation, submit a written report to the Commission.

1. **Communications.** Communications between the Investigator and the Commission or individual Commissioners shall be through the Chair or his or her designate.

2. **Confidentiality of Details.** Details of the investigation shall be considered confidential and shall not be released or discussed with any persons other than the Commission.

3. **Obtaining Information.** The Investigator shall be authorized to obtain from the department on behalf of the Commission any such information as may be needed for the investigation subject to the prior approval of the Chief of Police. Such information may include copies of police reports or statements from department personnel.

B. **Investigative Findings.** The Investigator’s report shall contain a report of all investigative findings, and a summary of all interviews.

Below info on Garrity Rights is from Mark’s MOU

1. **Garrity Rights.** If an individual’s Garrity Rights are invoked due to possible criminal conduct, the Investigator’s summary of that interview will only state that the individual was interviewed and Garrity Rights were invoked.

Time Frames are from existing Rule 3. New verbiage added to address Ellen’s concern about the length of time it takes to secure an independent investigator.

C. **Timeframes.** The Investigator shall submit the report pursuant to Rule 10-4E and 10-4F, within sixty (60) days of the date he/she is commissioned to investigate the complaint. The report shall be submitted to the Commission Secretary for duplication and immediate distribution to the Commission.
D. **Continued Investigation.** Upon review of the investigative report, the Commission may conduct further investigation, including interviews of the Investigator and/or any other person involved in the case. In addition, the Commission may resubmit the report to the Investigator for further investigation which shall be completed pursuant to Rules 10-4-E and 10-4-E.

**RULE 10-8. Findings.** The Commission shall utilize the following findings in rendering a decision on complaint brought to its attention through the citizen complaint process:

A. **Unfounded** – The complaint is not based on facts or the incident upon which the complaint is based did not occur.
B. **Exonerated** – The incident upon which the complaint is based occurred but the employee’s actions were lawful and proper.
C. **Not Sustained** – There is not sufficient evidence to prove or disprove the complaint.
D. **Sustained** – There exists sufficient evidence of misconduct to sustain the complaint or justify disciplinary action.

**RULE 10-9. Commission Decision.** After the complaint has been fully investigated, the Commission shall enter a decision finding that there is either sufficient or insufficient evidence to prove the complaint. The Commission shall thereafter submit a written report of its decision to the Chief of Police, in no case longer than thirty (30) days after the Commission concludes its investigation. The Commission may inquire with the Chief of Police as to any departmental action taken following the Commission’s decision.

A. The Commission shall notify the complainant of its decision in writing.
B. Every Commission decision shall be made public during a regularly scheduled meeting. Names of individual complainants and the subject employee shall be made public.
C. The complaint and circumstances surrounding the complaint and its findings shall be thoroughly explained.
D. In cases where discipline has been imposed by the Chief of Police based on a Commission decision there shall be no additional or subsequent investigation imposed on the Subject employee for the same incident.

**RULE 10-10. Citizen Complaints Received by Kauai Police Department.**

A. **Action by KPD.** KPD will refer all citizen’s complaints, whether received via written or verbal form, to the Office of Boards and Commissions.
KPD will report to the Commission the receipt and disposition of all complaints received in this manner. KPD personnel will inform citizens that the Kauai County Charter designates the Police Commission as the body to receive complaints.

B. **Formal KPD Complaint.** If a citizen insists that KPD receive their complaint then KPD will do so.

C. **No Obligation for Commission to Investigate.** If a citizen makes an informed decision not to file their complaint under the Commission process, instead opting to file with KPD, the Commission has no obligation to investigate that citizen’s complaint.
1. **Charges Defined.** For purposes of this section "Charges" shall mean allegations filed with the Police Commission through the citizen complaint process.

2. **Filing of Charges.** Any and all charges shall be in writing of such form as the Commission may designate and shall be notarized.

In lieu of a notarized statement, an unsworn declaration may be made by an incarcerated person, in writing, subscribed as true under penalty of law, and dated, in substantially the following form:

I, (name of person), do declare under penalty of law that the foregoing is true and correct.

Dated:

Signature

a. Charges shall be filed with the Office of Boards and Commissions no later than thirty (30) calendar days after the date of occurrence. Charges filed after the thirty (30) day period will not be investigated unless the Commission finds good cause for an extension of time. However, in no event may the Commission consider a complaint filed more than 180 calendar days after the date of the occurrence.

b. The date the Office of Boards and Commissions receives the charge shall be noted on the first page of the form in the space provided and signed for by the recipient.

c. Any charges received informally by an individual Commissioner or by Department personnel shall be referred to the Office of Boards and Commissions for proper filing and processing.

d. When all requirements stated above have been met, charges shall be officially received the date of the next Commission meeting, as permitted by law. All such officially received charges shall be reviewed and investigated by the Commission.

e. The Commission Chair shall provide written acknowledgment of the receipt and status of such charges to the Commission members, the Commission Investigator, the Chief of Police and the complainant.
f. The Chief of Police shall notify the employee in question of the charges according to department rules and regulations.

g. The Commission Investigator shall not commence the investigation of such charges until after the employee in question has been notified of the charges. The restriction shall not apply in circumstances where, despite good faith efforts, the employee cannot be notified.

