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, you 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 mrcomo@kauai.gov or mailed to the Police Commission, c/o Office of Boards and Commission, 4444 Rice Street, Suite 300, Lihue, Hawaii 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 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 mrcomo@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 is the responsibility of the tester 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 tester to ensure that the Microsoft Teams software is downloaded and operational prior to the meeting.
  - The tester’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 tester.
  - 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 shall also allow interested persons an opportunity to present oral testimony on any agenda item. The Board may provide reasonable administration of oral testimony by rule.
  - 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, March 11, 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:

https://bit.ly/3hEYH7Y

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: 406 409 983#

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

CALL MEETING TO ORDER

ROLL CALL TO ASCERTAIN QUORUM

APPROVAL OF AGENDA

ANNOUNCEMENTS:
Next Regular Monthly Teleconference Meeting 9:00 a.m. on Friday, April 22, 2022.
Executive Session to follow.

PUBLIC TESTIMONY

APPROVAL OF MINUTES
- Open Session February 25, 2022, Meeting

CHIEF’S MONTHLY REPORTS:
- Administrative & Technical Bureau
- Investigative Services Bureau
- Patrol Bureau Reports
- Pertinent announcements/updates
**BUSINESS**

**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 2/25/2022)

**KPC 2022-6:**
Discussion on the Police Department’s FY 20/21 goals and provide any comments and make recommendations on the Department’s FY 22/23 Goals for Police Chief Raybuck to consider. (Deferred on 2/25/2022)

**KPC 2022-9:**
Discussion and decision-making on the Rule Revisions of the Kauai Police Commission Rules on Administrative Practice and Procedure reflected in the Ramseyer format copy, and set the Public Hearing date on the Commission’s next meeting April 22, 2022.

**KPC 2022-10:**
Update by Deputy County Attorney Chris Donahoe regarding Case No. SCC 191-00113 Darryl D. Perry versus the County of Kauai, et al.

**KPC 2022-11:**
Update by Deputy County Attorney Chris Donahoe on the lawsuit that was filed by Plaintiffs Joseph Kawaihaleihihihi Kneapua; individually and on behalf of his minor Children, K.K.H.K.K. (m); K.R.K.O.O.K. (m), K. P.O.O.K. (m); and K.M.O. K.K. (f) v. County of Kauai; Derek S.K. Kawakami; Patrick Porter; Wallace G. Rezentes Jr.; Robin Serquina; Ellsworth Kaleiohi; Ray Ortiz; Kauai Police Department; Todd Raybuck; Kauai Police Commission; Mary K. Hertog and DOES 1-10, Defendants. Complaint for violation of civil rights demand for jury trial Exhibits a, b Certificate of Service Summons.

**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 2/25/2022)

**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 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 2/25/2022)

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 2022-8:
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 February 25, 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
Event Detail

All Events
Police Commission Teleconference Meeting
Friday, March 11, 2022 @ 9:00 AM - 11:00 AM

Click on the icon below for a call list of the panel members.
2022.03.11 09:00 AM (UTC)
COUNTY OF KAUA\I
OPEN SESSION MEETING MINUTES

<table>
<thead>
<tr>
<th>Board/Commission</th>
<th>Kauai Police Commission</th>
<th>Meeting Date</th>
<th>February 25, 2022</th>
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<tbody>
<tr>
<td>Location</td>
<td>Microsoft Teams Teleconference Meeting</td>
<td>Start of Meeting: 9:03 a.m.</td>
<td>11:06 a.m.</td>
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Present
Chair Roy Morita; Vice Chair Dean Pigao; Commissioners: Catherine Adams, Gerald Bahouth, Andrew Bestwick, Mary K. Hertog and Leina'ala Jardin. Also present: Board & Commissions Office Staff: Support Clerk Mercedes Omo; Administrator Ellen Ching; Office of the County Attorney: Deputy County Attorney Chris Donahoe; Police Department: Chief of Police Todd G. Raybuck, Deputy Chief of Police Stan Olsen, Assistant Chief Bryson Ponce; Captain Roderick Green; Office of Professional Standards, Lieutenant Christopher Jenkins, and staff in the Kauai Police Department.

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<th>Subject</th>
<th>Discussion</th>
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<td>Call To Order</td>
<td>Prior to calling the meeting to order, Chair Morita recognized and welcomed new Commissioner Andrew Bestwick to the Kauai Police Commission.</td>
<td>Chair Morita called the meeting to order at 9:03 a.m.</td>
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<td>Roll Call to Ascertain Quorum</td>
<td>A roll call ensued with all seven (7) Commissioner's present including the necessary staff voicing that they were present and alone to conduct business.</td>
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<td>Approval of Agenda</td>
<td>Chair Morita stated that he was informed by staff at the last meeting the motion to accept items Group's recommendations passed therefore no further action is necessary for items KPC 2021-41 and KPC 2022-1. He thanked Ms. Hertog for bringing the matter to staff's attention, and then called for a motion to remove items KPC 2021-40 and KPC 2022-1 from the agenda.</td>
<td>Ms. Adams moved to remove items KPC 2021-40 and KPC 2022-1 from the agenda. Mr. Bahouth seconded. A voice vote ensued with all seven (7) Commissioners present voting in favor of the motion. Ms. Adams moved to approve the agenda as amended. Ms. Jardin seconded. A voice vote ensued with all seven (7) Commissioners present voting in favor of the motion.</td>
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<td>Announcements</td>
<td>Chair Morita announced the next regular teleconference meeting is Friday, March 11, 2022, at 9:00 a.m., Executive Session to follow. MS. Ching explained to the Commissioners that the reason the Commission’s March meeting, which was originally scheduled for March 24, 2022, had to be rescheduled to March 11, 2022, because March 24 fell on Prince Ōhī Holiday.</td>
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<td>Acknowledgments for Commissioner Catherine Adams</td>
<td>Ms. Ching announced that today was Ms. Adams last meeting and that she wanted to thank her for all her contributions during the hiring process to find a new Police Chief, and for her great leadership qualities. Ms. Adams thanked Ms. Ching for her words of appreciation. She noted that Mr. Bestwick will be a great Commissioner and will make great contributions to the Police Commission as well. Chair Morita stated that he had the pleasure and the honor of working alongside Ms. Adams for the past ten (10) years and that he will miss her. Chief Raybuck thanked Ms. Adams for everything. He stated that until recently with the addition of Mr. Bestwick, Ms. Adams was the only Commissioner he has gotten to know during his tenure as Chief of Police for the Kauai Police Department. He shared that from the very beginning and throughout the entire time one of the greatest things that he will always be appreciative of is her everlasting and engaging smile, her exuberant expression of happiness, and her kind heart especially during the difficult times and throughout what the Police Department experienced over the last three (3) three years. He pointed out that Ms. Adams commitment to the Commission never once wavered and as the Chair she was always there to help answer any questions and provide him with the support he needed, and for that he will always be grateful.</td>
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Vice Chair Pigao stated that although his time with Ms. Adams was short, he wanted to thank her for her wisdom and everything she has done for the Commission.

Ms. Jardin thanked Ms. Adams for being inspirational and that she shares Chief Raybuck’s sentiments that not only does she have a heart of Aloha she exemplifies what Aloha truly means. She shared that she has learned a lot from watching and observing how she makes the hard decisions, so its honor for her to be able to call Ms. Adams her friend.

Ms. Hertog thanked Ms. Adams for serving with her on the Police Commission for the last six (6) years and for her leadership and for her calming influence she had with Mr. Mince and herself whenever they talked about things off the ceiling. She ended by saying that she will miss Ms. Adams and wished her all the best.

Mr. Bahouth thanked Ms. Adams for her rock-solid leadership when faced with difficult situations over the years. He pointed out that her wisdom and insight helped the Commission make the right decisions.

Ms. Adams thanked everyone for their words of appreciation.

