

HONOLULU POLICE COMMISSION  
City and County of Honolulu  
State of Hawaii  
Minutes of the Regular Meeting  
December 6, 2017

CALL TO ORDER                      Chair Sword called the meeting to order at 2:04 p.m. on Wednesday, December 6, 2017, in Conference Room A at the Honolulu Police Department Alapai Headquarters

PRESENT                                Max J. Sword, Chair  
Karen Chang, Member  
Jerry Gibson, Member  
Steven H. Levinson, Member  
Loretta A. Sheehan, Member  
  
Daniel W. S. Lawrence, Executive Officer  
Richard Lewallen, Deputy Corporation Counsel  
Erin Marie Yamashita, Secretary (Exited at 4:50 p.m.)

EXCUSED                                Cha Thompson, Vice-Chair

ALSO PRESENT                        Susan Ballard, Chief of Police  
John D. McCarthy, Captain  
Lynne Uyema, Legal Advisor

ASCERTAINMENT OF QUORUM                      Counsel Lewallen ascertained that a quorum was present

CHIEF OF POLICE REPORT

Chief Ballard provided commissioners with an overview of the recent firearms permit issue.

September 2011, Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) issued a letter stating they do not recognize medical marijuana and that marijuana is still a controlled substance as far as the ATF is concerned.

November 2012 the HPD Firearms Unit began providing the ATF letter as part of the firearm permitting process. Applicants would sign, date and acknowledge that they understood the letter. Even though they were getting a permit, if they are involved in any type of marijuana use, medical or not, it was illegal HRS 134-7(a).

The Department of Health via HRS 329-123(d), provides HPD with access to the registry for law-enforcement purposes only. HPD has five accesses to enter the database, one with records and the balance with Narcotics/Vice Division.

CHIEF OF POLICE REPORT (Continued)

Review of *Wilson v. Lynch*, a case from the Ninth Circuit that is not going to be heard by the Supreme Court. HPD is interpreting the law as just having a medical marijuana permit means that you will be denied future firearms permit. A person currently in possession of a medical marijuana card does not have to give up firearms currently in possession.

December 5, 2017, statement issued indicating HPD will still continue to deny permits if a person has a medical marijuana card, but medical marijuana cardholders will no longer have to turn in firearms. HPD's interpretation, at this time is that it is not illegal to be in possession of the firearms a person may already have.

Chief Ballard reviewed the registration activity from 2016 for all counties and informed commissioners that since the beginning of 2017 there have been 35 medical marijuana firearms denials and that only two people will be contacted by HPD's Records Division to pick up their firearms, as there were only two people who turned in their firearms. The majority transferred ownership of their firearms, and one person has a temporary restraining order and cannot be in possession a firearm.

Questions from Commissioners

After the presentation, Chief Ballard answered questions from commissioners with regard to HPD's procedures in issuing firearms permits in which she informed commissioners HPD is relying upon *Wilson v. Lynch*, a Ninth Circuit decision.

Commissioner Levinson asked Chief Ballard to confirm HPD's position and that federal law prohibits gun ownership/registration by medical marijuana users. Chief Ballard responded that once a person acquires a medical marijuana card the Ninth Circuit agreed that just having the card is a reason to deny a permit and provided an example of a person already in possession of 20 firearms would be denied the 21<sup>st</sup> firearm because they have a medical marijuana card.

Commissioner Levinson then asked what the HPD's practice is with respect to members of the public who are taking controlled substances by prescription, other than medical marijuana, and if their applications were being denied. Chief Ballard responded that individuals taking controlled substances by prescription are not being denied firearms permits because the medication is a prescription drug.

Commissioner Levinson then requested clarification that a person could only obtain a medical marijuana card by prescription from a physician and if that was Chief Ballard's understanding. Chief Ballard said she was not exactly sure and Commissioner Levinson said that if it was true then he was puzzled as to why there is distinction between medical marijuana and medical opioids. Chief Ballard understood Commissioner Levinson's point and said she could not answer the question. HPD is using the information they have from the *Wilson v. Lynch* case and unless federal law is changed to include any type of prescription drugs that may be a controlled substance, if it is not prescribed by a doctor, then HPD would continue to grant the firearms permit.

