

**Approved**

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

Board/Commission	<b>Kaua'i Police Commission</b>	Meeting Date	<b>June 25, 2020</b>
Location	Teleconference via Microsoft Teams	Start of Meeting: 9:00 a.m.	11:40 a.m.
Present	Vice Chair Catherine Adams; Commissioners: Gerald Bahouth (joined the meeting at 9:10 a.m.); 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; Kaua'i Police Department: Chief of Police Todd G. Raybuck; Police Captains Kalani Ke and Paul Applegate; Lieutenant Scott Williamson, Office of Professional Standards.		
Excused	Chair Roy Morita		
Absent			



SUBJECT	DISCUSSION	ACTION
<b>Call To Order</b>		The meeting was called to order at 9:00 a.m.
<b>Roll call to ascertain quorum</b>	A roll call ensued with five (5) Commissioners present to conduct business.	
<b>Public Testimony</b>	There was no public testimony.	
<b>Chair's Comments/ Announcements</b>	Next Regular Teleconference Meeting will be held at 9:00 a.m. Thursday, July 23, 2020. Executive Session to follow.	

SUBJECT	DISCUSSION	ACTION
<p><b>Approval of Minutes of May 28, 2020 meeting</b></p>		<p>Mr. Pigao moved to approve the Open Session minutes as circulated. Ms. Jardin seconded. The motion carried 5:0.</p>
<p><b>Chief's Monthly Reports</b></p>	<p>Chief Raybuck recognized Records Supervisor Ms. Eunice Apelles, who recently retired from the Department with more than 26 years of service. He expressed his appreciation for Ms. Apelles for her dedication and commitment to the community and to KPD. He also, recognized Assistant Police Chiefs Mark Begley and Bryson Ponce and their respective staff in the patrol bureau and investigative services bureau for spearheading an effort to protect the island from COVID-19 by implementing quarantine compliance checks, complaint response investigations and conducting checkpoints. Both gentlemen were also recently recognized by the Attorney General via virtual conference with various state leaders for their efforts to protect the different communities on Kaua'i from COVID-19.</p> <p>Chief Raybuck reported that one of the Department's crime scene specialist is recovering after being rear-ended by another vehicle while waiting for some children to cross the roadway. According to the crime specialist, he believes that had he not stop to let the children across the roadway, the driver of the vehicle who rear-ended him would have probably hit the children as they were making their way across the roadway because he wouldn't have seen them.</p> <p>Due to a very hectic work week schedule, Chief Raybuck apologized to the Commissioners for not having the time to be able to review the minutes from last month's meeting and for not being able to address the questions on the COVID-19 funding and what the dollar amounts are, he will; however, prepare his response and will be ready at the next Commission meeting. As for KPD's manpower, Chief Raybuck reported that KPD had recently graduated a four (4) new police services officers in a ceremony in which Chair Morita attended. He expressed his heartfelt appreciation for Captain Mark Ozaki and Lieutenant Kenneth Cummings and the ever-amazing Master of Ceremonies Sergeant Darla Nonaka for their all of</p>	

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	<p>their hard work to put the ceremony together. Additionally, Chief Raybuck reported that KPD now has two (2) new dispatchers leaving only more three (3) positions to fill as oppose to five (5) positions. He noted that the two dispatchers are on 89 day hire contract which will be eventually converted into full-time positions. He anticipates that all of the vacant positions in dispatch would be filled by the end of the year.</p> <p>In addition to the ten (10) new police officers who are now on the police force, KPD will begin its 93<sup>rd</sup> Recruit Class on July 6, 2020 bringing the amount of vacancies, less any attrition that may occur due to retirements, to a lower amount. He noted that the recent hires does not affect any lingering vacancies that the Department has been unable to fill. Although the investigative services bureau have reduced their role in the COVID-19 enforcement the bureau will continue as normal to take on their caseloads as they have always done during the pandemic. They will also continue to take a proactive approach by looking for any COVID hotspots and crimes trends in community.</p> <p>Mr. Pigao thanked Chief Raybuck for doing a great job to fill the numerous vacancies. He noted that never in history has KPD be 100% full and he applauds his hiring efforts. Additionally, Mr. Pigao if the increase in domestic violence cases had anything to do with COVID-19.</p> <p>Chief Raybuck stated that he didn't have the opportunity to study the numbers from last month's report, but to his understanding the number of domestic violence cases reported did in fact increase by two (2);however, there haven't been any significant increases in domestic violence calls to date. He opined that COVID-19 may have played a role especially for people who find themselves in this type of dangerous situations and who don't have an outlet to escape from the situation to report it. Mr. Pigao asked Chief Raybuck if he could provide the Commission with the most recent numbers of all domestic violence cases that have been reported at the next Commission's meeting to which Chief Raybuck replied yes.</p>	