3. Confidentiality. The Commission shall keep any and all discussions concerning charges confidential and discuss them only in Executive Session.

4. Investigation of Charge. The Commission may use an Investigator, or such other persons as may be necessary, to investigate any and all charges referred to the Commission. The Investigator may be a member of the department specially assigned by the Chief of Police to the Commission. In cases where the Commission hires or contracts the services of an independent Investigator, that person shall have a minimum of three (3) years of active experience in general investigative work; be licensed as private detective in accordance with the provisions of Hawai‘i Revised Statutes, Chapter 463; have a high school diploma; have a current driver’s license and a vehicle for use on the job; be familiar with the Kaua‘i community and the procedures of the Kaua‘i Police Department or have the ability to acquire such; be readily available on short notice to perform investigative tasks for the Commission; possess a character above reproach; and have no felony or misdemeanor convictions.

   a. The Investigator shall conduct all investigations in a proper and ethical manner; shall obtain all information pertinent to the charges; and shall upon completion of the investigation, submit a written report to the Commission.

   b. Communications between the Investigator and the Commission or individual Commissioners shall be through the Chair or her his or designate.

   c. Details of the investigation shall be considered confidential and shall not be released or discussed with any persons other than the Commission.

   d. The Investigator shall be authorized to obtain from the department on behalf of the Commission any such information as may be needed for the investigation subject to the prior approval of the Chief of Police. Such information may include copies of police reports or statements from department personnel.
c. The Investigator’s report shall contain a detailed report of all investigative findings, and a summary of all interviews.

d. The Investigator shall submit the report within sixty (60) days of the date the charges were officially received. The report shall be submitted to the Commission Secretary for duplication and immediate distribution to the Commission.

e. Upon review of the investigative report, the Commission may conduct further investigation, including interviews of the Investigator and/or any other person involved in the case. In addition the Commission may resubmit the report to the Investigator for further investigation.

5. Findings. The Commission shall utilize the following findings in rendering a decision on charges brought to its attention through the citizen complaint process:

a. Unfounded – The charge is not based on facts or the incident upon which the charge is based did not occur.

b. Exonerated – The incident upon which the charge is based occurred but the employee’s actions were lawful and proper.

c. Not Sustained – There is not sufficient evidence to prove or disprove the charge.

d. Sustained – There exists sufficient evidence of misconduct to sustain the charge or justify disciplinary action.

6. Complaints Filed Against the Chief of Police.

a. Written Complaints against the Chief of Police Filed with the Mayor:

i. County of Kaua‘i Policy regarding the Discipline of Department Heads Subject to Removal by Boards and Commissions states that complaints against Department Heads who are appointed by a Board or Commissions shall be filed with the Mayor.

ii. This policy provides direction to the Mayor, and the Police Commission, on the procedures to be followed when a complaint is filed against the Chief of Police.

iii. All such complaints filed with the Mayor shall be in writing.
iv. Upon receipt of a written complaint the Mayor shall transmit said complaint to the Chairperson of the Kaua‘i Police Commission.

1. The Police Commission shall meet in Executive Session to review the complaint. The seriousness of the allegations shall be considered as to whether a special Executive Session is required, or if the complaint can be discussed at the next regularly scheduled Commission meeting.

v. If, after review, the Commission determines further information is required, the Mayor shall be advised that an investigation is warranted.

vi. The Mayor and the Chairperson, shall determine if the complaint warrants an investigation utilizing the process described in the County Policy Regarding Discipline of Department Heads Subject to Removal by Boards and Commissions or through the process contained in the Police Commission Rules, Section 3-1 (g), Investigation of Citizens Complaints.

