

HONOLULU POLICE COMMISSION
City and County of Honolulu
State of Hawaii
Minutes of the Regular Meeting
June 19, 2019

CALL TO ORDER Chair Sheehan called the meeting to order at 2:01 p.m. on Wednesday, June 19, 2019, in Conference Room A at the Honolulu Police Department Alapai Headquarters

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

James K. S. Yuen, Executive Officer
Duane W. H. Pang, Deputy Corporation Counsel
Erin Marie Yamashita, Secretary

EXCUSED Carrie K. S. Okinaga, Member

ALSO PRESENT Susan Ballard, Chief of Police
Lisa A. Mann, Acting Deputy Chief of Police
Lynne Uyema, Legal Advisor

ASCERTAINMENT OF QUORUM Counsel Pang ascertained that a quorum was present

CHIEF OF POLICE REPORT

Chief Ballard informed commissioners she will be out of town next week attending the second week of the National Executive Institute training with the FBI.

Chief Ballard informed commissioners the civil trial involving three officers is complete, and it was found there was no liability in the death of Mr. Haleck. Chief Ballard expressed her appreciation to the Department of the Corporation Counsel (COR).

The 191st Recruit Class graduates tonight with 30 recruits (25 men/five women). The 193rd Recruit Class will begin on July 3, 2019 with 49 recruits (43 men/six women).

The Youth Citizens Police Academy began on June 18, 2019. There are 48 students from all communities participating.

In recent weeks the HPD has been enforcing the sit/lie laws in response to community requests. Areas where enforcement occurred includes Kakaako Waterfront Park and Crane Park. During a three-day period there were 82 arrests, 413 warrants served, and 284 citations issued for various violations. Patrol and the Community Policing Teams (CPT) will be responsible to keep the areas clear.

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CHIEF OF POLICE REPORT (Continued)

With regard to the incident at the airport, all inquiries are being referred to the Department of Transportation (DOT). HPD assisted the DOT and Sheriff's until the false alarm was issued.

Chief Ballard explained HPD's efforts to increase recruitment and shared the media interviews of female officers with commissioners. There will be a women in policing informational session on Saturday, June 22, 2019 from 1 to 3:30 p.m. at Aloha Tower.

Questions and Comments from Commissioners

There was discussion on the enforcement actions taken at Kakaako Waterfront Park and Crane Park. Chief Ballard explained that HPD was responding to community concerns, in particular concerns regarding safety. Discussion included the futility of issuing citations and making arrests, and the burden being shouldered by HPD to address a socio-economic issue. Commissioners were also made aware that individuals now challenge (to fight) the police officers, firefighters and the EMT when they respond to calls for services. Differences in the homeless communities were discussed and HPD was thanked for their initiatives such as HELP and Lift.

Chief Ballard answered questions relating to HPD's grant applications to the Edward Byrne Memorial Justice Assistance Grant Program, the employee suggestion box, firearm database maintenance, and enforcement of fireworks issues during the Fourth of July. Chief Ballard responded that HPD submits applications for the Byrne grant every year, suggestions are being received, and she would have to follow up on the firearm database question as she did not immediately have an answer. Chief Ballard also explained the procedure an officer follows for issuing citations or reporting illegal fireworks on the Fourth of July.

There was discussion concerning recruitment, pay, recruit retention rate, and the job assignments for new recruits upon graduation. Chief Ballard also informed commissioners that HPD is moving forward with lateral transfer acceptance and that it would include a shortened training period in order to employ officers from the mainland or neighbor islands. Chaminade University also expressed an interest in developing a curriculum that would coincide with HPD recruit classes.

Chief Ballard informed commissioners the presentation on jamming devices will be deferred due to the unavailability of the presenter.

APPROVAL OF MINUTES

Commissioner Gibson made a motion to approve the May 15, 2019, meeting minutes. Commissioner Levinson seconded the motion.

Discussion: Vice-Chair Alivado made a request to acknowledge Commissioner Parry on the minutes since it was his first meeting.

Vote: By a unanimous vote, the motion with the requested additions to the minutes, were approved.

