

HONOLULU POLICE COMMISSION  
City and County of Honolulu  
State of Hawaii  
Minutes of the Regular Meeting  
March 1, 2017

CALL TO ORDER                      Chair Sword called the meeting to order at 2:00 p.m. on Wednesday, March 1, 2017, in Conference Room A at the Honolulu Police Department Alapai Headquarters

PRESENT                                Max J. Sword, Chair  
Cha Thompson, Vice-Chair  
Luella T. Costales, Member  
Eddie Flores, Member  
Steven H. Levinson, Member  
Loretta A. Sheehan, Member  
Marc C. Tilker, Member  
  
Daniel W. S. Lawrence, Executive Officer  
Krishna F. Jayaram, Deputy Corporation Counsel  
Erin Marie Yamashita, Secretary

ALSO PRESENT                      Cary N. Okimoto, Acting Chief of Police  
William R. Axt, Acting Deputy Chief  
Alan K. Bluemke, Assistant Chief  
Clyde K. Ho, Assistant Chief  
Clayton G. Kau, Assistant Chief  
Richard C. Robinson, Assistant Chief  
Craig T. Uehira, Major  
Lynne Uyema, Legal Advisor

ASCERTAINMENT OF QUORUM                      Counsel Jayaram ascertained that a quorum was present

Chair Sword informed those in attendance the agenda would be taken out of order and requested Acting Chief Okimoto begin with the updates of the Peyton Valiente investigation as well as the two other updates concerning Mr. Vierra and Mr TaTaii.

UNFINISHED BUSINESS

Update on Peyton Valiente Investigation

With regard to the update concerning the Peyton Valiente investigation, Acting Chief Okimoto reported the audit of the investigation has been completed, he personally reviewed the case, and was personally disappointed with how the investigation was handled. He also stated that policies and procedures were followed; however, the investigation did not move as quickly as he thought it could. As a result, witnesses and/or potential suspects had already secured attorneys. The case is still open and HPD continues to try and gather more evidence to take the case to the Prosecutor's Office. Acting Chief Okimoto apologized to the family and stated he could not comment any further.

Acting Chief Okimoto informed commissioners audits of the other cases are completed and three cases are currently being revisited.

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### Update on Peyton Valiente Investigation (Continued)

Commissioners wanted to know if there was a timetable available for the completion of the case. Assistant Chief Robinson reported HPD has been in contact with the Prosecutor's Office and has asked them to look at different investigative options. The outcome may not be positive because HPD may not be able to obtain enough proof for prosecution. Commissioners further questioned Assistant Chief Robinson on why prosecution would be difficult to which he added that the pace at which the investigation was conducted and witnesses are no longer coming forward voluntarily. The amount of proof HPD has as this time does not appear to be enough and that the only way to compel people to testify would be an investigative grand jury.

Commissioners wanted to know if there was enough evidence to turn the case over to the Prosecutor's Office so they could initiate the investigative grand jury process and if there were other charges being considered. Assistant Chief Robinson informed commissioners HPD is going to try every possible option but does not want to give false hope.

Commissioners inquired about the status of the three other cases now being revisited. Assistant Chief Robinson reported those cases are considered serious harm cases—cases in which there is serious or substantial bodily injury to a child. Over the last three years there were 112 cases and of the 112 cases, 44 are criminal. There are a lot of accidents that are investigated to ensure there was no criminality. Out of the 44 cases with various dispositions, six were declined by the Prosecutor's Office and 13 were pending further developments. The 13 cases were the ones reviewed. Out of the 13 cases reviewed by the lieutenant in charge of the detail as well as the violent crimes captain, who was a child abuse investigator, more investigative work is being done on three cases. Commissioners wanted to know how old the three cases were to which Assistant Chief Robinson responded 2015, and 2014 respectively.

The recent article published in Civil Beat concerning which agency was responsible for notifying other parents of the incident, that Mrs. Ramos had been disqualified from participating in the Child Care Connection Program, and how the Department of Human Services (DHS) made its determination in the disqualification of Mrs. Ramos were also discussed.

Assistant Chief Robinson informed commissioners that the article was inaccurate and the Ramos' were interviewed. Mr. Ramos was not present at the time of the assault and the adult daughter was interviewed.

### Update on Antonio Vierra Complaint

Acting Chief Okimoto reported HPD has identified the suspect, and he is currently wanted for unlicensed contractor fraud in the second degree and theft second. There were five victims none of which are Mr. Vierra; however, HPD has updated Mr. Vierra as to the progress of the cases.

### Update on Steve TaTaii Complaint

Acting Chief Okimoto reported that officers responded properly when responding to a 911 call of a male exposing himself and subsequently arrested the individual. Officers spoke with the person who called 911 and her story was different from what Mr. TaTaii had stated.

#### CHIEF OF POLICE REPORT

Acting Chief Okimoto reviewed the following upcoming events HPD will be participating in:

- March 4, 2017, Keiki IDs at the Kaala Elementary School Annual Family Health and Wellness Fair, 10 a.m. to 1 p.m.
- March 8, 2017 HPD's 2016 Fourth Quarter Recognition Ceremony at McCoy Pavilion from 10:30 to 11:30 a.m.
- March 9, 2017 Coffee With a Cop at the McDonald's Moanalua Shopping Center from 8:30 to 10:30 a.m.

Commissioners were also informed the Community Policing Calendar referencing HPD community events is available on the HPD's website.

#### Traffic Statistics

Acting Chief Okimoto reported six fatalities this year compared to five in 2016. Enforcement actions will be taken with regard to DUI, speeding, and distracted driving.