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	<p>With regard to the vacancies, Chief Raybuck stated that KPD did not have to implement any cancel days off in over a month or more and from what he was told no one in KPD has ever recall a time when there were no cancel days off done on a regular bases. He noted that his police officers have been working on extended shifts due to COVID operations, but they have been getting three (3) full days off to allow them to decompress and reconnect with their families for their health and wellness. With no further questions or comments, Vice Chair Adams moved on to item KPC 2019-36.</p>	
<p><b>Business</b>  <b>KPC 2019-36</b></p>	<p><u>Discussion and decision-making on recommendations to amend the Police Commission Rules on Administrative Practice and Procedure in accordance with Hawai‘i Revised Statutes Section 92-2.5 (a). (On-going)</u></p> <p>Vice Chair Adams called on Mr. Mince to address the Commission.</p> <p>Mr. Mince explained that there are still several outstanding issues in the first four (4) rules that have to be vetted thoroughly by Deputy County Attorney Chris Donahoe specifically relating to: 1) procedures on when an officer requests legal representation from the county due to a law suit; 2) requiring the Chief of Police to notify the Commission when there’s a use of force incident or the discharge of a firearm; 3) steps that need to be taken to appoint an acting chief versus appointing an interim chief and the Commission’s role in; 4) and a new rule on proposing verbiage to invite the mayor and the managing director to verbally discuss the chief’s annual performance evaluation in executive session as well as including stakeholders input into the chief’s evaluation which normally does not contain any supportive documentation. In addition, the working group is also proposing adding a preamble to explain that the police chief is not the sole responsibility of the Police Commission because the way the Charter is laid out, the mayor has the responsibility and the authority to tell the police chief what to do than the Commission does. He noted that in discussing the preamble with the County Attorneys they didn’t feel it is necessary to include it in the rules, but they don’t object to it.</p>	

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	<p>In response to Vice Chair Adams question on whether the intent of his presentation is for the Commissioners to review, then later have a more in-depth discussion or does he expect the Commission to make a decision today. Mr. Mince replied that he was hoping to have the discussion today because for the most part everything that's being presented is in its final format, except for the language pertaining to the appointment of an acting chief and where the conversation to provide an officer with legal presentation should take place in open session or executive session.</p> <p>In response to Mr. Mince statement about finalizing the rules, Ms. Hertog stated that the intent of the presentation is for the Commission to agree with the changes and get Chief Raybuck's input on those changes because she does not want the Chief to feel like the Commission is cutting him out from providing his own input. Vice Chair Adams thanked Ms. Hertog for the clarification and pointed out that the only two (2) sections she had concerns about is finding someone who is well qualified to appoint as an acting chief and the language on providing legal counsel to police officers who are named in a lawsuit.</p> <p>In response to Mr. Bahouth question on the accuracy of the proposed draft language that the interim chief should be someone who is <u>not currently, or previously, a member of the Kaua'i Police Department</u>. Mr. Mince explained that the language is something the working group originally came up with, but Deputy County Attorney Donahoe brought in new information that he got from the Hawai'i Revised Statutes stating that the Commission does not have the ability to appoint an acting chief, it only has the ability to appoint an interim chief therefore they have to work on coming up with new language to address the issue.</p> <p>Mr. Bahouth thanked Mr. Mince for the clarification and noted that based on his presentation everything in Rules 1 through 3 is on the table for the Commission to accept which would then go to Chief Raybuck for input to which Mr. Mince replied yes.</p>	

