

HONOLULU POLICE COMMISSION
City and County of Honolulu
State of Hawaii
Minutes of the Regular Meeting
July 5, 2017

CALL TO ORDER Chair Sword called the meeting to order at 2:00 p.m. on Wednesday, July 5, 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
Steven H. Levinson, Member
Loretta A. Sheehan, Member

Daniel W. S. Lawrence, Executive Officer
Krishna F. Jayaram, Deputy Corporation Counsel
Erin Marie Yamashita, Secretary

EXCUSED Eddie Flores, Member

ALSO PRESENT Cary N. Okimoto, Acting Chief of Police
William R. Axt, Acting Deputy Chief
Clayton G. Kau, Acting Deputy Chief
Lynne Uyema, Legal Advisor

ASCERTAINMENT OF QUORUM Counsel Jayaram ascertained that a quorum was present

CHIEF OF POLICE REPORT

Acting Chief Okimoto reviewed upcoming events which the Honolulu Police Department (HPD) provided commissioners with a listing of and highlighted the following upcoming events:

- June 6, 2017, The 185th Recruit Class Graduation, 7 p.m. at the McKinley High School Auditorium
- July 12, 2017 District 8 Coffee With a Cop at the McDonalds on Fort Weaver Road
- July 19, 2017 at the Starbucks located at the Waianae Mall

Traffic Statistics

There have been 22 fatalities to dated compared to 28 in 2016 and 27 in 2015 during the same time. Officers issued 9,178 speeding citations, 715 seat belt citations, 347 pedestrian citations, and 359 mobile electronic citations and made 342 OVUII arrests, island wide for the month of June.

Acting Chief Okimoto informed commissioners they would be continuing enforcement in order to keep collisions down.

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Automated License Plate Reader

There were 257,706 detections made in June 2017. Twenty-four detections were for stolen vehicles, 44 for stolen license plates, two were wanted vehicles and two arrests were made.

Events on Fourth of July

There were two events yesterday, the Flotilla event and Fourth of July fireworks show. With regard to the Flotilla, officers were ready to deal with incidents related to underage drinking and highly intoxicated individuals.

The Fourth of July fireworks event at Ala Moana Regional Park went well.

Other Related Issues

Acting Chief Okimoto informed commissioners the Communications Division currently has a bed bug problem. Exterminators have been called and employees have been relocated to the Kapolei Police Station until extermination is complete. It is unclear where the bed bugs originated from.

Questions and Comments by Commissioners

Coffee With A Cop

Commissioner Costales complimented the success of the Coffee With A Cop events and requested Acting Chief Okimoto consider having officers share traffic statistics and what types of enforcement are being conducted in the respective districts. Acting Chief Okimoto informed commissioners that officers bring up issues relative to the communities where the event is being held and persons attending also share their community concerns.

Senate Bill 410, Relating to Collective Bargaining

Following up on a memo from Acting Chief Okimoto to the Commission concerning SB 410, Commissioner Sheehan wanted to know if the Governor has signed SB 410, and how the bill would limit HPD operations. Acting Chief Okimoto informed commissioners it is HPD's interpretation that under SB 410 potentially all personnel issues would have to be negotiated and the Chief cited HPD personnel movements and the promotion process for civilian and sworn employees as examples of things that would have to be negotiated with the respective unions.

Chair Sword informed commissioners that SB 410 is currently on the Governor's veto list.

Commissioner Sheehan then asked if it would be appropriate for the Police Commission to write a letter to the governor providing the Commission's view of the bill. Acting Chief Okimoto could not answer whether or not it was appropriate for the Commission to send a letter to the governor, and that it was his intent to inform commissioners of the effect SB 410 would have on the operations of HPD and that is why he provided commissioners with the memo about SB 410.

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Grant Submissions

Commissioner Sheehan wanted to know if HPD had applied for any of the grants mentioned in an HPD information notice such as the Byrne Grant and the COPS Microgrant. Acting Deputy Chief Axt informed commissioners eight applications were submitted by HPD to the Byrne Grant this year and that funds are prioritized between city and state agencies.

APPROVAL OF MINUTES

Commissioner Levinson made a motion to approve the May 17, 2017, meeting minutes. Vice-Chair Thompson seconded the motion.

Discussion: None.

Vote: By a unanimous vote, the motion carried.

PUBLIC TESTIMONY

None.

NEW BUSINESS

Report on Actions

With regard to the executive session of May 3, 2017, Commissioner Costales reported the Commission approved the April 5, 2017 executive session minutes. No complaints were reviewed by the commissioners. She then made a motion to accept the report.

Commissioner Vice-Chair Thompson seconded the motion.

Vote: By a unanimous vote, the motion carried.

Consultation With Counsel on SB 410

Chair Sword entertained a motion to sunshine the discussion and consultation with counsel relating to SB 410 to the agenda. Commissioner Levinson then made a motion to add discussion and consultation with counsel relating to SB 410 to the agenda.

Vice-Chair Thompson seconded the motion.

Vote: By a unanimous vote, the motion carried.

Comments by Commissioners

Chair Sword thanked Acting Chief Okimoto and members of HPD for meeting with Mr. Lei Thompson, Commissioner for Public Safety, of American Samoa.

