

HONOLULU POLICE COMMISSION
City and County of Honolulu
State of Hawaii
Minutes of the Regular Meeting
May 1, 2019

CALL TO ORDER Chair Sheehan called the meeting to order at 2:00 p.m. on Wednesday, May 1, 2019, in Conference Room A at the Honolulu Police Department Alapai Headquarters

PRESENT Loretta A. Sheehan, Chair
Shannon L. Alivado, Vice-Chair
Karen Chang, Commissioner
Steven H. Levinson, Member
Carrie K. S. Okinaga, Member

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

EXCUSED Jerry Gibson, Member

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

ASCERTAINMENT OF QUORUM Counsel Wong ascertained that a quorum was present

CHIEF OF POLICE REPORT

Chief Ballard announced HPD is conducting promotional interviews for lieutenants and sergeants.

Chief Ballard reminded commissioners Police Week begins May 13, 2019, and introduced Captain Towne of the Community Affairs Division who provided commissioners with an update on this year's food bank food drive. Captain Towne reported HPD raised a total of \$3,848 and 19,129 pounds of food.

Captain Towne then provided commissioners with a schedule of Police Week events:

- May 13, 2019, Mayor's Proclamation at Kahala Mall, 11 a.m.
- May 13, 2019, Memorial Service 6:30 p.m. (procession begins at 6 p.m.)
- May 16, 2019, 200 Club Breakfast (by invitation only)
- May 16, 2019, Service Awards Ceremony at the Pikake Room, Neal S. Blaisdell Center

Questions and Comments from Commissioners

Chair Sheehan mentioned she saw the news conference concerning the resiliency training and asked Chief Ballard to explain the training that will be provided to officers. Deputy Chief Grems explained the resiliency training was adopted from military. Law enforcement has adopted a similar program based upon the military's program and studies when dealing with stress, alcohol addiction, and domestic violence. The program teaches individuals to recognize and deal with the stressors emotionally, physically, and how to recognize when a person needs to reach out and ask for help.

Deputy Chief Grems informed commissioners that officers will receive a 1 ½ hour introductory training during the annual recall training; recruit classes will receive an 8-hour training, and every other month a class will be offered for officers or employees who would like to attend. The program will be adjusted and eventually be available in a larger format.

Chair Sheehan is encouraged by the response, and shared her concerns with the concept because the important issue is domestic violence within the ranks of HPD and the community. Chair Sheehan encouraged HPD take a look at the International Association of Chiefs of Police (IACP) website because there are resources and training opportunities specific to partner violence available.

Deputy Chief Grems thanked Chair Sheehan for her suggestions and said the program will continue to grow but it is important for the program to be accepted by employees first.

Chair Sheehan asked if services would be extended to a spouse, child, or any victim. Deputy Chief Grems informed commissioners that the same resources offered to any domestic violence victim as well as HPD's Peer Support resources are available to spouses or children of officers. He also informed commissioners SHOPO is also looking to offer resources to employees who may not feel comfortable using in-house or HPD recommended resources.

Chair Sheehan asked what services were provided to the general public. Deputy Chief Grems informed commissioners the general public gets the referral card and are offered services by agencies that provide assistance to domestic violence victims as well as the lethality assessment.

APPROVAL OF MINUTES

Commissioner Okinaga made a motion to approve the March 20, 2019, meeting minutes. Commissioner Levinson seconded the motion.

Discussion: Commissioner Levinson informed commissioners of his requested corrections made to staff on page 7.

Vote: By a unanimous vote, the motion carried.

MINUTES OF THE REGULAR MEETING

May 1, 2019

Page 3

PUBLIC TESTIMONY

Mr. David Dief attended the meeting and requested the Honolulu Police Commission find out who is stalking him. In addition to a lieutenant from the HPD, he has spoken with the Fusion Center, FBI, and the Department of Homeland Security, and they do not help him. Chair Sheehan explained to Mr. Dief that his request is beyond the Commission's authority provided by the City Charter or by Statute. Mr. Dief then commended Executive Officer Yuen for speaking with him prior to the meeting.

NEW BUSINESS

Report on Actions Taken at the Executive Session of March 6, 2019

Commissioner Chang reported that at the Executive Session of March 6, 2019, commissioners approved the February 6, 2019, executive session minutes and took action on three cases involving three complainants and three officers.

Complaint number 18-0060 involved one complainant and one officer. The complaints of Conduct Unbecoming an Officer and Partiality were sustained.

Complaint number 18-063 involved one complainant and one officer. The complaint of Conduct Unbecoming an Officer was not sustained.

