

COUNTY OF KAUAI
Minutes of Meeting
OPEN SESSION

Board/Commission	Kaua'i Police Commission	Meeting Date	May 24, 2019
Location	Mo`ikeha Building – Meeting Room 2A/B	Start of Meeting: 9:00 a.m.	End of Meeting: 10:55 a.m.
Present	<p>Chair Mary K. Hertog; Vice Chair Roy Morita; Commissioners Catherine Adams, Gerald Bahouth, Kevin Mince and Dean Pigao.</p> <p>Also present: Board & Commissions Office Staff: Support Clerk Mercedes Omo; Administrator Ellen Ching; Office of the County Attorney: Deputy County Attorney Mark Ishmael; Police Department: Chief Todd Raybuck; Deputy Chief Michael Contrades; Office of Professional Standards Lieutenant Scott Williamson and numerous senior members in the Kaua'i Police Department.</p> <p>Special guest speaker: Director of the Western States Information Network Ken Tano.</p>		
Excused	Commissioner Leina`ala Jardin		
Absent			

BUSINESS	DISCUSSION	ACTION
Call To Order		Chair Hertog called the meeting to order at 9:00 a.m. with six members present to conduct business.
Chair's announcements	<ul style="list-style-type: none"> • Special Executive Session meeting will be held on Friday, May 31, 2019 at 9:00 a.m. at the Mo`ikeha Building, Meeting Room 2A/2B. • The Commission's regular next monthly meeting will be held on Friday, June 28, 2019 at 9:00 a.m. at the Mo`ikeha Building, Meeting Room 2A/2B. Executive Session to follow. 	
Approval of Minutes	Regular Open Session Minutes of April 30, 2019.	<p>Mr. Mince moved to approve the regular open session meeting minutes of April 30, 2019.</p> <p>Vice Chair Morita seconded the motion. The motion carried 6:0.</p>

BUSINESS	DISCUSSION	ACTION
<p>Special Commendation presented by Director of the Western States Information Network Ken Tano to the Kaua'i Police Department Vice Unit</p>	<p>Deputy Chief of Police Michael Contrades introduced Ken Tano, Director of the Western States Information Network for the Hawai'i Region to the Commissioners. Mr. Tano shared that the Western States network is one of six Regional Information Sharing Systems projects that are funded by Congress through the U.S. Department of Justice and the Office of Justice Programs. The funds provides criminal intelligence information, and case and event de-confliction to law enforcement investigations being conducted in Alaska, California, Hawaii, Oregon, and Washington.</p> <p>Mr. Tano commended the vice unit for their quality of work, use of the network services and overall attitude in collaboration with other federal and state partners all of which attributed to be selected to receive the 2018 Western States recipient of the year award. In looking at some of KPD's Vice Unit 2018 statistics, Mr. Tano shared that the vice unit did a total of 167 drug arrests, seized 25 pounds of methamphetamine and 18 hand guns, and just recently did an outstanding job in taking down a group of people who were ready to distribute 9 pounds of methamphetamine into the Kaua'i community. Following the commendation, Mr. Tano on behalf of the network's Executive Director presented Police Chief Todd Raybuck and Sergeant Ken Carvalho with a plaque commemorating the vice unit as the recipient of the year award for 2018.</p>	
<p>Chief's Monthly Reports</p>	<ol style="list-style-type: none"> 1. Administrative and Technical Bureau 2. Investigative Services Bureau 3. Summary Reports: Calls for Service & Incident, Collision, Traffic Enforcement, Arrest, Offense by Severity, Warrant/Warrant Type and Legal Services <p>Chair Hertog thanked Chief Raybuck and his staff for changing the format of his monthly reports and to the Special OPS Team for their hard work in catching the persons responsible for vehicle break-ins throughout the island.</p> <p><u>Administrative & Technical Bureau Reports</u> Chief Raybuck reported that Doctor Corey was on island conducting interviews for seven police officer candidates and that he hopes all seven will pass their psyche interviews. Currently, the Department has three police services officers working in cellblock that have gone through the hiring process, and if all seven individuals pass their psychological exam</p>	

