HONOLULU POLICE COMMISSION
City and County of Honolulu
State of Hawaii
Minutes of the Regular Meeting
September 4, 2019

CALL TO ORDER
Chair Sheehan called the meeting to order at 2:01 p.m. on
Wednesday, September 4, 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
Carrie K. S. Okinaga, Member
Richard M. Parry, Member

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

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

ASCERTAINMENT
OF QUORUM
Counsel Wong ascertained that a quorum was present

CHIEF OF POLICE REPORT
Acting Chief McCarthy informed commissioners Chief Ballard is out of town.

The 34th Citizens Police Academy began August 29, 2019. There is a good mix of attendees,
which includes referrals from CPA graduates and some future police officers.

The Ethical Policing is Courageous (EPIC) training, which is an outgrowth of the New Orleans
Police Department during its consent decree period, began with the Fourth Watch officers. The
program will be included in the recruit curriculum and annual recall training for police officers.
HPD officers had positive comments and reviews on the training.

The Meet the Majors program attendance/participation is increasing. The district commander
selects the site, meets with attendees, and address concerns attendees may have. Central
Districts have completed their events and the Regional Districts are beginning their events.

Chair Sheehan asked how long the EPIC program was. Acting Chief McCarthy responded that
the training with the Fourth Watch officers was approximately four hours; however, the length of
the class for recruit classes will be a two-hour training incorporated into the training curriculum.
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2019 Compendium Presentation
Acting Chief McCarthy introduced Captain Jason Kawabata of the Legislative Liaison Office. Captain Kawabata provided commissioners with an overview of the 2019 Compendium, and briefly reviewed the following Acts:

- Act 23, HB720 HD1 Relating to Firearms
- Act 150, SB1466 SD2 HD2 Relating to Gun Violence Protective Orcers
- Act 175 SB1037 SD1 HDF1 DC1 Relating to Domestic Violence
- Act 246 SB413 HD1 CD1 Relating to Criminal Trespass; Commercial Premises
- Act 257 SB600 HD1 Relating to Firearms
- Act 273 HB1383 HD2 SD1 CD1 Relating to Marijuana
- Act 281 SB414 SD1 HD1 CD1 Relating to Criminal Procedure
- Act 133 SB693 HD1 CD1 Relating to the Statewide Traffic Code
- Act 148 HB1165 HD2 SD2 Relating to Gender Identification
- Act 169 HB703 HD1 SD2 CD1 Relating to Intoxicating Liquor

Captain Kawabata and Acting Chief McCarthy answered questions from commissioners, and informed commissioners that HPD can monitor up to 1,000 bills during any legislative session and submits testimony on approximately 200-300 bills per session. Commanders assigned to monitor bills should be present during the committee meetings or sessions in order to be able to answer questions from legislators. (A copy of the Captain Kawabata's presentation will be attached to the minutes.)

APPROVAL OF MINUTES
Commissioner Parry made a motion to approve the minutes of the August 7, 2019, meeting. Commissioner Chang seconded the motion.

Discussion: None.

Vote: By a unanimous vote, the motion carried.

PUBLIC TESTIMONY
Ms. Iris Kauhane attended the meeting and commended the Meet the Major Program in District 4. She commended the major and the program as it has allowed her to address a personal issue with an officer directly with the major. Ms. Kauhane also offered positive comments about the Professional Standards Office (PSO) when she had contact with members of the PSO.
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NEW BUSINESS
Request for Legal Counsel from Chief of Police Susan Ballard, Civ. No. 19-1-0649 JPC
Commissioner Levinson discussed his review of the request for legal counsel submitted by
Chief Ballard for Civil No. 19-1-0649 JPC. After a review of the complaint and the memorandum
from COR, Commissioner Levinson made a motion to approve legal counsel for Chief Ballard
for Civil No. 19-1-0649 JPC. Commissioner Parry seconded the motion.

Discussion: None.

Vote: By a unanimous vote, the motion carried.

Report on Actions Taken at the Executive Session of July 17, 2019
Commissioner Chang reported that during the executive session of July 17, 2019,
commissioners deferred the approval of the executive session minutes of June 19, 2019 to
August 7, 2019. All complaints scheduled for review were also deferred to the August 7, 2019
executive session.

