On November 29, 2021, Governor David Y. Ige issued an Emergency Proclamation, which continued the suspension of Hawai‘i Revised Statutes (HRS) Chapter 92, relating to Public Agency Meetings and Records (also known as the Sunshine Law) as it pertained to the COVID-19 Response. HRS Chapter 92 was suspended to the extent necessary to enable boards to conduct business in-person or through remote technology without any board members or members of the public physically present in the same location. In addition, on December 29, 2021, Governor Ige issued a proclamation suspending HRS 92-3.7 to suspend the requirement to have at least one meeting location that is open to the public.

Meetings of the Police Commission will be conducted as follows until further notice:

- Meetings will be publicly noticed pursuant to HRS Chapter 92.
- In-person meetings will be closed to the public to be consistent with social distancing practices.
- Police Commissioners, Department and/or Boards and Commission Staff, parties to agenda items, and resource individuals may appear via the Microsoft Teams remote technology.
- If any major and insurmountable technical difficulties are encountered during the meetings, the Police Commission will continue all matters and reconvene at the next scheduled Police Commission Meeting.
- Minutes of meetings will be completed pursuant to HRS Chapter 92 and posted to the Police Commission’s website upon completion and approval.

Public Comments and Testimony:

- **Written testimony**: The Police Commission will accept written testimony for any agenda item herein. Written testimony indicating your 1) name, and if applicable, your position/title and organization you are representing, 2) the agenda item that you are providing comment on, and 3) contact information (telephone number and email address), may be submitted to mromo@kauai.gov or mailed to the Police Commission, c/o Office of Boards and Commission, 4444 Rice Street, Suite 300, Lihue, Kauai 96766. Written testimony received by the Police Commission at least 24 hours prior to the meeting will be distributed to all Police Commissioners prior to the meeting. Any testimony received after this time and up to the start of the meeting will be summarized by the Clerk of the Commission during the meeting and added to the record thereafter. Any late testimony received will be distributed to the to the members after the meeting is concluded.

- **Oral testimony will be taken during the public testimony portion of the meeting via Microsoft Teams remote technology platform.**
  - It is recommended that anyone interested in providing oral testimony register at least 24 hours prior to the meeting by emailing mromo@kauai.gov or calling (808) 241-4920. Any request to register shall include your 1) name, and if applicable, your position/title and organization you are representing, and 2) the agenda item that you are providing comment on, and 3) contact information (telephone number and email address).
  - It shall be the responsibility of the testifier to join the meeting through the Microsoft Teams link provided on the posted agenda to provide their testimony. In addition, it shall be the responsibility of the testifier to ensure that the Microsoft Teams software is downloaded and operational prior to the meeting.
  - The testifier’s audio and video shall be disabled until it is your turn to testify.
  - Per the Police Commission’s and Chairs practice, there is three-minute time limit per testifier.
  - Individuals who have not registered to provide testimony will be given an opportunity to speak on an agenda item following the registered speakers.
  - Pursuant to HRS § 92-3 of the Public Agency Meetings and Records statute, the Board must afford all interested persons an opportunity to submit data, views, or arguments, in writing, on any agenda item. The Board must also afford all interested persons an opportunity to present oral testimony on any agenda item. The Board may provide for reasonable administration of oral testimony by rule 1.
  - This Board Policy is enacted in accordance with HRS § 92-3 and the Office of Information Practices guidance, to allow the Board reasonable administration of oral testimony.
  - The Chair may limit all oral testimony during a Board meeting to 3 minutes, but such time limit shall not include pertinent responses by the speaker to questions posed by members of the Board. The Chair may grant an additional 3 minutes to provide further testimony after all interested persons have had an opportunity to provide oral testimony.
REGULAR MONTHLY POLICE COMMISSION TELECONFERENCE MEETING NOTICE AND AGENDA
Friday, February 25, 2022
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: 279 955 330#

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.

Oath of Office for new Commissioner Andrew Bestwick 1st term ending on December 31, 2024, was officiated by Administrative Assistant to the County Clerk Eddie Topenio on February 3, 2022.

CALL MEETING TO ORDER

ROLL CALL TO ASCERTAIN QUORUM

APPROVAL OF AGENDA

ANNOUNCEMENTS:
Next Regular Monthly Teleconference Meeting 9:00 a.m. on Friday, March 11, 2022.
Executive Session to follow.

PUBLIC TESTIMONY

APPROVAL OF MINUTES
- Open Session January 28, Meeting

CHIEF’S MONTHLY REPORTS:
- Administrative & Technical Bureau
- Investigative Services Bureau
- Patrol Bureau Reports
- Pertinent announcements/updates
BUSINESS
KPC 2021-40:
Discussion and decision-making on the permitted interaction group recommendations for Revision of Rule 10 of the Kauai Police Commission Rules on Administrative Practice and Procedure. (Deferred on 1/28/2022)

KPC 2022-1:
Discussion and decision-making on the permitted interaction group recommendations for Revision of Rule 11 of the Kauai Police Commission Rules on Administrative Practice and Procedure. (Deferred on 1/28/2022)

KPC 2022-2:
Presentation by the permitted interaction group on recommendations regarding the process, procedures, and tools to enhance the chief of police evaluation process resulting in a more cohesive evaluation product. (Deferred on 1/28/2022)

KPC 2022-4:
Discussion and decision-making on the permitted interaction group on recommendation for Revision of Rule 4 (4-5) of the Kauai Police Commission Rules on Administrative Practice and Procedure regarding the police chief’s evaluation.

KPC 2022-5:
Discussion and decision-making on the permitted interaction group recommendation for Revision of Rule 2 (2-10) of the Kauai Commission Rules on Administrative Practice and Procedure which gives clarity regarding time limits for public from interested, but such time limit shall not include pertinent response by the speaker to questions posed by the members of the Commission.

KPC 2022-6:
Presentation by Chief Todd Raybuck on his goals and objectives for the period of July 1, 2022, through June 30, 2023.

KPC 2022-7:
Public announcements on the Police Commission’s disposition on the following notarized citizens’ complaints: KPC 2021-014 and KPC 2022-001.

KPC 2021-43:
Discussion and possible decision-making on the Climate Assessment that was conducted by the Kauai Police Commission on the Kauai Police Department. (Deferred on 1/28/2022)
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 Kauai 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 2022-1:
Monthly update by Lt. Christian Jenkins, Office of Professional Standards, or his designated representative on the status of the Department’s disposition on formal notarized complaints that were filed with the Kauai Police Department and with the Kauai Police Commission and referred to the Office of the Chief for further review.

ES KPC 2022-3:
Monthly update by Chief of Police Todd G. Raybuck, Kauai Police Department, or his designated representative on any significant adverse incidents/events involving personnel in the Kauai Police Department that could potentially impact the County, the Police Commission and the Kauai Police Department.

ES KPC 2022-5:
Pursuant to §92-5 (a) (4) the purpose of this Executive Session for the Commission to consult with its attorney where consideration of matters affecting privacy will be involved and to consult on questions and issues pertaining to the Commission’s powers, duties, privileges, immunities, and liabilities as it relates to Chief Raybuck’s collated 6-month performance evaluation. (Deferred on 1/28/2022)

ES KPC 2021-032:
Complaint no. KPC 2021-013 received on November 4, 2021. The complaint alleges unethical and unprofessional behavior. (On-going)

ES KPC 2022-6
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 January 28, 2022, meeting. 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
## Kauai Police Commission