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	<p>Ms. Ching pointed out to the Commissioners that there's a section in the rules that still needs to be reviewed by the County Attorney before the Commission moves forward. She noted that she wanted to make sure that everyone is on the same page and that the Commissioners know that more changes might be forthcoming.</p> <p>Mr. Bahouth asked Ms. Ching if his motion should say with the exception of Rule 3.1 as well as Rule 4 to which Ms. Ching replied yes. Ms. Hertog added that the motion should include Rule 3.1 (g) on legal representation to which Vice Chair Adams concurred.</p> <p>Mr. Mince also pointed out that the motion should not include the entire Rule 4 it should just be for Rules 4.2 and 4.3 because Rule 5 deals with the annual evaluation of the Chief which is ready for the Chief to review and provide input on.</p> <p>Ms. Ching asked for clarification if the motion includes seeking input from Chief Raybuck's to which Vice Chair Adams replied yes.</p> <p>With no further discussion, Vice Chair Adams moved on to item KPC 2020-6.</p>	<p>Mr. Bahouth moved to accept the document with the exception of Rule 3.1 (g) and Rule 4.3 and 4.4. Ms. Jardin seconded the motion. With no further discussion the motion carried 6:0.</p>
<p><b>KPC 2020-6</b></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>No recent updates. Item was deferred to the next meeting pending more information on the status of a venue to hold the conference.</p>
<p><b>KPC 2020-12</b></p>	<p><u>Discussion and decision-making on undertaking an organizational climate assessment within the Kaua'i Police Department.</u></p> <p>Mr. Mince stated that the climate assessment has been on the Commission's radar since December 2017 and it came in as a suggestion by Mr. Bahouth. However, there was some pushback from the former Chief who wanted to go in a different direction because he didn't want KPD employees involved in the climate assessment and suggested he would like create a committee to conduct a morale survey which was done, but the Commission never got to see the results.</p>	

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	<p>At the last two meetings, the Commission discussed conducting a 360 evaluation which morphed into a climate assessment and the discussion on the climate assessment was relatively brief because it wasn't on the agenda for discussion, but the little discussion the Commission did have everyone agreed that putting together a testing instrument was going to take time and hiring an outside consultant to develop a testing instrument may cost upwards of a \$100,000 plus which in his opinion could take up to two (2) years to complete.</p> <p>Taking a proactive approach, Mr. Mince referred to information that he got from his days as a California Highway Patrol Officer and realized that his former organization had developed what they call a command environment assessment which is similar to a climate assessment; it's a shovel ready and he thinks it will cover everything the Commission is looking for to assess the internal health of KPD. There are different surveys for the rank and file and management personnel including a sheet spread for tallying things up as well as a follow-up sheet to work on things that needs improvement. As he mentioned in his cover letter he was under the impression that the Commission would give it to KPD to do and Ms. Ching came up with a brilliant idea that the people who are going to do the survey needs to know that it's coming from the Police Commission and not from the Police Department and the information gathered from the employees in the Police Department would remain anonymous.</p> <p>Ms. Hertog stated that although she agrees that everyone should know that the survey is coming from the Commission she's concern about what are the exact logistics on how it would be administered. Is it something the Commission would take into the Department or would a third-party do it on behalf of the Commission, those are the details the Commission needs to really need to work out.</p> <p>Ms. Ching stated that the Office Boards and Commissions is capable of administering the survey and can collate the information. In addition, she would work with Mr. Mince and the County's IT Department and come up with software</p>	

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	<p>so that the survey can be done electronically similar to a monkey survey, and all of the information gathered will remain confidential with the exception of the person's email address which will not be included anywhere in the report. She noted that because the tool is shovel ready all she needs to do is to check to see how it lends itself as a digital software and in a digital format form.</p> <p>Vice Chair Adams pointed out that at the Commission's last meeting she talked about a Gallup Survey and after reviewing the information that was presented by Mr. Mince it looks very similar to the Gallup Survey because the survey is word for word and if she's thinking correctly, because it mirrors the Gallup Survey there's high probability of copyright issues so before the Commission moves forward with the survey an investigation needs to be done to see if the Commission is stepping on anyone's toes if it was to use the tool. Secondly, the Gallup Survey is now referred to as an Engagement Survey to find out to how engaged a supervisor is with their employees. The survey is divided into three (3) categories; those who are actively disengaged; those who are neutral and those who are actively engaged. You want to develop more engaged employees and either move the disengaged employees into the neutral or engaged categories. It's a lot of activity and science around using this specific tool. It's not so much a reflection of car mat (sp.) as the actual employees and how they are feeling. She noted that although she finds Mr. Mince's tool an excellent tool and gives really good data there might be a copyright problem if the Commission was to use it.</p> <p>Ms. Hertog stated that Vice Chair Adams brought up some very valid concerns and for all intents and purposes when the results come in what is the Commission's end goal. In her previous professional life climate assessments were not used for disciplinary purposes it was use to improve the commander of an organization who will take the results and use it to improve upon the employees in terms of what their perceptions are. Generally speaking, that is an area of discussion that the Commission should have as to what the Commission is going to do with the information once it has it.</p>	