Chair Morita stated that before he continuous on to business part of the agenda, he wanted to thank Chief Raybuck for allowing the orientation for the three (3) new commissioners to take place. He stated that he met with Captain Mark Ozaki, Lieutenant Kenneth Cummings and Boards and Commissions Administrator Ellen Ching to discuss whether the orientation would entail one commissioner at a time as opposed to all three (3) commissioners.
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<td>Ms. Ching asked Chair Morita if he could hold off from discussing the particulars of orientation because she had a new commissioner who had just recently was interviewed by council. She then asked Chair Morita to turn his attention to Councilmember Felicia Cowden who had been waiting patiently to address Ms. Adams. Chair Morita apologized, and then called on Councilmember Cowden to address Ms. Adams. On behalf of the County Council, Councilmember Cowden acknowledged Ms. Adams for all hard work she has done on the Police Commission noting the importance of the job each commissioner does. Ms. Adams thanked Ms. Cowden for words of appreciation. Hearing no further comments, Chair Morita moved on to the approval of the meeting minutes.</td>
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<td>Approval of Minutes</td>
<td>• Open Session January 28, Meeting</td>
<td>Chair Morita called for a motion to approve or amended the minutes of January 28, 2022, Meeting. Ms. Adams moved to approve the meeting minutes of January 28, 2022, as circulated. Mr. Bahouth seconded. The motion carried unanimously.</td>
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<td>Chief’s Monthly Reports</td>
<td>• Administrative &amp; Technical Bureau • Investigative Services Bureau • Patrol Bureau Reports • Pertinent announcements/updates</td>
<td>Chief Raybuck asked the Commissioners if they had any questions regarding the data reflected in his Monthly Reports. Hearing none, Chief Raybuck stated that since he had no nominations for employee of the month, he wanted to take the opportunity to recognize all of KPD employees; sworn and unsworn for providing...</td>
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<td>the highest level of service to the community. He shared that over the last month the Department experience the loss of Lieutenant David Banquel which was completely unexpected and within 30 days of Lt. Banquel’s passing, the Department experienced another heart wrenching loss of Lieutenant Danny Oliveira. He shared with the Commission that he witnessed his employees going through the pain of losing their fellow brothers and that he also knows that the community is feeling the same pain because he received many letters and emails from members of the public wanting to acknowledge all the hard work David and Danny did for the community. He shared that the candlelight service that was recently held and was well attended and would like to express his gratitude for Kumu Hula Jardin for her beautiful performance in honor of Dave and Danny. He recognized KPD’s Chaplains Steve Franks and Jade Waialaale-Battad and the many others including the men and women of KPD for their role in helping to move the Police Department forward.</td>
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Chair Morita asked Chief Raybuck to contact the Commission if they need help in any way.

Ms. Jardin shared that at the candlelight vigil she felt a sense of bonding was taking place and that both Dave and Danny were looking down from heaven and smiling with pride to see their fellow brothers and sisters pulling together. She also took the opportunity to acknowledge the officers who had to conduct the investigation, noting how hard it must have been for them to have to investigate one of their own.

Vice Chair Pigao shared that he also attended the candlelight vigil, and like Ms. Jardin, he could also feel the love and bonding between everyone as he made his way through the crowd. He stated that both Chair Morita and him went out to PMRF to provide grief counseling. He asked Chief Raybuck if KPD has the
KPC Meeting Minutes  
Of February 25, 2022

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<td>resources to help the employees who are grieving. Chief Raybuck stated that KPD has a Peer Support Program that Captain Mark Ozaki heads. In addition, KPD’s Chaplains are available to all employees for spiritual support.</td>
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<td>Ms. Hertog thanked Chief Raybuck for his leadership. She stated that as a Chief, Deputy Chief and Assistant Chief; anybody can lead when everything is going well, but real leaders emerge when faced with difficult situations especially when having deal with unfortunate deaths within the organization - they all stepped up to the plate and for that she is very thankful.</td>
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<td>With no further comments, Chair Morita called on Ms. Ching to read the business items. Mr. Donahoe asked Chair Morita before Ms. Ching reads the first business item if he could comment on the data reflected in the Chief’s Monthly Reports particular vice section report to which Chair Morita replied sure.</td>
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<td>Mr. Donahoe pointed out that the number of seizures yielded in the month January alone resulted in the confiscation of 43.3 grams of fentanyl. In his perspective (correct him if he’s wrong) 2 milligrams of fentanyl is considered a lethal dose but 43.3 grams of fentanyl could have potentially killed 21,659 people on the island. So, he really appreciates Chief Raybuck and the vice officers for all the work they have done in keeping the community safe.</td>
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<td>Chief Raybuck thanked Mr. Donahoe for highlighting the significant work the vice officers have done and for pointing out the significant impact those 43.3 grams fentanyl would have done if it got out to the community.</td>
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<td>Business KPC 2021-40</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 1/28/2022)</td>
<td>No discussion. Item removed from the agenda.</td>
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<tr>
<td>KPC 2022-1</td>
<td>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)</td>
<td>No discussion. Item removed from the agenda.</td>
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<tr>
<td>KPC 2022-2</td>
<td>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)</td>
<td>Vice Chair Pigao moved to defer item KPC 2022-2. Ms. Jardin seconded. A voice vote ensued, and the motion carried unanimously.</td>
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<td>Ms. Ching reported that the Group has not been able to meet, so she would ask Chair Morita if he could call for a motion to defer the item.</td>
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<td>Chair Morita replied yes, noting that one of the Group’s tasks is to address HR’s concerns about clarity. He stated that although HR is in the process of revamping the entire county’s HR payroll system it is still going to take a couple of months to complete. Ms. Ching added that HR’s priority is to convert all the county’s timesheets digitally which one of the reasons HR is not available as they normally are.</td>
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<td>KPC 2022-4</td>
<td>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.</td>
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<td>Chair Morita called for a motion to defer item KPC 2022-4.</td>
<td>Ms. Hertog asked Chair Morita before he calls for a motion if she could take the time to address the item to which Chair Morita replied yes.</td>
<td>Motion No. 1 Ms. Hertog moved to discuss item KPC 2022-4. Vice Chair Pigao seconded.</td>
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<td>Ms. Hertog stated that relative to Ms. Ching’s comments about HR having to do a large project she would like to ask the Commission to consider the Group’s recommendations on the Revision for Rule 4 (4-5), to finalize the rules and when HR completes their project, the Commission (if needed) could revisit the recommendations. She pointed out that at the last meeting there was discussion on doing away with evaluating the chief twice a year and instead have feedback every six (6) months.</td>
<td>Chair Morita asked Ms. Hertog if she was ready to make a motion based on that. Ms. Hertog stated that she would like to discuss changing the chief’s evaluation from a semi-annual performance to a semi-annual feedback review because it would give the Commissioners a chance to provide feedback to the chief in between the annual evaluation review.</td>
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<td>Chair Morita called for a motion and a second to start the discussion.</td>
<td>Discussion Ms. Adams stated that she recalled at the last meeting the Commission concluded (it’s in the minutes) that what Ms. Hertog is saying today is what the Commission agreed to do, so why does the Commission have to vote on a motion that had already passed.</td>
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<td>Ms. Hertog noted that the changes that were made were very simple.</td>
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Ms. Ching stated that at the Commission’s last meeting there was a lot of discussion on Rule 4 and since then Ms. Hertog has gone back to make those changes which before you today and being that Ms. Hertog will be terming out in March the Commission may want to adopt the changes based on the discussion last month. Regarding the chief’s evaluation process, it’s much more global in terms of best practices from HR’s perspective. Given what HR is dealing with right now, the Commission may want to consider approving the rules and at some point, the PIG could coordinate a meeting with HR and if there are any recommendations from that meeting the PIG would bring back those recommendations to the Commission for consideration. Therefore, she would like to recommend that the Commission adopt the changes to Rule 4 (4-5), as presented by Ms. Hertog.

Hearing no objections, Chair Morita called for a withdrawal of the first motion.

With no further discussion, Chair Morita moved on to item KPC 2022-5.

Ms. Hertog withdrew her motion to discuss item KPC 2022-4. Vice Chair Pigao withdrew his second.

Motion No. 2
Ms. Hertog moved to approve Rule 4 (4-5) which changes the chief’s semi-annual performance evaluation form to a semi-annual feedback form. Vice Chair Pigao seconded. Chair Morita called for a roll call vote. Hearing no objections. The motion carried.
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<td><strong>KPC 2022-5</strong></td>
<td>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. Ms. Ching stated that the purpose of having the item on the agenda so was she could provide the Commission with information regarding oral testimony. She explained that time limits for members of the public who wanted to testify on a particular item or items on the agenda shall not include pertinent response by the speaker to questions posed by members of the Commission. As such, she asked Ms. Hertog if she could include language in Rule 2 to address the time limits for oral testimony which is before the Commission today. Mr. Donahoe asked Chair Morita if he could provide some insight to help to clarify the motion to which Chair Morita replied sure. Mr. Donahoe</td>
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<td><strong>KPC 2022-6</strong></td>
<td><strong>Presentation by Chief Todd Raybuck on his goals and objectives for the period of July 1, 2022, through June 30, 2023.</strong> Chief Raybuck reported that the current three (3) goals that was established in 2019 are overarching goals remained in place last year and will remain in place in the current year. He explained that the purpose of having those goals remain in place was to provide a framework into which content standards can be developed in specific areas and organized within the Department.</td>
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As Chief for the Kauai Police Department, relative to Goal 1, looking at back on what he asked his assistant chiefs to do ties back to Commissioner Pigao’s comment about continuing to identify ways to expand resources to support KPD’s employees mental and physical wellness.

He pointed out that their priority is to refocus on the reorganization plan that he discussed with the Commission back in 2019. The reorganization plan would look at the three (3) bureaus and make determinations on what if any modifications should be made. The work on the reorganization plan is continuing and is moving forward but was paused due to the Department response to the covid pandemic.