### OPEN SESSION MEETING MINUTES

<table>
<thead>
<tr>
<th>Board/Commission</th>
<th>Kauai Police Commission</th>
<th>Meeting Date</th>
<th>January 28, 2022</th>
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<tbody>
<tr>
<td>Location</td>
<td>Microsoft Teams Teleconference Meeting</td>
<td>Start of Meeting: 9:01 a.m.</td>
<td>11:38 a.m.</td>
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<td>Present</td>
<td>Chair-elect Roy Morita; Vice Chair Dean Pigao; Commissioners: Catherine Adams, Gerald Bahouth, Mary K. Hertog, Leina 'ala Jardin and Kevin Mince. Also present: Board &amp; 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. Raybuck, Employee of Month Officer Phillip Banquel; Office of Professional Standards Sergeant Ginny Pia and other invited members in the Kauai Police Department; and Councilmember Felicia Cowden</td>
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<td>Guest</td>
<td>Ms. Kimberly Banquel</td>
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<th>SUBJECT</th>
<th>DISCUSSION</th>
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<td><strong>Call To Order</strong></td>
<td>Vice Chair Dean Pigao called the meeting to order at 9:01 a.m.</td>
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<td><strong>Roll call to ascertain quorum</strong></td>
<td>A roll call ensued with all seven(7) Commissioner’s present and alone including the necessary staff to conduct business. Also, present was Chief of Police Todd Raybuck, Employee of the Month for January, Officer Phillip Banquel who was accompanied by his wife Kimberly.</td>
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<td><strong>Letter of dated 1-12-2022 from Commissioner Morita resigning the chairmanship’s position</strong></td>
<td>Commissioner Morita prepared a letter to explain why he felt it was necessary to resign from the chairmanship position. He explained that he had a conversation with Administrator Ching to inform him that her statement that she made at the last Commission meeting regarding Vice Chair Bahouth term ending in 2023 was incorrect. As such, he felt her statement may have altered the way some of Commissioners may have voted. He further explained that Ms. Ching asked if he would agree to a revote which he agreed because it was the proper and fair thing to do. He expressed to the Commissioners that Ms. Ching’s statement was unintentional, and that Ms. Ching contacted to ask if he could submit a formal letter of resignation to which he complied and sent his letter to</td>
<td>Ms. Adams moved to receive communication dated January 12, 2022, from Commissioner Roy Morita wishing to resign from the chairmanship position. Mr. Bahouth seconded.</td>
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<td>Ms. Ching to place on the agenda.</td>
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<td>Ms. Ching apologized to the Commission for providing them with information that was not correct and that it was not her intention.</td>
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<td>Vice Chair Pigao asked the Commissioners if they had any comments to make on the matter. Hearing none. Vice Chair Pigao asked Mr. Donahoe if Commissioner Morita resigning on his own if it would still require a revote to which Mr. Donahoe replied yes and explained that once the resignation is confirmed there needs to be a discussion and decision-making to select a new chair, followed by a vote.</td>
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<td>Commissioner Morita noted that whether the Commission accepts his resignation letter or not there should be a revote.</td>
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<td>Mr. Donahoe stated that procedurally speaking Vice Chair Pigao should call for new nominations for chair, then a motion needs to be made followed by discussion and decision-making. Also, to ensure a clean path someone needs to make a motion to accept Commissioner Morita’s resignation letter and once the motion is carried the issue to select a new chair can begin.</td>
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<td>Commissioner Adams pointed out that she already made a motion to accept Commissioner Morita’s letter of resignation from the chairmanship, and Mr. Bahouth seconded her motion.</td>
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<td>Hearing no further discussion, Vice Chair Pigao called for a roll call vote.</td>
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<td>A roll call vote ensued with all seven (7) Commissioners present voting unanimously to receive Mr. Morita’s letter.</td>
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<td>Mr. Donahoe stated that another motion should be made to accept Commissioner Morita’s resignation as Chair. After the vote was made, Vice Chair Pigao thanked everyone for their patience, and then moved on to the next item.</td>
<td>Motion No. 2&lt;br&gt;Ms. Adams moved. Vice Chair Pigao seconded. A roll call ensued with all seven (7) Commissioners present voting in favor of the motion.</td>
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<td><strong>Selection of Chair for Calendar Year 2022</strong></td>
<td>Discussion and decision-making on selecting a new chair for calendar 2022. Vice Chair Pigao opened the floor for nominations for chair. Ms. Adams nominated Commissioner Gerald Bahouth for chair. She stated that this year is Commissioner Bahouth last term on the Police Commission and that his performance as Vice Chair for the previous year was great therefore, he would make a good chair in 2022. Ms. Hertog second the motion. Vice Chair Pigao nominated Commissioner Roy Morita for chair. Mr. Mince seconded. Mr. Donahoe asked the nominees if they wanted to take the time to address their fellow Commissioners. Commissioner Bahouth stated that he would be more than happy to serve as Chair in 2022. He shared that he’s been on the Police Commission for past the seven (7) or eight (8) years and have with worked alongside Commissioner Adams as Vice Chair in 2021 and was elected Chair a couple of years ago. He stated that he had a great experience as Chair and would continue to bring leadership to move the Commission forward in the right direction. He humbly asked for their vote.</td>
<td>Motion No. 1&lt;br&gt;Commissioner Adams nominated Commissioner Bahouth as Chair for 2022. Commissioner Hertog seconded. Motion No.&lt;br&gt;Vice Chair Pigao nominated Commissioner Morita as Chair for 2022. Commissioner Mince seconded.</td>
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<td>Commissioner Morita stated that he doesn’t have much to say about his nomination except that he would leave it up to the Commissioners to decide who they would like to represent them.</td>
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<td>Commissioner Jardin asked Commissioner Morita if this was his last term on the Police Commission to which Commissioner Morita replied yes.</td>
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<td>With no further comments or questions, Vice Chair Pigao called for a roll call vote of yea or nay for each candidate.</td>
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<td>Ms. Omo asked Mr. Donahoe being that there were two (2) motions on the floor if it would be cleaner to take the votes for each candidate separate to which Mr. Donahoe replied yes.</td>
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<td>Commissioner Morita asked Mr. Donahoe if the Commission could follow the same process as it did at the last meeting in December to which Mr. Donahoe replied that conducting a verbal vote for each candidate is fine.</td>
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<td>To clarify, Commissioner Bahouth pointed out that the motions on the floor was only to determine who the candidates for chair was going to be and for the body to accept those nominations to which Ms. Omo concurred.</td>
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<td>Mr. Donahoe stated that the maker of the motions needs to withdraw their motions and do a new motion should be made to accept Commission Bahouth as one candidate and Commissioner Morita as another candidate, and then vote on either one.</td>
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<td>Commissioner Hertog suggested taking the vote for each nominee one at a time that way the maker of the motion would not have to withdraw their motions and it would make clear in the minutes.</td>
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<td>Vice Chair Pigao called on Ms. Omo to conduct a roll call vote for Commissioner Bahouth.</td>
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|         | Commissioner Adams:  Aye  
Commissioner Bahouth:  Aye  
Commissioner Hertog:  Aye  
Commissioner Jardin:  Nay  
Commissioner Mince:  Nay  
Commissioner Morita:  Nay  
Commissioner Pigao:  Nay                                                                                                                                                                                                                                                                                                                                                   |        |
|         | The vote was 3:4.                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |        |
|         | Ms. Omo began to conduct a roll call vote for Commissioner Morita.                                                                                                                                                                                                                                                                                                                                                                                                                              |        |
|         | Commissioner Adams:  Nay  
Commissioner Bahouth:  Nay  
Commissioner Hertog:  Nay  
Commissioner Jardin:  Aye  
Commissioner Mince:  Aye  
Commissioner Morita:  Aye  
Commissioner Pigao:  Aye                                                                                                                                                                                                                                                                                                                                                   |        |
|         | The vote was 4:3. Commissioner Morita was elected as Chair for Calendar 2022.                                                                                                                                                                                                                                                                                                                                                                                                                    |        |
## Approval of Agenda

Chair-elect Morita stated that because he was not present at the meeting to approve the agenda, he would like to ask Vice Chair Pigao if he could continue to run the meeting. Mr. Donahoe asked the Commissioners if they had any objections to Chair-elect Morita’s request. Hearing no objections, Vice Chair Pigao called for a motion to approve the agenda as circulated.

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<td>Ms. Adams moved. Mr. Bahouth seconded. Hearing no discussion. Vice Chair Pigao called for a voice vote. The motion carried 7:0.</td>
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## Announcement

- Next Regular Teleconference Meeting 9:00 a.m. Friday, February 24, 2022. Executive Session to follow.

Ms. Ching announced today was Commissioner Mince last day on the Police Commission. She expressed her heartfelt appreciation for Commissioner Mince for all the work he has done with the interview process, police commission rules, and the climate assessment. She shared that his work on the hiring process to find a chief of police was well received and appreciated by the Maui Police Commission in their search for a new police chief.

Chair-elect Morita asked whose decision was it to deemed today as Commissioner Mince’s last day on the Police Commission. Ms. Ching replied that the decision was made by her office and that a new commissioner was confirmed by council this past Wednesday.

Mr. Morita thanked Commissioner Mince for helping him do research on a lot of issues that occurred that did not occur in the years prior. He extended a lunch invitation to Commissioner Mince to have lunch with him in the future.

Commissioner Hertog asked Vice Chair Pigao for permission to address Commissioner Mince. Her request was granted. Commissioner Hertog expressed her appreciation for Commissioner Mince. She stated that it was a pleasure working with him and that he made a huge difference on the Police Commission, in so many ways; like Ms. Ching said prior his influence was felt
KPC Open Session Minutes  
Of January 28, 2022, Meeting

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<tr>
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<td>not only on Kauai but on the neighboring islands as well.</td>
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<td>Commissioner Bahouth commended Commissioner Mince for doing such an outstanding job while on the Police Commission. Having background in law enforcement when he was with the California Highway Patrol has brought value to the Commission when it went through the hiring process to find a new police chief and his efforts to secure the climate assessment from CHP for the Police Commission to use.</td>
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<td>Commissioner Adams shared that she’s been on a couple of PIG’s (permitted interaction groups) with Commission Mince, and for her it has been educational experience and really appreciates all the work he has done with the recruitment process. The County owes him a lot of thanks and so does she. Commissioner Jardin stated that as the quiet Commissioner she is still learning and someone who does not have a background in law enforcement she’s learned a lot from Commissioner Mince and appreciates all he has done for her and for the Commission. She wished him all the best and bid him a fond aloha.</td>
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<td>Chief Raybuck thanked Commissioner Mince, he stated that the service he provided for the Commission wasn’t for his own personal gain, it was because of his passion and experience as a former law enforcement officer that he was able to provide guidance and support to improve the Kauai Police Department as well as serve the community. He expressed his hope that Commissioner Mince will continue to support the Kauai Police Department as they continue with their bars and stripes process.</td>
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<td>Councilmember and Public Safety Chair Felica Cowden thanked Commissioner Mince on behalf of the County Council and that she appreciated all the good work he’s done on the Police Commission and that his competency was very evident. She also acknowledged the Police Commission for their excellent work and leadership abilities to make the important decision one of which was the hiring of a new Police Chief.</td>
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<td>Vice Chair Pigao stated that although his time with Commissioner Mince was short, he had great time. He echoed Chief Raybuck sentiments about Commissioner Mince having the passion and experience to help guide the Police Commission, and like, Chair Morita said earlier, he also wants to extend a lunch invitation to Commissioner Mince just to talk story.</td>
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<td>Commissioner Mince stated that he was overwhelmed by all the comments and that he was honored to have been able to serve alongside the Commissioners and he will treasure those memories.</td>
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<td>With no further comments, Vice Chair Pigao moved to public testimony.</td>
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<th>PUBLIC TESTIMONY</th>
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<td>None.</td>
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<tr>
<th>EMPLOYEE OF THE MONTH FOR JANUARY 2022 OFFICER PHILLIP BANQUEL</th>
<th>ACTION</th>
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<tr>
<td>Joining Lieutenant Banquel on Teams was his wife, Kimberly Banquel.</td>
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<td>Chief Raybuck took the opportunity to thank the Commission for giving the Department time to recognize Employee of the Month for January, Lieutenant Phillip Banquel.</td>
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<td>He called on Assistant Chief Bryson Ponce to read the Commendation Report for Lt. Banquel.</td>
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A/C Ponce stated that while on his way to pick up his son at the beach during a day off in November, Lt. Banquel drove through his neighborhood, and just a few houses down from his house, he noticed a man lying on the ground in the driveway of his residence, while a woman nearby looked very distraught. He knew something wasn’t right and immediately stopped his vehicle to check on the man who was found unresponsive and not breathing.

The male apparently collapsed and hit his head on the ground while doing yard work on his property. Lt. Banquel quickly radioed dispatch requesting medical assistance to his location and began to perform CPR to help save the life of the man. Additional officers arrived on the scene along with fire medics, the man was transported to the Wilcox emergency room for treatment.

According to EMT personnel who responded to the scene as well as the Wilcox emergency medical staff who treated the man, they all said it was because of Lt. Banquel’s’ swift action it directly contributed to saving the man’s life.

Chief Raybuck along with the Commissioners congratulated Lt. Banquel for his heroism that gave the man and his family the gift of life.