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	<p>there will be a total of ten new recruits participating in the police academy on July 1, 2019.</p> <p><u>Investigative Services Bureau Report – General Crimes Section</u> Chief Raybuck reported that since the arrest and identification of the person responsible for the string of burglaries, crime activity in the area has significantly decreased. With regard to the bench warrant sweeps, Chief Raybuck commended the detectives in the Special Focus Section for doing an outstanding job in identifying the persons that needed to be in custody.</p> <p>Ms. Adams thanked Chief Raybuck for providing information on the Drug Take-Back Program that enabled Wilcox Hospital to hold an informational awareness seminar for the public on the dangers of having unused prescription drugs in the household. Chief Raybuck stated that as a result of the drug take-back campaign they were able to gather 180 pounds of drugs that won't be going into the toilet and into the water supply.</p> <p>Vice Chair Morita stated that to his understanding bench warrants are supposed to be under the Sheriffs jurisdiction to which Deputy Chief Contrades replied that Vice Chair Morita is correct, but for unknown reasons the procedures have changed and now the warrants are being directed to the Chief of Police and the Sheriffs, but as everyone in the meeting knows, the burden is really on the KPD. He went on to explain that bench warrants originates from the courts and should fall under the Sheriffs jurisdiction, but for many years the burden was placed solely on KPD to serve those warrants, and although the Department and the previous Administration made numerous efforts to try to get the State to reimburse the County for services rendered or have the Sheriffs take the lead to serve those warrants, till this day, there is no written agreement or memo of understanding between the County and the Department of Public Safety.</p> <p>Mr. Mince stated that relative to the reports he noticed a lot of vacant positions particularly the vacancy for an abandoned vehicle coordinator. Deputy Chief Contrades explained that the Department created another abandoned vehicle coordinator and once the position is filled the Department will have two coordinators to help carry the workload. As for the vacant positions, they had to re-describe some of the positions to create new positons to help the Department reorganize so they can do a better job policing as a whole.</p> <p>Chief Raybuck added that the four newly created police apprentice civilian positions listed in</p>	

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	<p>his monthly report is a new program that was created to hire young 18 year olds to help them transition from a civilian to a police officer. Deputy Chief Contrades added that program is almost in its final phase of completion the only last two components the Department needs to figure out is how it's going to handle the college and the contractual aspect of the program for the individuals who want to participate in the program.</p> <p>Relative to the Commission's inquiry about overtime, Chief Raybuck distributed copies of an audit of the top ten overtime earners conducted by Assistant Chief Paul Applegate, Captain Roderick Green, Acting Captain Kenneth Cummings and Deputy Chief Contrades. (Copy of the document is on file with the Office of Boards and Commissions). Chief Raybuck noted that 64% of the overtime claimed by personnel were due mainly to a shortage of personnel covering beats for personnel who were out sick, on vacation or assigned to training.</p> <p>Chair Hertog called for a motion to receive the report audit for the record.</p> <p>In addition to doing ride a longs with his patrol officers, Chief Raybuck shared that he will be conducting a series of community oriented program called "Chat with the Chief", to meet with members of the community to talk story and to hear about their concerns. Also, in an effort to build bridges with an increasingly online community, the Department will be boosting its social media presence to humanize the Department and show that law enforcement officers are also members of the community they serve. He added that social media is effective tool for the Department to make announcements regarding enforcement campaigns and provide messages about safety.</p>	<p>Ms. Adams moved to receive the report. Vice Chair Morita seconded the motion along with a request that Chief Raybuck provide a copy of the report to the County Council. The motion carried 6:0.</p>
<p>KPC 2018-19</p>	<p>General overview on procedural practices used in investigating complaints that the Department of Human Resources deem to involve the Chief of Police. (Deferred on 2/22/2019, 3/22/2019 and 4/30/2019)</p> <p>With regard to the procedural practices used in investigating complaints made against the Chief of Police, Mr. Ishmael stated that a determination has been made that although the statement of the rule may be slightly awkward it still complies and is workable with the provisions relating to the nine steps reflected in his memorandum dated April 15, 2019. He noted that unless, the Commissioners have more questions relating to the nine steps the matter is done.</p>	