Goal #2 Enhance Organizational Efficiency. The 4/10 Patrol Schedule continues to be priority. In the next 12 months KPD will be focusing on reorganizing the patrol bureau to provide a better span of control and hopefully implement a 4/10 work schedule, and by having the necessary resources, the Department will be able to do that.

Goal #3 Increase Community Engagement was delayed due to the covid pandemic, and it will be difficult for KPD to start to work on this goal for a variety of reasons, one of which is manpower limitations due to promotion of people who were responsible to work on the goal. However, plans to rebuild the KPAL Program and expand KPD’s community engagement will be a priority for KPD.

Chair Morita asked the Commissioners if they had any questions for Chief Raybuck. Hearing none, he asked Chief Raybuck if he could submit his goals in writing so the Commission could discuss it at its next meeting and to see if there are any additions to the goals.
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<td>Ms. Omo noted that she would email a copy of KPD’s FY 20/21 Goals to the Commissioners.</td>
<td>Ms. Adams moved to defer item KPC 2022-6 to the Commission’s next meeting. Ms. Jardin seconded. A voice vote ensued with all seven(7) Commissioners present voting in favor of the motion carried 7:0.</td>
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<tr>
<td>Ms. Jardin commented that having a discussion on the Department’s goals is good idea because it will give the new members an opportunity to review the goals and ask any questions.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>With no further discussion, Chair Morita called for a motion to defer item KPC 2022-6 to the next Commission meeting.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Chief Raybuck stated that for him to get a better understanding and for the purposes of clarification, the purpose of the agenda item was for the Commission to review the Department’s FY 20/21 and to provide any feedback the Commission would like the Department to consider for its FY 2022/2023 goals to which Chair Morita replied yes.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**KPC 2022-7**

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

**Disposition for Notarized Complaint 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 concluded the Commission’s review of notarized complaint KPC 2021-014.

**Disposition for Notarized Complaint 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 concluded the Commission’s review of
<table>
<thead>
<tr>
<th>SUBJECT</th>
<th>DISCUSSION</th>
<th>ACTION</th>
</tr>
</thead>
<tbody>
<tr>
<td>notarized complaint KPC 2022-001.</td>
<td>Chair Morita called for a motion to defer item KPC 2021-43.</td>
<td></td>
</tr>
<tr>
<td><strong>KPC 2021-43</strong></td>
<td>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)</td>
<td>Ms. Hertog moved. Ms. Adams seconded. A voice vote ensued with all seven (7) Commissioners present voting in favor of the motion.</td>
</tr>
<tr>
<td><strong>Executive Session</strong></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>At 10:01 a.m. Mr. Donahoe cited the following Hawai‘i Revised Statutes to take the meeting into Executive Session.</td>
</tr>
<tr>
<td><strong>ES KPC 2022-1</strong></td>
<td>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.</td>
<td></td>
</tr>
<tr>
<td><strong>ES KPC 2022-3</strong></td>
<td>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.</td>
<td></td>
</tr>
<tr>
<td>SUBJECT</td>
<td>DISCUSSION</td>
<td></td>
</tr>
<tr>
<td>---------</td>
<td>------------</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 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)</td>
<td></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>ES KPC 2022-6</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 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.</td>
<td></td>
</tr>
<tr>
<td>Return from Executive Session to ratify the actions taken in Executive Session</td>
<td>At 11:05 a.m. the Commission returned to Open Session. Due to work obligations, Ms. Adams asked to leave the meeting and would not be present for the ratification. Chair Morita acknowledge Ms. Adams request. With six (6) Commissioners present to conduct business, Chair Morita called for a motion to ratify the actions taken in Executive Session.</td>
<td></td>
</tr>
<tr>
<td>Adjournment</td>
<td>With no further business to conduct, Chair Morita called for a motion to adjourn the meeting.</td>
<td></td>
</tr>
</tbody>
</table>

**ACTION**

Chair Morita called for a motion to enter Executive Session. At 10:03 a.m. Ms. Adams moved to enter to Executive Session. Vice Chair Pigao seconded. The motion carried 7:0 by voice vote.

Ms. Jardin moved to ratify the actions taken in Executive Session. Ms. Hertog seconded. The motion carried 6:0 by voice vote.

Ms. Hertog moved to adjourn the meeting. Ms. Jardin seconded. The motion carried 6:0 by voice vote. At 11:06 a.m. the meeting adjourned.

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.
# Kaua‘i Police Department

## Police Commission Monthly Report
### Administrative and Technical Bureau

### Budget Summary (Estimate): Period of January 2022

<table>
<thead>
<tr>
<th>BUREAU</th>
<th>BUDGET</th>
<th>EXPENDITURES TO DATE</th>
<th>ENCUMBRANCES TO DATE</th>
<th>BALANCE 01/31/2022</th>
<th>58% OF BUDGET</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chief's Office</td>
<td>$38,347,013.00</td>
<td>$19,351,267.65</td>
<td>$1,012,618.84</td>
<td>$17,783,126.51</td>
<td>54%</td>
</tr>
<tr>
<td>Administrative &amp; Technical Bureau</td>
<td>$1,942,705.00</td>
<td>$755,776.15</td>
<td>$260,647.79</td>
<td>$926,281.06</td>
<td>52%</td>
</tr>
<tr>
<td>Investigative Services Bureau</td>
<td>$728,533.00</td>
<td>$175,792.40</td>
<td>$369,856.14</td>
<td>$182,884.16</td>
<td>75%</td>
</tr>
<tr>
<td>Patrol Services Bureau</td>
<td>$560,629.00</td>
<td>$146,119.62</td>
<td>$141,110.84</td>
<td>$273,398.54</td>
<td>51%</td>
</tr>
<tr>
<td>Total General Fund</td>
<td>$41,578,880.00</td>
<td>$20,628,955.82</td>
<td>$1,784,233.61</td>
<td>$19,165,690.57</td>
<td>54%</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>$10,160,552.78</td>
<td>$10,160,552.78</td>
<td>$8,557,026.22</td>
<td>54%</td>
</tr>
<tr>
<td>Overtime</td>
<td>$2,538,207.00</td>
<td>$1,191,281.33</td>
<td>$1,191,281.33</td>
<td>$1,346,925.67</td>
<td>47%</td>
</tr>
<tr>
<td>Fringe Benefits</td>
<td>$15,392,459.00</td>
<td>$8,019,743.94</td>
<td>$8,019,743.94</td>
<td>$7,372,715.06</td>
<td>52%</td>
</tr>
<tr>
<td>Total Salary, OT, Fringe</td>
<td>$36,648,245.00</td>
<td>$19,371,578.05</td>
<td>$19,371,578.05</td>
<td>$17,276,666.95</td>
<td>53%</td>
</tr>
<tr>
<td>Payroll % of Budget</td>
<td>88%</td>
<td>53%</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Cumulative Overtime Hours</strong></td>
<td><strong>FY2021</strong></td>
<td><strong>FY2022</strong></td>
<td></td>
<td></td>
<td>47%</td>
</tr>
<tr>
<td><strong>Comparison through January</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>(19,044)</td>
</tr>
</tbody>
</table>

### Personnel Status as of 02/28/22

<table>
<thead>
<tr>
<th>AUTHORIZED</th>
<th>ACTUAL</th>
<th>VACANT</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sworn</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>Civilian</td>
<td>73</td>
<td>54</td>
</tr>
</tbody>
</table>