Questions from Commissioners (Continued)

Commissioner Sheehan asked if it was possible, in the State of Hawaii, for a caregiver to obtain a medical marijuana card for someone else who is sick. Chief Ballard answered yes and Commissioner Sheehan then asked, if under policy, a firearm permit could be denied to the caregiver who is not a user. Chief Ballard responded that if a person possesses a registered card specifically in that person's name, his or her name would show in the database and the permit would then be denied.

Commissioner Sheehan then asked if the test under *Wilson v. Lynch* would fail because there has to be reasonable cause to believe that the person was a user of a schedule one substance. Chief Ballard said she would have to research the question because this situation is ever changing and that it was necessary for HPD to come out immediately with something because after the initial review it was found HPD's practice was incorrect.

Chief Ballard further explained that the questions HPD is basing its denial on are from the Department of Health (DOH), not HPD. Commissioner Sheehan then asked Chief Ballard if the DOH had asked HPD to send out the letter. Chief Ballard explained that the DOH provides HPD with the questionnaire an applicant answers where marijuana is concerned because the program is a DOH program, not HPD. HPD follows the DOH's guidelines and HPD is also researching what should be done if a person turns in their medical marijuana card and if they would have to wait one year to obtain a firearms permit, which the current requirement.

Commissioner Sheehan stated that federal law also prohibits a user of a Schedule One substance from possessing ammunition as well, which Chief Ballard confirmed. Commissioner Sheehan asked if the HPD's letter only restricts firearms and not ammunition to which Chief Ballard stated that HPD does not have anything to do with issuing ammunition.

Chief Ballard addressed Commissioner Levinson's previous question concerning issuing a permit to a person who has a prescription for controlled substance. She informed commissioners that marijuana is not recognized as medicine under federal law and that is why it is illegal.

Commissioner Sheehan stated that it does not make any sense that a person could keep their old guns but after being issued a medical marijuana card would be denied a permit for a new gun because a person keeping their old guns would be violating federal law. Chief Ballard stated that HPD is just considering the permit, not the guns someone already has in possession. Commissioner Sheehan said the issue is once a person gets a medical marijuana card, can they get a permit. Chief Ballard said that Commissioner Sheehan is correct that just because someone has a medical marijuana permit does not mean they are using marijuana. However, because it cannot be proven if a person is using marijuana and HPD can prove a person has a permit because they applied for one, the law says that HPD is to deny a permit to acquire because someone has a (medical marijuana) card.

Commissioner Sheehan asked if HPD's policy was born out of a desire to ensure HPD was not potentially facilitating an illegal act because there is concern that a person with a medical marijuana card could potentially be a user of a Schedule One controlled substance, and by giving them a license it potentially be facilitating an illegal act. Chief Ballard agreed and said it is also based on the interpretation of the Ninth Circuit case.

Questions from Commissioners (Continued)

Commissioner Levinson asked Chief Ballard to explain how HPD determines who is a medical marijuana cardholder and a gun owner. Chief Ballard repeated the DOH has a database/registry of cardholders to which HPD has access. When a person applies for a firearms permit, the database is accessed to find out if the applicant has a medical marijuana card. She explained that the majority of a person's information is confidential, and the only information available when the database is accessed by HPD by using a person's name and birth date is whether a person is "verified" (have a card) or "not verified" (do not have a card). If they are "verified," it means the person has a medical marijuana card and will be denied the permit. If a person is "not verified" it means they do not have a medical marijuana card and as long as they pass the other contingencies a permit will be issued.

(A copy of Chief Ballard's presentation is attached to the minutes.)

Chair Sword thanked Chief Ballard for her presentation and acknowledged commissioners are trying to work on what type of report they would like from Chief Ballard.

HPD Peer Unit

Chief Ballard shared there were some recent concerns about the HPD's Peer Unit. The unit is one in which co-workers assist each other and incorrect information that the Peer Unit was discontinued is untrue. Chief Ballard shared that she was one of the original committee members that created the Peer Unit and she felt the program was not being administered the way it was intended. The Peer Unit will go back to consisting of volunteers, not just one or two people, have more training provided to the volunteers, and when an officer needs assistance one of the volunteers on duty would respond.

NIBERS Compliant

Chief Ballard also informed commissioners HPD is the third largest police department in the United States to become NIBRS compliant, which is a good thing. She explained NIBRS is the National Incident Based Reporting System that codes and tracks crimes.

