HONOLULU POLICE COMMISSION
City and County of Honolulu
State of Hawaii
Minutes of the Regular Meeting
February 21, 2018

CALL TO ORDER
Chair Sword called the meeting to order at 2:00 p.m. on
Wednesday, February 21, 2018, in Conference Room A at the
Honolulu Police Department Alapai Headquarters

PRESENT
Max J. Sword, Chair
Karen Chang, Member
Jerry Gibson, Member
Richard Grimm, Member
Steven H. Levinson, Member
Loretta A. Sheehan, Member

George P. Ashak, Acting Executive Officer
Richard Lewallen, Deputy Corporation Counsel
Denise W. Wong, Deputy Corporation Counsel
Erin Marie Yamashita, Secretary

ALSO PRESENT
Susan Ballard, Chief of Police
John D. McCarthy, Deputy Chief of Police
Jonathon B. Grems, Deputy Chief
Lynne Y. G. Uyema, Senior Police Legal Advisor

ASCERTAINMENT
OF QUORUM
Counsel Lewallen ascertained that a quorum was present

CHIEF OF POLICE REPORT
Chief Ballard informed commissioners she received the Cachola decision. She informed
commissioners that has not had a chance to review the entire decision and there is a 45-day
gag order on the decision, so no information can be made public for the next 45 days.

Presentation by the Honolulu Police Department’s Professional Standards Office
Chief Ballard introduced Acting Major Takasaki-Young of the HPD’s Professional Standards
Office (PSO) who provided commissioners with a general overview of the internal and
administrative investigations that the PSO or Honolulu Police Commission (HPC) investigates.

Acting Major Takasaki-Young then proceeded with his presentation in which he reviewed
external complaints and internal complaints. He explained the an external complaints is a
complaint filed by any member of the public and is notarized, and the complainant and can file
their compliant with the HPD or the HPC for investigation. An internal complaint is a complaint
by a department employee who requests an investigation via a memorandum (to/from). Acting
Major Takasaki-Young also explained the PSO investigates external complaints that do not
meet the criteria for investigation by the HPC.
MINUTES OF THE REGULAR MEETING
February 21, 2018
Page 2

Presentation by the Honolulu Police Department’s Professional Standards Office (Continued)
Commissioner Sheehan wanted to know how the investigations were directed—were they policy
directed or who decides the HPC’s jurisdiction. Chief Ballard answered the City Charter directs
what the HPC investigates.

Acting Major Takasaki-Young continued and explained the PSO investigates external and
internal complaints and that the Major of the PSO determines if the compliant will be
investigated by the PSO staff or the appropriate division. He also explained that the PSO
primarily investigates serious misconduct violations, such as officer arrests, as well as
complaints sustained by the HPC. Complaints referred to a division for investigation would be
done in instances when the incident didn’t occur within 60 days, officer attitude,
misconduct/poor judgement, or behavior.

Commissioners, knowing the charges are different from HPD’s Standards of Conduct, wanted to
know how the conversion of charges were going. Acting Major Takasaki-Young explained the
verbiage of the HPC charges are similar to those in the Standards of Conduct and that he and
Acting Executive Officer Ashak did meet and have revised how the charges will be explained in
the HPC’s documents.

Commissioner Levinson then asked Acting Major Takasaki-Young if it would be helpful to have
the HPC categories harmonized with the HPD’s Standards of Conduct. Acting Major Takasaki-
Young informed commissioners that rather than harmonized categories, it is important to for the
PSO to have specific information relating to a complaint such as knowing at what point in the
contact with the complainant did the incident occur, what the specific allegations/charges were
sustained in order to convert HPC charges to the HPD’s Standards of Conduct.

Acting Executive Officer Ashak added that commissioners will begin to see the changes to how
charges are being addressed in approximately one month, since the format was recently
changed. Commissioner Levinson thanked Acting Major Takasaki-Young for his explanation
and said the suggestion is readily doable because commissioners know why a charge was
sustained.