Discussion: None.

Vote: By a unanimous vote, the motion carried.

Executive Officer’s Report
EO Yuen reported as of September 3, 2019, there have been 68 complaints received compared
to 46 in 2018, and 58 in 2017. There are 25 cases pending, 13 cases have been referred to the
PSO, two closed by PSR, and two complaints withdrawn. Mr. Gabriel Irons, our new
investigator began work on September 3, 2019.

EXECUTIVE SESSION
At 2:45 p.m., Commissioner 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.
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RETURN TO OPEN SESSION
The Commission returned to the open session at 3 p.m. to conduct the HRS 52-D8 Adjudication (Contested Case Hearing) for former officer David Oh. The contested case hearing began at 3:01 p.m. and ended at 4:17 p.m. Refer to transcript for further details.

RETURN TO OPEN SESSION
The Commission returned to the open session at 5:28 p.m.

ANNOUNCEMENTS
Chair Sheehan announced the next meeting of the Honolulu Police Commission will be on September 18, 2019.

ADJOURNMENT
At 5:29 p.m. Commissioner Okinaga made a motion to adjourn the meeting. Chair Sheehan seconded the motion.

Discussion: None.

Vote: Unanimous.
2019 COMPENDIUM

Broken down into four categories and arranged numerically within each category.

1. Criminal (17)
2. Traffic (9)
3. Miscellaneous (27)
4. Resolutions (3)
CRIMINAL HIGHLIGHTS (7)
ACT 23
HB720 HD1 RELATING TO FIREARMS

Effective April 24, 2019. Adds a new section to Chapter 134, Hawaii Revised Statutes.

- Requires a person to report the loss, theft, or destruction of a firearm the person owns or possesses within 24 hours of the discovery of such loss, theft, or destruction.

- Report either to the county where the person resides or where the loss, theft, or destruction occurred.

- 1st offense is a petty misdemeanor, 2nd and subsequent offenses are misdemeanors.

- 3rd and subsequent offenses the person must surrender all firearm registrations, ammunition, and firearms.
ACT 150
SB1466 SD2 HD2 RELATING TO GUN VIOLENCE PROTECTIVE ORDERS

Effective January 1, 2020. Adds new part ("GUN VIOLENCE PROTECTIVE ORDERS") to Chapter 134, Hawaii Revised Statutes:

- Establishes a process by which a law enforcement officer, family or household member, medical professional, educator, or colleague may obtain a court order to prevent a person from accessing firearms and ammunition when the person poses a danger of causing bodily injury to oneself or another.

- A person who files a petition for an ex parte gun violence protective order or a one-year gun violence protective order under this part, knowing the information in the petition to be materially false or with an intent to harass the respondent, is guilty of a misdemeanor.
ACT 175
SB1037 SD1 HD1 DC1 RELATING TO
DOMESTIC VIOLENCE

Effective July 2, 2019. Amends §709-906 Abuse of family or household members; penalty:

- (8) Where the physical abuse consists of intentionally or knowingly causing bodily injury by impeding the normal breathing or circulation of the blood [of the family or household member] by:
  a) Applying pressure on the throat or the neck[,] with any part of the body or a ligature;
  b) Blocking the nose and mouth; or
  c) Applying pressure to the chest.

Abuse of a family or household member is a class C felony [; provided that infliction of visible bodily injury shall not be required to establish an offense under this subsection.]
ACT 245
SB413 HD1 CD1 RELATING TO CRIMINAL TRESPASS; COMMERCIAL PREMISES

Effective July 2, 2019. Amends:

» §708-814 Criminal trespass in the second degree.
  » Specifies that for purposes of making a complaint for criminal trespass in the second degree on commercial premises, evidence of a prior reasonable warning or request to leave the premises may be evidenced by a copy of the previously issued written warning or request, whether or not posted at the premises or retained by the county police department.
  » For the purposes of this paragraph, “reasonable warning or request” means a warning or request communicated in writing at any time within a one-year period inclusive of the date the incident occurred, which may be evidenced by a copy of the previously issued written warning or request, whether or not the copy is posted at the premises or retained by the county police department...
ACT 257
SB600 HD2 RELATING TO FIREARMS

Effective July 1, 2019. Amends:

- §134-3 Registration, mandatory, exceptions.
  - (f) No person less than twenty-one years of age shall bring or cause to be brought into the State any firearm.
Effective January 1, 2020. Amends:

§706-622.5 Sentencing for drug offenders; expungement.