HPD Policy 8.06, Police Report Policy

Commissioner Sheehan informed Chief Ballard commissioners received a copy of HPD Policy 8.06 Police Report Policy in their mail, and she noticed some changes to the policy with regard to officers being investigated and domestic violence investigations. She wanted to know why the changes were made, and what they are about.

Commissioner Sheehan asked about the portion of the policy for the review of reports by the Records and Identification Division being responsible for reviewing reports for accuracy and completeness. Chief Ballard informed commissioners that this section has always been in the policy, and there are specific personnel positions (reports reviewers) assigned to the Records and Identification Division that review the reports to make sure reports are classified correctly. Language was added to the policy in order to make sure everything is done the way it is supposed to be done.

HPD Policy 8.06, Police Report Policy (Continued)

Commissioner Sheehan then asked Chief Ballard if officers responding are supposed to write reports to which Chief Ballard responded in the affirmative. Commissioner Sheehan then asked if officers responding to a domestic violence incident chose not to write reports, take pictures or interview witnesses, who would be responsible to review the sufficiency of the report writing or the investigation—would it be the Records and Identification Division or would it be the officer's sergeant. Chief Ballard answered it is the responsibility of the officer's direct supervisor, in most cases the sergeant, because they sign and review the report to make sure all of the required information is included. She further explained that when a report is sent to records for review, it is a way of double checking and making sure reports are correct and complete, a catch all.

Commissioner Sheehan explained that her concern is when things are not done, when reports are not written, 911 tapes not recovered, and the sergeant can just let it go through and there is no one to check on the authenticity of the investigation. Chief Ballard responded that first-line supervisors are reminded that it is important for them to make sure they review reports for completeness, and to make sure the report is complete. If the case is a misdemeanor, there is a misdemeanor follow up unit and if the case is a domestic violence (DV) case, follow up is conducted (for all DV cases) by the Criminal Investigation Division and any deficiencies are addressed at that time.

Commissioner Sheehan also asked what certain digital forms and hardcopy forms were. Chief Ballard explained the purpose of the forms and how they are used.

Chief Ballard further explained that the policy change had probably gone through the ARB prior to her becoming chief, and changes are reviewed by the assistant chiefs. Updates are done in order to improve or add anything necessary to the policy.

Escapee from Kahi Mohala

Chief Ballard reviewed the incident involving HPD's release of an escapee who had a warrant. The advisory was not associated with the police report, just the warrant and the park closure violation. The CRS system currently used should have drawn the necessary information from the old system and it did not. Necessary steps have been taken to fix the problem and officers will have to check two systems for the time being. A new RMS (records management system) is a priority for Chief Ballard.

Commissioners briefly touched upon the information they would like Chief Ballard to report on and Commissioner Chang asked Chief Ballard to provide commissioners with her expectations of commissioners.

### APPROVAL OF MINUTES

Commissioner Sheehan made a motion to approve the October 4, 18, and 23, 2017, meeting minutes. Commissioner Chang seconded motion.

Discussion: Because Chair Sword and Commissioners Chang and Gibson were not at the October 4, 18, and 23, 2017 meeting, Commissioner Sheehan withdrew her motion and commissioners decided to consult with counsel in executive session on the appropriate procedure to handle the approval of minutes and possibly have a solution after the executive session.

### PUBLIC TESTIMONY

#### Alan Mullinger

Mr. Mullinger from People Power an ACLU Grassroots Action distributed and read his letter addressed to Chief Ballard. He also asked Chief Ballard to respond to the ten questions from the May 15, 2017 letter from the ACLU to then Acting Chief Okimoto.

Commissioners expressed their confusion in what Mr. Mullinger and Mr. William Doone expect from the Commission as the questions are lengthy and are unrelated to the Commission. Commissioner Sheehan provided an example and explained that she did not understand how the Commission could oversee the purchase of vehicles by HPD and that other questions cannot be answered in a simple fashion. Commissioner Levinson also stated some questions that are legislative matters, which are outside of the control of HPD and the Commission. He also noted Mr. Caballero's attendance at a prior meeting and welcomed any future testimony from the ACLU and suggested questions be refined as they are very broad. Chair Sword agreed and said that it is the responsibility of commissioners to oversee the chief of police and not to micromanage the HPD.

