

HONOLULU POLICE COMMISSION  
City and County of Honolulu  
State of Hawaii  
Minutes of the Regular Meeting  
February 6, 2019

CALL TO ORDER                      Chair Sheehan called the meeting to order at 2:08 p.m. on Wednesday, February 6, 2019, in Conference Room A at the Honolulu Police Department Alapai Headquarters

PRESENT                                Loretta A. Sheehan, Chair  
   Shannon L. Alivado, Member  
   Karen Chang, Member  
   Jerry Gibson, Member  
   Steven H. Levinson, Vice Chair

EXCUSED                                Carrie K. S. Okinaga, Member  
  
   James K. S. Yuen, Executive Officer  
   Denise W. Wong, Deputy Corporation Counsel  
   Erin Marie Yamashita, Secretary

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

ASCERTAINMENT                      Counsel Wong ascertained that a quorum was present  
OF QUORUM

CHIEF OF POLICE REPORT

Chief Ballard informed commissioners that she contacted the lieutenants (5), sergeants (18), and corporals (21) informing them of their respective promotions. The promotion ceremony will be held on March 1, 2019 at the Neal S. Blaisdell Center.

In the near future, video reminders will be sent out to remind officers and employees of safe driving habits. Chief Ballard shared that there will be a video in which an officer is cutting in and out of traffic, speeding, and finally entering the Alapai Headquarters where Chief Ballard is standing on the side of the road. This is just a reminder to officers that they are operating emergency vehicles and should be operating them properly.

Chief Ballard asked commissioners for their support in HPD's non-support of bills in the Legislature regarding the legalization of marijuana. It appears there is a large push this year to legalize recreational marijuana. Chief Ballard informed commissioners there are statistics from the Rocky Mountain HIDTA showing marijuana-traffic related deaths have increased by 151 percent. Traffic deaths involving driver's who have tested positive for marijuana have more than doubled from 2013 to 2017.

CHIEF OF POLICE REPORT (Continued)

Colorado's marijuana use for ages 12 and under is ranked third in the nation, 85 percent higher than the national average. The yearly number of hospitalizations increased by 148 percent due to the higher percentage of TCH in the marijuana affecting a child.

Chief Ballard is disappointed that the purpose of the bill is to generate revenue, which is what was mentioned in the newspaper. The issue for the Honolulu Police Department (HPD) will be on the receiving end of scrutiny when having to enforce laws. Should incidents like traffic accidents or incidents with persons who suffer mental illness rise, HPD be required to shoulder the burden and account for increased crime. In addition, Chief Ballard expressed concern that that minors will not only smoke marijuana, they will have access to edibles.

Chief Ballard explained that in order for an officer to test someone for drugs, and officer has to be a certified drug recognition expert (DRE). She explained the training for a DRE is a lengthy process with the class size maximum set at 25 persons who must complete 160 hours (four weeks) of training for a two-year certification. There are six to seven instructors who participate in the DRE training, which Chief Ballard compared to taking the entire DUI team for seven years to complete training.

Chief Ballard also noted the length of time it has taken to create laws related to cigarette smoking resulting in a decreasing in smoking. There are also personal health issues that persons who use medical marijuana will face as well as those around them who will be exposed to unwanted smoke. Chief Ballard said employment issues will also rise. Where a unionized employee comes to work smelling of alcohol, the employer has reasonable suspicion to require a test. If an employee comes to work under the influence of marijuana; however, an employer is not likely to have reasonable suspicion to test.

Chief Ballard would like to work with the media in getting her message across and will also share her message on social media in order to educate the public on HPD's concern.

Commissioners asked Chief Ballard what she would like them to do to which she responded that she would appreciate commissioners speaking with the legislative committee chairs (Karl Rhoads and Chris Lee). Chair Sheehan asked Chief Ballard if she saw some mid-point to consider, for example, use for adults only or decriminalization. Chief Ballard said there is also a bill to decriminalize marijuana, but things will not change and someone who would use marijuana and drive would be the same as someone consuming alcohol and driving.

Vice-Chair Alivado asked if the other county police chiefs were also in opposition. Chief Ballard said the neighbor island chiefs do not support the bill and that she would be asking them to meet as a group with legislators in order to show the county police departments stand in unity against the bill.

Chair Sheehan asked Chief Ballard if she had the raw numbers on the Colorado statistics. Chief Ballard said she would check on the raw numbers; however, there were 55 traffic incidents in 2013 and in 138 in 2017. Commissioner Gibson asked if there has been a movement to reverse the legalization of marijuana. Chief Ballard said she was not sure but in speaking with her counterparts in Colorado, they wish the legalization had never happened.

CHIEF OF POLICE REPORT (Continued)

Commissioner Levinson added that with respect to Commissioner Gibson's question, he does not think there is a movement in Colorado to reverse the legalization and that law enforcement in Colorado would support one.

