

Approved

**COUNTY OF KAUAI
Minutes of
OPEN SESSION MEETING**

Board/Commission	Kaua'i Police Commission	Meeting Date	July 23, 2020
Location	Teleconference Microsoft Teams Meeting	Start of Meeting: 9:02 a.m.	12:31 p.m.
Present	Chair Roy Morita; Vice Chair Catherine Adams; Commissioners: Gerald Bahouth, Mary K. Hertog, Leina`ala Jardin, Kevin Mince and Dean Pigao. Also present: Board & Commissions Office Staff: Support Clerk Mercedes Omo; Administrator Ellen Ching; Office of the County Attorney: Deputy County Attorney Chris Donahoe; Police Department: Chief of Police Todd G. Raybuck; Captain Kalani Ke and Office of Professional Standards, Lieutenant Scott Williamson. Public: Garden Island News Reporter (left the Open Session Meeting at 10:51 a.m.)		
Excused			
Absent			



SUBJECT	DISCUSSION	ACTION
Call To Order		Chair Morita called the teleconference meeting to order at 9:02 a.m.
Roll Call to ascertain a quorum	A roll call ensued with six (6) commissioners present to conduct business. Staff noted that Commissioner Bahouth was on a work related call and would be joining the meeting in progress, shortly.	
Public Testimony	None.	
Approval of Minutes of June 25, 2020 Meeting	Chair Morita called for a motion to approve the meeting minutes.	Ms. Jardin moved to approve the minutes of June 25, 2020 meeting. Mr. Pigao seconded the motion. A roll call ensued with all six (6) Commissioners present voting unanimously to approve the minutes as circulated.

<p>Chair's Comments & Announcements</p>	<p>Next Regularly Monthly Teleconference Meeting 9:00 a.m. on Thursday, August 27, 2020. Executive Session to follow. Subject to change.</p>	
<p>Chief's Monthly Reports</p>	<ol style="list-style-type: none"> 1. Administrative & Technical Bureau 2. Fiscal Report 3. Investigative Services Bureau 4. Patrol Services Bureau 5. Any pertinent announcements or updates <p>As follow-up response to Mr. Pigao's inquiry about the amount of domestic violence cases at last month's meeting, Chief Raybuck reported that KPD has not seen a significant increase in the number of domestic violence cases this year compared to last year. He shared that there have been a lot of discussion about COVID-19 being an added stressor to domestic violence cases; however, in the first six (6) months of 2019 there were 193 cases of allegations of abuse of a family or house hold member reported and 2020 (in the same time period) there were 191 calls for service for domestic violence and a slight uptick in domestic arguments calls for service of 514 compared to 487 in 2019.</p> <p><u>Crime Statistics Summary Report year to date comparisons</u> Chief Raybuck reported that from January 2020 through June 2020 violent crimes cases were down 11%; property crime cases across the island was also down 37.2% compared to 2019 stats. The decrease in crimes for this year compared to last year equates to a percentage change of approximately 34.8%. Of these, KPD had 766 reports of Part I crimes (murder, rape, robbery, aggravated assaults) and Part II crimes (burglary, larceny and motor vehicle thefts) compared to 1,074 in 2019.</p> <p>Mr. Bahouth noting that the decrease in crime is contributed to Chief Raybuck's leadership. Chief Raybuck stated that the work that has been to decrease crime on the island was due to Assistant Chief Mark Begley's great leadership as well as all of the police officers and the national guard for their</p>	<p>At 9:04 a.m. Mr. Bahouth joined the meeting in progress.</p>