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	<p>Vice Chair Adams noted that Ms. Hertog brought up a very good point.</p> <p>Mr. Bahouth weighed in and stated that the business that he's in the survey they use is called an engagement survey and that two (2) things that come to mind relative to what Ms. Hertog said, it is all about improvement in terms of an engagement level in an organization and that improvement must also reflect the leaders within the organization. In his business, when the Food and Beverage Department conducts a survey there are several questions relating to the leadership of that department that the executive branch would use to assess how that particular department is doing versus the front office. So in this process, he thinks that it is a great tool to use as long as the focus is not on just on the Chief but the entire command staff and the departments within the organization. To Mr. Mince's point, if the climate assessment is done it should be for all of the different departments within the organization as well.</p> <p>The one thing that he has learned about conducting these type of assessments is 80 percent of the people taking the survey tend to give only negative responses, so there needs to be a way of getting the majority of people in the organization to respond to the climate assessment. In his organization, normally the responsibility is placed on the managers to ensure that their people in their department are taking the climate assessment, then the executive branch would monitor the scores to see whether or not it's being done and if not, the executive branch would call the managers and tell them that they need to have their employees complete the climate assessment whether they want to or not.</p> <p>Mr. Bahouth called upon Chief Raybuck to provide input on the issue.</p> <p>First and foremost, Chief Raybuck thanked Mr. Mince for sending him information on climate assessment. He said that he found it very insightful when he learned how the survey was intended to be distributed. He pointed out that at the last meeting, the Commission presented him with information on conducting a morale</p>	

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	<p>survey because in the past, to his knowledge the Commission made a request to have one done but one was never done. He shared that he had no knowledge as to how to administer the survey and who the survey was supposed to go to as well as the different nuances on completing the survey that had been mentioned before by a few Commissioners. Henceforth, the survey was conducted but the product that came back showed that it was not administered properly. The current materials that is being presented by Mr. Mince is broken into different parts where the command staff would get one portion of written assessment and the rest of the organization would get multiple choice responses which would allow his organization to get a clear picture of what a survey looks like compared to the survey KPD attempted to take prior. The survey that KPD conducted was done by using Survey Monkey and it didn't cost much and it allowed the Department to put as much questions they wanted to have, as long as they didn't exceed the limits of submitting questions.</p> <p>Chief Raybuck stated that he does not have any intricate knowledge of how to develop or administer a survey but hearing the Commission concerns about wanting to get 75 to 80 percent of the survey for it to be considered accurate is very interesting to him because KPD's survey is probably in the 50 to 60 percentile. He stated that he supports the idea especially after he saw Mr. Mince's methodically of how the survey was supposed to be administered because it would be great for him and for the Commission to see what areas KPD needs to improve. He shared that one of the greatest challenges he's had as Chief for the last six months is being caught up in the whirlwind of everything that's going on around in the Department and the activities they need to do and unfortunately the blind spots don't hit you until it runs you over, so conducting a climate assessment survey would help the Department get a better gage of things they aren't aware of.</p> <p>In response to Mr. Mince's question on conducting the survey electronically which would include the IT Department's expertise what would be the lag time to get it done. Ms. Ching replied that the demands on IT is pretty extensive but she will</p>	

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	<p>reach out to them as soon as possible, and in the meantime Deputy County Attorney Donahoe could move ahead and do some research to see if there are any copyright issues.</p> <p>Mr. Donahoe stated that if the Commission uses a product without permission it could run into compensation issues and copyright problems. But like Chief Raybuck said earlier if it's used through a company and you pay for those services you would avoid any copyright issues.</p> <p>Vice Chair Adams stated that she'll send a copy of the Gallup tool to Mr. Donahoe to have figure out whether there's an issue or not.</p> <p>Mr. Mince stated that if the Commission can get pass the copyright issue, in his mind, it would make things move along much easier not to involve the IT Department, then all the Commission needs to is send the survey via mail to each individual employee in KPD along with a cover letter explaining who the survey is from and ask them to fill it out and include a self-addressed envelope and all the surveys would go directly to Boards and Commission with attention to Ms. Ching.</p> <p>Ms. Ching stated that the issue with that is the amount of employees in KPD. Chief Raybuck stated that in using the monkey survey, KPD did not have to involve the County's IT Department all they did was ask one of the ladies in the Department if she could transcribe the questions into the monkey survey which took her a day and a half to complete and all of the responses came back electronically and anonymously as well as all of the data they wanted to have which included the percentages on commission versus civilian; rank versus non-rank and so forth.</p> <p>Ms. Ching stated that she does not want to administer the survey because the collating all of the information would be to horrendous for her staff and would take a lot of their time.</p>	

