

HONOLULU POLICE COMMISSION  
City and County of Honolulu  
State of Hawaii  
Minutes of the Regular Meeting  
January 3, 2018

CALL TO ORDER                      Chair Sword called the meeting to order at 2:00 p.m. on Wednesday, January 3, 2018, 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

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

EXCUSED                                Loretta A. Sheehan, Member

ALSO PRESENT                        Susan Ballard, Chief of Police  
John D. McCarthy, Deputy Chief of Police  
Jonathon B. Grems, Deputy Chief of Police

ASCERTAINMENT                      Counsel Lewallen ascertained that a quorum was present  
OF QUORUM

CHIEF OF POLICE REPORT

2017 Fireworks

Chief Ballard reported through December 1, 2017 and January 2, 2018 there were approximately 1,800 fireworks related calls to 911. Five people were arrested and 54 citations were issued. Narcotics/Vice officers seized a total of 6,600 pounds of illegal fireworks with an estimated street value of \$298,000. In a single seizure, a regional patrol unit seized 1,800 pounds of fireworks that were in the back of a container-type truck. Chief Ballard then answered questions from commissioners relating to illegal use of fireworks and the procedure used for arrests related to fireworks.

Promotion Ceremony

There will be a promotion ceremony on January 22, 2018, for sergeants and lieutenants at the Neal Blaisdell Center, Pikake Room at 10:30 a.m.

Department Survey

The management analyst is reviewing the sample survey provided to Chief Ballard in order to apply it to HPD's needs.

Retiree Banquet

The retiree banquet will be brought back in August 2018. The banquet will not only be for current retirees but for those who have retired previously from HPD as retirees still have a lot to offer HPD and could possibly serve as mentors.

MINUTES OF THE REGULAR MEETING  
January 3, 2018  
Page 2

Project H.E.L.P. (Health, Efficiency, Long-Term, Partnerships)

Chief Ballard introduced Lieutenant Mike Lambert who is heading Project H.E.L.P. He along with Major Nagata of District 1 and Captain Takasaki-Young have been instrumental in the start of the project which facilitates resources through partnerships and strategies and focuses on providing improved services to Honolulu's homeless community.

The format of the program is for plainclothes officers and outreach workers to jointly canvas the Chinatown and other identified areas to offer services to homeless. Uniformed officers in District 1 have received training on referral options.

One goal of the program is to have a joint outreach center, which will provide medical services and other outreach services relating to health care and housing to the homeless community. This will also allow for regular interactions with persons in order to build trust between homeless individuals, the outreach community, and HPD. HPD is currently looking at software applications that would allow multiple agencies to enter information on a single individual in order for providers have up to date information on a person.

Commissioners also asked what the definition of a MH-2 was. Lieutenant Lambert explained that a MH-1 (mental health one) is when a law enforcement officer contacts the HPD's psychologist in order to determine if a person needs to be taken for observation. A MH-2 (mental health two) is when a non-law enforcement psychologist makes a determination that someone needs to be taken for observation.

Commissioners commended the program and wanted to know if the program would be expanded to the other districts. Lieutenant Lambert informed commissioners the goal is to have the program in all districts with controlled implementation in order for officers to receive training and for program consistency.

Commissioners also asked what the cost of the tracking software would be to the department and requested an update later this year. Lieutenant Lambert estimated the cost of the software at approximately \$55,000 per year for 100 licenses, storage, real time data, and that he would be glad to provide commissioners with an update later this year. (A copy of Lieutenant Lambert's presentation will be attached to the minutes.)

APPROVAL OF MINUTES

Commissioner Chang made a motion to approve the December 6, 2017 meeting minutes. Commissioner Levinson seconded the motion.

Discussion: None.

Vote: By a unanimous vote, the motion carried.

(At 2:45 p.m. a short recess was taken with the meeting resuming at 2:49 p.m.)

PUBLIC TESTIMONY

No public testimony.

NEW BUSINESS

Report on Actions Taken at the Executive Sessions of October 4, 18, and 23, 2017 and  
November 15, 2017

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Commissioner Levinson reported the following actions taken by the Commission:

At the Executive Session of October 4, 2017, the Commission approved the September 7, 2017, executive session minutes. At the executive session of October 18, 2017, commissioners approved the September 20, 2017 executive session minutes and took action on seven cases involving seven officers.