### County General Fund, Temporary & Grant Fund, Temporary [SANF]

<table>
<thead>
<tr>
<th>Fund Type</th>
<th>Authorized</th>
<th>Actual</th>
<th>Vacant</th>
</tr>
</thead>
<tbody>
<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 [SANF]</td>
<td>6</td>
<td>3</td>
<td>3</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>236</strong></td>
<td><strong>199</strong></td>
<td><strong>37</strong></td>
</tr>
<tr>
<td>Recruitment:</td>
<td>Status:</td>
<td>Comments:</td>
<td></td>
</tr>
<tr>
<td>------------------------------------</td>
<td>---------</td>
<td>---------------------------------------------------------------------------</td>
<td></td>
</tr>
<tr>
<td>Police Officer</td>
<td>8 Vacancies</td>
<td><strong>January 1 – February 28, 2022</strong>&lt;br&gt;<strong>New Posting: February 7 – April 29, 2022</strong>&lt;br&gt;Number of applicants referred by HR – 22&lt;br&gt;Withdrawn – 3&lt;br&gt;Disqualified – 12&lt;br&gt;Background Investigation Phase – 2&lt;br&gt;Pre-employment Psychological Evaluation Phase – 3&lt;br&gt;Suitable for Recruit Class – 2&lt;br&gt;*97th Recruit Class start date July 1, 2022&lt;br&gt;*98th Recruit Class start date January 1, 2023</td>
<td></td>
</tr>
<tr>
<td>97th &amp; 98th Police Recruit Classes</td>
<td></td>
<td>No active recruitment or posting at this time</td>
<td></td>
</tr>
<tr>
<td>Assistant Chief</td>
<td>1 Vacancy</td>
<td>No active recruitment or posting at this time</td>
<td></td>
</tr>
<tr>
<td>Police Captain</td>
<td>1 Vacancy</td>
<td>No active recruitment or posting at this time</td>
<td></td>
</tr>
<tr>
<td>Police Lieutenant</td>
<td>2 Vacancies</td>
<td>No active recruitment or posting at this time</td>
<td></td>
</tr>
<tr>
<td>Detective / Sergeant</td>
<td>6 Vacancies</td>
<td>No active recruitment or posting at this time</td>
<td></td>
</tr>
<tr>
<td>Criminalist II</td>
<td>1 Vacancy</td>
<td><strong>Posted August 22-31, 2021</strong>&lt;br&gt;Referred – 3&lt;br&gt;Disqualified – 1&lt;br&gt;Background Investigation Phase - 1&lt;br&gt;Reallocated from Criminalist 1 – 1 (eff: 2/16/22)</td>
<td></td>
</tr>
<tr>
<td>Fleet Coordinator</td>
<td>1 Vacancy</td>
<td><strong>Posted Nov 1-10, 2021</strong>&lt;br&gt;Applied – 12&lt;br&gt;Referred – 4&lt;br&gt;Withdrawn – 1&lt;br&gt;Disqualified – 1&lt;br&gt;Background Investigation Phase – 2&lt;br&gt;3 Interviewed on February 23, 2022</td>
<td></td>
</tr>
<tr>
<td>Information Technology Project Coordinator</td>
<td>1 Vacancy</td>
<td><strong>Posted January 24 – February 2, 2022</strong>&lt;br&gt;Names Referred by HR – 2&lt;br&gt;Pending confirmation of initial suitability guidelines – 2</td>
<td></td>
</tr>
<tr>
<td>Accountant II</td>
<td>1 Vacancy</td>
<td>No active recruitment or posting at this time</td>
<td></td>
</tr>
<tr>
<td>Police Records Unit Supervisor</td>
<td>1 Vacancy</td>
<td><strong>Posted January 24 – February 2, 2022</strong>&lt;br&gt;No names referred by HR at this time</td>
<td></td>
</tr>
<tr>
<td>Emergency Services Dispatcher</td>
<td>1 Vacancy</td>
<td>No names referred at this time</td>
<td></td>
</tr>
<tr>
<td>Public Safety Worker I</td>
<td>3 Vacancies</td>
<td><strong>Posted Oct 4, 2021 – Continuous</strong>&lt;br&gt;Names Referred – 4&lt;br&gt;Disqualified – 2&lt;br&gt;Background Phase – 2</td>
<td></td>
</tr>
<tr>
<td>Police Investigative Operations Assistant</td>
<td>1 Vacancy</td>
<td><strong>Posted January 24 – February 2, 2022</strong>&lt;br&gt;Referred – 1 (Intra-recruitment 3/10/22)&lt;br&gt;Interviewed – 1&lt;br&gt;*Tentative Hire date April 16, 2022</td>
<td></td>
</tr>
<tr>
<td>Police Evidence Custodian I</td>
<td>1 Vacancy</td>
<td><strong>Posted February 14 – February 23, 2022</strong>&lt;br&gt;No names referred by HR at this time</td>
<td></td>
</tr>
<tr>
<td>Background Investigator</td>
<td>1 Vacancy</td>
<td>No names referred at this time</td>
<td></td>
</tr>
<tr>
<td>Public Safety Worker Trainee</td>
<td>2 Vacancies</td>
<td>No active recruitment or posting at this time</td>
<td></td>
</tr>
<tr>
<td>Police Apprentice</td>
<td>1 Vacancy</td>
<td>No active recruitment or posting at this time</td>
<td></td>
</tr>
<tr>
<td>Forensic Nurse Examiner (SANE)</td>
<td>3 Vacancies</td>
<td>Referred – 1&lt;br&gt;*Tentative Hire date April 1, 2022</td>
<td></td>
</tr>
<tr>
<td>Clerk (Off-Duty)</td>
<td>1 Vacancy</td>
<td>No names referred at this time</td>
<td></td>
</tr>
<tr>
<td>Firearms Registered: <strong>Month of February 2022</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>-----------------------------------------------</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Imported Handguns</td>
<td>51</td>
<td>Imported Rifles</td>
<td>64</td>
</tr>
<tr>
<td>Domestic Handguns</td>
<td>53</td>
<td>Domestic Rifles</td>
<td>88</td>
</tr>
<tr>
<td><strong>Total Handguns</strong></td>
<td><strong>104</strong></td>
<td><strong>Total Rifles</strong></td>
<td><strong>152</strong></td>
</tr>
<tr>
<td><strong>Total Denials</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Firearms Registered: <strong>2 Years Prior</strong> (Jan - Feb 2020)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Handguns</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Firearms Registered: <strong>Year Prior</strong> (Jan - Feb 2021)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Handguns</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Firearms Registered: <strong>Year-To-Date</strong> (Jan – Feb 2022)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Handguns</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Bench Warrant Tracking: <strong>February 2022</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>Warrants Received</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Legal Services Received: <strong>February 2022</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Warrants Received</td>
</tr>
<tr>
<td>Summons / Other</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Legal Services Served (Non-Warrant): <strong>February 2022</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>Summons / Subpoena</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Training Provided by Kaua‘i Police Department</th>
</tr>
</thead>
<tbody>
<tr>
<td>Order#</td>
</tr>
<tr>
<td>-------</td>
</tr>
<tr>
<td>1</td>
</tr>
<tr>
<td>2</td>
</tr>
<tr>
<td>3</td>
</tr>
<tr>
<td>5</td>
</tr>
<tr>
<td>6</td>
</tr>
<tr>
<td>7</td>
</tr>
<tr>
<td>8</td>
</tr>
<tr>
<td>9</td>
</tr>
<tr>
<td><strong>Total:</strong></td>
</tr>
</tbody>
</table>
Training Attended 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>22-22002</td>
<td>2/15/22</td>
<td>2/16/22</td>
<td>2</td>
<td>32</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Cell phone use in Drug Investigations</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total:</td>
<td></td>
<td></td>
<td></td>
<td>2</td>
<td>32</td>
</tr>
</tbody>
</table>

Training Attended On-Island: Provided by Outside Agency

<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>22-22004</td>
<td>2/16/22</td>
<td>2/16/22</td>
<td>13</td>
<td>2</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Documenting the Death Scene</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>22-22006</td>
<td>2/25/22</td>
<td>2/25/22</td>
<td>5</td>
<td>2</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Secure Digital Forensic Imaging SD/TeleMedicine Training</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total:</td>
<td></td>
<td></td>
<td></td>
<td>18</td>
<td>4</td>
</tr>
</tbody>
</table>

SUBMITTED BY:  
MARK OZAKI  
Captain, ATB

APPROVED BY:  
STAN R. OLSEN  
Deputy Chief of Police
GENERAL CRIMES SECTION

MAJOR INCIDENTS / NOTABLE HIGHLIGHTS:

SEXUAL ASSAULT = 5
ATTEMPTED SUICIDE = 1
CHILD PORNOGRAPHY ICAC = 2
ABUSE FAMILY HOUSEHOLD MEMBER = 1
CHILDREN JUSTICE CENTER FORENSIC INTERVIEWWS = 2

DEATH RELATED INVESTIGATIONS = 7
02/22/2022 – PMRF HELICOPTER ACCIDENT
- On February 22, 2022 at 10:21am, there was a helicopter crash reported at the north end of the PMRF runway.
- The helicopter involved belonged to the Croman Corporation, which is an aerial support and heavy lift experts helicopter company that was contracted by the DOD to conduct work out of PMRF.
- The aircraft involved was a Sikorsky S61N model helicopter.
- The helicopter crew involved consisted of four (4) civilian contract workers that were conducting a routine exercise operation when the crash occurred.
- PMRF Crash Fire was the first to respond and extinguished the fire.
- AMR also responded, where they confirmed that all four crew members were deceased.
- KPD responded and conducted the death investigations, while the National Transportation Safety Board (NTSB) conducted the investigation on the cause of the crash.
- The NTSB investigation is ongoing.

MEETINGS:

02/08/2022 Children Justice Center (multi-disciplinary-team) meeting.
02/09/2022 Hawaii Sex Assault Response Team meeting.
02/10/2022 Inter-Agency-Committee meeting (MDT)
02/16/2022 YWCA/CJC/ SANE meeting.