Mr. Doone suggested the open-ended questions posed by the ACLU is a good way to start a conversation and that the grassroots organization could not respond for the ACLU and would defer to the ACLU in any questions they had to the May 15, 2017 letter.

#### Mr. Carl Berquist

Mr. Berquist from the Drug Forum Hawaii, was in attendance to discuss medical cannabis issue and requested an explanation of what happened during the period the letters were first sent, before the question about medical cannabis was on the firearms permit application.

Specifically, Mr. Berquist wanted to know if persons were being provided the ATF form from September 2016 and signing it until the question was added to the application. He then said he read in the media that during the period every permit application was checked against the medical cannabis database. If that was the case, it would be problematic and not in line with what the Legislature wants with regard to verification because you only verify someone as a patient.

Mr. Carl Berquist (Continued)

With regard to the opinion by the Ninth Circuit and its reference to controlled substances Mr. Berquist stated that medical cannabis is considered a controlled substance under Schedule One and the criteria for being under Schedule One is that it has no medicinal use. By being on that schedule it (cannabis) cannot be a medicine, so he is not surprised by the Ninth Circuit's ruling.

Mr. Berquist further added that while Hawaii is situated in the Ninth Circuit, it is a federal court ruling that is not binding on state courts, it is persuasive on the state courts. He added that in 2013 the Hawaii Supreme Court had a ruling about medical cannabis saying that an individual who was apprehended at the Kona International Airport with medical cannabis was entitled to go about their business. While medical marijuana is prohibited by federal law, it is approved by state law and requested HPD consider following state law rather than federal law.

On behalf of the physicians, nurses, caregivers, and patients who are involved in the medical cannabis program, the assumption that they are all possibly impaired or a danger to society is a grave insult. Mr. Berquist read an excerpt from the Ninth Circuit opinion in which the State of Hawaii disagrees because in 2000 a law was passed to legalize medical cannabis and in 2015 his organization helped get the dispensaries off the ground to regulate the system.

A policy such as HPD's could push people outside the regulated system, which would attract federal attention, rather than the state-regulated system.

Mr. Berquist also share his concern with the Attorney General's report on gun permit denials because the report lists medical cannabis patients under medical incompetence and mental impairment. This is where you see the one-year delay in getting a permit and patients should not be stigmatized in this fashion—being mentally incompetent or impaired, per say, when there are many others HPD should be focusing on.

Commissioner Sheehan asked Mr. Berquist if he was referring to a report or an opinion from the Attorney General. Mr. Berquist answered it is a yearly report called the uniform crime report and at the same provides the firearms registration report which is an annual report. Commissioner Sheehan asked for clarification and that the position of Attorney General Doug Chinn is that people who use marijuana are mentally incompetence and impaired. Mr. Berquist said that is what he infers from the report because that is the category referred to when a person is being denied a permit, and he feels there is no rationale for that inclusion. Commissioner Sheehan asked Mr. Berquist if he has ever asked the Attorney General's Office about the categorization to which he responded this is something they just discovered recently and he, too, is curious and has yet to hear from the Attorney General.

Commissioner Sheehan asked Mr. Berquist who he felt would be the person or entity to write a letter to the Attorney General asking if that is the position of the Department of the Attorney General and if it would be a legislator, since it is a state program or would it be the Commission or someone else. Mr. Berquist answered that his organization is in touch with state legislators on this issue and hopes they (the legislators) have asked the question of the Attorney General.

Mr. Carl Berquist (Continued)

Chair Sword asked if the Attorney General would be the one to make the determination on how categories are formed in the report. Commissioner Sheehan stated that it sounds like this is an opinion or policy that the Attorney General's Office has, that people who use marijuana are mentally incompetent and impaired. She also said it seemed like a great leap, which is hard to believe is the position of the Attorney General's Office. Commissioner Sheehan, in the interest of clarity, would be interested to know if that is truly the position of the Attorney General, even if it is not the Commission's role.