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	<p>Mr. Bahouth stated that mailing out the surveys to all of the KPD employees would defeat the confidentiality of doing the survey. Ms. Ching added that mailing out the survey would not be effective because most people would just put it aside or just plainly ignore it. Ms. Ching stated that at some point she would need an indication from the Commission on whether is what they really want to move forward with. Vice Chair Adams stated that she'll call for a motion to continue the discussion at the next Commission meeting along with an update from Mr. Donahoe on any copyright issues.</p> <p>With no further discussion, Vice Chair Adams moved on to item KPC 2020-13.</p>	<p>Mr. Bahouth moved to accept Mr. Mince's documents and that the Commission assign a Commissioner to work with Ms. Ching to fast-track a climate assessment survey for KPD and report to the body on a monthly bases. Ms. Jardin seconded the motion. Motion carried 6:0. Mr. Pigao volunteered to work with Ms. Ching.</p>
<p><b>KPC 2020-13</b></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.</u></p> <p>In light of the incident involving Mr. Floyd where the accused officer had sixteen (16) complaints filed against him, Mr. Mince stated that the information he is looking for in addition to the information that's already reflected in the Office of Professional Standards Monthly Report is the amount of complaints a particular officer had; how long that particular officer has been on the job and whether the complaints that were filed against the officer were sustained, not sustained or exonerated and if the officer had similar type of complaints filed against them in the past.</p> <p>Ms. Hertog stated that she recalls in the past the former Police Chief did provide those types of information on a monthly bases at the request of the Commission, so it is available. Chief Raybuck stated that Ms. Hertog is correct in her recollection that KPD does keep a track record on the amount of complaints, the type of complaint an officer has and the disposition of the complaint. He explained that prior to 2016 there was no software in the Department to manage complaints and documents associated with a complaint, it was all done manually. So it was a challenge for staff back then to be able to collect accurate data because some of the</p>	

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	<p>complaints were handled at a lower level outside of what is now called the Office of Professional Standards and were never received at the level of record keeping for the entire Department. Ideally, the Department would have all of the complaints would be placed in storage but trying to locate those records and then have to manually identify those number was very challenging.</p> <p>In 2016, the Department moved into a program called IApro which is a software program that's widely used by many police departments across the country and is a program that he (Chief Raybuck) is very familiar with because it was used by his former organization. In the IApro there is some historical data that the Department were to upload into the program; its information that they were able to locate, but trying to extract the information, again, can be very challenging because a person would have to read each individual file one-by-one to get the information. He shared that the Department received a request for information on the amount of complaints of excessive use of force between 2015 to current. There were none in 2016 and 2017, one in 2018, three in 2019 and one in 2020. The investigations into those complaints were all cleared with no sustained findings.</p> <p>With regard to Mr. Mince's request, Chief Raybuck stated that he needs to be sure exactly the type of data he is looking for on a monthly bases because he does not want to violate any collective bargaining requirements as well as what he has in retained data. With regard to the possibility of the legislature passing a police reform bill and changes in the federal government when it comes to collective bargaining he can only reflect back on an officer's complaint for internal review.</p> <p>Mr. Mince clarified that his request has nothing to do with penalties or discipline of an officer it's because as the Police Commission he feels the Commission has the responsibility to ensure that he as the Chief of Police is doing his job which is to track complaints and when there is an officer with a complaint problem that he is doing what he needs to do to address the issue. He reiterated that the information he is looking for is that he and his staff has looked at an officer's complaint history</p>	

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	<p>and certify that the officer does not have a complaint history and there is no problem; he doesn't want the Department to find itself where an officer has seventeen (17) complaints, then have people pointing their finger at the police chief asking why the chief did nothing about it or more specifically why the Police Commission didn't have oversight of the police chief to ensure he's doing something about it.</p> <p>In response to Mr. Bahouth question if he's looking for a process on which it's reported on a monthly bases and if the information should be included in Lt. Williamsons' Monthly Report. Mr. Mince replied that for each individual complaint he wants OPS to provide information on how many years of service the officer has; the amount and the type of complaints the officer had and whether the complaints were sustained, not sustained or exonerated.</p> <p>In response to Vice Chair Adams concerns about the collective bargaining requirement that complaints that are over two years old years cannot be disclosed and made public. Mr. Donahoe stated that considerations must be made relative to collective bargaining requirement and whether the Commission should even have access to the information, he thinks it would become an issue in terms violation and timelines.</p> <p>In response to Mr. Bahouth's question whether or not the Commission would be in violation of the collective bargain unit requirement if it was ask for personal information that's over two-years old. Mr. Donahoe stated that there are legal hurdles in place and the questions that should be asked are does the information fall within that two-year timeline or is it outside of the timeline.</p> <p>Mr. Mince stated that he is not asking to review complaints regardless of how old they are; all he's trying, and he thinks the Commissioners would agree too, is to be able to look the public in the eye and say the Commission has done its oversight and all he's asking for is for KPD to report to the Commission when they do a final</p>	

