



POLICE COMMISSION

WALTON HONG, CHAIR
LAURIE YOSHIDA, VICE CHAIR

MERRILEE "MIA" AKO, MEMBER
JOHN CALMA, MEMBER
MARY K. HERTOG, MEMBER
LISA KNUTSON, MEMBER
VACANT, MEMBER

Meetings of the Police Commission will be conducted as follows until further notice:

- Meetings will be publicly noticed pursuant to HRS Chapter 92.
- Minutes of the meeting will be completed pursuant to HRS Chapter 92 and posted to the Commission's website upon completion and approval.

25 DEC 12 P1:43

Public Comments and Testimony:

- **Written testimony** will be accepted for any agenda item herein.
 - Written testimony indicating your 1) name or pseudonym, and if applicable, your position/title and organization you are representing, 2) the agenda item that you are providing comment on, and 3) contact information (telephone number and email address), may be submitted to mromo@kauai.gov or mailed to the Police Commission, c/o Office of Boards and Commission, 4444 Rice Street, Suite 300, Lihue, Hawaii 96766.
 - Written testimony received by the Police Commission at least 24 hours prior to the meeting will be distributed to all Police Commissioners prior to the meeting.
- **Oral testimony** will be taken during the public testimony portion of the meeting in-person at the public meeting.
 - It is recommended that anyone interested in providing oral testimony register at least 24 hours prior to the meeting by emailing mromo@kauai.gov or calling (808) 241-4920. Any request to register shall include your 1) name or pseudonym, and if applicable, your position/title and organization you are representing, and 2) the agenda item that you are providing comment on, and 3) contact information (telephone number and email address).
 - Per the Police Commission and Chair's practice, there is a three-minute time limit per testifier per agenda item.
 - Individuals who have not registered to provide testimony will be given an opportunity to speak on an agenda item following speakers who have registered.

SPECIAL ASSISTANCE

IF YOU NEED AN AUXILIARY AID/SERVICE, OTHER ACCOMODATION DUE TO A DISABILITY, OR AN INTERPRETER FOR NON-ENGLISH-SPEAKING PERSONS PLEASE CONTACT THE OFFICE OF BOARDS AND COMMISSIONS AT (808) 241-4920 OR MROMO@KAUAI.GOV AS SOON AS POSSIBLE. REQUESTS MADE AS EARLY AS POSSIBLE WILL ALLOW ADEQUATE TIME TO FULFILL YOUR REQUEST. UPON REQUEST, THIS NOTICE IS AVAILABLE IN ALTERNATIVE FORMATS SUCH AS LARGE PRINT, BRAILLE, OR ELECTRONIC COPY.

REGULAR MONTHLY POLICE COMMISSION MEETING NOTICE AND AGENDA

Friday, December 19, 2025
9:00 a.m. or shortly after
4444 Rice Street, Moikeha Conference Room 2A/2B, Lihu'e, Hawai'i 96766

MEETING CALLED TO ORDER

25 DEC 12 P1:43

ROLL CALL TO ASCERTAIN QUORUM

APPROVAL OF THE AGENDA

CHAIR'S ANNOUNCEMENTS

- The next regular monthly meeting is scheduled for 9:00 a.m. on Friday, January 23, 2026, in the Moikeha Meeting Room 2A/2B, followed by an executive session. This is subject to change.

PUBLIC TESTIMONY ON ANY AGENDA ITEMS

Individuals may testify on any agenda item or wait for the item to come up.

KAUAI POLICE DEPARTMENT EMPLOYEES OF THE MONTH for OCTOBER, NOVEMBER, and DECEMBER 2025

- October – Officers Branden Barroga and Kevin Kamakahi.
- November - Public Safety Workers Ernest Ganiron and Ronald Aceret
- December – Officer Desmond Thain

APPROVAL OF THE OPEN SESSION MINUTES

November 21, 2025, Meeting

CHIEF'S MONTHLY REPORTS FOR OCTOBER and NOVEMBER 2025

- **Office of the Chief** – Notable Highlights, Special Projects, Community Engagement, Significant Meetings, Public Information Officer.
- **Support Services Bureau, Criminal Investigations Division, and Field Operations Division** – Budget Summary Estimate, Personnel Status, Recruitment Status, DARE Classes, KPAL Programs, Training Provided by Outside Agency: Off-Island, Training Provided by Kaua'i Police Department, Training Provided by Outside Agency: On-Island, Firearms Registered, Handgun Applications, Long Gun Applications, Licenses to Carry Applications, Crime Scene and Laboratory Section - Biometric Identification Facial and Ten Print, Crime Scene and Laboratory Section - Call Out Lab Request, YTD Death

- Statistics, Person Crimes Section Statistics, Person Crimes Section Enforcement, Property Crimes Section Statistics, Property Crimes Section Enforcement, Property Crimes Section Types, and Vice Section Statistics.
- **Preliminary Point & Time Data** – Crime Summary and Activity Summary
- **Agency Statistics** – Calls for Service/Incident Summary, Citation Summary, Arrest Summary, Legal Services, Warrant Type – All Divisions, and Warrant Tracking – All Divisions.