Commissioner Levinson added that he received an e-mail blast from the Drug Policy Forum on November 30, 2017, because he donates to the organization, which may make him a member of the forum. He asked that copies of the e-mail be circulated to commissioners and read an excerpt from page two, which states medical cannabis patients under the category of "mental incompetence/impairment." He too felt clarification by the Attorney General would be beneficial for all and that he imagines the Drug Policy Forum is requesting clarification.

Ms. Lili Mattes

Ms. Mattes attended the meeting today and said that she did meet with an officer on November 15, 2017, but was not provided with a police report number. She also said she did not receive any further information about her children, which she has not seen in a very long time.

Chair Sword thanked Ms. Mattes for attending the meeting and requested a member of HPD follow up with Ms. Mattes.

NEW BUSINESS

Report on Actions Taken at the August 2, 2017 Executive Session

Commissioner Levinson reported that at the Executive Session of August 2, 2017, the Commission took action on two cases involving two officers.

Complaint number HPC 17-021, involved one complainant and one officer. The complaint of conduct unbecoming an officer was not sustained.

Complaint number HPC 17-035, involved one complainant and one officer. The complaint of conduct unbecoming an officer was not sustained.

Commissioners also directed the executive officer to close HPC No. 17-047 through the filing of a Public Service Report, without referral for further investigation, pursuant to Commission Rule 9-1 (a) (b) and (c) as the complaint was not filed within 60 calendar days of the occurrence, is speculative or purely hypothetical and does not involve existing facts, and is not within the jurisdiction of the Commission

Consideration of the Requests for Legal Counsel

Chair Sword requested these matters be deferred to the next meeting. Commissioner Levinson confirmed with Executive Officer Lawrence that the appropriate memos requesting input were sent to the Department of the Corporation Counsel (COR). EO Lawrence confirmed the memos were sent to COR.

Consideration of the Requests for Legal Counsel (Continued)

Commissioner Sheehan then asked why COR was not answering a request. Commissioner Levinson responded he could think of a number of reasons why commissioners have not heard from COR and then stated that commissioners have satisfied their obligation under HRS 52-D (9) to consult the COR by way of memorandum. He then referred back to the statute which says, "...the Corporation Counsel may make a recommendation to the Commission with respect thereto if Corporation Counsel so desires." Commissioner Levinson then said someone could reasonably infer that COR's silence could be an indication of decision or desire by COR not to make recommendation to the Commission.

He further stated the Commission does not require a recommendation from COR and so he sees no need for postponing this matter and thinks commissioners should move on to the next step and possibly schedule the matters for contested case hearings. Commissioner Sheehan agreed and felt what Commissioner Levinson said made sense.

Counsel Lewallen then informed commissioners he would discuss the issue with commissioners in the executive session. Chair Sword then entertained a motion to add the discussion of Item VI, 2 to the executive session.

Commissioner Levinson then made a motion to add the discussion of Item VI, 2 to the executive session agenda for discussion with counsel. Commissioner Gibson seconded the motion.

Discussion: None.

Vote: By a unanimous vote, the motion carried.

Election of Chair and Vice-Chair for 2018

Chair Sword requested Item VI, 3 be moved to the end of the agenda (Item X, 1) and would like to consult with the Commission's attorney on some technicalities in order to answer a question from a commissioner. He then entertained a motion to move discussion of the procedure into executive session.

Commissioner Chang then made a motion to add the consultation with counsel Item VI, 3 to the executive session agenda for discussion. Commissioner Gibson seconded the motion.

Discussion: Commissioner Sheehan then clarified that what Chair Sword wanted were two things, a discussion with counsel in executive session and then to move the election for chair and vice-chair to the end of the open meeting which Chair Sword confirmed.

Vote: By a unanimous vote, the motion carried.

UNFINISHED BUSINESS

Proposed Amendments to Honolulu Police Commission Rule 10 and Rule 11

Executive Officer Lawrence informed commissioners the public notice for the rule making has been published and the public hearing is scheduled for January 3, 2018.

Minh-Hung Nguyen v. Honolulu Police Commission, Civil No. 17-1-1802-11

Chair Sword moved this item, Item VII, 2 to the end of the agenda as Item X, 2 and entertained a motion to sunshine Item VII, 2 into executive session for discussion with counsel.

Commissioner Levinson then made a motion to sunshine Item VII, 2 into executive session for discussion with counsel. Commissioner Chang seconded the motion.

Discussion: None.