Acting Major Takasaki-Young then explained the disposition of investigations. He explained
that the disposition or disciplinary recommendations are based upon the Administrative Review
Board (ARB), which is comprised of the two deputy and six assistant chiefs. The ARB hearings
are held twice a month. The ARB makes its recommendations to the Chief for disciplinary
actions (written reprimand, suspension, or discharge), and the Chief makes a final decision on
disciplinary action recommended by the ARB. Cases referred to a division for investigation are
also subject to discipline. The commander of the division will provide the Chief with a
recommendation for a final determination and the Chief will make a final decision on discipline.

Commissioner Grimm asked if Acting Major Takasaki-Young knew how many cases involve
grievances by the union. Chief Ballard and Acting Major Takasaki-Young said they did not have
the exact number, but there a quite a few. With regard to officers who have been disciplined or
have had a compliant, Commissioner Grimm wanted to know if there were any repeat officers.
Chief Ballard informed commissioners there are repeat offenders, but it is a very small
percentage.
MINUTES OF THE REGULAR MEETING
February 21, 2018
Page 3

Presentation by the Honolulu Police Department’s Professional Standards Office (Continued)
Commissioner Sheehan asked if there was a point in time in the flow chart for referring an
investigation to an outside agency. Chief Ballard answered that there really is no process and
that referrals to an outside agency would be on a case-by-case basis and would also depend on
the circumstance. She would also consult the two deputies in decision making.

Chief Ballard also explained that even though there is a criminal complaint, the administrative
complaint will remain with HPD and PSO will complete the investigation. Acting Major
Takasaki-Young then explained the two different tracks a complaint may take, criminal and
administrative and that the investigations will run concurrently until a point where the
administrative investigation will have to stall until the criminal process take effect to a certain
point and then continue.

(A copy of Acting Major Takasaki-Young’s presentation will be attached to the minutes.)

Legislative Disciplinary Report
Chief Ballard briefly reviewed the 2017 Legislative Disciplinary Report. She pointed out there
are a lot of entries (88) and informed commissioners that in 2014 the Legislature passed a bill
stating that an incident cannot be removed from the report until it is finalized through the
grievance procedure. Chief Ballard then reported that 42 of the incidents are from previous
years and go back as far as 2005, so in 2017 there were 43 officers disciplined on 36 different
occasions.

Questions by Commissioners
Chair Sword asked Chief Ballard for an update on legislative bills HPD is tracking. Chief Ballard
reviewed some of the bills that HPD is monitoring and informed commissioners a listing will be
forwarded to them via the HPC staff. Chair Sword thanked Chief Ballard and asked that
commissioners be kept up to date as well.

Commissioner Levinson stated HB2071, which would establish a law enforcement standards
board, is having its third committee meeting tomorrow and wanted to know if HPD intended to
formally take a position on the bill. Chief Ballard answered that HPD is neither opposing nor
supporting the bill, and whatever is determined HPD will abide by as it does not seem to have
any effect of HPD as it is a state function and would impact state agencies. She further
explained that HPD would not change its recruitment process and training.

Commissioner Sheehan added that she read the bill and that the bill would allow the proposed
agency to conduct investigations. She also added that the board would have the authority to
establish procedures and criteria for the revocation and certification and a state agency would
have administrative, rulemaking authority under Chapter 91 that could essentially fire HPD
officers if they do not meet the standards of certification. Commissioner Sheehan then asked
how the bill would affect HPD if passed. Chief Ballard said it could possibly impact collective
bargaining but feels it may be separate because the proposed agency would de-certify the
officer at the request of the employing law enforcement agency making the officer ineligible to
be an officer in a state or county agency.
Questions by Commissioners (Continued)
A brief discussion continued on what could potentially happen should the bill become law, how collective bargaining would be affected, possible scenarios with law enforcement agencies and the intent of the bill.

