

HONOLULU POLICE COMMISSION  
City and County of Honolulu  
State of Hawaii  
Minutes of the Regular Meeting  
October 18, 2017

CALL TO ORDER                      Chair Sword called the meeting to order at 2:00 p.m. on Wednesday, October 18, 2017, in Conference Room A at the Honolulu Police Department Alapai Headquarters

PRESENT                                Max J. Sword, Chair  
Cha Thompson, Vice-Chair  
Steven H. Levinson, Member  
Loretta A. Sheehan, Member

    Daniel W. S. Lawrence, Executive Officer  
Richard Lewallen, Deputy Corporation Counsel  
Erin Marie Yamashita, Secretary

ABSENT                                 Eddie Flores, Member

ALSO PRESENT                        Cary Okimoto, Acting Chief of Police  
Lynne Uyema, Legal Advisor

ASCERTAINMENT                      Counsel Lewallen ascertained that a quorum was present  
OF QUORUM

CHIEF OF POLICE REPORT

Acting Chief Okimoto reviewed upcoming events, which the Honolulu Police Department (HPD) will participate in:

- October 20, 2017 at 10 a.m. District 1 Community Policing Team White Cane Safety Awareness Walk (State Capitol to Iolani Palace)
- October 21, 2017 the District 4 Community Policing Team will have a clean up with the Malama 96744 group at the Kaneohe District Park
- October 28, 2017, National Take Back Initiative sponsored by the DEA, State Attorney General, Department of Public Safety, and HPD

Traffic Statistics

There have been 35 fatalities to date compared to 43 in 2016.

During the period of October 1 through 16, 2017, officers issued 1,298 speeding citations, 118 seat belt citations, 114 pedestrian citations, and 148 mobile electronic device citations, and made 172 OVUII arrests.

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### Questions from Commissioners

Commissioner Sheehan wanted to know if HPD or Acting Chief Okimoto had any response to the arrests made over the weekend. Acting Chief Okimoto informed commissioners the HPD will continue to cooperate with the FBI when asked.

Commissioner Sheehan and Commissioner Levinson both commended Acting Chief Okimoto on his serving as the acting chief for almost a year and congratulated him on his retirement. The other commissioners in attendance echoed Commissioner Sheehan's commendation and wished Acting Chief Okimoto well on his retirement.

Acting Chief Okimoto thanked commissioners for their well wishes and stated that he did not do the job alone and that the HPD has a great employees working every day.

### APPROVAL OF MINUTES

Commissioner Sheehan requested clarification on page eight of the minutes of September 20, 2017, and that she had not been approached by any candidate other than the one that also approached Commissioner Levinson, and that she has found it unavoidable to have to listen to people, other than candidates, who approach her and share their opinions.

Commissioner Levinson also requested an amendment to the minutes and that page four reflect the comment by Sergeant Maafala using the term "blue flu" as he personally feels the statement is absurd.

Commissioner Sheehan then made a motion to approve the amended minutes to include Commissioner Levinson's comment about blue flu, her clarification on page eight, and the proviso that the transcript would be attached to the September 20, 2017 minutes.

Vice Chair Thompson then a motion to approve the September 20, 2017, meeting minutes. Commissioner seconded the motion.

Discussion: None

Vote to approve: By a unanimous vote, the motion carried.

### PUBLIC TESTIMONY

None.

### NEW BUSINESS

#### Report on Actions

Vice-Chair Thompson reported at the Executive Session of September 20, 2017, the Commission took action on four cases involving four officers.

Complaint number HPC 17-029, involved one complainant and three officers. The complaint of Excessive Use of Force against each officer was not sustained. The complaint of overbearing conduct against one officer was not sustained.

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### Report on Actions (Continued)

Complaint number HPC 17-046, involved one complainant and one officer. The complaint of conduct unbecoming an officer was not sustained.

Complaint number HPC 17-050, involved one complainant and one officer. The complaint of overbearing conduct was sustained.

Complaint number HPC 17-051, involved one complainant and one officer. The complaint of overbearing conduct was sustained.

Commissioners also directed the executive officer to close the following complaints without referral for further investigation through the filing of a public service report:

Complaint number HPC 17-056 pursuant to Commission Rule 9-1 (c) as the complaint is not within the jurisdiction of the Commission.

Complaint number HPC 17-057 pursuant to Commission Rule 9-1 (b) and (c) as the complaint is speculative or purely hypothetical and does not involve existing facts and is not within the jurisdiction of the commission.

Vice-Chair Thompson then made a motion to accept the report. Commissioner Levinson seconded the motion.

Discussion: None.

Vote: By a unanimous vote, the motion carried.

### UNFINISHED BUSINESS

Chair Sword informed commissioners the agenda would be taken out of order and that item seven, one will be discussed upon the Commission's return to the open session after the executive session.

### Proposed Amendments to Honolulu Police Commission Rule 10 and Rule 11

Commissioner Levinson suggested that commissioners defer this agenda item to the next meeting for the following three reasons:

1. The matter of the selection of the chief is a major matter and takes precedence.
2. There is a current lawsuit pending in the Hawaii Supreme Court brought by Oahu Publications, Inc. and Civil Beat in which the decision may be useful to have as they relate to the current Rule 11.