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

TRAININGS:

02/03/2022 (1) Lieutenant (2) Detectives Multi-Disciplinary-team training. Zoom.
02/16/2022 (2) Lieutenants (10) Detectives Documenting Death, Homicides, Suicides, accidental deaths, zoom training.

SPECIAL FOCUS SECTION

MAJOR INCIDENTS / NOTABLE HIGHLIGHTS

DEATH RELATED INVESTIGATIONS = 2

SEXUAL ASSAULT = 1

ASSAULTS = 1

MEETINGS:

02/09/2022 Lieutenant attended PSW interviews as a Panel Member.
02/14/2022 Lieutenant attended weekly ISB meeting.
02/15/2022 Lieutenant attended CSLS II (Criminalist II) Interviews as a Panel Member.
02/24/2022 Lieutenant attended Police Investigative Operations Assistant Interview as a Panel Member.

TRAININGS / PRESENTATIONS / PUBLIC SPEAKING / OTHERS:

02/03/2022 (1) Detective attended training with Vice Section, tactical movements and entries.
02/04/2022 (2) Detectives attended weekly Bomb Training.
02/09/2022 (1) Detective attended PPCT Recertification Training.
02/10/2022 (1) Detective attended PPCT Recertification Training.
02/11/2022 (2) Detectives attended weekly Bomb Training.
02/16/2022 (4) Detectives attended Death Investigation webinar training.
02/16/2022 (1) Lieutenant attended Death Investigation webinar training.
02/18/2022 (2) Detectives attended weekly Bomb Training.
02/22/2022 (1) Detective attended PPCT Recertification Training.
02/23/2022 (1) Detective attended PPCT Recertification Training.
02/25/2022 (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

02/22/2022  (2) Criminalists Called out for PMRF helicopter accident scene for evidence collection.
02/23/2022  (2) Criminalists Responded to PMRF for follow-up: scan scene and photograph.

TRAININGS ATTENDED

02/16/2022  (3) Criminalists attended Death Investigation webinar training.
02/25/2022  (2) Criminalists attended SDFI Telemedicine Training.

TRAININGS INSTRUCTED:

02/01/2022  (1) Criminalist assisted with SDFI Digital Imaging training for SANE Section.
            (1) Criminalist Continue QC MBIS, ten print recognition, face biometrics, OTN reports.

COMMUNITY ENGAGEMENT EFFORTS:

None

MEETINGS:

02/02/2022  (1) Criminalist attended phone conference regarding RAPID DNA.
02/10/2022  (1) Criminalist worked with field scientist for RAPID DNA maintenance.
            (1) Criminalist attended OSAC Task Group Conference Call.
            (1) Criminalist attended monthly OSAC Sub-committee Conference Call.

VICE SECTION

SEIZURES

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

<table>
<thead>
<tr>
<th>Type</th>
<th>Me at.</th>
<th>Pentanyl</th>
<th>Firearms</th>
<th>Marijuana</th>
<th>Cash</th>
</tr>
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<tbody>
<tr>
<td>Total in</td>
<td>0.1</td>
<td>0</td>
<td>0</td>
<td>998.4</td>
<td>0</td>
</tr>
<tr>
<td>Grams</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

ARRESTS
3 persons

MEETINGS/TRAINING/SCREENINGS

1. 02/01/2022 to 02/04/2022: (1) Officer attended USMTF TFO Training.

2. 02/07/2022 to 02/11/2022: (1) Officer attended USMTF TFO Training.

3. 02/07/2022 to 02/11/2022: (3) Officers attended Under Cover Training.

4. 02/15/2022 to 02/16/2022: (2) Officers attended Cell Phone Investigation Training.

5. 02/17/2022: (2) Officers attended CST monthly Training.

6. 02/24/2022: (3) Officers attended monthly SRT Training.

7. 02/22/2022 to 02/28/2022: (5) Officers attended PPCT Recertification Training.

COMMUNITY ACTIVITIES AND INVOLVEMENT:

One Officer has been volunteering as an assistant coach for youth baseball in the Lihue District for 4 hours a week in February.

Submitted by:

Bryson Ponce

Bryson M. Ponce  K-6
Assistant Chief  ISB
03-07-22  1300 hours
KAUAI COUNTY
POLICE COMMISSION
RULES ON ADMINISTRATIVE PRACTICE
AND PROCEDURE

AMENDMENTS ADOPTED ON

[January 26, 2018] April 22, 2022

Ramseyer Version
RULES ON ADMINISTRATIVE PRACTICE
AND PROCEDURE FOR THE KAUA'ICOUNTY POLICE COMMISSION

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*Certificate of Acknowledgement [30]
FORWARD

AUTHORITY

Article XI of the Kauai County Charter specifies that there shall be a Police Department consisting of a Police Commission, a Chief of Police and the necessary staff.

This article enumerates the powers, duties, and functions of the Police Commission and the Chief of Police. As authorized by Article XI, the following rules, processes and policies have been promulgated by the Police Commission to carry out its responsibilities.

MISSION STATEMENT

The Mission of the Kauai Police Commission is to ensure that a competent Law Enforcement Professional occupies the position of Chief of Police, and that the Chief of Police is in command of an honest and effective police department that serves the people of the County of Kauai.
RULE 1  DEFINITIONS

Rule 1-1 Definitions. Wherever used in these rules, the terms shall be taken to have the following meanings:

a. "Charter" shall mean the Charter of the County of Kaua‘i, State of Hawai‘i.


c. "Department" shall mean the Police Department of the County of Kauai, State of Hawaii.

d. "Chief of Police" shall mean the Chief of Police of the Police Department.

e. "Officers" shall mean regular police officers of the Department, as classified by the Department of Personnel Services of the County.

f. "Employees" shall mean personnel of the Department, other than police officers, as classified by the Department of Personnel Services of the County.

g. "County" shall mean the County of Kauai.

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 (10) years have been performing management-level duties at the rank of lieutenant or higher. [He / She may be removed by the Police Commission only after being given a written statement of charges against him / her and a hearing before the commission. The Chief of Police shall have had a minimum of five years of training and experience in law enforcement, at least three years of which shall be in a responsible, administrative capacity. He / She shall make a monthly report at each Police Commission meeting to inform the Commissioners of significant incidents, issues, and opportunities involving the department. In addition, the Chief shall annually make a report to the Commission regarding the state of affairs and condition of the Police Department.] The Chief of Police shall have a Bachelor's Degree in Administration of Justice, Business Administration, Public Administration, or a similar administration field.

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.** [Special committees as may be necessary shall be appointed by the Chair—] The Commission may conduct activities through the establishment of Special Committees pursuant to Hawai‘i 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 Interaction Group (PIG).** Consists of three (3) Commission members. In order to conduct their charge A.I.I., 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.

a. 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 the members of the Commission. The Chair shall grant an additional three (3) minutes to provide further testimony after all interested speakers have had an opportunity to provide oral testimony.**
Rule 2-10.11 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:
   
   1. Complaints from citizens;
   
   2. 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.
RULE 3  CONTROL, MANAGEMENT AND DIRECTION OF THE DEPARTMENT

Rule 3-1  Specific Powers, Duties and Responsibilities of the Police Commission.

a. **Oversight of Police Chief.** To fulfill its oversight obligations the Commission shall evaluate the Police Chief's management of the department. The Commission may require reports on the affairs and condition of the department. Commission oversight shall be accomplished by on-going communication between the Chief and the Commission regarding operational, administrative, and personnel related matters.

i. The Chief shall not withhold information from the Commission simply because it casts the Police Department, Departmental employees, or the Chief, in a negative light. Doing so may be grounds for disciplinary action.

ii. An exception shall be made for on-going criminal investigations as well as internal employment investigations until appropriate.

However, the Chief shall advise the Chair/Vice Chair of such instances when an investigation is occurring and request that sensitive information not be shared with the entire Commission until appropriate.

[b]c. **Goals and Objectives of the Department.** The Commission shall adopt such rules as it may consider necessary for the conduct of its business, and the regulation of matters relating to the goals and objectives of the department.

[b]-c. **Advisory Powers.** The Commission may pass advisory resolutions concerning the matters exclusively within the authority of the Chief of Police. However, in such cases, the Chief of Police shall not be bound by any such advisory resolution.

[e] d. **Administration.** Except for purposes of inquiry, neither the Commission nor its individual members shall interfere in any way with the administrative affairs of the department administered by the Chief of Police.

[de] e. **Commission and Commissioner Inquiries.** All Commission inquiries shall be initially submitted to the Chief, Deputy Chief or the appropriate Bureau Commander. Should an inquiry prove to require substantial departmental workhours, the Chair shall be informed of the inquiry by either the Chief or their designee so that the matter can be put on the floor for a vote as to whether this topic should be pursued.
[e] **Performance of Duty.** The Commission shall determine whether the acts of an officer, for which he or she is being prosecuted or sued, were done in the performance of duty, so as to entitle him or her to be represented by legal counsel provided by the County. The procedure for an employee of KPD to request Legal Representation and corresponding action by the Commission is located in Rule 5-Rules of Practice, Hearings.