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	<p>Based on an opinion of former County Attorney Mauna Kea Trask's the policy is to assist the Police Commission in internal complaints, but not for complaints filed by the public, Mr. Mince asked for clarification. Mr. Ishmael clarified that the policy is to assist in both external and internal complaints that are filed against departments that are subject to removal by a board or commission. He explained that there is no substantial difference between complaints that come from within the department and complaints that are filed by the public because they both fall under the purview of the Commission.</p> <p>Mr. Mince asked if the investigative steps is the reason HR has their hands in the complaint process and if the Commission should add specific language in its rules to that effect. Mr. Ishmael explained that he doesn't believe that it's necessary because the Commission would be putting in a kink in its rules that would not otherwise exist. He explained that the problem was when the policy was first written, the author of the policy did not make things clear as to what each provision was meant to accomplish and if the author did it have shed light on the entire complaint process; fast-forward, the policy is now numerated for clarity and is pretty straight forward.</p> <p>Mr. Mince stated that the concern he has is, two-years down the road when all of the current commissioners are all gone and there's seven new commissioners and Mr. Ishmael is no longer the attorney for the Police Commission, who is going to memorialize the reasoning behind the authority and obligations of the Police Commission particularly with regard to the Chief of Police.</p> <p>Mr. Ishmael stated that if the Commission truly feels that having a set of rules to help guide future commissions and attorneys on how to read the County policy, the Commissioners could add language into its rules and as a group work to see what's necessary or redundant. Chair Hertog stated that the best and effective way to simply attach the memorandum dated April 15, 2019 to the Commission's rules because it's pretty straight forward. Mr. Ishmael agreed. With no further discussion, Chair Hertog called for a motion to accept the memorandum dated April 15, 2019 from the Office of the County via Deputy County Attorney Mark Ishmael.</p>	<p>Vice Chair Morita moved that the Police Commission officially accepts the policy dated April 15, 2019. The motion was seconded by Ms. Adams and carried 6:0.</p>

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<p>KPC 2019-12</p>	<p><u>Presentation by the Permitted Interaction Group on its findings and recommendations relating to the study and formulation of a memo of understanding to the issues and problems related to the use of County and Kaua'i Police Department facilities, services and personnel in the service of the State Sheriff.</u></p> <p>Commissioners Dean Pigao and Gerald Bahouth, recommended that the PIG set-up a meeting with Chief Raybuck and his administration to see whether the aforementioned issue is something both the Commission and the Department would like to pursue. Because in Chief Raybuck's new role, he may want to create a network with the State in order to get the issue resolved. Lastly, in their meeting with Councilmember Cowden, they PIG found that her agenda far exceeds what the Police Commission would like to do therefore the PIG is recommending that they end all discussions with her.</p> <p><i>Chair Hertog reminded the Commissioners that following the PIG's report, they would be allowed to ask clarifying questions, but per the State's Sunshine Law, any deliberations and decision-making cannot occur until the next meeting.</i></p>	
<p>KPC 2019-13</p>	<p><u>Copy of a communication dated May 6, 2019 from Lance Kamuela Gomes Konohiki Landlord LCA 7714B Apana 6 RP 7813 Wahiawa Ahupua`a Kona, Kaua'i, Hawaiian Islands. Protected person under Geneva IV Jus Cogens Status to Chair Mary K. Hertog.</u></p> <p>Chair Hertog called for a motion to receive item KPC 2019-13 for the record.</p>	<p>Ms. Adams moved to receive item KPC 2019-13 for the record. Vice Chair Morita seconded. The motion carried 6:0.</p>
<p>KPC 2019-14</p>	<p><u>Discussion and decision-making on establishing a Permitted Interaction Group to investigate the results of the recent chief of police selection process and make recommendations to amend Section 11.04, Chief of Police, of the Kaua'i County Charter regarding the qualifications for the chief of police.</u></p> <p>Chair Hertog asked for three volunteers to serve on the PIG. Chair Hertog, Ms. Adams and Mr. Mince volunteered to serve on the PIG.</p>	<p><u>Motion No. 1</u> Vice Chair Morita moved that a PIG be established. Mr. Pigao seconded the motion. The motion carried 6:0.</p> <p><u>Motion No. 2</u> Mr. Pigao moved that Commissioners Hertog, Adams and Mince serve on the PIG to investigate the results of the recent police chief selection</p>

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		process and make recommendations to amend Section 11.04, Chief of Police, of the Kaua'i County Charter regarding the qualifications for the chief of police. Vice Mr. Bahouth seconded the motion. The motion carried 6:0.
KPC 2019-15	<p><u>Discussion and decision-making on establishing a Permitted Interaction Group to investigate the requirements of the Rules on Administrative Practice and Procedure for the County of Kauai Police Commission with regard to charter Section 11.03(C) concerning the receipt, consideration, and investigation of charges brought by the public against the conduct of the department or any of its members, and present findings and recommendations to the commission.</u></p> <p>Chair Hertog explained that the purpose of forming a permitted interaction group is to address the issues surrounding an officers testifying Garrity Rights to ensure that no violations occur. Chair Hertog asked for three volunteers to serve on the PIG. Commissioners Bahouth, Pigao and Hertog volunteered to serve on the PIG.</p>	<p><u>Motion No. 1</u> Ms. Adams moved that a PIG be established. Chair Hertog seconded the motion. The motion carried 6:0.</p> <p><u>Motion No. 2</u> Mr. Pigao moved that Commissioners Hertog, Bahouth and himself Adams and Minee serve on the PIG to investigate the requirements of the Rules on Administrative Practice and Procedure for the County of Kauai Police Commission with regard to charter Section 11.03(C) concerning the receipt, consideration, and investigation of charges brought by the public against the conduct of the department or any of its members, and present findings and recommendations to the commission. The motion carried 6:0.</p>

