

COUNTY OF KAUAI

OPEN SESSION TELECONCERENCE MEETING MINUTES

Board/Commission	Kaua'i Police Commission	Meeting Date	October 22, 2020	
Location	Microsoft Teleconference Teams Meeting	Start of Meeting: 9:05 a.m.	11:22 a.m.	
Present	Chair Roy Morita; Vice Chair Catherine Adams; Commissioners: Gerald Bahouth, Mary K. Hertog, Leina`ala Jardin and Kevin Mince. 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 and Office of Professional Standards Lieutenant Scott Williamson and numerous ranking Officers in the Kaua'i Police Department; and Councilmember Felicia Cowden.			
Excused	Commissioner Dean Pigao			
Absent				

SUBJECT	DISCUSSION	ACTION
Call To Order		The Open Session meeting was called to order at 9:05 a.m.
Roll Call to ascertain quorum	Chair Morita informed the Commissioners that Commissioner Pigao had to attend to some work obligations and that he would try to join the meeting if at all possible. A roll call ensued with six (6) Commissioners present to conduct business.	
Public Testimony	None	
Chair's Comments/Announcements	Next Regularly Teleconference Monthly Meeting 9:00 a.m. Thursday, November 19, 2020. Executive Session to follow. (Subject to Change)	
Approval of Minutes of September 24,	Hearing no objections to approve the minutes of September 24, 2020, Chair Morita called for a motion, a second followed by a roll call vote.	Mr. Bahouth moved to approve the Open Session meeting minutes as circulated. Ms. Hertog seconded. A roll call vote ensued

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2020 meeting		with all six Commissioners present voting unanimously in favor of the motion.
Chief's Monthly Reports	<ol style="list-style-type: none"> 1. Administrative & Technical Bureau 2. Fiscal Report 3. Investigative Services Bureau 4. Patrol Services Bureau 5. Chief's pertinent announcements and or updates <p>Chief Raybuck reported that on October 15 Governor Ige's 14th emergency order came into effect that travelers who, upon entry into the state must provide a written confirmation from the state approved Covid-19 testing partner of a negative test result from a test that was administered to the traveler within 72 hours from their final leg of departure. Travelers who can show proof of a negative test will be exempt from the mandatory quarantine requirement. Travelers who were tested who did not receive their negative results upon their arrival to Kaua'i will be required to quarantine until they receive their negative results. Travelers who failed to do the test 72 hours prior were required to do the 14 day quarantine. He shared that on October 15 Kaua'i had a total of 424 passengers that included a mixture of transpacific as well as inter-island travelers. To date 1,719 people were placed in quarantine waiting for their negative results to come in. Since October 15 KPD made eight (8) arrests all related to Covid-19 violations. He commended Assistant Chief Mark Begley for being the driving force on how KPD responds to ensure public safety and the health of the community. He also commended Lieutenant AJ Morita and Officer Bobby Thompson and the entire airport team for all of the work to set-up the process to receive the passengers to ensure that it's done in an orderly fashion.</p>	

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	<p>Chair Morita asked if the Taskforce that was created to keep track of the people in quarantine was still active to which Chief Raybuck replied yes.</p> <p>Mr. Bahouth asked if the 1,791 is the total amount of visitors who arrived on Kaua'i since October 15 to which Chief Raybuck clarified that the number reflects the amount of people in quarantine of which 424 are people who arrived on Kaua'i on October 15.</p> <p>Relative to the A&TB Report, Chief Raybuck highlighted that the report was recently modified to make it easier to read and understand. He pointed out that like all police departments across the country who are having hard time trying to recruit the right people to become police officers - KPD is one those departments. It's a very labor intensive and lengthy process for people to go through and although KPD has done pretty well with its recruitment efforts, the Department is looking into why out of the 90 applicants that signed up to hopefully become police service officers only 70 was referred to KPD by HR of which 50 showed up for the written exam and 24 failed. Out of the 26 who went on to do the agility test six (6) failed. The 20 who went on to the background phase of the hiring process 11 were disqualified. He noted that those who move on in the process 2 or more may drop out making the number of potential candidates even less.</p> <p>Ms. Hertog pointed out that the amount of people who fail the written exam have always been on a concern since she's been on the commission and the question has always been what the Department can do to lessen the failure rate. To her knowledge, in the past, Kauai Community College held classes for people who were interested in making law enforcement a career to help them prepare for the written exam, particularly in the areas of writing fundamentals because people nowadays cannot write complete sentences because they're so use to texting.</p>	