CORRESPONDENCE:

1. Correspondence dated November 14, 2025, from Congressman Ed Case, Hawaii-First District, to Chair Walton Hong, Kauai Police Commission, writing to thank the Police Commission for supporting S. 725, the Enhancing First Response Act.
2. Correspondence dated November 24, 2025, from Gary Yabuta, Executive Director, Hawaii High Intensity Drug Trafficking Area, writing to congratulate the Police Commission for selecting Rudolph (Rudy) Tai as the Chief of Police for the Kauai Police Department.
3. Correspondence dated November 26, 2025, from Nicholas R. Schlapak, SHOPO President, to Chair Walton Hong of the Kauai Police Commission, regarding the correction of an official record related to the Police Chief selection process.

BUSINESS:

KPC 2025-31:

Election of Chair and Vice Chair for the 2026 Calendar Year.

EXECUTIVE SESSION CLOSED TO THE PUBLIC

Under 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 Kauai 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 related to the Commission's powers, duties, privileges, immunities, and liabilities as they may relate to these items:

ES KPC 2025-1:

Regular Monthly updates by Interim Police Chief Elliott Ke or his designated representative related to the Office of Professional Standards, Monthly Report on the status and/or Disposition of formal notarized citizen complaints that were filed with the Kauai Police Commission and referred to the Office of the Chief for disposition and/or report back to the Police Commission.

- The notarized complaint numbered KPC 2025-005 was received on August 20, 2025, at the Office of Boards and Commissions. The incident that occurred on July 16, 2025, involved a Kauai Police Department officer. The complainant alleges misconduct, including failing to perform a sobriety test or asking for the individual's license after the person rushed toward the complainant's van and threatened to harm the complainant's dog. *(Referred on September 26, 2025, to the Chief of Police for investigation and to report back to the Commission with findings for disposition.)*

ES KPC 2025-2:

Regular Monthly updates by Interim Police Chief Elliott Ke or his designated representative of any significant adverse incidents/events involving personnel in the Kauai Police Department that could potentially impact the County, the Police Commission, and the Kauai Police Department. **(Nothing to Report)**

ES KPC 2025-23:

Under Hawai'i Revised Statutes §§ 92-4, 92-5(a)(2), (a)(4), and 92-9(b), the purpose of this executive session is for the Commission to approve or amend the Executive Session minutes of the November 21, 2025, meeting, as publication of the executive meeting minutes would defeat the lawful purpose of the meetings they reflect, including the purposes in HRS §§ 92-5(a)(2) and (a)(4).

RETURN TO OPEN SESSION TO RATIFY THE ACTIONS TAKEN IN EXECUTIVE SESSION

- Executive Session Report by County Attorney Tyler Saito pursuant to HRS § 92-4(b).

EXECUTIVE SESSION: Under HRS § 92-7(a), the Commission may, when deemed necessary, hold an executive session on any agenda item without a written public notice if the executive session was not anticipated in advance. Any such executive session shall be held pursuant to HRS § 92-4 and shall be limited to those items described in HRS § 92-5(a).

ADJOURNMENT

cc: County Attorney Tyler Saito
Chief of Police Elliott Kalani Ke
Deputy Chief of Police Mark Ozaki