BUSINESS	DISCUSSION	ACTION
<p>Executive Session KPC 2018-031</p>	<p>Pursuant to Hawai‘i Revised Statutes §92-4, §92-5 (a) (4) the purpose of this Executive Session is for the Commission to consult with its attorney on issues pertaining to the Commission’s powers, duties, privilege immunities, and or liabilities as they may relate to a discussion and possible decision-making on the Police Commission’s administrative rules and the powers of the Police Commission under State Law and the County Charter, laws and policies. (On-going)</p>	<p>At 9:40 a.m. Ms. Adams cited the following Hawai‘i Revised Statutes to bring the meeting into Executive Session.</p>
	<p>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 or employee in the Kaua‘i Police Department, where consideration of matters affecting privacy will be involved, provided that if the individual requests an open meeting, an open meeting shall be held; and to consult with its attorney on issues pertaining to the Commission’s powers, duties, privileges, immunities, and or liabilities as they may relate to the following agenda items.</p>	
<p>ES KPC 2019-001</p>	<p>Monthly update by Office of Professional Standards Lieutenant Scott Williamson on the status of the Department’s disposition on formal notarized complaints that were filed with the Kaua‘i Police Department, and formal notarized complaints that were filed with the Police Commission and referred to the Office of the Chief for further review.</p>	
<p>ES KPC 2019-002</p>	<p>Monthly update by Police Chief Todd Raybuck or his designated representative on any significant adverse incidents/events involving personnel in the Kaua‘i Police Department that could potentially impact the County, the Police Commission and the Kaua‘i Police Department.</p>	
<p>ES KPC 2019-010</p>	<p>Copies of three communications dated May 7, 2019 regarding the Police Commission’s response to a complaint that was filed by a Sergeant in the Kaua‘i Police Department alleging workplace retaliation.</p>	
<p>ES KPC 2019-011</p>	<p>New notarized complaint received on May 8, 2019 filed against an employee in the Kaua‘i Police Department. The complainant alleges abuse of power and position to place the complainant under surveillance and bear false witness against the complainant.</p>	

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<p>ES KPC 2019-013</p>	<p>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 Executive Session meeting minutes of March 22, 2019 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 agenda item.</p>	<p>At 9:45 a.m. Ms. Adams moved to enter into Executive Session. Vice Chair seconded the motion. The motion carried 6:0 and the meeting entered into Executive Session.</p>
<p>Return to Open Session to Ratify the actions taken in Executive Session</p>	<p>At 10:55 a.m. the Commissioners reconvened in Open Session. Chair Hertog called for a motion to ratify the actions taken in Executive Session.</p>	<p>Ms. Adams moved to ratify the actions taken for the following Executive Session items. Mr. Bahouth seconded the motion. The motion carried 4:0.</p> <p>ES KPC 2018-031: Done</p> <p>ES KPC 2019-001: The Commissioners received a briefing by Lt. Williamson on the status and disposition of the notarized complaints. There was a motion, a second and a vote of 6:0 to receive the Monthly Reports for the record.</p> <p>ES KPC 2019-002: Chief Raybuck had nothing significant to report.</p> <p>ES KPC 2019-010: There was a motion, a second and a vote of 6:0 to receive all three communications dated May 7, 2019.</p>

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		<p>ES KPC 2019-011: Citing a conflict of interest and recusal in that Commissioners Morita and Pigao are members of the Board, the party named in the complaint sits on were excused from participating in the discussion and decision-making. There was a motion, a second and a vote of 4:0 to refer the Complaint to the Office of the Chief for further investigation.</p> <p>ES KPC 2019-013: There was a motion, a second and a vote of 4:0 to approve the Executive Session Meeting Minutes of April 30, 2019.</p>
Adjournment	Chair Hertog called for a motion to adjourn.	<p>There was a motion by Ms. Adams to adjourn the meeting. Mr. Bahouth seconded the motion and it carried 4:0. At 10:55 a.m. the meeting was adjourned.</p>

Submitted by: _____
 Mercedes Omo, Staff Support Clerk

Reviewed and Approved by: _____
 Roy Morita, Vice Chair

- () Approved as circulated on
- (x) Approved as amended. See minutes of June 28, 2019 meeting.