**Rule 3-1 (f):** Request for Legal Representation.

The purpose of this section is to establish procedural rules for contested case hearings, pursuant to Chapter 91 of the Hawai‘i Revised Statutes and Alejado v. City and County of Honolulu, et. al., 89 Hawai‘i 221, 971 P.2d 310 (App. 1998), for the County of Kauai Police Commission to follow in determining whether a police officer actions were done in the performance of the officer’s duty as a police officer, so as to entitle the police officer to legal representation provided by the County of Kauai as stated in Hawai‘i Revised Statutes (HRS) §§52D-8 and 52D-9.

(i) **Appearance before the Commission.** The Commission may allow the police officer to appear before the Commission to make a request for legal representation. All discussions concerning the officer’s request for legal representation shall be discussed in executive session.

(ii) **Procedure for Requesting Legal Counsel.** If a police officer desires legal representation to be provided by the County of Kauai in civil or criminal proceedings initiated against the officer, he or she shall submit a written request to the Police Commission within thirty (30) calendar days of being either formally indicted in the pending criminal matter or served in the pending civil matter. The Commission may extend the time-period to submit the written request to the Police Commission upon showing a good cause or extraordinary circumstances.

a. “Police Officer includes reserve police officers for purposes of this section.

b. For purposes of Rule 3-1(f), the following shall be considered by the Commission in determining whether “an act, for which the police officer’s is being prosecuted or sued, was done in the performance of the officer’s duty”:

i. whether the act was incident to required or authorized work-related activity;

ii. whether the act was incident to a course of conduct taking place at a time that the officer was required to engage in the course of conduct by the nature of the officer’s responsibilities as a police officer; and
iii. whether the act was incident to a course of conduct engaged in at a place that the officer was authorized to engage in it by nature of the officer's responsibilities as a police officer.

(iii) **Action by the Commission.** Upon receipt of the police officer's written request, the Commission shall request that the Chief of Police or his authorized designee submit a written report to the Commission informing the Commission of the current status of the police department’s investigation concerning the facts underlying the matter in which the officer is seeking legal representation from the County. [The written report shall include all relevant police report(s). The report shall be submitted to the Commission within thirty (30) calendar days of the Commission’s request. The Commission may determine that good cause exists to extend the time for submittal of the report.]

a. The written report shall include all relevant police report(s).

b. The report shall be submitted to the Commission within thirty (30) calendar days of the Commission’s request.

c. The Commission may determine that good cause or extraordinary circumstances exist to extend the time for submittal of the report.

(iv) **Consultation with the County Attorney.** Before making a determination of whether an act, for which the officer is being sued or prosecuted, was done in the performance of duty, the Commission shall consult with the County Attorney and ask for a recommendation to the Commission.

(v) **Decision of Commission.** The Commission may allow the police officer to appear before the Commission and discuss his or her request for representation, so long as the officer is made aware that any comment he or she makes can be used against him/her in a legal proceeding. [The Commission shall subsequently inform the officer of its decision in writing.] All discussions concerning the officer's request for legal representation shall be discussed in executive session. **The Commission’s decision on whether to grant or deny the officer’s request for legal representation shall be announced in general session.**

a. The Commission shall subsequently inform the police officer of its decision in writing.

b. The Commission shall inform the police officer of the right to have a contested case hearing.

c. Any police officer aggrieved by the Commission’s decision may, within fifteen (15) calendar days of the issuance of the Commission’s decision, request in writing a contested case hearing. If the police officer timely request a contested case hearing the Commission shall subsequently hold a contested case hearing.
hearing pursuant to the procedures set forth in Rule 5 and the Hawai‘i Revised Statutes, Chapter 91.

d. If the police officer fails to timely request a contested case hearing within fifteen (15) calendar days of the issuance of the Commission’s decision, the contested case hearing shall be deemed waived and the Commission may deny the police officer’s request.

[(vi) Contested Case Hearing. (Any police officer aggrieved by the Commission’s decision may, within fifteen (15) calendar days of the issuance of the Commission’s decision, request in writing that the Commission reconsider its decision. The Commission may determine that good cause exists to extend the time for submittal of the request. When requesting reconsideration, the police officer may submit a written statement setting forth the specific reasons why the actions were done in the performance of duty as a police officer, thus entitling him/her to representation by counsel provided by the County. The Commission shall subsequently hold a contested case hearing pursuant to the procedures set forth in Rules 5-2 through 5-8 and Hawai‘i Revised Statutes, Chapter 91.)

a. The contested case hearing shall be conducted by the Commission pursuant to the procedures set forth in Rule 5 and the Hawai‘i Revised Statutes, Chapter 91.

b. The police officer requesting representation shall have the burden of proof including the burden of producing evidence and the burden of persuasion by a preponderance of the evidence.

c. Open to the Public. The contested case hearing, pursuant to Freitas v. Administrative Director of Courts, 104 Hawai‘i 483, 92 P.3d 993, 999 (2004), shall be open to the public unless, pursuant to O‘ahu Publications Inc. v. Ahn, 133 Hawai‘i 482, 496, 498, 331 P.3d 460, 474, 476, (2014), after providing notice that a compelling interest may necessitate the closure of the proceeding and affording an opportunity for the public to be heard, the Commission enters findings on the record that the public’s rights of access is overcome by an overriding interest that closure is essential to preserving the overriding interest.
Public Charges Against the Conduct of the Department or Any of its Members:

1. Charges Defined. For purposes of this section "Charges" shall mean allegations filed with the Police Commission through the citizen complaint process.

2. Filing of Charges. Any and all charges shall be in writing of such form as the Commission may designate and shall be notarized. In lieu of a notarized statement, an unsworn declaration may be made by an incarcerated person, in writing, subscribed as true under penalty of law, and dated, in substantially the following form:

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

Dated:

Signature

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

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

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

d. When all requirements stated above have been met, charges shall be officially received the date of the next Commission meeting, as permitted by law. All such officially received charges shall be reviewed and investigated by the Commission.
e. The Commission Chair shall provide written acknowledgment of the receipt and status of such charges to the Commission members, the Commission Investigator, the Chief of Police and the complainant.

f. The Chief of Police shall notify the employee in question of the charges according to department rules and regulations.

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

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

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

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

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

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

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

e. The Investigator’s report shall contain a detailed report of all investigative findings, and a summary of all interviews.

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

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

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

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

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

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

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

6. Complaints Filed Against the Chief of Police.

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

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

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

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

iv. Upon receipt of a written complaint the Mayor shall transmit said complaint to the Chairperson of the Kaua‘i Police Commission.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7. Charges against the Chief of Police

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

1. Malfeasance (Wrongful act by public official).
   Misfeasance (Wrongful exercise of law authority).
   Nonfeasance (Omission of act that ought to have been performed).
2. Falsification of candidate’s application.
3. Conviction of any misdemeanor or felony.

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

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

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

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

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

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

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

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

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

a. Act as administrative head of the [d] Department.

b. Appoint the necessary staff for the [d] Department for which appropriations have been made.

c. Supervise, manage, and control all employees and officers of the [d] Department.

d. Discipline or remove any officer or employee of the Department pursuant to all applicable laws.

e. Assign and reassign the duties of any officer or employee of the [d] Department.

f. Make all personnel actions concerning officers and employees of the [d] Department.

g. Train, equip, maintain, and supervise the officers and employees of the [d] Department.

h. Preserve public peace, prevent crime, detect, and arrest offenders, protect personal property rights, and enforce and prevent violations of law.

i. Serve process in both civil and criminal proceedings.

j. Make annual reports to the Commission as to the state of affairs and condition of the [d] Department as well as such other reports as the Commission shall request, within its authority.

k. Exercise such powers or duties as may be provided by law, contained within the Charter of the County of Kauai, or assigned by the Commission.

l. Adopt rules and regulations necessary to implement the powers, duties and responsibilities of the Chief of Police set forth in Rule 3-2.

m. Make a monthly report at each Police Commission meeting to inform the Commissioners of significant incidents, issues, and opportunities involving the department.
n. As soon as practicable, after gathering all available factual information, notify the Commission Chair/Vice Chair and Mayor/Managing Director of any event involving the discharge of a firearm, on or off duty that results in serious or life-threatening injuries or hospitalization of any KPD employee or other person.

For purposes of this section discharge of firearms does not include weapons training, recreational use of a firearm, hunting, or part of military service.

Rule 3-3  **Collective Bargaining Agreements.** All of the powers, duties and responsibilities of the Police Commission and the Chief of Police enumerated in these rules shall be subject to and in conformity with any collective bargaining agreements existing between the officers or employees of the department and/or the County of Kaua‘i.