	<p>dedication and commitment to keep the community safe during the COVID-19 pandemic.</p> <p>Mr. Bahouth asked if the enforcement plans at the Līhu'e Airport is going to have to be modified in anticipation of the September 1 opening of tourists to the island. Chief Raybuck stated that the KPD's plans are going to remain in tack, but their workload is going to increase as tourists begin to come to the island. One of his concerns is KPD's ability to keep an eye on 500 individuals who are already in quarantine once tourists are let in, which is going to put a significant strain on their resources.</p> <p>Ms. Hertog asked if the county is going to retain the services of the national guardsmen indefinitely to which Chief Raybuck replied that he doesn't know if their services are going to be kept indefinitely, but at this point, there's nothing to indicate that the county is going to lose their support as it continues to move forward.</p> <p>Mr. Bahouth asked Chief Raybuck if once the Department begins its promotions would his plans to reorganization the Department be taken into account, particularly in the leadership positons. Relative to the amount of commissioned vacancies reflected in his report, Chief Raybuck clarified that the actual number of commissioned vacancies stands at ten (10) and as of July 6, the six (6) new recruits who were recently hired are in training. As for the promotions, both he and Captain Ke have been working with HR to develop a structure as to what the promotional process is going to look like, and so far, they have tentatively identified all of the resource materials for the promotional exam. HR has already gone out for bid and has secured a contract with an outside company to assist with the written exams. The goal is to be able to start the promotion exams in the coming fall season and hopefully create more promotions around the first of the year to coincide with the anticipated January 2021 new recruit class.</p>	
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	<p>He shared that in addition to the ten (10) vacancies there could be two (2) additional vacancies in the patrol bureau because a lieutenant had expressed his desire to retire and a patrol officer have expressed his desire to resign from the force for another job opportunity. To date there are approximately sixteen (16) people who have passed the initial hiring phase and will continue to the next phase of the hiring process.</p>	
<p>Business KPC 2019-36</p>	<p><u>Discussion and decision-making on recommendations to amend the Police Commission Rules on Administrative Practice and Procedure in accordance to Hawai'i Revised Statutes Section 92-2.5 (a). (On-going)</u></p> <p>Although the Commissioners were provided with copies of draft language for them to consider more clarification was needed therefore the item will have to be deferred for continued discussion at the Commission's next meeting.</p>	
<p>KPC 2020-6</p>	<p><u>Discussion and decision-making on hosting the 2021 State of Hawai'i Police Commissioners' Conference on Kaua'i. Topics of discussion include but not limited to conference dates and venue. (On-going)</u></p>	<p>Mr. Bahouth moved to select April 22 & 23 2021 as the dates to hold the conference. Vice Chair Adams seconded. A roll call ensued with all seven (7) Commissioners voting in favor of the motion.</p>
<p>KPC 2020-12</p>	<p><u>Discussion and decision-making on undertaking an organizational climate assessment within the Kaua'i Police Department. (On-going)</u></p> <p>Mr. Donahoe gave a follow-up report on options far as modifying something similar to the Gallup Q12 climate assessment and if it would be feasible without a copyright violation and or to find out what other type of climate assessment are being utilized by other organizations. He stated that he was able to speak with Gallup Rep Justin Elliott who was able to break it down to a couple of options. Option No.1 do a one-time climate survey using the Standard Q12 scientific method questions which would cost a one-time fee of \$15 per person. The survey would give feedback on some level of group reporting on the climate. If the Commission was interested in going beyond Q12 and or getting a subscription the cost for that would \$4500 for annual subscription plus \$15 per person. The survey would allow the Commission to</p>	

	<p>do multiply climate surveys throughout the course of the year as well as add additional questions from a list of two hundred already prepared written questions.</p> <p>A question was raised by Chair Morita if the Commission could use the climate assessment that was presented by Commissioner Mince at the last meeting. Mr. Donahoe explained that if the assessment contains questions from the Q12 the Commission could risk a copyright violation. Chair Morita asked if a comparison could be made on the Q12 survey and the assessment that was presented by Commissioner Mince because he really wants to move ahead with a climate assessment.</p> <p>Ms. Ching stated that she supports Chair Morita's request to do a comparison with Commissioner Mince's assessment and if it works out, the only thing left to do is to get permission from Commissioner Mince's former organization to use the climate assessment.</p> <p>Mr. Mince stated that he was under the impression based on last month's discussion that Mr. Donahoe was going to do a comparison between his survey and Vice Chair Adams survey, but as of today the issue is moot because he had contacted a former Inspector General of the California Highway Patrol and from what he was told the survey that he had presented to the Commission at the last meeting was 100% owned by CHP and with the permission by the CHP Commissioner who via email granted the Kaua'i Police Commission permission to use the survey.</p> <p>Ms. Ching stated that having permission to use their survey is one thing, but as a precaution she would like to refer the issue to Mr. Donahoe for a legal opinion because any product that comes out from a county or state agency is legally owned by that state which in this case, is the State of California.</p>	
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Mr. Donahoe asked Mr. Mince if the permission he is speaking about came from the State of California and is in writing. Mr. Mince stated that the permission is from the commissioner of the highway patrol and the inspector general of the highway patrol. Mr. Donahoe asked if the permission specifically is to utilize the 1-5 survey that was revised and if he has in writing that the survey can be used by the Kaua'i Police Commission to which Mr. Mince replied more or less yes, and stated fact that he sent the survey form himself indicates that he is giving the Commission permission to use the survey. Mr. Donahoe asked if the communication states that the survey is solely the product of CHP. Mr. Mince replied no it does not, he added that he forwarded the survey to Ms. Ching along with a contact number for the inspector general, if there were any questions. Ms. Ching asked Mr. Mince to forward the email from the inspector general to Mr. Donahoe so he could make a determination. Mr. Donahoe asked Mr. Mince to include a copy of the survey as well.