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	<p>report on a complaint that KPD has done their due diligence also.            Vice Chair Adams stated that she gets his point, all she's trying to do is to make sure the Commission is following the rules and thinks that Mr. Donahoe is the best resource to find out what the parameters are.</p> <p>For clarification, Chief Raybuck asked if the information Mr. Mince is asking for is 1) the type of allegation an officer is being charged with; 2) whether the allegation was sustained, not sustained, unfounded or exonerated or otherwise; 3) look at the officer's prior history to confirm quote; unquote a frequent flyer; and 4) provide the Commission with information as to how many past complaints that individual officer had.</p> <p>Mr. Mince stated that he also wanted to know how long the officer was been with the Department; the total amount complaint the officer had and of those total complaints how many were sustained, not sustained, unfounded and exonerated and if the officer had similar complaints to the complaint that is currently being investigation now.</p> <p>Chief Raybuck explained that KPD has an early warning system that keeps track of the type of complaints each officer has and when it reaches a point a red flag goes up and the Office of Professional Standards is able to know that the officer had similar violations within a certain time of period which initiates an internal review of those complaints. He pointed out that he wants to be transparent because he believes that the community and the Police Commission need to know that police officers are being held accountable and things are being done, but there are significant differences between how complaints are filed and how many of those complaints are sustained or exonerated so much so that it can give an unfair characterization of what an officer overall performance is in the media. Lazy officers don't get complaints filed against them; officers who don't make arrests don't get complaints but the officers who tend to be more proactive, then to get more complaints. He is not saying in any way that those officers are not violating</p>	

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	<p>policies and don't need to be held accountable, but there are variables that come into play when you consider the total amount complaints an individual has.</p> <p>Take the Rodney King incident, when people realized that the more complaints they file against an officer who they don't like because the officer gave them a bad time the more complaints they file against the officer chances are that officer would be transferred out the area into another area. He stated that a right balance needs to found between informing the community and individuals that take advantage of the process. Mr. Mince stated that he understands the point he is making; all he wants to do is to implement a process where the Police Commission can look anybody in the eye and say to them the Commission has done its oversight over the chief of police by requiring the chief to inform the Commission about an officers complaint history so the Commission can make a determination if the chief is doing his job even it means leaving out the statistics and replace it with a simple line that says that the administration has examine this officer's complaint history and found there is no problem. Chief Raybuck stated that he appreciated his concerns and supports his idea but he wants to make sure that it's done in a way that's fair to both the community and the officers without violating collective bargaining rights and state law.</p> <p>Mr. Pigao commented that he likes Mr. Mince suggestion to put a simple line in Lt. Williamson's Monthly Report that says that the administration has examine this officer's complaint history and found there is no problem or otherwise.</p> <p>In response to Ms. Hertog's question about Iapro program that has the capability of bringing up an officers name and the amount of complaints that occurred within a certain time period; what is that time period. Lt. Williamson stated that he doesn't have the information readily available but it is possible to get the information. Chief Raybuck asked Ms. Hertog if she could table her question to the next Commission meeting to allow Lt. Williamson time to get the information and to provide a more in-depth explanation as to how the warning system actually</p>	