Lt. Banquel thanked everyone for keeping his families in prayer. He stated that his training as a police officer kicked in and he was thankful that he was able to help the man. He thanked everyone for their words kind of appreciation and for continuing to support all the police officers in the Kauai Police Department.
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<tr>
<td>With no further comments, Vice Chair Pigao on to the approval of the meeting minutes.</td>
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<tr>
<td>Approval of Minutes</td>
<td>• Open Session December 17, 2021, Meeting</td>
<td>Commissioner Jardin moved to approve the December 17, 2021; Open Session Meeting Minutes as amended. Commissioner Hertog seconded. A voice vote ensued, and the motion carried 7:0.</td>
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<tr>
<td>Vice Chair Pigao called for a motion. Ms. Hertog requested that on Page 26, first paragraph of the minutes be amended to reflect that it was Commissioner Adams who stated there was a quorum and not her. Ms. Omo acknowledged Commissioner Hertog’s request and will make the necessary correction.</td>
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| Chief’s Monthly Reports | • Administrative & Technical Bureau  
• Investigative Services Bureau  
• Patrol Bureau Reports  
• Pertinent announcements/updates | |
<p>| Chief Ray buck asked the Commissioners if they had any questions on the data reflected in his Monthly Reports. | | |
| Regarding the ISB Report, Commissioner Bahouth asked if the missing person was identified as the unattended death to which Chief Ray buck replied that the unattended death was the same individual that was reported missing. | | |
| Commissioner Jardin said that she noticed data reflected in the Traffic Report showed in an increase in traffic violations and that she was told by people in community that they have been noticing a large presence of police officers in different areas of the community. | | |
| Chief Ray buck stated that the Department did some additional traffic enforcement over the holiday season on grants and because they had additional resources, they deployed officers into the communities using those resources. | | |</p>
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<th>SUBJECT</th>
<th>DISCUSSION</th>
<th>ACTION</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Chair Morita asked if the Department is still enforcing the “move over law” to which Chief Raybuck replied yes.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Commissioner Bahouth asked Chief Raybuck if he was going conduct promotions soon to fill the number relative to the vacant leadership position, he has available. Also, on the civilian side it seems that KPD is short twenty (20) civilian positions which is probably due to difficulty in hiring. He asked if Chief Raybuck his thoughts about moving forward to fill the vacancies and to put more leadership in place.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Chief Raybuck stated that on the promotion, they are continuously looking at what positions they can fill. As he mentioned before at a previous meeting, before every promotion creates a vacancy and, so the promotions are timed based; what he calls the “Bloom”. He explained that the recruits that are in the training field are hitting the streets to minimize the impact of the vacancies that were created by the promotions. As such, they are currently focus on the promotion process and when those promotions will take place will be dependent on a couple of things that are within his control and outside of his control.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Regarding the vacant civilian positions, the Department just released several job announcements for certain civilian positions, so hopefully they will get some interest in those vacant positions. But as he mentioned before it has been incredibly difficult for them to fill the vacancies especially the civilian vacancies for a variety of reasons, so they have been looking at their long-term vacancies to see what can do in terms of possibly modifying the job descriptions or reclassify those positions, so they can find applicants to fill those positions.</td>
<td></td>
</tr>
<tr>
<td>SUBJECT</td>
<td>DISCUSSION</td>
<td>ACTION</td>
</tr>
<tr>
<td>-------------------------------</td>
<td>---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
<td>--------</td>
</tr>
<tr>
<td>Commissioner Bahouth asked what HR’s involvement is in trying to get the vacant civilian positions filled to which Chief Raybuck replied that HR has been active partners. The Department cannot make modifications without their assistance.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Commissioner Hertog asked Chief Raybuck if there is a danger of losing a position if it’s unfilled for a several years to which Chief Raybuck replied that whether those positions will remain in his budget is a matter based upon the mayor’s office. Both the Mayor’s office and the County Council have been understanding of their situation and have dollar funded those vacancies to allow the Department to continue to maintain those positions.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Chief Raybuck highlighted a recent arrest that involved KPD’s vice unit which the suspect was the primary supplier of drugs, including fentanyl. He commended the vice unit and Lt. Miller for all their hard work that had to take place to arrest the suspect. Lastly, he the opportunity to recognize and acknowledge Sergeant David Banquel’s family who recently loss their beloved Dave and to thank the Commission for their expression of love and support.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>With no further discussion, Vice Chair Pigao moved on to the next agenda item.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Business</td>
<td>Discussion and decision-making on the permitted interaction group recommendations for Revision of Rule 10 of the Kauai Police Commission Rules on Administrative Practice and Procedure. (Deferred on 12/17/2021 for continued discussion and decision-making)</td>
<td></td>
</tr>
</tbody>
</table>

KPC Open Session Minutes
Of January 28, 2022, Meeting

Page 12
Commissioner Hertog briefed the Commissioners on the changes that were incorporated in Rule 10 which was to distinguish that Rule 10 was not the proper method for the Police Department employees to file complaints against another Department employee (s). That Rule 10 relates to the citizen complaint process. She explained that both Mr. Donahoe and she worked out the language which is now in Rule 10.

Also, to address Chief Raybuck’s wanting to make some clarifications to make sure that the Commissioners knew what they could expect in terms of documentation when an internal KPD investigation versus an independent investigation is done. Both she and Chief Raybuck worked out the language which is reflected in Rule 10 about Garrity Rights and when it is invoked and what the Commission would be entitled to.

Commissioner Adams stated that she reviewed the changes and would like to move to accept those changes. Commissioner Bahouth second the motion.

Mr. Donahoe stated that another motion needs to be made to adopt the Revision of Rule 10 in its entirety.

<table>
<thead>
<tr>
<th>SUBJECT</th>
<th>DISCUSSION</th>
<th>ACTION</th>
</tr>
</thead>
</table>
|         | Commissioner Hertog briefed the Commissioners on the changes that were incorporated in Rule 10 which was to distinguish that Rule 10 was not the proper method for the Police Department employees to file complaints against another Department employee (s). That Rule 10 relates to the citizen complaint process. She explained that both Mr. Donahoe and she worked out the language which is now in Rule 10. Also, to address Chief Raybuck’s wanting to make some clarifications to make sure that the Commissioners knew what they could expect in terms of documentation when an internal KPD investigation versus an independent investigation is done. Both she and Chief Raybuck worked out the language which is reflected in Rule 10 about Garrity Rights and when it is invoked and what the Commission would be entitled to. Commissioner Adams stated that she reviewed the changes and would like to move to accept those changes. Commissioner Bahouth second the motion. Mr. Donahoe stated that another motion needs to be made to adopt the Revision of Rule 10 in its entirety. | Motion No. 1
Commissioner Adams moved to accept the amendments in its final form that were presented by Commissioner Hertog. Commissioner Bahouth seconded. Hearing no objections. Vice Chair Pigao called for a voice vote. The motion carried 7:0. Motion No. 2
Commissioner Bahouth moved. Commissioner Adams seconded. Hearing no objections. Vice Chair Pigao called for a voice vote to accept the Revision of Rule 10. The motion carried 7:0 by voice vote. |
<table>
<thead>
<tr>
<th>SUBJECT</th>
<th>DISCUSSION</th>
<th>ACTION</th>
</tr>
</thead>
</table>
| **KPC 2022-1**  | Discussion and decision-making on the permitted interaction group recommendations for Revision of Rule 11 of the Kauai Police Commission Rules on Administrative Practice and Procedure.  
Vice Chair Pigao called on Commissioner Hertog to address the Commission.  
Commissioner Hertog stated that Rule 11 was presented to the Commission at the last meeting in December for comments. She noted that the only comments she received to date was from Mr. Donahoe to do a slight rewording to make sure that everybody knows that Rule 11 is the one to use to file complaints against the chief of police. Hearing no further discussion or comments Vice Chair Pigao called for a motion.  
After the vote, Commissioner Hertog took the opportunity to thank her fellow Group members especially Commissioner Mince for playing a major role to bring clarity to the rules for future Commissions. | Commissioner Hertog moved to accept the Group’s recommendation for Revision of Rule 11. Commissioner Adams seconded. Hearing no objections. Vice Chair Pigao called for a roll call vote. A roll call ensued with all seven (7) Commissioners present voting in favor of the motion. The motion carried 7:0. |
| **KPC 2022-2**  | Presentation by the permitted interaction group on recommendations on the process, procedures, and tools to enhance the chief of police evaluation process resulting in a more cohesive evaluation product.                                                                                   | Ms. Adams moved to defer item KPC 2022-2 to the February meeting. Mr. Bahouth seconded. A voice vote ensued, and the motion carried 7:0.                                                                 |
| **KPC 2021-43** | Discussion and possible decision-making on the purpose and use of the Climate Assessment that was conducted by the Kauai Police Commission on the Kauai Police Department. (Deferred on 12/17/2021)  
Ms. Ching asked for a deferral on the item to allow staff to complete the report. After the vote to defer item KPC 2021-43 to the February meeting, Commissioner Morita asked if the Group was going to address the list of items that she provided the Group to which Ms. Ching replied that the issue was not | Motion No. 1  
Mr. Bahouth moved to defer item KPC 2021-43. Ms. Jardin seconded. A voice vote ensued, and the motion carried 7:0.                                                                 |
<table>
<thead>
<tr>
<th>SUBJECT</th>
<th>DISCUSSION</th>
<th>ACTION</th>
</tr>
</thead>
<tbody>
<tr>
<td>included on the meeting agenda. Commissioner Morita, then asked how the Group should go about changing the climate assessment. Commissioner Bahouth stated that the recent climate assessment is already done and cannot be amended, so if he wants to change the climate assessment it should be done at another time. Mr. Donahoe stated that the matter should be placed on a future agenda for discussion and possible to establish a new permitted interaction group to possibly amend the climate assessment. Chair Morita stated that he’ll ask staff to place the matter on the next agenda to form a permitted interaction group as opposed to having the Commission do it. Hearing no further discussion, Vice Chair Pigao called for a motion to discuss and possibly decide to revise the climate assessment.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
| **KPC 2022-3** | **Public announcements on the Police Commission’s disposition on the following citizens’ complaints:**  
- KPC 2021-006  
- KPC 2021-010  
- KPC 2021-011  
Staff read the public announcements on the Police Commission’s disposition on notarized complaints KPC 2021-006, KPC 2021-010 and KPC 2021-011.  
After due consideration of the investigative findings, the Commission sustained the complaint. This officially concluded the Commission’s review of notarized complaint KPC 2021-006.  
After due consideration of the case, the Commission made the decision to exonerate the dispatchers and the officer named in the complaint. This officially concluded the Commission’s review of notarized complaint KPC 2021-010. | Ms. Hertog moved to accept the item KPC 2022-3 for the record. Ms. Jardin seconded. A voice vote ensued, and the motion carried 7:0. |
<table>
<thead>
<tr>
<th>SUBJECT</th>
<th>DISCUSSION</th>
<th>ACTION</th>
</tr>
</thead>
<tbody>
<tr>
<td>Executive Session</td>
<td>After due consideration of the case, the Commission decided not to sustain the complaint. This officially concluded the Commission’s review of notarized complaint KPC 2021-011.</td>
<td>At 10:25 a.m. Mr. Donahoe cited the following Hawai‘i Revised Statutes to take the meeting into Executive Session.</td>
</tr>
<tr>
<td>ES KPC 2022-1</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 Kauai 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></td>
</tr>
<tr>
<td>ES KPC 2022-2</td>
<td>Monthly update by Christian Jenkins, Lieutenant Office of Professional Standards, or his designated representative on the status of the Department’s disposition on formal notarized complaints that were filed with the Kauai Police Department and with the Kauai Police Commission and referred to the Office of the Chief for further review.</td>
<td></td>
</tr>
<tr>
<td>ES KPC 2022-3</td>
<td>New citizen’s complaint no. KPC 2022-001, received on January 7, 2022. The complaint alleges that an on-duty police officer in the Kauai Police Department violated the complainant’s Civil Rights under 42 USC 1983, negligent infliction of emotional and physical distress, failure to do wellness checks and follow protocol regarding child endangerment, failure to protect minor children and do investigative reporting.</td>
<td></td>
</tr>
<tr>
<td>ES KPC 2022-3</td>
<td>Monthly update by Todd G. Raybuck, Chief of Police, Kauai Police Department, or his designated representative on any significant adverse incidents/events involving personnel in the Kauai Police Department that could potentially impact the County, the Police Commission and the Kauai Police Department.</td>
<td></td>
</tr>
<tr>
<td>SUBJECT</td>
<td>DISCUSSION</td>
<td>ACTION</td>
</tr>
<tr>
<td>-------------------------------------</td>
<td>-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
<td>-----------------------------------------------------------------------</td>
</tr>
<tr>
<td>ES KPC 2022-4</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 December 17, 2021, meeting. 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>
<td></td>
</tr>
<tr>
<td>ES KPC 2022-5</td>
<td>Pursuant to §92-5 (a) (4) the purpose of this Executive Session for the Commission to consult with its attorney where consideration of matters affecting privacy will be involved and on questions and issues pertaining to the Commission’s powers, duties, privileges, immunities, and liabilities as it relates to Chief Raybuck’s 6-month performance evaluation.</td>
<td></td>
</tr>
<tr>
<td>ES KPC 2021-035</td>
<td>Citizen complaint no. KPC 2021-014 received on November 16, 2021. The complaint alleges covering up a hate crime and adopting an illegal medical related policy. (Deferred on 12/17/2021. Staff to follow-up with the Office of Professional Standard and report back to the Commission.)</td>
<td>Ms. Adams moved to enter Executive Session. Ms. Hertog seconded. A voice vote ensued, and the motion carried 7:0. At 10:30 a.m. the Commissioners’ entered Executive Session.</td>
</tr>
<tr>
<td>ES KPC 2021-032</td>
<td>Complaint no. KPC 2021-013 received on November 4, 2021. The complaint alleges unethical and unprofessional behavior. (On-going)</td>
<td></td>
</tr>
<tr>
<td>Return to Open Session to ratify the actions taken in executive session.</td>
<td>At 11:36 a.m. the Commissioners returned to Open Session. Vice Chair Pigao called for a motion to ratify the actions taken in Executive Session.</td>
<td>Ms. Jardin moved to ratify the actions taken in executive session. Ms. Hertog seconded. A voice vote ensued, and the motion carried 6:0.</td>
</tr>
<tr>
<td>Adjournment</td>
<td>With no further business to conduct, Vice Chair Pigao called for a motion to adjourn the meeting.</td>
<td>Mr. Bahouth moved to adjourn. Ms. Hertog seconded. A voice vote ensued, and the motion carried 6:0. At 11:38 a.m. the meeting was adjourned.</td>
</tr>
</tbody>
</table>
KPC Open Session Minutes
Of January 28, 2022, Meeting