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	<p>Chief Raybuck stated that hiring a person to introduce the various questions and to help applicants prepare for the written exam is an option, the other option is to designate someone in KPD to do that; however, KPD does not have the manpower to take on that task. Ms. Hertog stated that although she understands that it is a great undertaking she would like to see KPD continue its efforts to boost its recruitment.</p> <p>Mr. Mince stated that to his knowledge KPD use to conduct prep classes for individuals, but that lasted for about a month and to that point, he offered to teach the course for free which would normally through KCC would cost an applicant a hundred dollars to take the course. He shared that as a former instructor at KCC who taught the course, he had an 82% passing rate for KPD applicants, but till today, relative to his free offer KPD has not shown any interest. Chief Raybuck stated that he would meet with the County Attorney and Assistant Chief Kalani Ke to see what KPD could do. Candidly speaking, he does not have the personnel and the time where KPD themselves could do the prep course. As it stands now, Sergeant Darla Nonaka spends many hours on and off-duty to try to keep up with the number of people that are coming through the hiring process.</p> <p>Chair Morita recalled that two years ago, both Sergeant Nonaka and Officer Mark Ozaki conducted prep classes in which he himself attended and to his recollection there were about ten (10) people in attendance.</p> <p>Mr. Mince noted that the prep class that Chair Morita mentioned was a one-time deal, which differs from the 18 hour class he taught at KCC which focused on basic English, reading comprehension, spelling all of which are topics most applicants would normally fail on. Chief Raybuck asked how many people he put through the class to which Mr. Mince replied 123 people in a course of two (2) years.</p>	

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	<p>Relative to the Firearms Report, Chief Raybuck reported that the total amount of firearms registered in the month of September alone was 369 (70% increase) compared to 215 in September 2019. Relative to the Investigative Bureau Report, throughout the week of September 20 -26 KPD celebrated National Forensic Science Week.</p> <p>Relative to KPD's continuous recruitment efforts, Mr. Bahouth asked Chair Morita if the matter could be placed on the agenda for next month's meeting so that the Commission does not lose sight to which Chair Morita replied absolutely. Staff acknowledge the Chair's request to place the item on the next agenda for continued discussion.</p>	
<p>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>Ms. Hertog reported that all of the recommendations that were proposed by Mr. Mince and herself is with the County Attorney for review and comments. Chair Morita asked Deputy County Attorney Donahoe what kind of timeline the Commission can expect in terms of him finalizing the proposed recommendations on Rules 1-4 that was put forth by Ms. Hertog and Mr. Mince. Deputy County Attorney Donahoe stated that as his schedule permits he'll review the proposed recommendations and report to Commissioners Mince and Hertog through email.</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>Chair Morita inquired with Administrator Ching on the status of being able to utilize the California Highway Patrol assessment tool that was proposed by Mr. Mince. Ms. Ching stated that until proven otherwise, it is her understanding that the assessment tool belongs to the state of California and</p>	

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	<p>unless the Commission gets a thumbs-up by Deputy County Attorney Donahoe to use the assessment tool, she would not recommend moving forward with the climate assessment tool. Mr. Mince stated that he forwarded the information he received from the California Highway Patrol giving the Police Commission permission to use their assessment tool to Mr. Donahoe. Mr. Donahoe pointed out that he did not get Mr. Mince’s email, but he did get an email from Kevin Gallup who wanted to follow-up as well. Mr. Donahoe pointed out that the issue is how many questions in the California Highway Patrol assessment tool were borrowed from questions used by other companies. After a lengthy discussion, Chair Morita asked Mr. Mince to resend the information to Mr. Donahoe.</p> <p>Ms. Ching pointed out that the email came to her and not to Mr. Donahoe and for that she apologized to the Commission for not forwarding the information to Mr. Donahoe. Relative to the Gall-up assessment tool, Ms. Ching asked Mr. Donahoe if he could compare the California Highway Patrol assessment tool to the Gall-up tool because of possible copyright issues. Mr. Donahoe stated that cost is going to be the deciding factor on whether the Commission decides to utilize the CHP assessment tool for free versus the Gall-up assessment tool at a cost. Ms. Ching stated that as she’s okay with it as long as all liability and copy right issues have been addressed to which Mr. Donahoe agreed.</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>Ms. Hertog reported that after a lengthy meeting with Chief Raybuck and Lt. Williamson they were able to come up with appropriate language to be included in the OPS Monthly Reports to the Commission. She called upon Chief Raybuck to deliver the proposed language.</p>	