Commissioner Levinson added that he is on record and has been since 1998, when he wrote a dissent in State v. Mallan taking the position, as a matter of State Constitutional Law (as his uncle did in 1972) that the criminalization of marijuana or recreation use of marijuana is beyond the police power of the state. Commissioner Levinson explained that it may not be a desirable thing for people to do any more than consuming alcohol, which could also be undesirable. He also said that there is a reason why it took a constitutional amendment to prohibit the sale and consumption of alcohol and that is because to criminalize it would have been unconstitutional.

Commissioner Levinson thinks many of the same arguments apply to marijuana and understands Chief Ballard's concerns and cannot disagree that action by the legislature could result in a lot of headache for HPD.

Crime Mapping Presentation

Chief Ballard introduced Major Rade Vanic. Major Vanic provided commissioners with a live demonstration of the crime mapping application ([crimemapping.com](http://crimemapping.com)), which there is a link to on the HPD's website.

Major Vanic explained that when crime mapping was introduced, there were only five types of cases covered; this was due to interest by neighborhood boards to have information on property crimes. There has since been a growing interest by the public for information on other types of crime, so a decision was made to increase the number of crimes that can be viewed.

Major Vanic answered questions from commissioners and he explained the classification of an incident is done when a call for service is received and the dispatcher enters the UCR code based on information received. He further explained the UCR code is connected to one of the 16 categories offered by the vendor and that there could be a category containing multiple codes. Major Vanic provided the example of a crime of assault or aggravated assault would show up in the assault category even though they are different crimes; however, when you view the information screen the actual type of assault would appear.

Commissioners asked if information on pedestrian-involved accidents could be tracked, and if domestic violence incidents could be added as a subset of a category. Major Vanic said the vendor does not have a category for pedestrian-involved accidents and that domestic violence has its own UCR code. He will see what can be done to address Chair Sheehan's concern to include domestic violence crimes, having a mapping where specifically domestic violence is shown as an assault and once the information page is opened the assault type would show as domestic-violence related since there is no unique icon.

## MINUTES OF THE REGULAR MEETING

February 6, 2019

Page 4

### Crime Mapping Presentation (Continued)

Chief Ballard added that calls for service on arguments would be coded the same way and that just because a call was domestic violence it could just be an argument between two individuals and does not change if an officer re-classifies the case type because the information used is when the initial call for service is made.

Chief Ballard informed commissioners HPD will make presentations during town hall meetings and demonstrate the crime mapping and ask attendees what other types of information they would like to see in their communities.

Vice-Chair Alivado commended HPD on improving the crime mapping and said she is a subscriber and receives real-time alerts and feels when made aware of the benefits of crime mapping the public would appreciate the real time information.

### APPROVAL OF MINUTES

Commissioner Gibson made a motion to approve the January 9, 2019, meeting minutes. Commissioner Levinson seconded the motion.

Discussion: None.

Vote: By a unanimous vote, the motion carried.

### PUBLIC TESTIMONY

Mr. Paul Aoki, Acting Corporation Counsel, attended the meeting in order to introduce himself to commissioners and said he welcomes the opportunity to work with commissioners. He understands there has been some criticisms from commissioners regarding COR.

Chief Ballard commended Mr. Aoki and said members of the Mayor's Cabinet appreciate how he will be running the department and, in particular, the direct contact departments with have with the deputies assigned to them.

Chair Sheehan explained that the Police Commission took issue with deputies using form responses when responding to requests for legal counsel from police officers. She explained that the Rules of the Police Commission have changed and commissioners no longer look at course and scope of employment. The analysis is from the statute, which is whether the officer's acts were "in the performance of the officer's duty." Chair Sheehan understands that the deputies are well intentioned, but a course and scope analysis is incorrect.

Commissioner Levinson added that the March 6, 2019, agenda will include the contested case hearing for Chief Kealoha, and suggested he (Mr. Aoki) attend the contested case hearing. Commissioner Levinson also requested to meet with Mr. Aoki and said that he is increasingly concerned that deputy corporation counsels who appear on behalf of the City and County, not the Police Commission, for contested case hearings are routinely violating Rule 3.3 of the Hawaii Rules of Professional Conduct, which require attorneys to be candid with tribunals.

NEW BUSINESS

Report on Actions Taken at the Executive Session of December 19, 2018

Commissioner Chang reported that at the Executive Session of December 19, 2018, commissioners approved the November 21, 2018, executive session minutes.

Commissioner Chang 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

Discussion on Creation of Rules or Policies for the Discipline of the Chief of Police

This agenda item was deferred.

Executive Officer's Report

EO Yuen reported nine complaints have been received to date. There are 20 pending investigations, which includes 14 from 2018, one complaint received was referred to the HPD's Professional Standards Office, and one complaint was withdrawn.

EXECUTIVE SESSION

At 2:57 p.m., Vice-Chair Alivado 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 Gibson 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 4:13 p.m.

ANNOUNCEMENTS

Chair Sheehan announced the next meeting Honolulu Police Commission will be on February 20, 2019.

MINUTES OF THE REGULAR MEETING  
February 6, 2019  
Page 6

ADJOURNMENT

At 4:14 p.m. Commissioner Gibson made a motion to adjourn the meeting. Vice-Chair Alivado seconded the motion. By a unanimous vote, the motion carried.