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Submitted by: ________________________________
Mercedes Omo, Staff Support Clerk

Reviewed and Approved by: ________________________________
Roy Morita, Chair

( ) Approved as circulated on
( ) Approved as amended. See minutes of __________ meeting.
## Budget Summary (Estimate): Period of December 2021

<table>
<thead>
<tr>
<th>BUREAU</th>
<th>BUDGET</th>
<th>EXPENDITURES TO DATE</th>
<th>ENCUMBRANCES TO DATE</th>
<th>BALANCE 12/31/2021</th>
<th>50% OF BUDGET</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chief's Office</td>
<td>$38,347,013.00</td>
<td>$16,769,371.36</td>
<td>$1,019,565.76</td>
<td>$20,558,075.88</td>
<td>46%</td>
</tr>
<tr>
<td>Administrative &amp; Technical Bureau</td>
<td>$1,942,705.00</td>
<td>$463,210.47</td>
<td>$465,842.18</td>
<td>$1,013,652.35</td>
<td>48%</td>
</tr>
<tr>
<td>Investigative Services Bureau</td>
<td>$728,533.00</td>
<td>$158,134.21</td>
<td>$377,940.18</td>
<td>$192,458.61</td>
<td>74%</td>
</tr>
<tr>
<td>Patrol Services Bureau</td>
<td>$560,629.00</td>
<td>$130,531.15</td>
<td>$142,386.89</td>
<td>$287,710.96</td>
<td>49%</td>
</tr>
<tr>
<td>Total General Fund</td>
<td>$41,578,880.00</td>
<td>$17,521,247.19</td>
<td>$2,005,735.01</td>
<td>$22,051,897.80</td>
<td>47%</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%</td>
</tr>
<tr>
<td>Salary &amp; Wages</td>
<td>$18,717,579.00</td>
<td>$8,737,346.47</td>
<td>$9,980,232.53</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Overtime</td>
<td>$2,538,207.00</td>
<td>$986,195.06</td>
<td>$1,552,011.94</td>
<td></td>
<td>39%</td>
</tr>
<tr>
<td>Fringe Benefits</td>
<td>$15,192,459.00</td>
<td>$6,910,880.76</td>
<td>$8,481,578.24</td>
<td></td>
<td>45%</td>
</tr>
<tr>
<td>Total Salary, OT, Fringe</td>
<td>$36,648,245.00</td>
<td>$16,634,422.29</td>
<td>$20,013,822.71</td>
<td></td>
<td>45%</td>
</tr>
<tr>
<td>Payroll % of Budget</td>
<td>88%</td>
<td></td>
<td></td>
<td></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 December</td>
<td>41,452</td>
<td>24,578</td>
<td>(16,874)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

## Personnel Status as of 01/31/22

<table>
<thead>
<tr>
<th>BUREAU</th>
<th>AUTHORIZED</th>
<th>ACTUAL</th>
<th>VACANT</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sworn</td>
<td>161</td>
<td>145</td>
<td>16</td>
</tr>
<tr>
<td>Civic</td>
<td>73</td>
<td>54</td>
<td>19</td>
</tr>
<tr>
<td>County General Fund</td>
<td>63</td>
<td>49</td>
<td>14</td>
</tr>
<tr>
<td>Temporary &amp; Grant Fund</td>
<td>4</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>Temporary [SANE]</td>
<td>6</td>
<td>3</td>
<td>3</td>
</tr>
<tr>
<td>Total</td>
<td>236</td>
<td>201</td>
<td>35</td>
</tr>
</tbody>
</table>

1 of 4 | Page
Clerk (Off-Duty) | 1 Vacancy | No names referred at this time

**Firearms Registered: January 2022**

| Imported Handguns | 54 | Imported Rifles | 89 | Imported Shotguns | 18 | Imported Total | 161 |
| Domestic Handguns | 49 | Domestic Rifles | 82 | Domestic Shotguns | 18 | Domestic Total | 149 |
| **Total Handguns** | **103** | **Total Rifles** | **171** | **Total Shotguns** | **36** | **Total Registered** | **310** |

| Firearms Registered: January 2020 |
| **Total Handguns** | **105** | **Total Rifles** | **104** | **Total Shotguns** | **37** | **Total Registered** | **246** |

| Firearms Registered: January 2021 |
| **Total Handguns** | **144** | **Total Rifles** | **158** | **Total Shotguns** | **28** | **Total Registered** | **330** |

| Firearms Registered: January 2022 |
| **Total Handguns** | **103** | **Total Rifles** | **171** | **Total Shotguns** | **36** | **Total Registered** | **310** |

**Bench Warrant Tracking: January 2022**

<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>178</td>
<td>131</td>
<td>30</td>
<td>762</td>
</tr>
</tbody>
</table>

**Legal Services Received: January 2022**

<table>
<thead>
<tr>
<th>Total Warrants Received</th>
<th>Arrest Warrants</th>
<th>Bench Warrants</th>
<th>eBW Traffic</th>
<th>eBW Criminal</th>
<th>Juvenile Warrants</th>
<th>Total Legal Service Received</th>
<th>Total Received in 2022</th>
</tr>
</thead>
<tbody>
<tr>
<td>178</td>
<td>7</td>
<td>6</td>
<td>64</td>
<td>101</td>
<td>0</td>
<td>236</td>
<td>236</td>
</tr>
</tbody>
</table>

<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 Received</th>
<th>Total Received in 2022</th>
</tr>
</thead>
<tbody>
<tr>
<td>2</td>
<td>17</td>
<td>2</td>
<td>37</td>
<td>236</td>
<td>236</td>
<td></td>
</tr>
</tbody>
</table>

**Legal Services Served (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>3 / 37</td>
<td>26</td>
<td>8</td>
<td>4</td>
<td>78</td>
</tr>
</tbody>
</table>

**Training Provided by Kaua‘i Police Department**

<table>
<thead>
<tr>
<th>Order#</th>
<th>Start:</th>
<th>End:</th>
<th>Description:</th>
<th>Personnel:</th>
<th>Instruction Hours:</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>21-21084</td>
<td>1/6/22</td>
<td>1/20/22</td>
<td>SRT Training</td>
<td>12</td>
</tr>
<tr>
<td>2</td>
<td>21-21091</td>
<td>1/7/22</td>
<td>1/28/22</td>
<td>HIBS Training</td>
<td>2</td>
</tr>
<tr>
<td>3</td>
<td>96th Recruit Class</td>
<td>3</td>
<td>152</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total:</td>
<td></td>
<td></td>
<td></td>
<td>17</td>
<td>200</td>
</tr>
</tbody>
</table>

**Training Provided by an Outside Agency (Off-Island)**

<table>
<thead>
<tr>
<th>Order#</th>
<th>Start:</th>
<th>End:</th>
<th>Description:</th>
<th>Personnel:</th>
<th>Instruction Hours:</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>21-210721</td>
<td>1/18/22</td>
<td>1/20/22</td>
<td>Quarterly K-9 Training</td>
<td>2</td>
</tr>
<tr>
<td>Total:</td>
<td></td>
<td></td>
<td></td>
<td>2</td>
<td>24</td>
</tr>
</tbody>
</table>
GENERAL CRIMES SECTION

MAJOR INCIDENTS / NOTABLE HIGHLIGHTS:

DEATH RELATED INVESTIGATIONS = 4 (4) Autopsies

SEXUAL ASSAULT = 3

ASSAULTS = 1

MISSING PERSON =1 (unfounded)

ROBBERY = 1

ABUSE FAMILY HOUSEHOLD MEMBER = 1

CHILDREN JUSTICE CENTER FORENSIC INTERVIEWS = 2

MEETINGS:

01/11/2022 Children Justice Center MDT Meeting
01/13/2022 Inter-agency-committee meeting. CJC/YWCA
01/13/2022 KSART meeting discussion.
01/14/2022 Lethal Assessment Program meeting- YWCA
01/25/2022 CJC Case review/ Case tracking meeting.

PRESENTATIONS:

01/11/2022 96 recruit class SRT briefing/ISB

TRAININGS:

01/20/2022 (1) Lieutenant attends Death Certificate training coroner responsibilities.
01/24/2022 (1) Sex Assault Detective attended the San Diego adolescent abuse and sex abuse Training 5-day conference.
SPECIAL FOCUS SECTION

MAJOR INCIDENTS / NOTABLE HIGHLIGHTS

DEATH RELATED INVESTIGATIONS = 3

FIREARM = 1

OTHER = 1 (Misc. Pub. report – Ancient Hawaiian bones found.)

MEETINGS:

01/13/2022    Lieutenant attended TCP/Humanity Advanced Scheduling demo.
01/18/2022    Lieutenant attended KPD Change Ambassador meeting.
01/18/2022    Lieutenant attended KPD Monthly OPA Teams meeting.
01/19/2022    Lieutenant attended Monthly County Change Ambassador meeting.