#### Legislative Update

House Bill 456 relating to the release of an officer's name when the officer has received a suspension twice in a five year period passed first reading as did its companion bill, Senate Bill 424. The Honolulu Police Department provided testimony in support of both bills.

#### Questions by Commissioners

Commissioners wanted to know what type of de-escalation techniques or protocol officers are taught and related the discussion to the article of the officer-involved shooting in Aiea in the Star Bulletin.

Acting Chief Okimoto informed commissioners that de-escalation is a concern with police departments nation wide. HPD has patterned training to include de-escalation. Acting Chief Okimoto's comments related to this incident were limited because the investigation is ongoing. He did inform commissioners that officers attempted to de-escalate the situation and were heard trying to speak with the occupants of the vehicle for a while in order to get them to exit the vehicle and that he is not sure how the incident could have ended any differently with the actions the driver of the vehicle took.

Commissioners also mentioned an article concerning fist fights at Waianae Intermediate and Waianae High Schools and wanted to know if the Community Policing Team in that area was taking any action. Acting Chief Okimoto informed commissioners that if HPD is aware of an incident involving schools, HPD's presence at the school will be increased in order to deter the activity. He will have someone contact the principals of the schools to see if HPD can assist and will report at the next meeting.

#### APPROVAL OF MINUTES

Commissioner Flores made a motion to approve the January 4 and 18 and February 1, 2017, meeting minutes. Commissioner Thompson seconded the motion. By a unanimous vote, the motion carried. Commissioners requested documents provided by speakers be attached to minutes distributed.

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### PUBLIC TESTIMONY

#### Mr. Elliot Domaleski

Mr. Domaleski attended the meeting in order to make commissioners aware of his concern regarding trash on the streets, in the streams, rivers, and oceans. Mr. Domaleski volunteers and picks up trash when he is at the beach, riding his bicycle or walking around town. He expressed his frustration of being referred from agency to agency when attempting to get trash picked up and provided the example of large items at parks and beaches. He feels taking care of the land is very important and encouraged agencies to work together to cite persons littering and pick up the trash.

#### Ms. Chelsea Valiente

Ms. Valiente and her husband attended the meeting in order to find out the status of their son's investigation. She shared they are very disappointed in what was reported and expressed her concern for the investigative process followed because she did reach out to the detective investigating the case, the DHS social worker, and the investigator who is overseen by the Department of Human Services.

She also expressed the Valiente family's disappointment in hearing the case was going to be reinvestigated from the news rather than directly from HPD. Ms. Valiente shared that it was just yesterday that Lieutenant Ozeki reached out to her to discuss the status of the investigation.

Commissioners thanked the Valientes for attending the meeting and requested the family be updated about the case, as they agreed the family should not learn of developments from the media. Those conducting investigations or news reporting should also be considerate in certain situations. Assistant Chief Robinson will meet with the family to answer any questions they may have.

### UNFINISHED BUSINESS

Commissioner Costales made a motion to add protocol for the placement of items on the agenda to the agenda under unfinished business item one. Commissioner Flores seconded the motion. By a unanimous vote, the motion carried.

Protocol for Placement of Items on the Agenda, Obtaining Documents for Review, Issuing Police Commission Subpoenas, and Procedures for Future Evaluations of the Chief of Police  
Commissioner Levinson shared his concern with the majority requirement for placement of items on the agenda and issuing Police Commission subpoenas. Because such actions were not formal actions under Chapter 91, Commissioner Levinson suggested that the majority vote should be based on the number of commissioners at the meeting not the entire commission. Commissioners agreed to allow Commissioners Sheehan and Levinson to revise the proposals.

Commissioners discussed the issuing of subpoenas and what type of criteria would be taken into consideration should a commissioner want to issue a subpoena.

Protocol for Placement of Items on the Agenda, Obtaining Documents for Review, Issuing Police Commission Subpoenas, and Procedures for Future Evaluations of the Chief of Police (Continued)

Commissioners discussed the creation of a survey that would be sent to HPD employees using a selected vendor. Commissioners would then be able to use the survey as a tool when evaluating the chief of police. The concerns of a survey being anonymous, contracting for a 360 survey, crafting of questions, and inclusion of civilian staff was discussed. Chair Sword will discuss the survey further with Chief Okimoto.

Legislative Update

Chair Sword informed commissioners both bills relating to the one year residency requirement continue to move forward and should cross over between the House and Senate.

Selection Process for the Next Chief of Police

EO Lawrence informed commissioners he continues to work with Assistant Chief Axt, Major Uehira on budget issues related to the selection process as well as the Department of Human Resources and the Department of Budget and Fiscal Services on the job announcement and solicitation for a consultant.

EXECUTIVE SESSION

At 2:51 p.m. Commissioner Tilker made a motion to enter into executive session to review agenda items pursuant to HRS 92-5(a), subsections (2), (4), (5), (6) and (8): to consider the hire, evaluation, dismissal, or discipline of an officer or employee or of charges brought against the officer or employee, where consideration of matters affecting privacy will be involved; to consult with its attorneys on questions and issues pertaining to the Board's powers, duties, privileges, immunities and liabilities; to investigate proceedings regarding criminal misconduct; to consider sensitive matters related to public safety or security; to deliberate or make a decision upon a matter that requires the consideration of information that must be kept confidential pursuant to state or federal law, or a court order. Commissioner Flores seconded the motion. By a unanimous vote, the motion carried.

RETURN TO OPEN SESSION

The Commission returned to the open session at 4:55 p.m.

ANNOUNCEMENTS

The next meeting of the Honolulu Police Commission will be on March 15, 2017.

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ADJOURNMENT

At 5:00 p.m. Commissioner Flores made a motion to adjourn the meeting. Vice-Chair Thompson seconded the motion, by a unanimous vote, the motion carried.