(5) Upon motion from a person convicted for the possession of marijuana under section 712-1249 arising from a set of facts and circumstances that resulted in no other criminal charge, the court shall grant an expungement order pertaining to the conviction for the offense, provided that the amount of marijuana for which the person was convicted of possessing was three grams or less.

§712-1249 Promoting a detrimental drug in the third degree.

(2) Promoting a detrimental drug in the third degree is a petty misdemeanor if provided that possession of three grams or less of marijuana is a violation, punishable by a fine of $130.
ACT 281
SB414 SD1 HD1 CD1 RELATING TO CRIMINAL PROCEDURE

Effective June 1, 2019. Adds a new chapter to the Hawaii Revised Statutes "EYEWITNESS IDENTIFICATION PROCEDURES".

- Creates procedural and administrative requirements for law enforcement agencies for eyewitness identifications of suspects in criminal investigations.
ACT 281 – CONTINUED

Areas of concern:

- In a live lineup, no identifying actions, such as speech, gestures, or other movements, shall be performed by lineup participants.

- All showups shall be conducted blind (the administrator does not know the identity of the suspect in the identification procedure) unless to do so would place an undue burden on law enforcement or the investigation.

- Requires a video record of each identification procedure unless impracticable.

- An administrator shall not conduct a showup with a photograph. If investigators wish to determine if an eyewitness can make an identification using a photograph, a photo lineup shall be used.
TRAFFIC HIGHLIGHTS (4)
ACT 133
SB693 HD1 CD1 RELATING TO THE
STATEWIDE TRAFFIC CODE

Effective July 1, 2019. Amends:

- §291C-33 Pedestrian-control signals
  - Whenever special pedestrian-control signals [,] exhibiting the words “Walk” or “Don’t Walk” [or], the symbols of a walking person or an upraised palm, or a countdown timer are in place, such signals shall indicate as follows:...
  
  - (3) Countdown timer. If the pedestrian-control signal is equipped with a countdown timer, no pedestrian shall start to cross the roadway in the direction of such signal once the countdown begins, but any pedestrian who has partially completed the pedestrian’s crossing when the countdown begins shall complete the crossing to a sidewalk or safety island before the countdown timer ends.
ACT 148
HB1165 HD2 SD2 RELATING TO GENDER IDENTIFICATION

Effective July 1, 2020. Amends:

► §286-109 General provision governing the issuance of licenses.
► §286-111 Application for license, provisional license, instruction permit, limited purpose driver’s license, limited purpose provisional driver’s license, or limited purpose instruction permit; fees
► §286-303 Application for identification card.
  ▶ Uses the term “gender designation” in place of “gender” and “sex”
  ▶ Gender designation includes the options F, M, or X
  ▶ Documentation of the applicant’s gender designation is not required, only the applicant’s self-certification of their chosen gender designation is needed
ACT 169
HB703 HD1 SD2 CD1 RELATING TO INTOXICATING LIQUOR

Effective July 1, 2019. Amends:

- §291E-61 Operating a vehicle under the influence of an intoxicant.
  - (1) For the first offense, or any offense not preceded within a [five-year] ten-year period by a conviction for an offense under this section or section 291E-4(a):
  - (2) For an offense that occurs within [five] ten years of a prior conviction for an offense under this section or section 291E-4(a):
Effective July 1, 2019. Amends:

» §291E-61.5 Habitually operating a vehicle under the influence of an intoxicant.
  - (1) “Convicted [three] two or more times for offenses of operating a vehicle under the influence” means that, at the time of the behavior for which the person is charged under this section, the person had [three] two or more times within ten years of the instant offense:

» §291E-62 Operating a vehicle after license and privilege have been suspended or revoked for operating a vehicle under the influence of an intoxicant; penalties.
  - Removes the requirement of a person with in ignition interlock permit to also have a valid State of Hawaii identification card in the person’s immediate possession.