Vote: By a unanimous vote, the motion carried.

Discussion of Performance Goals and Evaluation Criteria for the Chief of Police

Chief Ballard informed commissioners she did not have a problem with the evaluation form. If commissioners wanted something more measurable she would provide commissioners with her five-year plan so commissioners had something to rate her on and incorporate into the evaluation.

Commissioner Chang agreed and said that Chief Ballard has her personal goals and plan, so it would make sense for commissioners to have that information. Commissioner Gibson added that looking at the forms, the evaluation seemed subjective and he would like to see goals in black and white as it makes it easier for an evaluation. He also added that a survey is definitely in order to see what the challenges are and what is working well and what needs improvement and that the survey should be done by a professional organization. Commissioner Gibson shared that the survey is a tool and will show exactly what the challenges.

Chief Ballard then asked Commissioner Gibson if it was an internal survey and what ranks of officers would be surveyed. Commissioner Gibson suggested the whole organization participate in the survey.

Chief Ballard informed commissioners SHOPO conducted a voluntary survey for the officers through the rank of lieutenant but the response was very low, 35 percent. SHOPO provided the results to Chief Ballard and she has asked the management analyst breakdown the survey for distribution. Chief Ballard has no problem with a survey but her concern is the response will be low and that commissioners should take into consideration the culture of police officers and that some officers will respond and some will not. Chief Ballard will provide commissioners with the results of the survey if they would like to see the results.

Commissioner Gibson indicated that the first survey that an organization takes is never very good and explained that response is low; however, as people realize that some of the issues will be acted upon, participation in the survey will get better.

Report from the Permitted Interaction Group (PIG) Formed to  
Discuss the Proposal in Aid of Informed Communication with the Chief of Police

Commissioner Sheehan explained the PIG was formed when Chief Kealoha was the chief of police and commissioners wanted to survey the police department in order to get a baseline as to how the rank-and-file felt about their jobs. The survey was intended to be extremely short, user friendly, and encourage participation.

Report from the Permitted Interaction Group (PIG) Formed to Discuss the Proposal in Aid of Informed Communication with the Chief of Police (Continued)

In order to keep costs low commissioners considered using SurveyMonkey. There were five questions to be asked:

1. I receive sufficient training that allows me to learn, grow, and improve in my job.
2. When the management team at my location becomes aware of a problem, they listen to officers and civilian employees and respond appropriately.
3. Officers and civilian employees in administration are treated better than the rank-and-file.
4. I am able to speak up to administration without fear of retaliation or negative consequences.
5. How do you wish to see HPD change and grow?

Commissioner Sheehan understands the potential of a low response rate because of the perception that employees are concerned their answers could be traced. It is her understanding and that of EO Lawrence that while employees would answer from their City e-mail accounts to ensure the accuracy of interviewing HPD employees, responses would go directly to SurveyMonkey and commissioners would not see them. What would be received by commissioners from SurveyMonkey is the data and any answers or comments.

EO Lawrence did follow up with the Department of Human Resources and confirmed the Commission could conduct the survey and would follow up with SHOPO and other unions as a courtesy and to see if the unions were comfortable with the Commission surveying members.

In order to receive any other feedback and to meet with each union (SHOPO, HGEA, and UPW) once, EO Lawrence will wait until commissioners make a decision on conducting the survey.

Commissioner Gibson said that as long as employees can trust the system and the surveys sent out periodically, employees will start to participate and the feedback is very useful.

Commissioner Chang agreed with Commissioner Gibson and said the information is very valuable and indicated that the low response is usually an indication that there is no trust or a low trust level in the communication and there are techniques companies can use to try and engage employees. Commissioner Chang suggested commissioners give Chief Ballard some time too because she has to change culture and build trust which will hopefully encourage employees to participate.

Chief Ballard thanked Commissioner Chang and said that two months may not make that much of a difference and in police culture, the majority of the answers provided will be from those that are unhappy because employees who are happy will probably not answer the survey. Chief Ballard provided an example of her assignment at the Central Receiving Division and her having to remind and encourage officers to participate in the survey, and even with all the reminding approximately 30 percent of the employees completed the survey.