Complaint number 18-069 involved one complainant and one officer. The complaint of Conduct Unbecoming an Officer was not sustained.

Commissioner Levinson seconded the motion.

Discussion: None.

Vote: By a unanimous vote, the motion carried.

Consideration of Requests for Legal Counsel

Officer Dallas Forges, Civil No. 18-00266 JAO-RT

Commissioner Levinson reviewed the request for legal counsel submitted by Officer Dallas Forges for Civil No. 18-00266 JAO-RT. He explained the request for legal counsel was for the same incident involving Officer Lyle Wakabayashi, Officer Lyle I. O. Maiava, and Officer Grant T. Mochizuki, and that the Department of the Corporation Counsel (COR) has also provided a recommendation to grant legal counsel to Officer Forges. After a review of the complaint and the memorandum from COR, Commissioner Levinson believes that legal representation should be provided to Officer Forges. He then made a motion to grant legal representation to Officer Dallas Forges for Civil No. 1800266 JAO-RT Chair Sheehan seconded the motion.

Discussion: None.

Vote: Unanimous.

Consideration of Request for Legal Counsel
Chief of Police Susan Ballard, Civil No. 19-00157 RT

Commissioner Levinson reviewed the request for legal counsel submitted by Chief of Police Susan Ballard for Civil No. 19-00157 RT. He explained the request arises out of the Livingston vs. Ballard matter filed in the United States District Court, District of Hawaii on March 29, 2019, which alleges Hawaii Revised Statutes 134-9 relating to applications to carry concealed or unconcealed handguns is unconstitutional.

Commissioner Levinson informed those in attendance that COR has also provided a recommendation to grant legal counsel to Chief Ballard. After a review of the complaint and the memorandum from COR, Commissioner Levinson believes that legal representation should be provided to Chief Ballard. He then made a motion to grant legal representation to Chief of Police Susan Ballard for Civil No. 19-00157 RT Commissioner Chang seconded the motion.

Discussion: None.

Vote: Unanimous.

Consideration of Requests for Legal Counsel
Officer John R. Rabago and Officer Reginald B. Ramones, CR19-00040 LEK

Commissioner Levinson explained that Officer John R. Rabago and Officer Reginald B. Ramones are co-defendants in CR19-00040 LEK, filed in the United States District Court, District of Hawaii on April 4, 2019. The indictment is cursory; however, the two counts allege unreasonable seizure by a law-enforcement officer.

Commissioner Levinson explained that COR is recommending that the requests be denied. Commissioner Levinson then made a motion to set both matters for contested case hearings at the earliest, convenient time. Commissioner Chang seconded the motion.

Discussion: None.

Vote: Unanimous.

UNFINISHED BUSINESS

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

Commissioner Okinaga reviewed the requested changes that were reviewed by HPD Administration, COR and the Department of Human Resources. Deputy Corporation Counsel Pang was in attendance and answered questions from commissioners.

There was much discussion on the notification section and when the chief should notify of commissioners of certain matters. Commissioners also discussed Vice-Chair Alivado's request to add verbiage stating a commissioner should not engage in any independent fact finding.

MINUTES OF THE REGULAR MEETING

May 1, 2019

Page 5

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

Counsel Pang provided suggestions to commissioners on terminology. He also informed commissioners that the City Charter does not require a formal investigation and suggested commissioners conduct fact finding instead of investigation. Counsel Pang also suggested commissioners consider the Sunshine Law restrictions on meetings and consider authorizing the chair, with consultation of the vice-chair, the authority to make a decision, if necessary, to place the chief on leave with pay and ratification of the decision at the next meeting.

Commissioners appreciated the suggestions from Counsel Pang and requested Commissioner Okinaga incorporate the changes discussed for review and possible decision making at the next meeting.

Executive Officer's Report

EO Yuen reported 31 complaints have been received to date, three cases have been referred to the PSO, one closed by PSR, and one complaint withdrawn. The recruitment for the investigator position continues.

PUBLIC TESTIMONY

Chair Sheehan acknowledged Mr. Robert Perry and asked if he was in attendance to provide testimony. Mr. Perry said he was in attendance as an observer.

EXECUTIVE SESSION

At 2:53 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 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 4:25 p.m.

MINUTES OF THE REGULAR MEETING
May 1, 2019
Page 6

ANNOUNCEMENTS

Chair Sheehan announced the next meeting of the Honolulu Police Commission will be on May 15, 2019.

ADJOURNMENT

At 4:26 p.m. Commissioner Okinaga made a motion to adjourn the meeting. Chair Sheehan seconded the motion. By a unanimous vote, the motion carried.