TRAININGS / PRESENTATIONS / PUBLIC SPEAKING / OTHERS:

01/04/2022    (1) Detective attended Firearms qualification.
01/05/2022    (1) Detective attended 96th Recruit Class welcome presentation.
01/07/2022    (2) Detectives attended weekly Bomb Training.
01/14/2022    (2) Detectives attended weekly Bomb Training.
01/21/2022    (2) Detectives attended weekly Bomb Training.
01/28/2022    (2) Detectives attended weekly Bomb Training.

COMMUNITY ACTIVITIES AND INVOLVEMENT:

Lieutenant serves as the VP of the Kawaihau Community Little League. Also volunteers as a coach and umpire in the league during the season.

CRIME SCENE AND LABORATORY SECTION:

MAJOR INCIDENTS / NOTABLE HIGHLIGHTS

Criminalist (1) Call out on 1/9/2022.
Criminalist (2) follow up: scan scene and photos.

TRAININGS ATTENDED

None

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

COMMUNITY ENGAGEMENT EFFORTS:

None

MEETINGS:

Criminalist (1) – Weekly OSAC Task Group Conference Calls (10:00 – 11:30)
Criminalist (1) – Monthly OSAC Sub-committee Meeting Conference Call (9:00 – 11:45)

VICE SECTION

SEIZURES

Vice Section Investigations in the month of January yielded the following seizures:

<table>
<thead>
<tr>
<th>Type</th>
<th>Meth</th>
<th>Fentanyl</th>
<th>Picrotins</th>
<th>Marijuana</th>
<th>Cash</th>
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<tbody>
<tr>
<td>Total in Grams</td>
<td>242.6</td>
<td>43.3</td>
<td>5</td>
<td>26.4</td>
<td>$8,810</td>
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ARRESTS

10 persons

MEETINGS/TRAINING/SCREENINGS

1. 01/06/2022 SRT Training: (2) Two Officers attended SRT Training

2. 01/13/2022 CST Training: (2) Two Officers attended CST Training.

3. 01/18 to 01/20/2022: K9 Quarterly Training took place on Kauai with both K9 teams

4. 01/27/2022: The entire Vice unit conducted unit training on building entries and room clearing.

5. 01/31/2022: The Vice Commander attended an online Teams meeting for the JAG SMDTF grant Task Force for grant administrative training as well as prep for application for the next grant.

6. Month of January: (2) Two new investigators have spent the month being trained on various topics related to being a Vice investigator.
Submitted by:

Paul N. Applegate   K-22
Captain            ISB
02-14-22            1330 hours
1. **MAJOR INCIDENTS**

**MAJOR T/C**
On 1/2/2022, The Traffic Safety Section investigated a fatal traffic collision on Hehi Road near the entrance to Hanamaulu Beach. A single vehicle overturned into the Hanamaulu Stream causing the driver to suffer fatal injuries.

**MISC-PUB HAZARD**
On 1/4/2022, Patrol officers responded to a report of a rockslide on Menemwea Road in Waimea Valley. At the time of the incident, the roadway was completely blocked and KEMA was activated. KPD personnel made checks on citizens via an access road to ensure the safety of those residents who were cut off due to the rockslide. KPD also provided security in the area of the rockslide to prevent citizens from being injured. No injuries were reported as a result of the incident Menemwea Road reopened to all traffic on Tuesday 1/25/22.

**ROBBERY**
On 1/4/2022, Patrol Officers took a report at Lihue Headquarters from a victim who reported being robbed and kidnapped by a known acquaintance in Koloa the previous evening. Investigative Services Bureau was notified and took over the investigation.

**ASSAULT 1ST DEGREE**
On 1/9/2022, Patrol Officers responded to a report of a male victim being stabbed in Wainiha. It was determined that the victim was stabbed in his neck, arm, and abdomen. The suspect was arrested on scene and transported to cellblock. The victim was transported by Medics to Wilcox Hospital. Investigative Services Bureau responded to the scene and assumed the investigation.

**MISSING PERSON**
On 1/23/2022, Patrol officers responded to a report of a missing 18-year-old male visitor who had gone hiking in Kokee. The body was later found near the bottom of Waipoo Falls. Investigative Services Bureau responded and took over the investigation.
Parking

<table>
<thead>
<tr>
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<th>Current Period Jan 2022</th>
<th>Prior Period Dec 2021</th>
<th>YTD for Reporting Period 2022</th>
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<tbody>
<tr>
<td>LIHUE</td>
<td>29</td>
<td>25</td>
<td>29</td>
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<tr>
<td>WAIMEA</td>
<td>9</td>
<td>13</td>
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<tr>
<td>KOLOA</td>
<td>28</td>
<td>21</td>
<td>28</td>
</tr>
<tr>
<td>KAWAHIU</td>
<td>24</td>
<td>16</td>
<td>24</td>
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<td>HANALEI</td>
<td>7</td>
<td>12</td>
<td>7</td>
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<tr>
<td></td>
<td>18</td>
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Seatbelt

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<th>YTD for Reporting Period 2022</th>
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<tr>
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<tr>
<td>KOLOA</td>
<td>7</td>
<td>6</td>
<td>7</td>
</tr>
<tr>
<td>KAWAHIU</td>
<td>14</td>
<td>25</td>
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<td>HANALEI</td>
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<td>3</td>
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<tr>
<td></td>
<td>2</td>
<td>13</td>
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Speeding

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<th>Prior Period Dec 2021</th>
<th>YTD for Reporting Period 2022</th>
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<tbody>
<tr>
<td>LIHUE</td>
<td>45</td>
<td>119</td>
<td>45</td>
</tr>
<tr>
<td>WAIMEA</td>
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<td>7</td>
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<tr>
<td>KOLOA</td>
<td>5</td>
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<td>KAWAHIU</td>
<td>70</td>
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<tr>
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### Adult Arrest Summary

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<th>YTD for Reporting Period 2022</th>
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</thead>
<tbody>
<tr>
<td>LIHUE</td>
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<td>83</td>
<td>91</td>
</tr>
<tr>
<td>WAIMEA</td>
<td>33</td>
<td>49</td>
<td>33</td>
</tr>
<tr>
<td>KOLOA</td>
<td>37</td>
<td>37</td>
<td>37</td>
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<tr>
<td>KAWAIHAU</td>
<td>56</td>
<td>77</td>
<td>56</td>
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<tr>
<td>HANALEI</td>
<td>11</td>
<td>13</td>
<td>11</td>
</tr>
<tr>
<td>Others</td>
<td>5</td>
<td>8</td>
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### Juvenile Arrest Summary

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<thead>
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<th>Prior Period Dec 2021</th>
<th>YTD for Reporting Period 2022</th>
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<tbody>
<tr>
<td>LIHUE</td>
<td>1</td>
<td>4</td>
<td>1</td>
</tr>
<tr>
<td>WAIMEA</td>
<td>1</td>
<td>0</td>
<td>1</td>
</tr>
<tr>
<td>KOLOA</td>
<td>3</td>
<td>3</td>
<td>3</td>
</tr>
<tr>
<td>KAWAIHAU</td>
<td>9</td>
<td>3</td>
<td>9</td>
</tr>
<tr>
<td>HANALEI</td>
<td>2</td>
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<td>2</td>
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</table>

### Current Period to Prior Period Comparison

- **LIHUE**: 91 (Current) vs. 83 (Prior)
- **WAIMEA**: 33 (Current) vs. 49 (Prior)
- **KOLOA**: 37 (Current) vs. 37 (Prior)
- **KAWAIHAU**: 56 (Current) vs. 77 (Prior)
- **HANALEI**: 11 (Current) vs. 13 (Prior)
- **Others**: 5 (Current) vs. 8 (Prior)
Kauai Police Department
Police Commission Monthly Report
Patrol Services Bureau
Calls for Service and Incident Summary
Reporting Period January 2022

Calls for Service Summary

<table>
<thead>
<tr>
<th>Location</th>
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<th>YTD for Reporting Period 2022</th>
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<td>1,142</td>
<td>1,051</td>
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<td>KOLOA</td>
<td>466</td>
<td>424</td>
<td>466</td>
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<tr>
<td>KAWAHAU</td>
<td>1,083</td>
<td>1,188</td>
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<td>HANALEI</td>
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<tr>
<td>Others</td>
<td>19</td>
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<td>19</td>
</tr>
</tbody>
</table>

Reported Incident Summary

<table>
<thead>
<tr>
<th>Location</th>
<th>Reporting Period Jan 2022</th>
<th>Prior Period Dec 2021</th>
<th>YTD for Reporting Period 2022</th>
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</thead>
<tbody>
<tr>
<td>LIHUE</td>
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<td>443</td>
<td>450</td>
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<tr>
<td>WAIMOA</td>
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<td>116</td>
<td>107</td>
</tr>
<tr>
<td>KOLOA</td>
<td>242</td>
<td>217</td>
<td>242</td>
</tr>
<tr>
<td>KAWAHAU</td>
<td>365</td>
<td>362</td>
<td>365</td>
</tr>
<tr>
<td>HANALEI</td>
<td>137</td>
<td>130</td>
<td>137</td>
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</tbody>
</table>

Submitted by:

Roderick Green

Digitally signed by Roderick Green
Date: 2022.02.15 12:24:15 -10'00'

Roderick B. Green  K-23
Captain  Patrol Services Bureau
RULE 10  CITIZEN COMPLAINT PROCESS

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.

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.”

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

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

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
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.


A. Aggrieved Person. The individual reportedly injured or offended by the actions of the Department or one of its employees.

B. Allegation. A claim, assertion, or accusation of an act, or omission, that has not yet been proven to be factual.

C. Anonymous Complaint. Any complaint where the complainant withholds his/her identity.

D. Closing Correspondence. A letter sent to a complainant upon the conclusion of an investigation notifying them of the findings. This correspondence is required in all cases.

E. Complainant. One who files a complaint.

F. Date Filed. 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.

G. Date Officially Received. The date a complaint is “officially received” by the entire Police Commission at a meeting.

H. Departmental Allegation/Complaint. An allegation which is solely against a Department policy or procedure, and no employee misconduct is alleged.

I. Frivolous Complaint. 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.

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. Exceptions can be made if the complaint meets the requirements stated in Rule 10-3-B(3).

N. Key Dates and Timelines.
60 days – The time from date of occurrence for citizen to file a complaint.
90 days – The time from the date the complaint is “received” by the entire Commission to completion of the investigation.
120 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.

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 be not 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.

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.

4. 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
B. **Time Frames for Filing Complaint.**

1. **Complaints** shall be filed with the Office of Boards and Commissions no later than sixty (60) calendar days after the date of occurrence.

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.

3. In no event should the Commission consider a complaint filed more than 180 calendar days after the date of the occurrence. However, serious allegations such as sexual assault, racial and sexual discrimination, excessive use of force, criminal conduct complaints or as approved pursuant to Rule 10-3(e) may be considered outside the 180-day limit.

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

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.

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. 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.

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.

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.

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.

**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.

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.

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.

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.
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 Kauai community and the procedures of the Kauai Police notice to perform investigative tasks for the Commission; possess a character above reproach; and have no felony or misdemeanor convictions.