Mr. Bahouth asked Mr. Donahoe if it was possible for him to reach out to Mr. Mince's contacts to talk about doing a letter of understanding to cover all of his concerns to which Mr. Donahoe replied that that was his intent.

Chief Raybuck stated that based on Mr. Donahoe's presentation about the Gallup poll costing \$15 per person that's approximately \$3000 for 200 employees, but he's not quite at 200 employees. He added that he would have to check with fiscal, but he's pretty sure he can come up with the \$3000 to cover the cost of the Q12 survey. Chair Morita thanked Chief Raybuck for his offer and stated in the meantime Mr. Donahoe can go ahead and do his research. Vice Chair Adams noted that the nice thing about the Gallup survey is it would provide national comparisons with which to look at.

Mr. Bahouth stated that he agrees with Vice Chair Adams and that the Commission needs to establish a baseline to know where it's going and that the survey that Mr. Mince had presented is a good survey, but asking the Q12 questions could provide a baseline of understanding as to where KPD is at

	<p>compared to the CHP survey which is not going to give the Commission a baseline because there would be not comparison to make unlike the Gallup Q12 survey which would. Mr. Bahouth asked Mr. Mince if the CHP survey is an electronic fillable form to which Mr. Mince replied yes. With no further discussion, Chair Morita moved on to item KPC 2020-13.</p>	
<p>KPC 2020-13</p>	<p><u>Discussion on citizen complaints specifically, what internal mechanism does the Department has to track the number of complaints and the type of citizen complaint an officer has. (On-going)</u></p> <p>Chief Raybuck called upon Lt. Scott Williamson to explain what internal mechanism KPD has in place. Lt. Williamson stated that in terms of tracking complaints KPD has an internal centralize robust system to track internal and external including complaints filed with the Police Commission. The system also tracks an officer's commendations and disciplinary decisions.</p> <p>Mr. Mince stated that he commends their tracking system, but as a Commissioner he wants to know an officer's complaint history and if KPD does or do not see a trend. Lt. Williamson stated that the IA Pro System also has an early intervention system that identifies an officer who is likely to engage in potentially damaging behavior before the behavior occurs.</p> <p>Chair Morita asked how long does KPD keep an officers record on file. Lt. Williamson explained that an officer's record is kept for four (4) years.</p> <p>Mr. Bahouth asked Mr. Mince in what form he wants the report to be in and what type of information does he want the report to reflect. Mr. Mince stated that ideally, the information should be included in Lt. Williamson's Monthly Report regardless of what the findings are, a one line sentence saying that KPD has looked at this officer's complaint history and they do not find a problem; something that shows that the Police Commission has asked the right questions of KPD when it comes to officers getting complaints. That way the Commission has covered itself and the County and has done its due diligence</p>	