APPROVAL OF MINUTES
Commissioner Sheehan made a motion to approve the January 17, 2018, meeting minutes. Commissioner Grimm seconded the motion.

Discussion: Commissioner Levinson requested corrections to page four and five and requested the identification of the Deputy Corporation Counsel as Ernest Nomura.

Vote: By a unanimous vote, the motion carried.

PUBLIC TESTIMONY
Colonel John Bates (Ret.)
Colonel Bates introduced himself and provided commissioners with a brief background of his military service and expertise in security, to which he offered his services to the schools.

He then shared with commissioners his frustration relating to his request for a concealed to carry permit. During his military service, he has had to deal with some very bad people and that his records were also hacked. Col. Bates is highly qualified and has tried since 2005 to obtain a concealed to carry permit from HPD, as Chief Ballard, as the Chief of Police, is the only one who can authorize the permit. He also requested of the chief a very clear explanation of why his permit was denied, if his permit is denied.

Mr. Cherub Aumave
Mr. Aumave introduced himself and informed commissioners he was in attendance to discuss ADA law and the Honolulu Police Department.

Mr. Aumave explained he has been discriminated by officers in Honolulu and that ADA in Honolulu is not like the ADA in in the mainland. He has been discriminated upon when he was on the road during an event and was scolded for being on the roadway riding his motorized scooter when others were walking on the road. Mr. Aumave also shared different incidents with police when calling 911 for assistance and police officers treating him differently because of his ADA status.

Chair Sword then spoke in the Samoan language to Mr. Aumave and explained to commissioners that he, Chair Sword, was asking him, Mr. Aumave, if it was easier for him to explain himself in Samoan or in English. He also asked if it would help his situation to speak with the Chief to explain what his concerns were and about the incidents he mentioned.

Chair Sword then asked Chief Ballard to have a member of her staff meet with Mr. Aumave as he expressed there were a lot of things that happened to him that he has concerns about. Chief Ballard then asked a member of her staff to meet with Mr. Aumave.
MINUTES OF THE REGULAR MEETING
February 21, 2018
Page 5

NEW BUSINESS
Report on Actions Taken at the Executive Session of January 3, 2018
Commissioner Chang reported that at the executive session of January 3, 2018, commissioners approved the executive session minutes of December 6, 2017. 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
Election of Chair and Vice-Chair for 2018
Chair Sword asked if commissioners had any discussion on the election of chair and vice-chair. Commissioner Gibson provided his opinion that he would like to wait until the seventh commissioner joins the group on March 7, 2018, in order to wait for a simple majority.

Commissioner Levinson added he understood where Commissioner Gibson was coming from and that ideally the election would be conducted with a full commission of seven; however, there have been vacancies for a very long time. He shared his experience with voting for a chair and vice-chair during his first meeting in December 2016, and he feels the probability that there would be four votes for a single person at this meeting is fairly great, so the election should not be delayed further. A tie vote would indicate no action and the matter would be delayed until the next meeting.

Commissioner Chang agreed with Commissioner Levinson that it would be awkward for a new commissioner to vote at his/her first meeting. She also shared her experiences since her first meeting and that she has learned a lot since then. Commissioner Chang also believes there is a desire for change in the organization and that change with a purpose is progress, and commissioners need to move forward.

Commissioner Grimm’s opinion was that whether the vote is now or two weeks from now there is not much of a difference, and he would like to vote today. If there is a tie, the vote be taken again on March 7, 2018.

Chair Sword added that over the last year there has been a lot of discussion on being transparent and inclusive and he would like to include the seventh member in the vote. Postponing the vote until the next meeting will allow all the members to participate, so he would like to hold off as there are no critical matters before the Commission.

Commissioner Chang shared that it will take at least four to five meetings for a new commissioner to become familiar with the duties in order for their vote to be meaningful and not just a transaction and is an unreasonable request to make of a new commissioner.