**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.** An Internal KPD Investigator’s report shall contain a report of all investigative findings. An Independent Investigator’s report shall contain a report of all investigative findings and a summary of all interviews, unless Garry Rights have been invoked.

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

C. **Timeframes.** The Investigator shall submit the report pursuant to Rule 10-4-E and 10-4-F, 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-F.

**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.

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
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 citizens 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.
RULE 11. COMPLAINTS and CHARGES AGAINST THE CHIEF OF POLICE

Below is an added “General” section to set the tone for what this rule is about, and a definition of INTERNAL Complaints against Chief.

RULE 11-1 General Information.

A. Defined. As used in this rule Complaints Against the Chief of Police refers to complaints filed by a member of the police department, or a member of the public, against the Chief of Police, for alleged inappropriate behavior, violation of police department or county policy.

Below describes the investigative process for complaints against chief.

B. Initial Investigation Process. All complaints against the Chief of Police, regardless of how they are received, are initially subject to the procedures contained in Kauai County policy regarding Discipline of Department Heads Subject to Removal by Boards and Commissions.

The Mayor and Chairperson of the Commission shall determine the proper investigative course of action, as described below in Rule 11-2.

All of Rule 11-2 below is existing verbiage from the old Rule 3

RULE 11-2 Complaints Filed Against the Chief of Police.

A. Written Complaints Against the Chief of Police Filed with the Mayor.

1. The County of Kauai 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 Commission shall be filed with the Mayor.

2. 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.

3. All such complaints filed with the Mayor shall be in writing.

4. Upon receipt of a written complaint the Mayor shall transmit said complaint to the Chairperson of the Kauai Police Commission.
   a. 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.
   b. If, after review, the Commission determines further information is required, the Mayor shall be advised that an investigation is warranted.
   c. The Mayor and the Chairperson, shall determine if the complaint warrants an investigation utilizing the process described in the County
Policy regarding the *Discipline of Department Heads Subject to Removal by Boards and Commissions* or through the process contained in the Police Commission Rules, Rule 10-1-D.

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.

d. 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.**

1. Police Commission Rules, Rule 10 describes the procedures for the filing of *complaints* against the Conduct of the Department or any of its Members through the Citizen’s Complaint process.

2. When the Police Commission receives a complaint against the Chief of Police in this manner the Chairperson shall advise the Mayor.

3. 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.**

1. 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.

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

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

4. 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.

**RULE 11-3  Charges Against the Chief of Police**

*Rule 11-3 is old rule 3-7 - Added headers – verbiage unchanged*

A. **Grounds for Discipline or Dismissal.** It is the intent of this rule that the Chief of Police be disciplined or dismissed only for cause and not arbitrarily
or capriciously. Grounds for discipline or dismissal of the Chief shall include, but are 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.

3. Conviction of any misdemeanor or felony.

B. **Disciplinary Procedures.** The Commission may institute disciplinary procedures against the Chief upon motion of any member of this Commission and a majority vote in 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. **Disciplinary Actions.** 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.
Rule 3-4  **Political Activities.** All members, officers and employees of the Kaua‘i Police Department, including, but not limited to Police Commissioners shall comply with all State and Federal laws regulating political activities of government employees.

**Rule 4 Approved 23 July 2021**

Suggest changes reference Eval/Feedback to Chief of Police are in red.

RULE 4  **SELECTION, DISCIPLINE, REMOVAL, and EVALUATION PROCESS FOR THE CHIEF OF POLICE**

Rule 4-1  **General Powers of Appointment, Discipline, and Removal**

a. The Police Commission shall appoint the Chief of Police.

b. The Police Commission may discipline* or remove, the Chief of Police only after he / she has been given a written statement of charges and a hearing before the Commission.
Kauai Police Commission v. Bernard Carvalho, 138 Haw, 287 (2016), the Hawaii Intermediate Court of Appeals held that the Police Commission's power to appoint and remove the Chief of Police includes the power to discipline.

Rule 4-2 Qualifications for Police Chief. Section 11.04 Kauai County Charter states the minimum qualifications for the Chief of Police to be: Fifteen (15) years of training and experience in law enforcement, of which at least ten (10) years have been as a peace officer in a full-service, public sector, law enforcement agency, and at least three (3) of those ten years have been performing management level duties at the rank of lieutenant or higher. The Chief of Police shall have a Bachelor's Degree in Administration of Justice, Businesses Administration, Public Administration, or a similar administrative field.

In addition to the minimum qualifications set by the county charter, the Police Commission determines that a successful applicant for Chief of Police shall:

- Possess the desired skills, knowledge, and ability to perform the Essential Duties and Responsibilities set forth in the County of Kauai, Department of Human Resources Job Description for Chief of Police (Annex 4-A).

Rule 4-3 Selection Process.

a. Hiring of a Consultant. The Commission may choose to hire a consultant to assist in the recruitment and selection of a Chief of Police. Should the Commission choose to hire a consultant, the Commission shall follow the procurement procedures set forth under HRS Section 103D-304 and any other applicable State statutes and County ordinances.

b. Selection of Semi-finalists and Finalists. In the event that there are multiple applicants for the position of Chief of Police, the Commission may choose to narrow down the list of applicants to semi-finalists and/or finalists. The interviews and/or selections of such semi-finalists and/or finalists shall be conducted in closed session, and the Commission shall decide how to interview and make the selection of the semi-finalists and/or finalists. All details and identities of the applicants shall be kept confidential, unless any applicant expressly agrees to waive his privacy rights.

c. Assessment by Consultant. In the event that a consultant conducts an assessment of any of the finalists, the Commission shall not participate in the assessment.
d. **Selection of Final Candidate.** Following the interviews of the finalists, the Commission shall vote on a final candidate to whom the Commission shall extend a conditional job offer. Said vote shall take place in executive session. The final candidate's identity, as well as the result of the votes, shall remain confidential until the candidate has been given an official job offer, or if the candidate expressly agrees to waive his or her privacy rights, whichever occurs sooner.

e. **Follow-up Requirements.** Following the extension of the conditional job offer, the Commission shall require the final candidate to undergo mandatory follow-up examinations as required by the Kaua’i Police Department and consistent with State and Federal laws.

f. **Final Job Offer.** Once the Police Commission has approved the candidate as the new Police Chief, and the candidate has accepted the Offer of Employment as the new Chief of Police, the terms of employment shall be those set forth and enumerated in the Kauai County Charter.*

*Article XI – Section 11.04 –Chief of Police. “The Chief of Police shall be appointed by the Police Commission. The Chief of Police may be removed by the Police Commission only after being given a written statement of charges and a hearing before the Commission.

**Rule 4-4**  
*Salary of the Chief of Police.* The Commission shall determine the initial salary of any new Chief of Police, and determine any subsequent increased in salary, consistent with the County of Kaua’i salary ordinance.

**Rule 4-5**  
*Evaluation of Performance.* The Chief of Police’s performance shall be subject to on-going evaluation by the Commission. Such evaluation will comply with the following:

a. **First Year Evaluation.** The newly appointed Chief of Police shall not be subjected to a probationary period. However, the performance of a newly appointed Chief of Police shall be subject to an on-going evaluation for the first twelve (12) months beginning of the date of hire. During this period the Chief’s performance shall be documented six (6) months from the date of hire. The procedures contained in section c, below shall be utilized for this on-going review. The Commission developed an on-going Evaluation Form in Annex 4-(b) shall be utilized for this evaluation.

i. All Commissioners shall provide input into this evaluation during Executive Session. The Chair and Vice and/or Vice Chair will utilize the feedback from the entire Commission in preparing this six (6) month evaluation.
ii. The Chair and/or Vice Chair shall conduct a discussion with the Chief regarding his/her performance.

iii. If the Chief’s performance “does NOT meet expectations” a Performance Improvement Plan, outlined in section 4-5 (d) below, shall be prepared by the Commission.

iv. One year from the date of hire a final evaluation shall be prepared by the Commission. The County of Kaua’i Performance Evaluation for Chief of Police contained in Annex 4-C shall be utilized for this evaluation.

v. After successfully completing twelve (12) months of employment the Chief of Police shall thereafter be evaluated on a fiscal year basis to align his/her performance with departmental goals.

b. Annual Evaluation.

i. **Police Commissioners.** The Commission shall, on a fiscal year basis (to coincide with the annual KPD goal period), evaluate the Chief’s performance. Each Commissioner shall be provided the opportunity to rate the Chief’s performance utilizing the Police Commission’s Performance Evaluation Form, Annex 4-C.

ii. **Mayor and Managing Director.** In preparation for the Chief’s Annual Evaluation the Commission may invite the Mayor and Managing Director to verbally discuss the Chief’s performance in Executive Session.

iii. **Other Stakeholders.** The Commissioners may seek input from various stakeholders in government and the private sector as to the Chief’s performance. Stakeholders include, but are not limited to: other elected officials, heads of various county departments, public safety peers, and labor union representative.

   Input, whether positive or negative, from Other Stakeholders on the Chief’s performance, must be accompanied with specific examples to support those comments.

c. **Semi-Annual Performance Feedback.** The Commission shall, on a semi-annual basis, provide feedback of the Chief’s performance. The purpose of the semi-annual feedback is to ensure that the Police Commission and the Chief of Police are in concurrence regarding the Chief’s performance, departmental operations, personnel issues, fiscal accountability, and the
Commission’s expectations. Such feedback will be documented utilizing the ongoing Performance Review/Feedback Form, Annex 4-(B) and presented to the Chief.

i. The semi-annual feedback shall discuss areas of exceptional performance, areas of concern regarding the Chief’s performance, issues, facing KPD, efforts toward goal attainment, and fiscal accountability.

ii. The feedback form shall be maintained by the Commission secretary and utilized during the preparation of the Chief’s Annual Performance Evaluation.

d. Performance Improvement Required. If, at any time, the Chief’s performance does not meet expectations a Performance Improvement Plan shall be prepared which incorporates:

   i. Areas of Concern.
   ii. Observations, Previous Discussions or Counseling.
   iii. Improvement Goals/Behaviors and Tasks.
   iv. Resources Needed to Complete Improvement Activities
   v. Management Support
   vi. Follow-up / Meeting Dates – Level of Progress Expected.
   viii. Consequences / Failure to reach or Maintain Performance Standards.

**Rule 4-6**

**CONTINUITY OF COMMAND.**

It is vital there is a process to clearly define the powers of the Police Commission and the Chief of Police to ensure there is always a single person in command of the Police Department when the Incumbent Chief of Police is absent from his/her office.

The following rules regarding the appointment of an Acting Chief and an Interim Chief are promulgated to ensure continuity of command.

**Powers of Police Commission and Chief of Police.**

a. **Police Commission.** As stated in the County Charter, Article XI, Section 11.04, the Police Commission has the sole power to appoint the Chief of Police. The power to appoint the Chief of Police DOES NOT grant the Police Commission the power to appoint an Acting Chief as defined below in Rule 4-7-a.
b. **Chief of Police.** The Incumbent Police Chief has the sole power to appoint an Acting Chief to act during his/her routine absence as defined below in section 4-7-b.