	<p>when it comes to complaints.</p> <p>Mr. Bahouth moved that Lt. Williamson's Monthly Report include a paragraph that KPD has looked at the officer's complaint history and has reviewed an officer's past performance. Mr. Mince seconded.</p> <p><u>Discussion</u></p> <p>Mr. Mince stated to clarify he is not asking for an officer's performance history just their complaint history and nothing else.</p> <p>Chief Raybuck asked for clarification on the motion. Mr. Bahouth stated that in his motion he had asked for an officer's performance history which was incorrect. Chief Raybuck asked if the motion should be to ask Lt. Williamson to indicate in his report that at the conclusion of the investigation KPD has reviewed the officer's complaint history and either have or have not identified areas of concern that needs to be addressed to which Mr. Mince agreed.</p> <p>Chair Morita stated that he worried that the request could take the discussion into uncharted waters and violate SHOPO's collective bargaining agreement to which Chief Raybuck agreed. Mr. Donahoe stated that if the report is couched as Chief Raybuck had describe, he doesn't see it violating the collective bargaining agreement. Mr. Mince stated that his request is not asking for specific information on an officer's complaint history, he just wants to know if a problem was identified and is being addressed by KPD.</p> <p>After a back and forth discussion, Ms. Ching suggested that the Commission have Ms. Hertog work with Chief Raybuck and Mr. Donahoe to come up with the appropriate language.</p>	<p>Ms. Hertog move to at the conclusion of the investigation have Lt. Williamson include his Monthly Report a paragraph that says "KPD has reviewed an officer's complaint history and disciplinary history to determine whether or not there is an issue, and if there has been an issue it will be addressed." Mr. Bahouth seconded. Motion was with withdrawn and seconded.</p>
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		<p><u>Motion</u> Vice Chair Adams moved to have Ms. Hertog, Mr. Donahoe work with Chief Raybuck on the appropriate language for inclusion on the OPS Monthly Report. Mr. Bahouth seconded. A roll call voted ensued with all seven (7) Commissioners voting in favor of the motion.</p>
<p>KPC 2020-17</p>	<p><u>Discussion and briefing by Chief of Police Todd Raybuck on the duty to intervene policy and the use of force policy containing training requirements.</u></p> <p>Chief Raybuck briefed the Commissioners on the policies including the suspension of the vascular use policy. A copy of the policy was distributed to the Commissioners prior to the meeting. Mr. Mince asked if training has been provided to the officers to which Chief Raybuck replied that training regimens have been schedule to happen in the next couple of weeks and will on-going. As for the new use of force policy, the Deputy County who is assigned to KPD is reviewing the policy for legalities and upon conclusion, KPD will have a meeting with SHOPO to address any concerns they may have. The next step is to work on drafting a policy on training the use of force training. With no further discussion, Chair Morita move on to item KPC 2020-18.</p>	
<p>KPC 2020-18</p>	<p><u>Briefing by Deputy County Attorney Chris Donahoe on the passing of House Bill 285 Police Reform that would require county police departments to disclose to lawmakers the identity of an officer upon his or her suspension or discharge.</u></p> <p>Deputy County Attorney Donahoe briefed the Commissioners on the impact of HB 285.</p>	
<p>KPC 2020-19</p>	<p><u>Receipt of Civil No. 20-CV-00189-JMS-WRP that was filed in the United States District Court for the District of Hawai'i. Plaintiffs Lance Kamuela Gomes; Brandee Leigh Abuan, Indiana Alohikala Gomes; and Bella Auhea Kekauluohi Gomes v. Defendants County of Kaua'i; Derek S.K.</u></p>	<p>Chair Morita called for a motion to receive item KPC 2020-19 for the record.</p> <p>Vice Chair Adams moved to receive item</p>

	<u>Kawakami; Patrick Porter; Wallace Rezendes Jr.; Robin Sequina; Ellsworth Kaleiohi; Ray Ortiz; Todd Raybuck; Kaua'i Police Commission; Mary K. Hertog; and DOES 1-10.</u>	KPC 2020-19 for the record. Mr. Pigao seconded the motion. The Commissioners unanimously voted to receive item KPC 2020-19 for the record.
Executive Session	Pursuant to Hawai'i Revised Statutes §92-4, §92-5 (a) (2) and (4), the purpose of this Executive Session is for the Commission to review and discuss charges brought against an officer in the Kaua'i Police Department, where consideration of matters affecting privacy will be involved, provided that if the individual requests an open meeting, an open meeting shall be held; and to consult with its attorney on issues pertaining to the Commission's powers, duties, privileges, immunities, and or liabilities as they may relate to the following agenda items:	At 10:50 a.m. Deputy County Attorney Chris Donahoe cited the Hawai'i Revised Statutes to take the meeting into Executive Session.
ES KPC 2020-001	<u>Monthly update by Scott Williamson, Lieutenant, Office of Professional Standards on the status of the Department's disposition on formal notarized complaints that were filed with the Kaua'i Police Department, and formal notarized complaints that were filed with the Police Commission and referred to the Office of the Chief for further review.</u>	
ES KPC 2020-002	<u>Monthly update by Todd G. Raybuck, Chief of Police, Kaua'i Police Department or his designated representative on any significant adverse incidents/events involving personnel in the Kaua'i Police Department that could potentially impact the County, the Police Commission and the Kaua'i Police Department.</u>	
ES KPC 2020-015	<u>Notarized complaint KPC 2020-004 filed on June 25, 2020. The complaint alleges that a supervisor did not do his job by not answering the complainant's questions and for not rectifying a mistake by not ordering the officers to cite the driver who caused the accident.</u> (a) <u>Attachment a memorandum dated July 16, 2020 from Mayor Derek S.K. Kawakami to Chair Roy Morita notifying the Police Commission that he is in receipt of a complaint that was filed</u>	

