

**DRAFT MINUTES OF THE LAW ENFORCEMENT OFFICER INDEPENDENT
REVIEW BOARD MEETING**

JANUARY 21, 2020

**Leiopapa A Kamehameha, State Office Tower
235 South Beretania Street, Room 203
Honolulu, Hawaii 96813**

The meeting was called to order at approximately 9:45 a.m. by Vice-Chair, the Honorable Barbara Richardson (retired). Board members present were Katy Chen, Lance Goto, Jay Kimura, the Honorable Boyd Mossman (retired), Kevin Takata and Gary Yabuta. Margaret Ahn, deputy attorney general for the Board, was also present. Absent was Chair, the Honorable Iwalani White (retired). A replacement for member Melissa Pavlicek has not yet been selected. No one from the public was present.

How to apply §28-153(h), Hawaii Revised Statutes (HRS)—the release of the Board’s recommendation upon the adjudication of any criminal prosecution or proceeding:

There was a discussion on whether to release the Board’s recommendation if a prosecutor declines to prosecute and what to do if a prosecutor does not indicate whether there will be a prosecution. Kevin Takata moved to treat a prosecutor’s decline of a case as an “adjudication” triggering the release of the Board’s recommendation. That motion was seconded by the Honorable Boyd Mossman. Mr. Takata amended that motion to include the situation where a prosecutor has not indicated whether there will be a prosecution, a written request for a decision will be sent and a reasonable time to respond will be provided. If the prosecutor requests more time to respond, more time will be provided. If the prosecutor does not respond, that will be handled as an “adjudication.” That amendment was seconded by the Honorable Boyd Mossman and Vice-Chair, the Honorable Barbara Richardson. The motion, as amended, was unanimously approved.

When the Board has agreed on a recommendation, all reports, documents and information received shall be returned to the law enforcement agency that provided them and those materials shall not “accompany” the Board’s recommendation. Only the Board’s recommendation will be released.

Justin Waiki case:

The Board then proceeded to discuss whether to release its recommendation in the incident involving decedent Justin Waiki. Hawaii County prosecutor Mitch Roth stated that prosecution was declined in a letter. Vice-Chair Richardson moved to release the Board's recommendation. Mr. Takata seconded that motion, which was unanimously approved.

Katy Chen moved to release the Waiki recommendation, and future Board recommendations, by posting to the Board's public facing website after a hard copy is sent to Hawaii County police chief Paul Ferreira. Mr. Takata seconded that motion. That motion was unanimously approved.

Renie Cablay case:

There was a motion by Vice-Chair Richardson to go into executive session to discuss the Renie Cablay case pursuant to §28-153(g), H.R.S. Jay Kimura seconded the motion, which was unanimously approved and the Board went into executive session at approximately 10:15 a.m.

The Board exited executive session at about 10:35 a.m. Kevin Takata stated that reports, documents and information received from law enforcement agencies are either returned to the agency or destroyed after the Board has agreed upon a recommendation to either prosecute, decline prosecution or conduct further investigation. Kevin Takata moved to adjourn, which was seconded and unanimously approved. The meeting was adjourned at about 10:39 p.m.