The Incumbent Police Chief is responsible for all acts performed by the person designated to act in their absence.

c. **General Rule.** As a general rule, whenever there is an Incumbent Chief of Police who is receiving compensation from the County of Kauai, regardless if they are, or are not, actively performing their duties, only he/she can appoint an Acting Chief as defined below in 4-7-b.

Conversely, whenever the Office of Chief of Police is vacant due to an action by the Incumbent Chief, or the Police Commission, the Commission may appoint an Interim Chief.

**RULE 4-7 ACTING CHIEF**

a. **Acting Chief Defined.**

An Acting Chief is a sworn police officer of the Kauai Police Department, who is appointed by the Incumbent Chief of Police to assume the duties of Department Head during his/her absence. It is recommended the Acting Chief of Police meet the minimum County Charter requirements for Chief of Police.

b. **Routine Absences.**

i. **Appoint Acting Chief.**

When the Chief of Police is absent from his/her office for operational or personal reasons with a known return to duty date, the Chief utilizes KPD procedures to appoint an Acting Chief.

The Police Commission is not involved in this process.

ii. **Notification.**

An email notification shall be made to the Commission Chair/Vice Chair and the Mayor/Managing Director of his/her absence and return date, and the person appointed as Acting Chief.

c. **Long Term Absences.**

In the event of an absence by the Chief of Police for operational or personal reasons when a return to duty date is unknown, or for military obligations, or when utilizing accrued credits pending retirement, the Chief of Police shall designate an Acting Chief utilizing the KPD chain of command.

The Police Commission is not involved in this process.
When any of the above conditions occur, the Commission shall consult with County Human Resources and the Commission Attorney, to ensure continuity of command, and determine the proper course for future actions.

d. **Other Conditions.**
   i. Upon approval by County Human Resources, an employee who accepts the position of Acting Chief may opt to retain their current salary if it is greater than that of the Chief of Police.
   ii. An Acting Chief is subject to all Charter Provisions and Police Commission Administrative Rules.

**RULE 4-8 INTERIM CHIEF.**

a. **Interim Chief Defined.** An Interim Chief is an individual who meets the minimum County Charter requirements for Chief of Police, who is appointed by the Police Commission to head the Police Department.

   For all intents and purposes an Interim Chief is the Chief of Police. That person occupies the position to serve at the pleasure of the Police Commission until a new permanent Chief is hired, or the Incumbent Chief returns to duty.

b. **Conditions for Appointing an Interim Chief.**
   To maintain continuity of command the Police Commission shall ensure there is always a person designated as Chief of Police.

   To accomplish this responsibility the Police Commission may appoint an Interim Chief during any period when the Office of Chief of Police is vacant, either by an action of the Incumbent Chief, or the Police Commission. The office is considered vacant when the Incumbent Chief:

   i. Resigns.
   ii. Is suspended or removed.
   iii. Abandons position. (Contact County Human Resources for guidance).
   iv. Dies.
   v. Takes a leave of absence.
   vi. Any other time when the incumbent Chief is NOT receiving financial compensation from the County of Kauai.

c. **Selection of Interim Chief.**
   In its selection of an Interim Chief the Police Commission may utilize two (2) courses of action:

   i. **From Within the Department.** The Commission may select and appoint an active member of KPD as Interim Chief until a new permanent Chief of Police is hired, or the Incumbent Chief returns to duty.
In its selection of an Interim Chief from within KPD, the Commission, shall utilize the following criteria:

a) The Department’s chain of command will be followed.

b) The employee next in the chain of command accepts the position.

c) No cause exists to exclude the employee from assuming the position.

d) In the event no member of KPD agrees to accept the position of Acting Chief the Commission shall appoint the highest ranking, most qualified member who meets the minimum County Charter requirements for Chief, as Interim Chief.

e) All Other Conditions as stated in 4-7-d above apply to the Interim Chief.

ii. From Outside of the Department.

If circumstances exist that require the Commission to place an Interim Chief in command of the Department the Commission may opt to select and appoint an individual who is has never been a member of the Kauai Police Department under the following conditions:

The Commission determines the candidate(s) from within the KPD Chain of Command is/are not suitability qualified to assume the position of Interim Chief.

In its' selection of an Interim Chief from outside of KPD the Commission shall seek and give preference to former top tier law enforcement executives with experience at the Chief of Police, Deputy Chief of Police, or Senior Police Management level (or equivalent).

All Other Conditions as stated in 4-7-d above apply to the Interim Chief.

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**ANNEX 4-A  Chief of Police Job Description**

**DEPARTMENT OF PERSONNEL SERVICES COUNTY OF KAUAI  CHIEF OF POLICE**

**JOB PURPOSE**
Administrative head of the Kauai Police Department.

ESSENTIAL DUTIES AND RESPONSIBILITIES

- Administers, supervises, and manages all aspects of police operations for Kauai Police Department.
- Ensures the preservation of peace within the community, enforces state and federal law, and county ordinances.
- Provides for traffic safety and traffic safety education.
- Recruits, selects, trains, and manages personnel.
- Utilizes resources to promote effective law enforcement services and activities.
- Reports to the Commission on administrative, budgetary, legislative, and policy matters, making recommendations for appropriate action.
- Develops the annual operating and capital budget. Submits budget and supporting documentation to Commission, Mayor, and County Council as required.
- Oversees implementation of the operating budget and ensures fiscal accountability.
- Establishes department’s priorities, goals and objectives with input from the Mayor and Police Commission, when necessary or appropriate.
- Communicates with the Office of the Mayor, County Council, Police Commission, and other county agencies on issues that impact the health, safety, or welfare of the County of Kauai and its’ residents and visitors.
- Maintains positive working relationship and open communications with all labor organizations representing employees of the Kauai Police Department. Adheres to the provisions of bargaining unit contracts.
- Maintains positive, on-going, and open communications with citizens and community groups.
- Receives and investigates citizen’s complaints, taking action as necessary.
- Assumes direct command of major emergency incidents, civil disturbances, natural disasters, and special police problems.
- Ensures proper procedures are in place regarding records retention and confidentiality, and reporting requirements.
- Maintains a safe and secure workplace that is in compliance with federal, state, and county regulations and policies regarding Equal Employment Opportunity, Americans with Disabilities Act, and Workplace Violence, and free from any form of discrimination, harassment or retaliation based on any protected class such as age, sexual orientation, gender, religion, national origin, gender identification.
- Performs other duties as required by law or at the direction of the Commission.
- Performs duties of a coroner (or authorizes a subordinate to do so) as required under Hawai’i Revised Statutes (HRS) 841.
MINIMUM QUALIFICATION REQUIREMENTS

- Fifteen (15) years of training and experience in law enforcement, of which at least ten (10) years have been as a peace officer in a full-service, public sector, law enforcement agency, and at least three (3) of those ten years have been performing management-level duties at the rank of lieutenant or higher. (*Changed by Charter Amendment 2020*)
- Possess a valid Hawaii motor vehicle operator’s license upon hire.
- Meet federal and state eligibility requirements to possess firearms.
- Be a citizen of the United States.
- Willingness to establish residence on Kaua‘i and shall, upon hire, reside in the County on such date and shall continue to reside in the county.
- Possession of, or ability to obtain within 12 months of hire, a SECRET clearance.
- Bachelor’s Degree in Criminal Justice, Police Science, Public Administration, Social Science or related field.

DESIRABLE KNOWLEDGE OF

- The principles of police administration, crime prevention, and investigation.
- The principles and practices of law enforcement organization and management.
- The technical and administrative aspects of law enforcement, rules of evidence, criminal investigation, and identification.
- Organizational development, leadership and supervision, team development, discipline, and conflict resolution.
- The structure of Kauai County government, the functions of the various departments within that structure, and the principles and practices of county administration.
- The State of Hawaii governmental structure, including laws, regulations, administrative and legislative practices, procedures, and history.
- The historical and cultural background of the State of Hawaii, the County of Kauai, and its people.
- Federal, state and county Equal Employment Opportunity laws, regulations and policies.

DESIRABLE SKILLS

- Communicates effectively verbally and in writing.
- Ability to utilize computer and related software.
- Demonstrated skills in leadership, teambuilding, goal achievement, and conflict resolution.
- Possession of interpersonal skills that fosters trust, and establishes positive working relationships with: diverse cultural groups, the community, subordinates, the Police Commission, peers, supervisors, and other governmental agencies.
- Proficiency with firearms.
SPECIAL WORKING CONDITIONS

- Irregular work hours that may include week-ends, evenings, and holidays.
- Successfully pass post-offer background check, medical and psychological examinations.

OTHER DESIRABLE QUALIFICATIONS

- Possession of Master's Degree. A degree in Criminal Justice, Public Administration, Social Science or related field is desirable.
- Progressively responsible Law Enforcement supervisory and management experience. Experience as bureau, section, station, departmental commander, or higher, preferred.

Approved by County Human Resources and Police Commission on August 26, 2016

ANNEX 4-B  Chief of Police On-Going Review/Semi-Annual Feedback

COUNTY OF KAUAI – POLICE COMMISSION -CHIEF of POLICE – ON-GOING REVIEW/SEMI-ANNUAL FEEDBACK

<p>| Name: ___________________________ | Reporting Period: ___________ to ___________ |</p>
<table>
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<tr>
<th><strong>Type of Report:</strong> (circle one)</th>
<th><strong>On-Going Review/Semi-Annual Feedback</strong></th>
<th><strong>Improvement</strong></th>
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**Notable Accomplishments This Reporting Period:**

**Progress Toward Annual Goal Accomplishment:**

**Areas of Concern by Police Commission:**

**Overall Performance for this Reporting Period:** Meets Expectations  Does NOT Meet Expectations

**I Received a Copy of**
this **On-Going Review/Semi-Annual Feedback:** ___________________________  **Date:**
__________________________  **Chief of Police**

**Discussed with Chief By:**  **Date:**
__________________________  **Chair – Kauai Police Commission**

- Word Document format – boxes expand to accommodate inserted narrative.

**ANNEX 4-C**  **Chief of Police – Fiscal Year Evaluation**

**COUNTY OF KAUAI – POLICE COMMISSION**
**CHIEF of POLICE – FISCAL PERFORMANCE EVALUATION**

23 | Page
CRITICAL PERFORMANCE FACTORS

1. Leadership Skills and Professional Qualities
   - Leads by example. Exhibits honesty, integrity and self-discipline.
   - Sets and enforces professional standards.
   - Promotes, supports, and implements EEO policies and programs.
   - Motivates and develops subordinates. Serves as a mentor.
   - Accepts personal responsibility.

   **Discussion:** (Provide specific examples of performance. Absent examples mark **Unable to Rate** below)
   - 
   -
   
   **Meets Expectations** | **Does NOT Meet Expectations** | **Unable to Rate**

2. Policies, Procedures, Rules and Regulations
   - Knows and implements the technical and administrative aspects of law enforcement, rules of evidence, criminal investigation and the principles of police administration.
   - Knows and implements Federal, state, and county EEO laws, regulations, and practices.
   - Adheres to and implements collective bargaining agreements.
   - Applies knowledge and experience to daily operations and non-routine situations.