1. Regardless of which investigation route is followed, upon completion of the investigation the Mayor may make a recommendation to the Commission on appropriate discipline, if warranted. The Commission will consider, but shall not be bound by the Mayor’s recommendation.

vii. The Commission shall also review the investigation, and after duly considering all factual information, and the Mayor’s recommendation, render a decision.

b. Written Complaints Against the Chief of Police filed with the Police Commission.

i. Police Commission Rules, Section 3-1 (g), describes the procedures for the filing of Public Charges against the Conduct of the Department or any of its Members through the Citizens Complaint process.

ii. When the Police Commission receives a complaint against the Chief of Police in this manner the Chairperson shall advise the Mayor.
iii. After review by the Mayor and the Chairperson, a determination shall be made if the complaint warrants an investigation utilizing the process described in the County Policy or through the process contained in Police Commission Rules for the investigation of Citizens Complaints.

c. Non-Written Complaints against the Chief of Police.

i. If the allegations of misconduct by the Chief of Police come to the attention of the Police Commission through other than the filing of a written complaint, the Chairperson shall advise the Mayor.

ii. The Mayor shall provide direction on whether the allegations are of sufficient seriousness to warrant an investigation.

iii. If the Mayor determines that no investigation is to be conducted the Chairperson shall request a written statement from the Mayor to that effect.

iv. The fact that a non-written complaint against the Chief of Police was brought to the Mayor’s attention by the Police Commission, and the Mayor declined to investigate, shall be placed on the Executive Session Agenda at the next Commission meeting to document the Commission’s actions.

7. Charges against the Chief of Police

a. It is the intent of this rule that the Chief of Police be disciplined or dismissed only for cause and not arbitrary or capriciously. Grounds for discipline or dismissal of the Chief shall include but not limited to the following:

   Misfeasance – (Wrongful exercise of law authority).
   Nonfeasance – (Omission of an act that ought to have been performed).

2. Falsification of candidate’s application.

b. The Commission may institute disciplinary procedures against the Chief upon motion of any member of this Commission and a majority vote if favor thereof. Any proceedings pertaining to charges brought against the Chief shall be considered a contested case and be conducted in accordance with Chapter 5, except that all such proceedings shall be closed to the public unless otherwise requested by the Chief.

c. The Commission may sustain the allegations of any charge against the Chief by a majority vote and may take any of the following actions:

1. Reprimand the Chief (written or verbal).
2. Suspend the Chief for a period of time determined by the Commission.
3. Dismiss the Chief.

8. **Commission Decision.** After the charge has been fully investigated, the Commission shall enter a decision finding that there is either sufficient or insufficient evidence to prove the charge. The Commission shall thereafter submit a written report of its decision to the Chief of Police; in no case longer than ninety (90) days after the Commission concludes its investigation. The Commission may inquire with the Chief of Police as to any departmental action taken following the Commission's decision.

a. The Commission shall notify the complainant of its decision in writing.

b. Every Commission decision shall be made public during a regularly scheduled meeting. Names of individual complainants and the subject employee shall be made public.

c. The charges and circumstances surrounding the charge and its findings shall be thoroughly explained.

d. In cases where discipline has been imposed by the Chief of Police based on a Commission decision there shall be no additional or subsequent investigation imposed on the Subject employee for the same incident.

**Rule 3-2**  
**Powers, Duties and Responsibilities of the Chief of Police.**

In accordance with the laws of the State of Hawai‘i and Charter of the County of Kaua‘i, the Chief of Police shall:
October 1, 2021

Chair Catherine Adams
Police Commission
c/o Boards and Commissions
4444 Rice St., Ste. 300
Lihue, Hawaii 96766

RE: Requesting any proposals to amend the Charter

Dear Chair Adams and Commissioners of the Police Commission:

You are invited to present any proposals you may have on any Charter amendments you would like the Charter Commission to consider.

Should you want to propose any amendments, please provide a brief background on the issue and how the amendment will address or solve the issue.

Should you have any questions, please feel free to contact, Ellen Ching at eching@kauai.gov or at 241-4922.

Sincerely,

Reid Kawane, Chair
Charter Review Commission
PUBLIC ANNOUNCEMENT FOR NOTARIZED COMPLAINT NO. KPC 2021-007

Pursuant to Kauai County Police Commission Rules on Administrative Practice and Procedure Rule 3-1 (g), the Kauai Police Commission has reviewed the above-mentioned complaint alleging that the officer refused to stop a crime that occurred. After reviewing all of the information, including footage obtained by the body worn camera, the Commission has determined to exonerate the officer from any alleged charges.

This officially concludes the Commission’s review of notarized complaint KPC 2021-007.
PUBLIC ANNOUNCEMENT FOR NOTARIZED COMPLAINT NO. KPC 2021-008

Pursuant to Kauai County Police Commission Rules on Administrative Practice and Procedure Rule 3-1 (g), the Kauai Police Commission has reviewed the above-mentioned complaint alleging that two officers violated the Hawai‘i turtle protection law, and then stalked the complainant because the complainant observed the violation.

After reviewing all of the information, including footage obtained by the body worn camera, the Commission has determined to exonerate the officers from any alleged charges.

This officially concludes the Commission’s review of notarized complaint KPC 2021-008.