Chair Sword stated that it is his understanding that the nominee has been following along with what is going on with the Commission by watching meetings via Civil Beat. His feeling is that two weeks is short and it is important to have all seven commissioners participate in the election.
MINUTES OF THE REGULAR MEETING
February 21, 2018
Page 6

Election of Chair and Vice-Chair for 2018 (Continued)
Commissioner Grimm then made a motion to vote for the chair and vice-chair for 2018 today (February 21, 2018). Commissioner Levinson seconded the motion.

Discussion: None.

Vote: By a unanimous vote, the motion carried.

Commissioner Gibson then nominated Chair Sword to continue as Chair for 2018. Chair Sword thanked Commissioner Gibson for the nomination and then informed those in attendance that last year he did not seek the position of chair and was asked by fellow commissioners to take the role, which he accepted. He realized it would be a challenge and it was even more challenging than anticipated. All of the commissioners worked hard last year given the circumstances. As the chair, he tried to give commissioners an opportunity to discuss issues at hand, commissioners have not always agreed, and he appreciated the dedication and passion from each commissioner. Chair Sword then said he was not going to seek the position of chair for 2018.

Commissioner Levinson shared his personal thanks to Chair Sword for taking on the role as chair when he did because it was done during a difficult time for the Commission.

Commissioner Levinson then nominated Commissioner Loretta Sheehan as chair for 2018. Commissioner Chang seconded the motion.

Discussion: Commissioners Chang and Sheehan also thanked Chair Sword for his serving as chair during a difficult year.

With regard to her nomination, Commissioner Sheehan said she would try to usher in change to the culture of the Commission. With a new chief and new administration the job of the commissioners is still to guide, advise, criticize, audit, hire and fire, and would like to see the Commission becoming more of a board that Chief Ballard would take advantage of each members talents.

She then made suggestions in which each commissioner could use his/her knowledge to serve the Commission better and partner with HPD by meeting with divisions, analyzing the problems, and reporting his/her findings during a Commission meeting. Commissioner Sheehan would also like to connect more with the neighbor island commissions, be more active in legislative matters and have all commissioners accessible to the media.

Vote: By a unanimous vote, the motion carried.

Commissioner Sheehan nominated Commissioner Levinson as vice-chair. She understands that not everyone would like to have two lawyers in leadership positions; however, it would be good to have Commissioner Levinson serve as vice-chair as he is dedicated, as shown with the revision of Rules 10 and 11 and cares about the Honolulu Police Department. Commissioner Gibson seconded the motion.
MINUTES OF THE REGULAR MEETING
February 21, 2018
Page 7

Election of Vice-Chair for 2018 (Continued)

Discussion: None.

Vote: By a unanimous vote, the motion carried.

EXECUTIVE OFFICER'S REPORT
Acting Executive Officer Ashak reported as of February 21, 2018, the Commission has received 13 complaints compared to 16 in 2017. There are ten pending cases, five cases were referred to PSO, one case was closed via the HPC Public Service Report and there are six pending requests for legal counsel.

As far as the hiring of the next executive officer, we are waiting for the Department of Human Resources to provide a date for the advertisement of the position.

EXECUTIVE SESSION
A 3:19 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 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 4:44 p.m.

ANNOUNCEMENTS
Chair Sword announced the next meeting Honolulu Police Commission will be on March 7, 2018 at 2 p.m.
MINUTES OF THE REGULAR MEETING
February 21, 2018
Page 8

ADJOURNMENT
At 4:45 p.m. Commissioner Sheehan made a motion to adjourn the meeting. Commissioner Levinson seconded the motion.

Discussion: None.

Vote: By a unanimous vote, the motion carried.
COMPLAINTS
AND
INTERNAL INVESTIGATIONS
HPC INVESTIGATIONS

- External Complaints
- 60 Days
- Misconduct
HPD INVESTIGATIONS

- External & Internal Complaints
- PSO or Divisional
- HPC Conversions
DISPOSITION OF INVESTIGATIONS

- Administrative Review Board (ARB)
- Recommendation
- Disciplinary Action