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	<p>Chief Raybuck stated that the discussion was good and fruitful and the language they all agreed would be appropriate is as follows <i>“The Chief’s Office reviewed the officer’s disciplinary records and considered these records prior to the final disposition for this case.”</i> Chair Morita called for a roll call vote to adopt the language proposed by Ms. Hertog and Chief Raybuck.</p> <p><u>Discussion</u></p> <p>Mr. Mince asked if there was a reason the language did not include language like “reviewed the officer’s complaint record” as opposed to “reviewed the officer’s disciplinary record” or include both phrases. Ms. Hertog stated that both she and Chief Raybuck covered all of the scenarios and felt that the proposed language was appropriate. Chief Raybuck stated that after a lengthy discussion they found that an officer’s disciplinary record would include complaints and that he (Mr. Mince) would be comfortable knowing that KPD has an early intervention warning program that tells them when an officer receives more than three (3) complaints within a twelve (12) month period. When that happens they would go back and look at the officer’s complaint history, disciplinary history, what’s occurring in their performance and review that individual officer’s history to determine whether the non-sustained complaints within a twelve month period could be an indicator of other performance issues or potential disciplinary issues. Ms. Adams asked if the proposed language if agreed upon via a motion is stepping into the Department’s operations which is not within the purview of the Commission. Mr. Donahoe replied and stated that proposing such language is moving in the right direction. Ms. Hertog stated that per the Charter, the Police Commission has the authority to ask the Chief of Police to provide reports. Lt. Williamson gave a PowerPoint presentation on a tool used by supervisors to track incidents within a twelve (12) month span involving police officers. With no further discussion, Chair Morita called for a roll call vote.</p>	<p>Vice Chair Adams moved to adopt the language <i>“The Chief’s Office reviewed the officer’s disciplinary records and considered these records prior to the final disposition for this case.”</i> The motion was seconded by Ms. Hertog.</p> <p>A roll call ensued with all six (6) Commissioners present voting in favor of the motion.</p>

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KPC 2020-21	<p><u>General update by Deputy County Attorney Chris Donahoe on the status of former Police Chief Darryl Perry’s lawsuit that was filed against the County of Kaua’i.</u></p> <p>Deputy County Attorney Donahoe reported that <u>Case 19-1-0113</u> is in the discovery process and a move was made by his attorney to have a stipulated protective order in place which means certain information would not be released and must be reviewed privately. Mr. Perry’s attorney also put in a request for a trial date, but due to Covid-19 the trial date is being pushed back to in mid to late 2021. He’s hoping that the case will be settled by then.</p>	
Executive Session	<p>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.</p>	<p>At 10:13 a.m. Deputy County Attorney Chris Donahoe cited the Hawai‘i Revised Statutes to take the meeting into Executive Session.</p> <p>Vice Chair Adams moved to enter into Executive Session. Ms. Hertog seconded. A roll call ensued with all six (6) Commissioners present voting in favor of the motion.</p>
ES KPC 2020-001	<p><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></p>	
ES KPC 2020-002	<p><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></p>	

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<p>ES KPC 2020-019</p>	<p><u>Discussion and decision-making on two communications. One dated August 5, 2020 and the other dated October 7, 2020 from a member of the public to Vice Chair Catherine Adams and Members of the Kaua‘i Police Commission pertaining to Complaint No. KPC 2020-004. (Deferred on September 24, 2020)</u></p>	
<p>ES KPC 2020-021</p>	<p><u>Monthly update on an investigation alleging that a supervisor in the Kaua‘i Police Department violated Title 7, Chapter 76-1 and the County of Kaua‘i Policy against Discrimination, Harassment, and Retaliation.</u></p>	
<p>ES KPC 2020-22</p>	<p><u>Monthly update on an investigation alleging that an officer in the Kaua‘i Police Department was subjected to an adverse employment action because of favoritism on the part of a supervisor.</u></p>	
<p>ES KPC 2020-024</p>	<p><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 September 24, 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></p>	
<p>Return to Open Session to ratify the actions taken in Executive Session.</p>	<p>At 11:16 a.m. the Commissioners reconvened in Open Session. Chair Morita called for a motion to ratify the actions taken in Executive Session.</p>	<p>Vice Chair Adams moved to ratify the actions taken in Executive Session. Ms. Jardin seconded. A roll call ensued with all six (6) Commissioners voting in favor of the motion.</p> <p>ES KPC 2020-001: The Commission was briefed by OPS Lt. Scott Williamson on the data reflected in his Monthly Report.</p>

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		<p>ES KPC 2020-002: The Commission was briefed on two (2) incidents involved a civil service employee and a police officer in the Kaua‘i Police Department.</p> <p>ES KPC 2020-19: A motion carried 5:0 to receive the two (2) communications dated August 5, 2020 and October 7, 2020 for the record and to inform the complainant that the matter was not within the Commission’s purview therefore no further action will be taken and the matter has been deemed officially closed.</p> <p><i>*Citing a conflict of interest Chair Morita was rescued from the discussion and decision-making pertaining to Item ES KPC 2020-19.</i></p> <p>ES KPC 2020-021 & ES KPC 2020-022: The Commission was briefed on the status of both investigations.</p> <p>ES KPC 2020-024: A motion carried 6:0 to approve the Executive Session Minutes of the September 24, 2020 meeting as circulated.</p>
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. Jardin seconded. A roll call vote ensued with all six (6) Commissioners present voting in favor of the motion. At 11:22 a.m. the meeting adjourned.

Submitted by: _____
Mercedes Omo, Staff Support Clerk

Reviewed and Approved by: _____
Roy Morita, Chair

- Approved as circulated on November 19, 2020
 Approved as amended. See minutes of _____ meeting.