	<u>against a supervisor in the Kaua'i Police Department on June 25, 2020.</u>	
ES KPC 2020-016	<u>Notarized complaint KPC 2020-005 filed on July 7, 2020. The complaint alleges an officer in the Kaua'i Police Department shoved a complainant causing the person to fall and hit a car.</u>	
ES KPC 2020-017	<u>Notarized complaint KPC 2020-006 filed on July 8, 2020. The complaint alleges misconduct, intentional fabrication of evidence, intentional false arrest, and retaliatory because of the complainant's family history.</u>	
ES KPC 2020-018	<u>Pursuant to Hawai'i Revised Statutes §92-4, §92-5 (a) (4), §92-9 (a) (1-4) and (b), the purpose of this Executive Session is for the Commission to approve or amend the regular Executive Session minutes of June 25, 2020 meeting and to consult with its attorney on issues pertaining to the Commission's powers, privileges, immunities, and or liabilities as they may relate to this item.</u>	
ES KPC 2020-013	<u>Monthly update on the status of an investigation regarding a complaint that was filed against a supervisor in the Kaua'i Police Department alleging violation of workplace violence and harassment policies.</u>	Vice Chair Adams moved to enter into Executive Session. Ms. Hertog seconded the motion. The motion carried unanimously by a roll call vote of 7:0. At 10:54 a.m. the Commissioners entered into Executive Session.
Return to Open Session to ratify the actions taken in Executive Session	At 12:31 p.m. the Commission reconvened in Open Session. Chair Morita called for a motion to ratify the actions taken in Executive Session.	Vice Chair Adams moved to ratify the actions taken in Executive Session. Ms. Jardin seconded the motion. The motion carried unanimously by a roll call vote of 6:0. <u>ES KPC 2020-001:</u>

		<p>Motion carried 7:0 to receive Lt. Williamson's Monthly Reports as submitted.</p> <p><u>ES KPC 2020-002:</u> Chief Raybuck provided an update on two (2) personnel issues in the Kaua'i Police Department.</p> <p><u>ES KPC 2020-015:</u> A motion to exonerate the supervisor from wrong doing carried 6:0.</p> <p>A motion to send a letter to the complainant to inform him that the allegations should be handled by the Office of the Prosecuting Attorney carried 6:0.</p> <p><i>*Chair Morita recused himself from this item citing a conflict of interest.</i></p> <p><u>ES KPC 2020-016:</u> A motion to exonerate the Officer from wrong doing carried 7:0.</p> <p><u>ES KPC 2020-017:</u> A motion carried to exonerate the Officer from wrong doing carried 7:0.</p> <p><u>ES KPC 2020-018:</u> A motion to approve the Executive Session Minutes of June 25, 2020 meeting carried</p>
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		7:0. <u>ES KPC 2020-013:</u> Boards and Commission Administrator Ellen Ching briefed the Commissioners on the status of an on-going investigation.
Adjournment	With no further business to conduct, Chair Morita called for a motion to adjourn the meeting.	Vice Chair Adams moved to adjourn the meeting. Ms. Hertog seconded the motion. The motion carried unanimously by a roll call vote of 6:0. At 12:321 p.m. the meeting adjourned.

Submitted by: _____
 Mercedes Omo, Staff Support Clerk

Reviewed and Approved by: _____
 Roy Morita, Chair

- (x) Approved as circulated on 9/24/2020
- () Approved as amended. See minutes of _____ meeting.