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	<p>works. With regard to Mr. Mince and Mr. Pigao’s request to have a simple line in the report that says they have reviewed the officer complaint history and he has no prior sustained complaints or there was one sustain complaint within this time period, Chief Raybuck stated that he has no issues with doing that; however, he would be hesitate to put into the report that an officer has been with the Department for ten (10) years and has had fifteen complaints of which fourteen of those complaints were not sustained, sustained, unfounded and so on, as they said multiple times it could be used inappropriately. Vice Chair gave a recap of the information that will be provided at the Commission’s next meeting. 1) Amount of complaints that occurred within a timeframe; what is that timeframe; and 2) update by Mr. Donahoe on the parameters he thinks are appropriate.</p> <p>With no further discussion, Vice Chair Adams moved on to item KPC 2020-14.</p>	
<p><b>KPC 2020-14</b></p>	<p><u>Discussion on Officer’s duty to intervene and the Department’s use of force policy.</u></p> <p>In response, to Mr. Mince question about KPD’s use of force policy that require officers to intervene if they see another officer using excessive force. Chief Raybuck stated that KPD’s has a use of force policy dating back to 1984 and he does not have any knowledge as to what polices were in place prior to that.</p> <p>KPD’s current policy was finalized in 2017 and is at the level of CALEA standards. In KPD’s current process of be reaccredited CALEA is once again looking at the Department’s polices. He shared that back in 2019 both he and Captain Kalani Ke began to revise KPD’s use of force policy and revisions were made because the prior policy did not include specific language regarding the duty to intervene. One could argue that there are other polices in the Standards of Conduct that would require a police officer to intervene; however, it was not a use of force policy and could make it difficult for a person to recognize it and even more difficult for a person to hold someone accountable who failed to do so. In December of 2019 they had already recognized the issue and began to write a revised policy, but because of the complexity of COVID-19 and trying to do</p>	

SUBJECT	DISCUSSION	ACTION
	<p>research on what needed to be included in the policy it got tabled. Henceforth, they are moving forward and making all of the appropriate revisions to the policy in accordance to best practices as well as look at other polices from the members of the international association of police chiefs and from his prior organization who went through a very intense and robust review of the use of force policies and practices based on the Department of Justice review and justifications. Returning back to Mr. Mince question, Chief Raybuck stated that KPD's current policy does not have a duty to intervene which he finds unacceptable. A meeting was held earlier in the week with several members of the command staff to go over the new use of force policy and they will be meeting again on Friday, June 26 to go over the policy to finish finalizing it. He noted that the duty to intervene is very important and so it is they intent to put out a directive to let their officers know specifically that they have a duty to intervene.</p> <p>Mr. Mince asked when the Commission can expect the written directive on the duty to intervene be made available to the officers. Chief Raybuck stated that he met with the officers who attending his briefing and made it clear to them that they have a duty to intervene if they encounter an excessive use of force situation. As for the Administrative order to advise the officers that they have a duty to intervene will be out, hopefully, by the end of business today or at the close of business tomorrow depending on the finalization of the language. He did not have an opportunity yet to have the County Attorney's Office review the language to check it for legalities, because it is a legal issue and it's a matter of use of force amendment he wants to be absolutely sure that it's been reviewed thoroughly so that he doesn't make any mistakes.</p> <p>Mr. Pigao stated that the duty to intervene policy that covers use of excessive force should also incorporate a duty to intervene when an officer sees act that is not within standards like the incident that occurred at the firing range. Chief Raybuck stated that since the incident a policy is in place to prevent that type of training from occurring in the future. He added that law enforcement has changed a lot in</p>	

SUBJECT	DISCUSSION	ACTION
	<p>his 28 years and so KPD needs to become an organization that's willing to own up to its past mistakes and find ways to improve so it's repeated. His goal for KPD is for the Department to be a learning organization because it's not perfect and every single day the officers' deal with imperfect situations at the imperfect time but is expected to perform perfection and that's a difficult thing to do because they are going to make mistakes. The duty to intervene policy reflects language to help the officers determine what the appropriate level is because of the level of resistance they receive and the appropriate level of response to control the situation. The policy also includes language on how to de-escalate a situation. Mr. Mince asked if the Commission could see the policy before it goes out the officers to which Chief Raybuck replied yes. Mr. Mince stated that he had other questions relating to choke holds etc. but he'll put his questions on hold until see the policy. Chief Raybuck shared that he has been doing a lot of research on the use of force and would welcome any input from the Commission as well.</p> <p>Ms. Hertog asked Chief Raybuck if he could include the Code of Standards when he's ready to provide the Commission with the policy so the Commissioners could do a comparison.</p> <p>Mr. Mince asked Chief Raybuck what the polices are on the use of force, shooting policy, pursuit policy and the high risk job functions and if he could brief the Commissioners on training and refresher training and second, what is the status of the current training; are all of the officers up to date on the existing policies.</p> <p>Chief Raybuck stated that he cannot answer in complete specificity what all the different standards are because it varies, but work is being done to get the officers up to date. Ms. Omo intervene to advise the Commissioners that the item on the agenda is on the use of force policy and not the status of training. He advised the Commissioners that if they want to discuss training to ask the Chair to place the item on the next agenda. Mr. Donahoe agreed and Vice Chair Adams thanked Staff for pointing it out.</p>	<p>Mr. Mince moved that Chief Raybuck promulgate a duty to intervene policy and provide the Commission with his updated use of force policy and the use of force policy should contain training requirements. Mr. Pigao seconded the motion. The motion carried 6:0.</p>