Complaint number 17-031 involved one complainant and one officer. The complaints of discourtesy-harsh remarks, conduct unbecoming an officer and unnecessary use of force were sustained.

Complaint number 17-032 involved one complainant and two officers. The complaint of conduct unbecoming an officer against each officer was sustained for one officer and not sustained for the other officer.

Complaint number 17-044 involved one complainant and one officer. The complaint of conduct unbecoming an officer was not sustained.

Complaint number 17-045 involved one complainant and one officer. The complaint of conduct unbecoming an officer was not sustained.

Complaint number 17-052 involved one complainant and one officer. The complaint of overbearing conduct was not sustained.

Complaint number 17-053 involved one complainant and one officer. The complaint of conduct unbecoming an officer was not sustained.

Complaint number 17-058 involved one complainant and one officer. The complaint of threatening was not sustained.

During the continuation of the October 18 executive session that took place on October 23, 2017, commissioners discussed the selection process for the chief of police. During the executive session of October 23, 2017, which continued through October 25, 2017, commissioners interviewed candidates for the position of chief of police. During the executive session of November 15, 2017, commissioners approved the August 2, 2017 executive session minutes.

Commissioner Levinson then made a motion to accept the report. Commissioner Chang seconded the motion.

Discussion: None

Vote: Unanimous

PUBLIC HEARING FOR THE REVISION OF HONOLULU POLICE COMMISSION  
RULE 10 AND RULE 11

Chair Sword explained the Commission has proposed an amendment to the Rules of the Honolulu Police Commission and has undertaken rulemaking pursuant to HRS Section 91-3.

The purpose of the proposed amendment is to (i) revise Rule 10 to conform to with the changes related to the discipline or termination of the Chief of Police as set forth in Section 6-1603 of the Revised Charter of the City and County of Honolulu as amended on November 8, 2016, (ii) to clarify Rule 11 with respect to Hawaii Revised Statutes Sections 52D-8 and 52D-9; and (iii) to provide that the hearings conducted under Rule 11 will generally be open to the public.

Chair Sword announced the Commission was prepared to accept and consider any public testimony and take action as appropriate.

Ms. Kailey Wakefield informed commissioners written testimony was submitted via e-mail from the Civil Beat Law Center for the Public Interest in support of the rule changes.

Chair Sword then asked for a motion to accept the amendments. Commissioner Levinson then made a motion to accept the amendments to the Rules 10 and 11 of the Honolulu Police Commission. Commissioner Gibson seconded the motion.

Discussion: None.

Vote: Unanimous.

Chair Sword then informed those in attendance that the amended rules will be forwarded to Corporation Counsel for approval of form and legality and then to the Mayor for signature. Once signed, the rules will be filed with the City Clerk and will become effective 10 days after filing.

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

Commissioners and Chief Ballard received a revised draft of the performance evaluation. Chair Sword asked if there were any comments to the changes. Commissioner Levinson stated that he felt the action plan was a significant matter and the evaluation process would benefit from the action plan being on an equal footing with the general categories of leadership, management, budget and fiscal, training and development, communication and community relations, and police commission. He also had some non-substantive changes he would like made, which can be done later with Executive Officer Lawrence.

Chair Sword requested clarification that there would then be seven categories with the addition of the action plan as its own category. Commissioner Levinson answered in the affirmative and Commissioner Gibson also agreed with Commissioner Levinson's suggestion that the action plan have its own section. He also stated that the action plan category should be the lead which everything falls from.

Chair Sword asked that EO Lawrence revise the evaluation form for formalization.

Requests for Legal Counsel

Chair Sword said there were three requests for legal counsel today, Officer Kendell Wong, Sergeant Zane Hamrick, and Officer Harry Burt.

Officer Kendell Wong, Civil No. 17-1-0233-02 ECN

Chair Sword entertained a motion to approve legal counsel for Officer Wong as recommended the Department of the Corporation Counsel (COR). Commissioner Levinson stated he would rather approach the issue in a different form as commissioners have received input from COR which contained a recommendation and have now received a copy of the complaint in the matter.