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UNFINISHED BUSINESS

Selection Process for the next Chief of Police

Executive Officer Lawrence reported good progress on procurement and that one consultant is in the final procurement phase and negotiations with the other consultant will happen this week. Courtesy letters were sent to qualified applicants indicating there has been a delay and the process has not moved along without them.

Commissioner Levinson expressed concern regarding the length of time in securing consultants and whether or not there was any permitted input from the Commission. Commissioner Levinson further noted that it is the Commission's job to hire a police chief and if retaining a consultant is part of the process the Commission would have some instrumentality in the process.

Executive Officer Lawrence explained that the standard process for procuring professional services is being followed as directed by State and City agencies. He has been working with the Purchasing Division of Department of Budget and Fiscal Services. Historically, the Executive Officer's responsibility was to handle the administrative portion of securing a consultant which commissioners were not involved with. Executive Officer Lawrence and Chair Sword will participate in the conference calls in order to define services and set up expectations for the consultant. Once the consultants are secured, they will meet with the Commission as a whole in order for commissioners to provide input to the consultant.

Commissioner Costales requested an updated timeline for the selection process. Executive Officer Lawrence informed commissioners he was not comfortable providing a hard timeline and that once the consultant is engaged the timeline will be more definite.

Commissioners wanted to know if the difficulty in securing a consultant was due to the scope of work and cost to which Executive Officer Lawrence explained that other types of consultants have total control of the hiring and would screen candidates and provide a lists of finalists whereas the Honolulu Police Commission is not giving the consultant the authority to screen applicants but requires the consultant to assist in other ways.

Commissioner Levinson asked if there would be a contract with the consultant. Executive Officer Lawrence answered in the affirmative and that the contract would be between the consultant and the City.

Commissioner Costales wanted to know how long the Commission has been using a consultant to select a chief. Executive Officer Lawrence said consultant were use in 2004, 2009 and several times before.

Commissioner Sheehan suggested asking for an increase in the budget and using a firm to head hunt in order to fold more candidates from the mainland who may be suited for the job. Executive Officer Lawrence indicated it may be a little late in the process as the vacancy was posted and applications have been collected. Commissioner Sheehan agreed and said this could be considered for future selection processes.

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Selection Process for the next Chief of Police (Continued)

There was much discussion on services offered by consultants, the importance of the consultant being familiar with the city and county, and what role the Honolulu Police Commission envisions for a consultant.

Proposed Amendments to Honolulu Police Commission Rule 10 and Rule 11

Executive Officer Lawrence informed commissioners that Corporation Counsel would like to discuss the issue at a subsequent meeting, prior to public notice being posted. Commissioners agreed the meeting with Corporation Counsel should be at the July 19, 2017 meeting as not to delay the process.

EXECUTIVE OFFICER'S REPORT

Executive Officer Lawrence reported the Commission has received 46 complaints to date and that the number of the complaints last year during this time was 47 complaints. Of the 46 complaints, there are 14 pending investigation, 17 complaints have been referred to the HPD's Professional Standards Office, one complaint was withdrawn, and three complaints were serviced with the Honolulu Police Commission's Public Service Report.

Commissioner Sheehan requested an updated from EO Lawrence on the status of additional information for conducting a survey. EO Lawrence reported no change since the last meeting and that he will communicate with the permitted interaction group.

EXECUTIVE SESSION

AT 2:29 p.m., Vice-Chair Thompson 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 Costales seconded the motion.

Vote: By a unanimous vote, the motion carried.

RETURN TO OPEN SESSION

The Commission returned to the open session at 3:10 p.m.

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PROCEDURES FOR HRS 52D-8 AND -9 CONSTESTED CASE HEARINGS

Commissioner Costales made a motion for contested case hearings to be held in open unless otherwise requested by the officer requesting legal counsel.

Vice Chair Thompson seconded the motion.

Discussion: Commissioner Levinson stated he intends to vote in favor reserving the prerogative after he has reviewed the two federal appellate court decisions. Additionally, Commissioner Levinson indicated that he could change position in the event of a request by the media to cover the contested case hearing to recognize the right of the media to be present.

Commissioner Sheehan stated she intends to vote against the motion because she does not feel she has a sufficient basis to analyze the due process argument under Freitas, the issue of excluding the media from contested case hearings and wishes to do more research into the First Amendment issue and whether the Commission would be violating the U. S. Constitution and the Hawaii State Constitution by creating a rule which would impede the freedom of the press.

Commissioner Levinson also mentioned that the subject of the press did not come up in Freitas at all.

Vote: Commissioners Sword, Thompson, Levinson and Costales voted in favor of the motion. Commissioner Sheehan voted against the motion. By a vote of four to one, the motion passed.

Senate Bill 410, Letter to Governor Ige Urging Veto

Commissioner Sheehan made a motion requesting Executive Officer Lawrence and Chair Sword to draft a letter and to communicate with Governor Ige urging his veto of SB 410. Commissioner Levinson seconded the motion.

Discussion: None.

Vote: By a unanimous vote, the motion carried.

ANNOUNCEMENTS

The next meeting of the Honolulu Police Commission will be on July 19, 2017.

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ADJOURNMENT

At 3:30 p. m. Vice-Chair Thompson made a motion to adjourn the meeting. Commissioner Costales seconded the motion.

Discussion: None.

Vote: By a unanimous vote, the motion carried.