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### Proposed Amendments to Honolulu Police Commission Rule 10 and Rule 11 (Continued)

3. Even though commissioners received a memorandum dated October 9, 2017, from the Department of the Corporation Counsel, on October 13, 2017 his last communication with Corporation Counsel Leong took place on September 22, 2017 at which time he (Commissioner Levinson) expressed various concerns with the position of COR. He then asked Ms. Leong on September 22, 2017, to call him at her earliest possible time to discuss the matter. Commissioners then received the memorandum on October 13, 2017 and he had assumed COR had abandoned its colloquy with commissioners on the subject of Rule 10 and Rule 11. Commissioner Levinson shared he did not care for the springing of the memorandum on commissioners at the last moment and COR's expectation of commissioners to be in a position to respond.

For the above reasons, Commissioner Levinson suggested the matter be deferred to the next regular meeting. Vice-Chair Thompson asked if this he was making a motion to which Chair Sword indicated it was a motion. Commissioner Levinson made a motion that the matter be deferred to the next regular meeting. Vice-Chair Thompson seconded the motion.

Discussion: None.

Vote: By a unanimous vote, the motion carried.

Commissioner Sheehan requested clarification that the commission would take the issue up and then made a motion that the matter discussed at the next session. Commissioner Levinson stated his motion was at least until the next session and that it should be an agenda item for the next regular meeting at the beginning of November and hopefully commissioners will be able to put the matter to bed. Commissioner Sheehan reminded commissioners that there are contested case hearings coming up.

### EXECUTIVE OFFICER'S REPORT

Executive Officer Lawrence reported as of October 18, 2017, the Commission has received 67 complaints to date compared to 68 in 2016.

Commissioners were asked if they would consider having Olelo cover Commission meetings. If commissioners were interested he would proceed with talks. Commissioner Sheehan asked if the meeting locations would be moved and Chair Sword informed commissioners Olelo would telecast the meetings.

Commissioner Levinson felt it was a good idea and that Olelo is public access televisions and that the open session portion of meetings are open to the public and barring any logistical or feasible problems having the meetings televised and archived could be a benefit to commissioners.

EXECUTIVE SESSION

AT 2:24 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 Levinson seconded the motion.

Discussion: None.

Vote: By a unanimous vote, the motion carried.

RETURN TO OPEN SESSION

The Commission returned to the open session at 4:00 p.m.

ANNOUNCEMENTS

At 4:01 p.m. Commissioner Levinson made a motion to continue the executive session to October 23, 2017 at 8 a.m. at 1099 Alakea Street, Suite 2130 in order to discuss the selection process of the chief of police due to the recusal of Chair Sword and the absence of Commissioner Flores. Vice Chair Thompson seconded the motion.

Discussion: None.

Vote: By a unanimous vote, the motion carried.

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CALL TO ORDER                      Acting Chair Thompson called the October 18, 2017, meeting back to order at 8:15 a.m. on Monday, October 23, 2017, in Suite 2130 of the Alii Place Building located at 1099 Alakea Street

PRESENT                                Cha Thompson, Acting Chair  
Eddie Flores, Member  
Steven H. Levinson, Member  
Loretta A. Sheehan, Member  
  
Daniel W. S. Lawrence, Executive Officer  
Richard Lewallen, Deputy Corporation Counsel  
Erin Marie Yamashita, Secretary

RECUSED                                Max J. Sword, Chair

ASCERTAINMENT OF QUORUM                      Counsel Lewallen ascertained that a quorum was present

Selection Process for the Next Chief of Police

Executive Officer Lawrence provided commissioners with a copy of the agenda for the Public Health Safety and Welfare Committee's special meeting, which included the nomination of two new commissioners by Mayor Caldwell, Ms. Karen Chang and Mr. Gerard Gibson.

Commissioner Sheehan asked when the new commissioners would be on board, to which Executive Officer Lawrence informed commissioners the earliest possible date for the nominees to be sworn in would be November 1, 2017. A special session is scheduled for October 27, 2017 and the next full City Council meeting would be November 1, 2017.

Acting Chair Thompson then asked commissioners how they would like to proceed. Commissioner Levinson shared that he had thought of a potential form of back up voting in the event the four eligible commissioners could not reach an agreement. He then explained his weighted voting idea; however, he would like to move forward with a regular vote and consider alternatives, which may include waiting for the two new commissioners to be sworn in. Commissioner Levinson also said there are some concerns with waiting and including the two new commissioners because there has been a lot of information provided to commissioners and it may be difficult for new members to get up to speed.

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Selection Process for Chief of Police (Continued)

Vice-Chair Thompson and Commissioner Flores agree with Commissioner Levinson. Commissioner Flores stated it is critical for commissioners to pick a police chief as soon as possible and suggested a tie-breaker system, if necessary, but it must work within the law. Counsel Lewallen informed commissioners that a majority of the membership, which is four votes, is required. Commissioner Sheehan added that she, too, thinks the four commissioners can come to an agreement.

Executive Session

At 8:20 a.m. Commissioner Sheehan made a motion to enter into executive session. Commissioner Levinson seconded the motion.

Discussion: None.

Vote: By a unanimous vote, the motion carried.

RETURN TO OPEN SESSION

The Commission returned to the open session at 8:57 a.m.

ANNOUNCEMENTS

At 9 a.m. Commissioner Flores made a motion to adjourn the October 18, 2017 meeting continued to October 23, 2017. Commissioner Levinson seconded the motion.

Discussion: None.

Vote: By a unanimous vote, the motion carried.