SUBJECT	DISCUSSION	ACTION
<b>KPC 2020-15</b>	<p><u>Public announcements on the Commission’s disposition for notarized complaints KPC 2020-002 and KPC 2020-003 that were filed with the Kaua’i Police Commission.</u></p>	<p>Ms. Hertog moved to accept the public announcements for notarized complaints KPC 2020-002 and KPC 2020-003. Ms. Jardin seconded the motion. The motion carried 6:0.</p>
<b>KPC 2020-16</b>	<p><u>Receipt of Civil No. 20-CV-00189-JMS-WRP filed in the United States District Court for the District of Hawai’i by Plaintiffs Lance Kamuela Gomes; Brandee Leigh Abuan; Indiana Alohikala Gomes; and Bella Auhea Kekauluohi Gomes versus Defendants County of Kaua’i; Derek S.K. Kawakami; Patrick Porter; Wallace Rezentes Jr.; Robin Serquina; Ellsworth Kaleohi; Ray Ortiz; Kaua’i Police Department; Chief Todd Raybuck; Kaua’i Police Commission; Mary K. Hertog; and DOES 1-10.</u></p> <p>Ms. Hertog asked if the suit is a new suit or does it mirror the previous suit that was received by the Commission at the last meeting. Mr. Donahoe stated that it’s a new filing. Chief Raybuck stated that the suit was generated by an incident that occurred at Salt Pond Park in Hanapēpē. Where the plaintiffs had to leave the park for park cleaning and they failed and they were subsequently trespass and were arrested. Ms. Hertog asked Mr. Donahoe what the County is doing with these type of complaints. Mr. Donahoe stated that the flings are being addressed by the County’s litigation appointment. He noted that because of COVID-10 the courts have postponed all civil cases, but now that the courts are back on line they are working on all of the backlog caseloads which could take a while. Ms. Hertog asked Mr. Donahoe to find out how many civil cases have been filed against the Police Commission to date to which Mr. Donahoe replied sure. Mr. Bahouth asked if the civil lawsuit is a result of the County’s policy to which Mr. Donahoe replied no, the policy is still the same, the plaintiffs feel because they weren’t prosecuted in their other cases their attacking the situation in a different way.</p>	<p>Ms. Hertog moved to receive item KPC 2020-16 for the record. Mr. Bahouth seconded the motion. The motion carried 6:0.</p>

SUBJECT	DISCUSSION	ACTION
<b>Executive Session</b>	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 11:01 a.m. Deputy County Attorney Chris Donahoe cited the Hawai‘i Revised Statutes to take the meeting into Executive Session.
<b>ES KPC 2020-001</b>	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.	
<b>ES KPC 2020-002</b>	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.	
<b>ES KPC 2020-013</b>	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.	
<b>ES KPC 2020-014</b>	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 May 28, 2020 meeting and the minutes of June 16, 2020 Special Executive Session 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.	Ms. Hertog moved to enter into Executive Session. Ms. Jardin seconded the motion. Motion carried 6:0. At 11:04 a.m. the Commissioners entered into Executive Session.

SUBJECT	DISCUSSION	ACTION
<b>Return to Open Session to Ratify the actions taken in Executive Session</b>	At 11:39 a.m. the Commissioners reconvened in Open Session with Vice Chair Adams calling for a motion to ratify the actions taken in Executive Session.	Ms. Jardin moved to ratify the actions taken in Executive Session. Mr. Pigao seconded the motion. The motion carried 6:0.
<b>Adjournment</b>	With no further business to conduct, Vice Chair Adams called for a motion to adjourn the meeting.	Mr. Pigao moved to adjourn the meeting. Ms. Hertog seconded the motion. The motion carried 6:0. At 11:40 a.m. the meeting adjourned.

Submitted by: \_\_\_\_\_  
 Mercedes Omo, Staff Support Clerk

Reviewed and Approved by: \_\_\_\_\_  
 Roy Morita, Chair

- (x) Approved as circulated on July 23, 2020  
 ( ) Approved as amended. See minutes of \_\_\_\_\_ meeting.