   **Discussion:** (Provide specific examples of performance. Absent examples mark **Unable to Rate** below)
   - 
   -
   
   **Meets Expectations** | **Does NOT Meet Expectations** | **Unable to Rate**

3. Planning, Organizing, and Setting Priorities
   - Sets priorities. Develops realistic and attainable goals with accompanying metrics to measure progress.
   - Develops plans to achieve departmental and county goals.
   - Anticipates and solves problems.
   - Anticipates and budgets for future personnel and equipment.
   - Develops contingency plans for major events and emergency operations.

   **Discussion:** (Provide specific examples of performance. Absent examples mark **Unable to Rate** below)
   - 
   -
   
   **Meets Expectations** | **Does NOT Meet Expectations** | **Unable to Rate**
4. Personnel and Resource Management
   - Insures specialized training for all KPD members to maintain current on tactics, techniques, and procedures.
   - Recognizes and addresses personnel problems at the earliest stages.
   - Pursues external funding sources and uses other resources outside the department to enhance KPD capabilities.
   - Prepares the budget in accordance with department and county policies. Exercises fiscal control, with emphasis on controlling overtime.

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<td>Meets Expectations</td>
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5. Communications
   - Provides positive feedback and corrective counseling to subordinate personnel as appropriate.
   - Maintains on-going communications with county leadership, media and community on public safety issues and incidents.
   - Keeps the Police Commission and county leadership informed on incidents that could affect departmental operations and community relations. Responds promptly to Commission requests for information.

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Achievement of Goals: (Provide explanation for goals Not Achieved)

Summary of Performance:

Employee Signature:
I acknowledge receipt of this Performance Evaluation __________________________ Date: ____________

Rater Certification:
_________________________ __________________________
Chair – Kauai Police Commission Date: ____________

* Word Document format – Box expands to accommodate additional narrative.

RULE 5
RULES OF PRACTICE, HEARINGS

Rule 5-1 Informal Hearing. The Commission may, in its discretion, on its own motion, or upon petition filed with the Commission at least fifteen (15) days prior to the date
of the regular meeting hold an informal hearing on matters within its jurisdiction. The petition need not be in any form but shall, where applicable, include:

a. Nature of the petitioner's interest and the reasons for requesting an informal petition.

b. A complete statement of the relevant facts.

c. Position or contention of the petitioner.

d. Name, address and telephone number of petitioner.

In an informal hearing the Commission shall determine the manner and procedure in which the hearing shall be conducted.

**Rule 5-2**  
**Contested Case Hearing.** A formal hearing shall be conducted upon motion by the Commission in accordance with Hawaii Revised Statutes, Chapter 91. Persons aggrieved by actions of the Commission, may petition for a formal hearing before the Commission.

**Rule 5-3**  
**Petition.** The petition shall be filed with the Chair of the Commission and shall consist of:

a. Name, address and telephone number of the petitioner.

b. Nature of petitioner’s interest and the reasons for requesting formal hearing.

c. A complete statement of the relevant facts giving rise to the petitioner’s request.

d. Position or contention of the petitioner.

e. Petition for a hearing.

**Rule 5-4**  
**Setting, Rejecting.** Petitions for formal hearing may be approved or modified and approved, and set for hearing or rejected at the regular meeting following receipt of the petitions. Petitioners who have been rejected shall be notified in writing of the Commission’s action.

**Exception.** The Commission shall not reject a petition for a contested case hearing arising out of a denial by the Commission of a police officer’s request for legal representation.

**Rule 5-5**  
**Notice.** If the Commission determines to hold a contested case hearing, the Commission shall, within fifteen (15) days prior to the hearing, notify the parties.
of the hearing in writing, by registered or certified mail with return receipt requested.

If service by registered or certified mail is not made because of the refusal to accept service or the Commission has been unable to ascertain the address of the party after reasonable and diligent inquiry, the notice of hearing may be given to the party by publication at least once in each of two successive weeks in a newspaper of general circulation. The last published notice shall appear at least fifteen (15) days prior to the date of the hearing. The notice shall include, where applicable, a statement of:

a. The date, time, place and nature of hearing;

b. The legal authority under which the hearing is to be held;

c. The particular sections of the statutes and rules involved;

d. A statement in plain language of the issues involved and the facts alleged by the Commission in support thereof; provided that if the Commission is unable to state such issues and facts in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved, and thereafter, upon application, a bill of particulars shall be furnished;

e. The fact that any party may retain counsel if he or she so desires, and the fact that an individual may appear on his or her own behalf, or a member of a partnership, or an officer or authorized employee of a corporation or trust or association may represent the corporation, trust or association.

Rule 5-6 Procedure, Rules. In a contested case hearing, the following rules and procedures shall apply:

a. The Commission shall determine the order in which the parties to the proceeding shall present their case to the Commission.

b. Opportunity shall be afforded all parties to present evidence and arguments on all issues involved.

c. Every party to the proceeding shall have the right to conduct cross-examination as may be required for a full and true disclosure of the facts; and shall have the right to submit rebuttal evidence.

d. Any oral or documentary evidence may be received by the Commission and the strict rules of evidence shall not be applicable; however, irrelevant, immaterial or unduly repetitious evidence shall be excluded.
RULE 2  GENERAL POWERS AND ORGANIZATION OF THE POLICE COMMISSION

Rule 2-1  General Powers of the Commission. Per Section 11.03 of the Kauai County Charter the Police Commission shall:

a. Adopt such rules as it may consider necessary for the conduct of its business and regulation of matters relating to the goals and aims of the department.

b. Review the annual budget prepared by the Chief of Police and may make recommendations thereon to the mayor.

c. 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.

d. Refer all matters relating to the administration of the department to the chief of police.

e. Adopt such rules to regulate political activities of the members of the police department. (Amended 1984)

Rule 2-2  Chief of Police. Per Section 11.04 of the Kauai County Charter.

The Chief of Police shall have had a minimum of fifteen (15) years of training and experience in law enforcement, of which at least ten (10) years have been as a peace officer in a full-service, public sector, law enforcement agency, and at least three (3) of those ten years have been performing management-level duties at the rank of lieutenant or higher. The Chief of Police shall have a Bachelor’s Degree in Administration of Justice, Businesses Administration, Public Administration, or a similar administrative field.

He/She shall make such reports from time to time as the Commission shall require, and shall annually make a report to the Commission of the state of affairs and condition of the police department (Amended 1984).

Rule 2-3  Composition of Commission. The Commission shall consist of seven members as provided by the Charter of the County of Kaua‘i.

Rule 2-4  Appointment of Secretary. The Police Commission shall request secretarial and other support services from the Office of Boards and Commissions.

Rule 2-5  Election of Chair, Vice-Chair. The members of the Police Commission shall elect annually in the month of December a Chair and Vice-Chair to serve for the ensuing year. In the absence of the Chair at any meeting, the Vice Chair shall preside over the meeting.
Rule 2-6 **Transaction of Business.** All transaction of business shall be conducted pursuant to Hawai‘i Revised Statutes, the Kauai County Charter, and Robert’s Rules of Order.

Rule 2-7 **Special Committees.** The Commission may conduct activities through the establishment of Special Committees pursuant to Hawaii Revised Statutes to address, research, and make recommendations on issues or projects before the Commission. Police Officers may be considered as members of such special committees in the Commission’s discretion. One type of Special Committee is:

a. **Permitted Action Group (PIG).** Consists of three (3) Commission members. In order to conduct their charge ALL three Commission members must be present when the PIG is addressing an issue.

Rule 2-8 **Commission Meetings.** The regular meetings of the Commission shall be held no less than once a month at a time, date, and location as may be determined by the Chair or, in the absence of the Chair, the Vice-Chair of the Commission. The meeting must be held at a building that is accessible by the general public. Special meetings may be held at the call of the Chair or the Vice-Chair. Three or more members of the Commission may consent to postponement of any meeting to any other day within the following week.

Rule 2-9 **Agenda.** The Commission shall give public notice of any regular, special, or rescheduled meeting by filing the notice with the County Clerk and at the Police Commission office for public inspection. The notice shall be filed at least six (6) calendar days before the meeting and shall include an agenda which lists all of the items to be considered at the forthcoming meeting, and the date, time and place of the meeting.

All items for the Agenda shall be submitted to the Chair for placement on the Agenda no later than 12 noon, four (4) business days before the Agenda notice is filed. Subject to timelines described herein, Commission members who wish to have items placed on the agenda shall contact the Chair describing the item. The Chair shall have the discretion of placing items submitted after the deadline on the Agenda of the forthcoming meeting or holding such late items until the next scheduled meeting after the forthcoming meeting. The Chair shall be responsible for designating and approving the form and content of the Agenda.

Rule 2-10 **Testimony by Members of the Public.** The Commission shall afford all interested persons an opportunity to submit data, views, or arguments, in writing, on any agenda item. The Commission shall afford all interested persons an opportunity to present oral testimony on any agenda item.
a. Oral testimony from interested persons shall be limited to three (3) minutes, but such time limit shall not include pertinent responses by the speaker to questions posed by members of the Commission. The Chair may grant an additional three (3) minutes to provide further testimony after all interested speakers have had an opportunity to provide oral testimony.

Rule 2-11

Code of Conduct. The basic responsibility of the Police Commission is to ensure that a competent person occupies the position of the Chief of Police, and that the Chief of Police is in operation of an honest and effective police department.

a. The Police Commission is charged with responsibility and acts as a collective body. The individual Commissioners have no authority unless delegated by the Commission.

b. The Commission acts as a sounding board for the community and Police Department employees through:

   a. Complaints from citizens;

   b. Citizen suggestions

c. The Commission shall review and selectively support appropriate legislation and rules and regulations relating to law enforcement and shall communicate these positions to the appropriate legislative or administrative body.

d. Police Commissioners shall maintain high standards of conduct and not behave in a manner that brings discredit upon the Police Commission and the Kauai Police Department.

e. The Police Commission collectively and each Police Commissioner individually shall embody the spirit and principles of the Sunshine Law and shall avoid any appearance of secretiveness and shall publicize meetings and agendas so that the public and media are informed of impending issues.

f. The Police Commission shall strive for the release of information to the public through the media, as long as the release of this information does not violate the privacy rights of individuals to whom the information pertains and does not interfere with effective law enforcement.

g. The Chief of Police is charged with the responsibility of managing the department. Individual Commissioners shall not interfere or give the appearance of interfering with said authority.
February 25, 2022

PUBLIC ANNOUNCEMENT FOR NOTARIZED COMPLAINT NO. KPC 2021-014

After full review, the Police Commission has determined there was insufficient evidence to substantiate the allegations that an officer in the Police Department covered up a hate crime and illegally adopted a medical related policy.

This officially concludes the Commission’s review of notarized complaint KPC 2021-014.
PUBLIC ANNOUNCEMENT FOR NOTARIZED COMPLAINT NO. KPC 2022-001

After due consideration of the case, the Commission deemed the complaint ineligible because it was filed by a third-party as such, the Commission voted not to accept the complaint. This officially concludes the Commission’s review of notarized complaint KPC 2022-001.