Report from the Permitted Interaction Group (PIG) Formed to Discuss the Proposal in Aid of Informed Communication with the Chief of Police (Continued)

Commissioner Chang asked why employees do not want to participate in the survey. Chief Ballard said she could only think that employees feel nothing is going to change. She further explained that one of the big issues are the first line supervisors and lieutenants because in the officer's world that is the chief of police and the way officers are treated by their supervisors affects them the most, which is the reason SHOPO had officers evaluate their immediate supervisors.

Chief Ballard also stated that she could see looking for the disconnect with the department and which is probably with the first-line supervisor and that supervisors need better training. She would also like employees to answer questions about their supervisors in order to find out their perception of the commanders.

Commissioner Sheehan appreciated Commissioner Chang's suggestions. Commissioner Levinson added that commissioners were aware of the risk of having a low response rate, with trust being one of the issues, and that it was decided that key questions on the organization were created. He then said that the survey may be outdated in order to incorporate the ideas from Commissioners Chang and Gibson.

Commissioner Sheehan said that the City Charter requires commissioners to evaluate the chief of police at least annually; therefore, the survey was to assist commissioners in evaluating the chief of police.

Chief Ballard asked that commissioners review the SHOPO survey in order to see the types of questions asked and the responses received. Some of the questions may give commissioners information they are looking for.

Commissioner Chang provided examples of how the detailed data from a survey is useful and that the survey should be done in a meaningful way. Commissioner Chang suggested a goal of Chief Ballard could be to get the employee participation and engagement rate higher, which is an indication of the building of trust. Chief Ballard thanked Commissioner Chang and agreed that it could be a goal of hers.

Chair Sword wanted to know if the SurveyMonkey survey was a targeted survey was to which Commissioner Sheehan responded that it was a mass survey, and the effort was to keep the survey as anonymous as possible and it would be interesting to see participation and answers received.

EO Lawrence informed commissioners it is not necessary to use a PIG for a future survey and that the commission took the route of using a PIG because there were a lot of technical issues and it was easier to work with a PIG. As far as the recommendation, the PIG can make its recommendation today but the Commission cannot vote or approve until the next meeting.

Commissioner Levinson felt it was appropriate to recommend approval and adoption of the survey drafted and send it out as a trial balloon subject to refinement and if Commissioners Chang and Gibson carry on with the project.

Report from the Permitted Interaction Group (PIG) Formed to  
Discuss the Proposal in Aid of Informed Communication with the Chief of Police (Continued)  
Commissioner Sheehan agreed with Commissioner Levinson, and appreciates the opinions of  
Commissioners Chang and Gibson even if the opinions are to start over.

The importance of a survey, who would initiate the survey (Chief or Commission), as well as any  
restrictions by the City Charter were discussed. Commissioners agreed that the purpose of the  
survey would be to improve the efficiency or performance of HPD and its leadership and could  
be a useful tool in providing Chief Ballard with her annual evaluation and collecting information  
that would be forwarded to Chief Ballard for her use.

#### Addition of Item to the Executive Session

Chair Sword requested a motion to add to the executive session, consultation with counsel on  
the approval of minutes for October 4, 18, and 23, 2017. Commissioner Levinson motioned to  
add the consultation with counsel on the approval of minutes for October 4, 18, and 23, 2017 to  
the executive session agenda. Commissioner Sheehan seconded the motion.

Discussion: None.

Vote: By a unanimous vote, the motion carried.

#### EXECUTIVE OFFICER'S REPORT

Executive Officer Lawrence reported as of December 5, 2017, the Commission has received 74  
complaints to date compared to 80 in 2016. A meeting was held with Olelo this week on the  
airing of Commission meetings. They will submit a proposal to EO Lawrence that he will  
provide to commissioners.

#### EXECUTIVE SESSION

A 3:55 p.m., Commissioner Levinson 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 Chang seconded the motion.

Discussion: None.

Vote: By a unanimous vote, the motion carried.

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RETURN TO OPEN SESSION

The Commission returned to the open session at 5:40 p.m.

ANNOUNCEMENTS

Chair Sword announced the next meeting Honolulu Police Commission will be on December 20, 2017 at 2 p.m.

ADJOURNMENT

At 5:41 p.m. Commissioner Gibson made a motion to adjourn the meeting. Commissioner Sheehan seconded the motion, by a unanimous vote, the motion carried.