ADDITION OF AGENDA ITEM

Commissioner Levinson explained the Commission received an appeal filed by Kevin P. H. Sumida on behalf of Louis M. Kealoha, Civil No. 19-1-0913-06 JHA (second superseding indictment) after the agenda was filed. In order for commissioners to discuss the appeal and consult with its attorney, Commissioner Levinson made a motion to add consult with counsel regarding the notice of appeal to the circuit court with respect to the second superseding indictment as Item IX D as provided by HRS 92-F. Commissioner Alivado seconded the motion.

Discussion: There was a brief discussion on the addition of items to the agenda.

Vote: By a unanimous vote, the motion carried.

PUBLIC TESTIMONY

None.

NEW BUSINESS

Consideration of Request for Legal Counsel

Officer Dylan Shatto, USDC Civil No. CV19-00072 DKW-RLP

Commissioner Levinson reviewed the request for legal counsel submitted by Officer Dylan Shatto for USDC Civil No. CV19-00072 DKW-RLP. After a review of the complaint and the memorandum from COR, which recommends the granting of legal counsel, Commissioner Levinson stated the officer is being sued for acts done in the performance of duty as a police officer and legal representation should be provided to Officer Shatto for USDC Civil No. CV19-00072 DKW-RLP. Commissioner Levinson then made a motion to grant legal representation to Officer Shatto. Commissioner Chang seconded the motion.

Discussion: None.

Vote: By a unanimous vote, the motion carried.

Report on Actions Taken at the May 1, 2019 Executive Session

Commissioner Chang reported that during the executive session of May 1, 2019, commissioners deferred the approval of the March 6, 2019 executive session meeting minutes to the May 15, 2019 executive session. She then made a motion to accept the report.

Discussion: None.

Vote: By a unanimous vote, the motion carried.

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UNFINISHED BUSINESS

Consideration of Request for Legal Counsel Officer Cory E. Moore, Civil No. 1RC19-1-2998

Chair Sheehan welcomed Deputy Corporation Counsel Casken to the meeting. Commissioner Levinson then explained the purpose of Counsel Casken's attendance, and explained that the consideration of Officer Moore's request was discussed at the last meeting but was deferred to the June 19, 2019 meeting because there were some clarification questions he had regarding the memo authored by Counsel Casken dated May 23, 2019.

Commissioner Levinson explained that under HRS 52-D8 the Commission has the authority to grant legal representation to a police officer only if the officer is being sued for acts done in the performance of duty as a police officer. He then referred to page 5 of the May 23, 2019, memo that the position of COR was the officer was not being sued for acts done in the performance of duty as a police officer because he was never at the scene of the incident.

Counsel Casken provided commissioners with a clearer explanation and stated that assuming that the allegations on the face of the complaint are true, the acts that the plaintiff claims the officer took were acts done in the performance of his duty as a police officer. The act, as alleged in the complaint, was incident to a required authorized work-related activity; incident to a course of conduct taking place at a time the officer was required to engage in course of conduct by the nature of the officer's responsibility as a police officer; and incident to a course of conduct engaged and at a place where the officer was authorized to engage in the conduct by the nature of the officer's responsibility as a police officer. Officer Moore, as the police officer in this complaint, is entitled to legal representation because he is being sued for alleged acts done in the performance of duty as a police officer.

Counsel Casken apologized for any confusion there may have in her May 23, 2019 memorandum.

Commissioner Levinson thanked Counsel Casken for her explanation. He then made a motion to grant legal counsel to Officer Moore because he is being sued for acts performed in the performance of duty as a police officer. Commissioner Gibson seconded the motion.

Discussion: None

Vote: Unanimous.

Executive Officer's Report

EO Yuen reported as of June 18, 2019, there have been 39 complaints received, nine cases have been referred to the PSO, one closed by PSR, and one complaint withdrawn. There is one pending request for legal counsel and there are two contested case hearings scheduled for July 17, 2019. Interviews for the vacant investigator position will be conducted on June 21 and 24, 2019.

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EXECUTIVE SESSION

At 3:09 p.m., Chair Sheehan 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 5:25 p.m.

ANNOUNCEMENTS

Chair Sheehan announced the next meeting of the Honolulu Police Commission will be on June 19, 2019.

ADJOURNMENT

At 5:25 p.m. Chair Sheehan made a motion to adjourn the meeting. Commissioner Levinson seconded the motion. By a unanimous vote, the motion carried.