Commissioner Levinson then stated that based on the allegations set forth in the complaint, namely that the plaintiff alleges that she was physically assaulted in the course of interaction with a Honolulu Police Department Officer, Officer Wong, and by the allegation that the act being an act performed in the performance of duty as a police officer, Commissioner Levinson is satisfied that the officer has met his burden in demonstrating entitlement to legal representation at the expense of the City and County. Commissioner Levinson then made a motion that Officer Wong's request for legal representation be granted. Commissioner Gibson seconded the motion.

Discussion: None.

Vote: Unanimous.

Sergeant Zane Hamrick, USDC Civil No. 17-00461 LEK-RLP

Chair Sword entertained a motion to grant legal representation to Sergeant Hamrick. Commissioner Levinson stated he has had an opportunity to review the civil complaint filed by Robert M. Bucknam against the City and County of Honolulu and the requesting officer, Sergeant Hamrick, in the United States District Court for the District of Hawaii, Civil No. 17-00461 LEK-RLP.

Commissioner Levinson then said having reviewed the factual allegations in the complaint, particularly that the defendant officer, Sergeant Hamrick, as a Honolulu Police officer falsely arrested, searched, falsely imprisoned the plaintiff, refused him medical treatment, used excessive and unreasonable force in arresting, detaining, and imprisoning him, and those allegations occurring in the context of acts done in the performance of duty as a police officer without passing judgement on the truth or falsity of any of the allegations, he is satisfied that Officer Hamrick has met his burden under Chapter 52-D. Commissioner Levinson then made a motion to grant legal representation to Sergeant Hamrick. Commissioner Chang seconded the motion.

Discussion: None.

Vote: Unanimous.

Officer Harry C. Burt, Civil No. CC17-1-1591

Chair Sword entertained a motion to grant legal representation to Officer Burt. Commissioner Levinson stated that the Commission has now been provided with a copy of the complaint filed in the Circuit Court of the First Circuit, State of Hawaii by Robert P. Covington, Jr., against the requesting officer, Harry C. Burt.

Commissioner Levinson stated he has had a chance to review the factual allegations of the complaint which alleges interaction between the plaintiff and Officer Burt in the context of his driver's license arrest, search, and handcuffing without a warrant among other related factual allegations. Based upon Commissioner Levinson's review of the complaint he is satisfied that the complaint alleges acts done in the performance of duty as a police officer by Officer Burt. He is also satisfied that by virtue of the complaint Officer Burt has met his burden of demonstrating his entitlement to legal representation. Commissioner Levinson then made a motion that Officer Burt's request for legal representation be granted. Commissioner Gibson seconded the motion.

Discussion: None.

Vote: Unanimous.

EXECUTIVE OFFICER'S REPORT

Executive Officer Lawrence reported as of January 3, 2018, the Commission has received one complaint, and there are five pending complaints from 2017. He then provided a summary for 2017, which included, 75 complaints registered, 22 referrals to PSO, nine complaints serviced with the Honolulu Police Commission's Public Service Report, two complaints administratively closed, and one withdrawn complaint.

With regard to the transmittal memos from Executive Officer Lawrence to Corporation Counsel Donna Leong, Commissioner Levinson wanted to know if the form of the memos were determined in any formal way by the Commission or whether the language used was open for discussion. Executive Officer Lawrence stated the format is open for discussion. Commissioner Levinson then stated he would meet with Executive Officer Lawrence to discuss the language used in future memos to COR for requests for legal counsel.

MINUTES OF THE REGULAR MEETING  
January 3, 2018  
Page 7

EXECUTIVE SESSION

A 3:08 p.m., Commissioner Gibson 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.

RETURN TO OPEN SESSION

The Commission returned to the open session at 3:47 p.m.

ANNOUNCEMENTS

Chair Sword announced the next meeting Honolulu Police Commission will be on January 17, 2018 at 2 p.m.

ADJOURNMENT

At 3:48 p.m. Commissioner Levinson made a motion to adjourn the meeting. Commissioner Gibson seconded the motion.

Discussion: None.

Vote: By a unanimous vote, the motion carried.