Rule 3-4  **Political Activities.** All members, officers, and employees of the Kauai Police Department, including, but not limited to Police Commission shall comply with all State and Federal laws regulating political activities of government employees.
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 Jr., 138 Haw. 287 (2016), the Hawai‘i Intermediate Court of Appeals held that the Police Commission’s power to appoint and remove the Chief of Police includes the power to discipline.

[In no event shall the Commission appoint an applicant for the position of Chief of Police to act as interim or acting Chief, solely for the purpose of permitting the applicant to obtain the necessary qualifications for the position of Chief of Police.]

Rule 4-2

Qualifications for Police Chief. Section 11.04 Kauai County Charter states the minimum qualifications for the Chief of Police to be: [Five years] fifteen (15) years of training and experience in law enforcement, [at least three] of which [shall be in a responsible, administrative capacity.] at least ten (10) years have been 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, Business 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 or her privacy rights.

c. **Assessment by Consultant.** In the event 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 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.** [Following the completion of all required examinations by the final candidate, the Commission shall vote to extend an official job offer to say candidate.] 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 set forth and enumerated in the Kauai County Charter.*

*Note: The asterisk indicates a source or a reference to additional information not visible in the provided text.
The Commission shall also vote on the terms of the employment contract that the Commission shall extend to the candidate. The contract may also specify a period or may be an open-ended contract. The contract shall also specify the job duties and salary specifications, in addition to any other provisions that the Commission believes necessary to incorporate into the contract.

*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 increases 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.** [The Commission shall on a fiscal year basis, evaluate the Chief’s performance. Each Commissioner shall be provided the opportunity to rate the Chief’s performance utilizing the County’s Performance Evaluation Form.]

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. Performance Evaluation Form, Annex 4-C.

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

   ii. [The Chief and Chair shall review and consider input from other Commission members and external stakeholders to prepare a final performance evaluation which the Chair and/or Vice Chair shall present to the Chief.]  
   
   **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. [Once the Chief has reviewed his/her performance evaluation all Commission members will be provided the opportunity to review, in Executive Session, the completed performance evaluation.]

   **Other Stakeholders.** The Commissioners may seek input from the 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 representatives.
c. **Semi-Annual Performance Review Feedback.** The Commission shall on a semi-annual basis, provide feedback [a review] of the Chief’s performance. The purpose of the semi-annual review 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 [review] feedback will be documented utilizing the on-going Performance Review Form, Annex 4-(e)B and presented to the Chief.

i. The semi-annual [review] 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 [review] 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.
CONTINUITY OF COMMAND

It is vital that 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 the 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 during his/her routine absence as defined below in section 4-7- b.

c. General Rule. As a general rule, whenever there 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 the 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 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 that 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 the process.

When any of the above conditions occur, the Commission shall consult with the County Human Resources and the Commission's Attorney, to ensure continuity of command, and to determine the proper course for future actions.

d. Other Conditions.

i. Upon approval by the 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 the Chief of Police is vacant, either by an action of the Incumbent Chief, or the Police Commission, 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 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 Rule 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 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.
ANNEX 4-A  Chief of Police Job Description

DEPARTMENT OF HUMAN RESOURCE [PERSONNEL-SERVICES]
COUNTY OF KAUA'I 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, acting 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

- [Five] **Fifteen (15) years of training and experience in law enforcement, [at] of which at least [three] ten (10) years [of which shall be in a responsible administrative capacity:] have been as a peace officer in a full-service, public sector, law enforcement agency, and at least three (3) of those ten (10) years have been performing management level duties at the rank of lieutenant or higher.**
- 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.

DESIРABLE 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.
DESI RABLE 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 weekends, evenings, and holidays.
- Successfully pass post-offer background check, medical and psychological examinations.

OTHER DESIRABLE QUALIFICATIONS
- Possession of bachelor'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 KAUA‘I – POLICE COMMISSION – CHIEF OF POLICE ON-GOING REVIEW/SEMI-ANNUAL FEEDBACK

<table>
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<tr>
<th>Name: ___________________________</th>
<th>Reporting Period: _________ to _________</th>
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**Type of Report:** (circle one)  
On-going Review/Semi-Annual [Review] feedback

**Improvement Needed**

**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 [Performance Review] On-going Review/Semi-Annual Feedback

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<tr>
<th>___________________________</th>
<th>Date: ___________________</th>
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<tbody>
<tr>
<td>___________________________</td>
<td>Chief of Police</td>
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**Discussed with Chief By:**

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<tr>
<th>___________________________</th>
<th>Date: ___________________</th>
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<tr>
<td>___________________________</td>
<td>Chair – Kauai Police Commission</td>
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ANNEX 4-C  Chief of Police – Fiscal Year Evaluation
COUNTY OF KAUA‘I – POLICE COMMISSION
CHIEF OF POLICE – FISCAL YEAR PERFORMANCE EVALUATION

<table>
<thead>
<tr>
<th>Name:</th>
<th>Appointment Date:</th>
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<tbody>
<tr>
<td>Reason for Report: Annual - Improvement Required</td>
<td>Period of Report: ___________ to ___________</td>
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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.

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<thead>
<tr>
<th>Discussion: (Provide specific examples of performance. Absent examples mark Unable to Rate below)</th>
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| 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.

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<th>Discussion: (Provide specific examples of performance. Absent examples mark Unable to Rate below)</th>
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| 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.

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<th>Discussion: (Provide specific examples of performance. Absent examples mark Unable to Rate below)</th>
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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.

Discussion: (Provide specific examples of performance. Absent examples mark Unable to Rate below)
•
•

Meets Expectations | Does NOT Meet Expectations | Unable to Rate

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.

Discussion: (Provide specific examples of performance. Absent examples mark Unable to Rate below)
•
•

Meets Expectations | Does NOT Meet Expectations | Unable to Rate

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

Summary of Performance:

Employee Signature:
I acknowledge receipt of this Performance Evaluation ___________________________ Date: __________

Rater Certification: ___________________________ Date: __________
Chair – Kauai Police Commission

- 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.
a. 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. Sections of the statutes and rules that are 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.

e. Documentary evidence may be received in the form of copies of excerpts, if the original is not readily available; provided that upon request, parties shall be given an opportunity to compare the copy with the original.

f. The Commission shall give effect to the rules of privilege recognized by law.

g. The Commission may take notice of judicially recognizable facts. In addition, the Commission may take notice of generally recognized technical or scientific facts within its knowledge; but parties to the proceedings shall be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material so noticed, and they shall be afforded an opportunity to contest the facts so noticed.

h. Any procedure in a contested case may be modified or waived by stipulation of the parties and informal disposition may be made of any contested case by stipulation, agreed settlement, consent order, or default.

i. For Commission decisions, the records shall include:

1. All pleadings, motions, intermediate rulings.

2. Evidence received or considered, including oral testimony, exhibits, and a statement of matters officially noticed.

3. Offers of proof and rulings thereon.

4. Proposed findings and rulings thereon;

5. Report of the officer who presided at the hearing;

6. Staff memoranda submitted to members of the Commission in connection with their consideration of the case;
j. It shall not be necessary to transcribe the record unless requested for the purposes of rehearing the court or review.

k. No matters outside the record shall be considered by the Commission in making its decision except as provided herein.

l. A contested case hearing, shall be held in closed session, unless all parties to the proceeding choose to have the hearing in open session. Pursuant to Freitas v. Administrative Director of Courts, 104 Hawai‘i 483, 489, 92 P. 3d 993, 999 (2004), shall be open to the public unless, pursuant to O‘ahu Publications Inc. v. Ahn, 133 Hawai‘i 482, 496, 498, 331 P. 3d 460, 474, 476 (2014), after providing notice that a compelling interest may necessitate the closure of the proceeding and affording an opportunity for the public to be heard, the Commission enters findings on the record that the public’s right of access is overcome by an overriding interest that closure is essential to preserving the overriding interest. However, any privileged dialogue between the Commission and the County Attorney advising the Commission shall be held in Executive Session.

Rule 5-7  **Decision and Order.** Every decision and order adverse to a party to the proceeding, rendered by the Commission in a contested case, shall be in writing or stated in the record and shall be accompanied by separate findings of fact and conclusions of law. If any party to the proceeding has filed proposed findings of fact, the Commission shall incorporate in its decision a ruling upon each proposed finding so presented. Parties to the proceeding shall be notified by delivering or mailing a certified copy of the decision and order and accompanying findings and conclusions within a reasonable time to each party or to his/her attorney of record. The decision and order of the Commission shall be announced in open session, with the names of all the parties to the proceeding withheld, unless said parties agree to have their names released.

Rule 5-8  **Consultation by Commissioner.** No Commissioner who renders a decision in a contested case shall consult any person on an issue of fact except upon notice and opportunity for all parties to participate, save to the extent required for the disposition of ex parte matters authorized by law.

Rule 5-9  **Reconsideration.** The Commission shall not reconsider its action pursuant to a contested case hearing subsequent to rendering a lawful written decision and order.

