

**LAW ENFORCEMENT OFFICER INDEPENDENT REVIEW BOARD
TUESDAY, NOVEMBER 2, 2021, 9:00 AM**

THIS MEETING WAS HELD AS A VIDEO CONFERENCE
PURSUANT TO THE GOVERNOR'S EMERGENCY
PROCLAMATION RELATED TO THE STATE'S COVID-19
DELTA RESPONSE, DATED OCTOBER 1, 2021.
MEMBERS OF THE PUBLIC JOINED IN
THE ZOOM WEBINAR MEETING.

MINUTES

I. Call to Order; Public Notice; Roll Call and Quorum Determination.

The meeting was called to order by Board Chair Gary Yabuta.
Present were Board Members: Chair Gary Yabuta, Assistant Chair Barbara Richardson,
Judge Barbara Takase, John Tam, Katy Chen, Lance Goto, Landon Murata, and
Dr. Bettina Ackermann.

II. Public Testimony.

No Public Testimony Provided

III. Approval of Minutes for October 5, 2021 meeting

Judge Barbara Richardson moved to approve the Open Session minutes for the October 5, 2021 meeting; second by Landon Murata. Roll call vote taken – all except Katy Chen voted in support of approving the minutes. Board member Chen abstained because she did not attend the October 5, 2021 meeting. Open Session minutes approved.

Landon Murata moved to approve the Executive Session minutes for the October 5, 2021 meeting; second by Dr. Bettina Ackermann. Roll call vote taken – all except Katy Chen voted in support of approving the minutes. Board member Chen abstained because she did not attend the October 5, 2021 meeting. Executive Session minutes approved.

IV. New Business.

A. Report to the Legislature

The Board reviewed the draft report included in the Board packet.

The Board also reviewed and discussed the summary drafted by Dr. Ackermann. Dr. Ackermann stated that her summary is intended to explain what the Board is statutorily mandated to do as well as what's outside the scope of the Board's responsibilities. Discussion had about whether Dr. Ackermann's summary should be included in Part I to express the concern that the Board's functions may be misunderstood or misconstrued by some members of the public, or if it should be included as a recommendation to the Legislature to amend the existing statute to be more specific as to Board's duties and functions. Judge Richardson suggested that it should replace Part I, commenting on the Board's duties, in addition to the Board's duty to review the fairness of the investigation. Dr. Ackermann shared that it was not intended to be a recommendation, but a reflection of what members of the public have expressed to make sure the Legislature understands the Board's narrow task to determine the fairness of an investigation and make a recommendation to prosecute, decline prosecution, or investigate further.

Katy Chen noted a comment in the chat. Landon Murata stated that public testimony is taken only at the beginning of the meeting. Renee Sonobe Hong explained the posted Notice and Agenda states that public testimony will only be taken at the beginning of the meeting. Testifiers will be limited to three minutes per agenda item. If the Chair, however, wants to entertain testimony after the public testimony is closed, that is left to the Chair's discretion. The Chair elected to continue with the meeting. Renee Sonobe Hong noted that all members can read the chat. The chat from Carolyn Eaton read: "If you're familiar with a front-page article in the Sunday NYT, this expansion of considerations leading up to an officer-involved death is a very important issue."

Lance Goto noted that in Part I, the title needs to be changed to the Law Enforcement Office Independent Review Board.

Discussion had about meaning of "case review tabled" in the statistics section under Part II. Chair Yabuta indicated he would revise and incorporate changes.

Discussion had on Recommendation #1 under Part IV of the report:

Lance Goto explained that HRS section 26-35.5 provides that the Department of the Attorney General will provide legal representation to board members when board members are being subjected to civil liability or civil action. Section 26-35.5 is different from what Recommendation #1 in the draft report is intended to do. Recommendation #1 addresses when a board member is being subpoenaed or is being required to appear or participate in judicial hearing or deposition as a witness. He noted that depositions are not judicial proceedings.

The Board discussed the proposal submitted by Lance Goto to replace Recommendation #1:

"A Board member or a former Board member who is required by the court to appear and/or participate in a civil or criminal judicial proceeding in which the Board member or former Board member is not a party or in a deposition, and that participation is related to any Board action shall be represented by the Department of the Attorney General,

provided the Board member or former Board member makes a written request for such representation.”

The Board discussed and made revisions. Revisions made to Recommendation #1 will be incorporated into the final draft of the report to be distributed at the December meeting.

Landon Murata moved to include Dr. Ackermann’s recommendation as a second paragraph to Part I. Second by Judge Takase. John Tam asked for the specific language and discussion had. John Tam shared that the language appears as if the Board is requesting direction that in addition to its current statutory duties, the Board also comment on training and whether the police action was appropriate. Judge Richardson suggested that the statement can be revised to state that it would be outside the purview of the Board to comment. John Tam shared that he would not be comfortable coming up with recommendations as to how the police could have handled the situation differently with adequate training. The Board agreed to the revisions made during the discussion, and the revisions will be included in the final draft for the next meeting.

Katy Chen clarified that her position as CEO is held with Goodwill Hawaii.

Dr. Ackermann corrected the spelling of her name.

Discussion about the statistical categories. The Board agreed upon: (1) case submission reviewed, (2) written recommendations issued, (3) written recommendations published.

Landon Murata moved to approve amendments constructed by the Board at this meeting in addition to Lance Goto’s revisions to recommendation #1 regarding board representation. Second by Judge Richardson. Roll call vote taken. Motion unanimously carried.

- B. Review case submissions
- C. Finalize recommendation letters
- D. Determine next case submissions for review

Dr. Ackermann moved for the Board to go into executive session pursuant to sections 28-153(g) and 92-5(a)(8) for the purposes of reviewing cases submitted to the Board, finalizing recommendation letters, and determining the next cases for review. (Items IV. B, C, and D on the agenda.) Second by Landon Murata. No objections. The Board went into executive session.

After returning to open session from executive session, Chair Yabuta reported that the Board reviewed two cases submissions and approved three recommendation letters that will be sent to the prosecutors. The Board will continue to review more cases.

V. Adjournment.

John Tam moved to adjourn. Second by Judge Richardson. Motion carried. Board member Katy Chen was absent when the Board returned to open session. Meeting adjourned.