Rule 5-10  **Appeal.** An appeal of the Commission’s decision may be made in accordance with HRS§§ 91-14.
RULE 6  PUBLIC INFORMATION AND INSPECTION

Rule 6-1  Obtaining Information. The public may obtain information on matters within the jurisdiction of the Commission by inquiring in person, during regular business hours, at the Office of Boards and Commissions, 4444 Rice Street, [Suite 150], Lihue, Hawaii, 96766, or by submitting a written request to said Office.

Rule 6-2  Public Inspection of Rules. All rules of the Commission including the adoption, amendment, or repeal thereof, are available for public inspection during regular business hours at:

a. Office of Boards and Commissions
   4444 Rice Street, [Suite 150]
   Lihue, Hawaii‘i 96766

b. Office of the County Clerk
   County Building
   Lihue, Hawaii‘i 96766

c. Office of the Lieutenant Governor
   State of Hawaii
   State Capitol
   Honolulu, Hawaii‘i 96813

Rule 6-3  Public Inspection of Statements of Policy and Interpretation. All written statements of policy or interpretation formulated, adopted, or used by the Commission in the discharge of its functions and all final opinions and orders of the Commission are available for public inspection at the Office of Boards and Commissions during regular business hours.

Rule 6-4  Public Information and Inspection Prohibited. When matters within the jurisdiction of the Commission, including confidential information, written statements of policy or interpretation formulated, adopted, or used by the Commission in the discharge of its functions, may be withheld from the public where permitted by law.
RULE 7  ADOPTION, AMENDMENT OR REPEAL OF RULES

Rule 7-1  Method of Adopting, Amending or Repeal of Rules. The rules adopted, amended or repealed by the Commission shall be made in accordance with the following procedure:

a. Prior to the adoption, amendment or repeal of any rule, a public hearing shall be held by the Commission. At least thirty (30) day notice shall include a statement of the substance of the proposed rule, and of the date, time, and place where interested persons may be heard thereon. The notice shall be mailed to all persons who have made a timely written request of the Commission for advance notice of its rulemaking proceedings, and shall be published at least once in a newspaper of general circulation.

All interested persons shall be afforded an opportunity to submit date, views, or arguments, orally or in writing. The Commission shall fully consider all written and oral submissions respecting the proposed rule. The Commission may make its decision at the public hearing or announce then the date as to when it intends to make its decision. Upon adoption, amendment or repeal or a rule, the Commission shall, if requested to do so by an interested person, issue a concise statement of the principal reasons for and against its determination.

b. Notwithstanding the foregoing, if the Commission finds that an imminent peril to the public health, safety or morals requires adoption, amendment or repeal of a rule without notice of a hearing or upon less than thirty (30) days notice of hearing and states in writing its reason for such finding, it may proceed without prior notice or hearing upon such abbreviated notice and hearing as it finds practicable to adopt an emergency rule to be effective for a period of not longer than one hundred twenty days without renewal.

Rule 7-2  Filing. Certified copies of the rules adopted, amended, or repealed by the Commission shall be filed forthwith with the County Clerk, and as may be otherwise required by law for the filing of rules for Boards and Commissions.

Rule 7-3  Effective Date of Rules. The adoption, amendment, or repeal of any rule by the Commission shall become effective:

a. Ten (10) days after filing of the rules with the County Clerk; provided that if a later effective date is required by statute or specified in the rule, such later date shall be the effective date. However, no rule shall specify an effective date in excess of thirty days after the filing of the rule as provided herein.
b. An emergency rule shall be effective, upon filing with the County clerk, for a period of not longer than one hundred twenty days without renewal unless extended in compliance with the provisions of subsections (a) and (b) of Rule 7-1, if the Commission finds that immediate adoption of the rule is necessary because of imminent peril to the public health, safety, or morals. The Commission's finding and brief statement of the reasons therefore shall be incorporated in the rule as filed. The Commission shall make an emergency rule known to persons who will be affected by it by publication at least once in a newspaper of general circulation within five days from the date of filing of such rule.

Rule 7-4

Petition. Any interested person may petition the Commission for the adoption, amendment, or repeal of any rule of the Commission. The petition shall be submitted in duplicate and delivered to the Office of Boards and Commissions.

Rule 7-5

Form, Contents and Rejection of Petition. The petition need not be in any special form, but it must contain:

a. A statement of the nature of each petitioner's interest.

b. A draft of the substance of the proposed rule or amendment and/or a designation of the provisions sought to be repealed.

c. An explicit statement of the reasons in support of the proposed rule, amendment, or repeal.

d. Any other information relevant to the petition.

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

f. The signature of each petitioner.

The Commission may reject any petition which does not conform to the requirements set forth hereinafter.

Rule 7-6

Processing of Petition. Upon receipt of the petition, the Commission shall cause it to be dated to determine the date of submission. The Commission shall notify the petitioners of the date, time, and place when the Commission shall consider the petition and the petitioner's privilege of personal appearance, with or without counsel, and the privilege of presenting evidence in support of the petition.

Rule 7-7

Consideration of Petition. Within thirty (30) days after the receipt of the petition, the Commission shall either deny the petition in writing, stating its reason for such denial, or initiate proceedings in accordance with Rule 7-1, for the adoption, amendment, or repeal of the rule, as the case may be.
RULE 8  DECLARATORY RULING BY THE COMMISSION

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

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

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

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

c. A complete statement of the relevant facts.

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

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

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

g. The signature of each petitioner.

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

Rule 8-3 Processing of Petition. The petition shall be processed in the manner provided by Rule 7-6.

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

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

b. The petitioner's interest is not of the type which would give him standing to maintain an action in a court of law.
c. The issuance of the declaratory order may adversely affect the interest of the County in any litigation which is pending or may reasonably be expected to arise.

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

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

RULE 9  COST OF RULES

Rule 9-1  Cost. Compilation and supplements of these rule shall be made available free of charge upon request by state officers in the case of a state agency and by county officers in the case of a county agency. Copies may also be made available, free of charge, to agencies of the federal government or of other states having a need for the rules. As to all other persons, the price for copy of these rules shall be charged in accordance with prices set forth by the Office of the County Clerk, County of Kaua‘i.
RULE 10  CITIZEN COMPLAINT PROCESS

**g. Public Charges Against the Conduct of the Department or Any of its Members.**

1. Charges Defined. For purposes of this section "Charges" shall mean allegations filed with the Police Commission through the citizen complaint process.

2. Filing of Charges. Any and all charges shall be in writing of such form as the Commission may designate and shall be notarized. In lieu of a notarized statement, an unsworn declaration may be made by an incarcerated person, in writing, subscribed as true under penalty of law, and dated, in substantially the following form:

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

Dated:

Signature

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

d. Sustained – There exists sufficient evidence of misconduct to sustain the charge or justify disciplinary action.
RULE 11  COMPLAINTS and CHARGES AGAINST THE CHIEF OF POLICE

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.

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 the Kauai County Policy regarding the Discipline of Department Heads Subject to Removal by Boards and Commissions.

RULE 11-2  [6.] Complaints Filed Against the Chief of Police.

[§] A. Written Complaints against the Chief of Police Filed with the Mayor.

   [i.] 1. The County of Kaua‘i Policy regarding the Discipline of Department Heads Subject to Removal by Boards and Commissions states that complaints against Department Heads who are appointed by a Board or Commission shall be filed with the Mayor.

   [ii.] 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

   [iii.] 3. All such complaints filed with the mayor shall be in writing.

   [iv.] 4. Upon receipt of a written complaint the mayor shall transmit the said complaint to the Chairperson of the Kaua‘i 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.

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

   [vi.] 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, [Section 3-1-(g), Investigation of Citizens Complaints.] Rule 10-1-D.
Regardless of which investigation route is followed, upon completion of the investigation the mayor may make a recommendation to the Commission on appropriate discipline, if warranted. The Commission will consider but shall not be bound by the mayor’s recommendation.

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

[b] B. **Written Complaints Against the Chief of Police filed with the Police Commission.**

[i] 1. Police Commission Rules, [Section 3-1(g)] Rule 10 describes the procedures for the filing of complaints against the Conduct of the Department or any of its Members through the Citizens Complaint process.

[ii] 2. When the Police Commission receives a complaint against the Chief of Police in this manner the Chairperson shall advise the mayor.

[iii] 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] C. **Non-Written Complaints against the Chief of Police.**

[i] 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.

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

[iii] 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 [7]. Charges Against the Chief of Police

[a] 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 arbitrary or capriciously. Grounds for discipline or dismissal of the Chief shall include but not limited to the following:

   Misfeasance – (Wrongful exercise of law authority).
   Nonfeasance – (Omission of an act that ought to have been performed).
2. Falsification of candidate’s application.
3. Conviction of any misdemeanor or felony

[b] 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] 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.

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

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

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

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

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