KAUA'I POLICE DEPARTMENT
POLICE COMMISSION MONTHLY REPORT
OFFICE OF THE CHIEF OF POLICE

REPORTING
PERIOD
October 2025

Notable Highlights

DATE	EVENT DESCRIPTION/LOCATION	BUREAU
1 10/01/25	A Waimea man had his vehicle seized during a traffic stop for suspected firearm offenses. A search warrant was executed, leading to his arrest and charges for multiple firearm violations.	POB
2 10/01/25	Responded to Kalawai Park regarding a male threatening joggers. The subject became aggressive, damaged a patrol vehicle, and was arrested.	POB
3 10/03/25	Responded to two brush fires along Kaumuali'i Highway. Fires were extinguished by KFD and Gay & Robinson; cause undetermined, and several utility poles were damaged.	POB
4 10/05/25	Responded to a brush fire at the Lima Ola Subdivision in 'Ele'ele. KFD extinguished the 30x20 ft fire; case still under investigation.	POB
5 10/06/25	Responded to 'Anini Beach for a possible drowning of a 61-year-old male visitor from California. Despite CPR efforts, the male was pronounced deceased at the scene.	POB
6 10/07/25	Responded to a burglary and UCPV in Pakala where a suspect entered a vacation rental, stole property and a vehicle. The suspect was located and arrested without incident.	POB
7 10/10/25	Responded to a traffic collision on Kaumuali'i Highway near 'Oma'o Road involving an SUV and motorcycle. The motorcyclist, collided with the SUV and sustained fatal injuries.	POB
8 10/12/25	Responded to a possible assault in Kalāheo where a suspect trespassed and confronted a resident before fleeing. The suspect was later arrested; CID took over the case.	POB
9 10/13/25	A traffic stop was done and a rifle was observed in plain view. A search warrant led to recovery of a loaded rifle and crystal meth.	POB
10 10/15/25	Responded to a Līhu'e residence after a male overdosed and later expressed suicidal ideations involving a firearm. He was hospitalized under emergency evaluation, and a notice to surrender firearms was served; two firearms were voluntarily surrendered.	POB
11 10/15/25	MILO Training Facility Blessing / KPD HQ	SSB/POB
12 10/16/25	Responded to a Kilauea residence after an explosion was reported; video showed a male subject igniting an aerial firework that exploded near a vehicle. The suspect was arrested without incident; detectives and bomb squad were notified.	POB
13 10/17/25	Responded to Waimea River Mouth for a male found floating face down in the ocean. KFD recovered the male and attempted life-saving measures without success. Detectives took over the investigation.	POB
14 10/18/25	Waimea man had a kayaking accident at the Waimea River Mouth. Lifesaving efforts were unsuccessful, with no signs of foul play. Detectives took over the investigation.	POB
15 10/21/25	Responded to a power pole fire with arcing lines on Kūhiō Highway near Leho Drive. The highway was closed for several hours while crews extinguished the fire and repaired the pole.	POB
16 10/23/25	A male suspect was arrested for Promoting Child Abuse in the 2nd Degree following an extensive ICAC investigation. He was booked and released after posting \$25,000 bail.	POB
17 10/27/25	Child and Family Service New Building Blessing / Līhu'e	SSB/POB
18 10/28/25	Responded to a report of a brush fire. KFD extinguished the fire. Witnesses observed a juvenile start the fire. The juvenile was detained and released to parents without incident.	POB

Community Engagement

DATE	EVENT DESCRIPTION/LOCATION	HOURS	PERSONNEL COUNT	BUREAU	AUDIENCE COUNT
1 October	KIF High School Football Announcer (3 days, 3 games)	6	1	POB	300+
2 October	Pop Warner Football Announcer (3 days, 9 games)	32	1	POB	300+
3 October	Conducted patrols along the Kapa'a Bike Path			POB	
4 10/01/25	Participated in Kalāheo Elementary School Walking School Bus which started from Kalāheo Neighborhood Center to Kalāheo Elementary School. Officers provided visibility at strategic location on the walking path for safety.	1	4	POB	
5 10/01/25-10/15/25	DARE - King Kaumuali'i Elementary School	4	1	SSB	90
6 10/02/25-10/30/25	DARE - Chiefess Kamakahelei Middle School	7	1	SSB	114
7 10/2/25	Hongwanji Preschool Career Day	2	6	SSB/POB	100
8 10/02/25-10/21/25	DARE - Waimea Canyon Middle School	4	1	SSB	90
9 10/03/25-10/21/25	DARE - Kapa'a Middle School	8	1	SSB	200
10 10/6/25	West Kaua'i Wildlife Outreach			SSB	
11 10/14/25-10/25/25	DARE - Wilcox Elementary School	3	1	SSB	100
12 10/17/25	Island School Career Day 1 st Graders	3.5	11	SSB/POB	75
13 10/17/25	Assisted Kapa'a Elementary School Evacuation Drill		2	SSB/POB	600
14 10/18/25	Hanapēpē Community Harvest Festival / Hanapēpē Athletic Complex			SSB	
15 10/21/25	K9 Presentation at State Liquor Commission Conference	1	2	POB	50
16 10/22/25	'Ele'ele Elementary School Halloween Pumpkin Carving Family Event / Elementary School Cafeteria			SSB	
17 10/24/25	Makahiki Games Kapa'a Middle	6	1	SSB	400
18 10/28/25	Kapa'a High Students Active Threat Class	1.5	1	SSB	25
19 10/29/25	How to Investigate a Crime Presentation to the students of Kaua'i High School Kaua'i Performing Arts Center		1	SSB	
20 10/31/25	Makahiki Games Chiefess Kamakahelei Middle School	6	1	SSB	
		Total	85+	36+	2,444+

Special Projects

DATE	EVENT DESCRIPTION/LOCATION	HOURS	PERSONNEL	BUREAU
1 10/01/25	Laboratory Equipment (Hood) Calibration pass	1.5	1	SSB
2 10/02/25	Assisted Public Works in contacting homeless individuals living behind McDonald's and the Fabric Store, as the County plans to cut back the bushes touching the buildings.	1	4	POB
3 10/25/25	Participated in DEA National Drug Take Back Initiative – Resulting in the surrender of 668.2 pounds of medication for disposal	4	2	POB

Significant Meetings

DATE	EVENT DESCRIPTION/LOCATION	BUREAU	ATTENDEES
1 10/01/25	Elder Abuse Task Force Meeting at the Pi'ikoi Building	POB	
2 10/01/25- 10/15/25	Weekly Online Accreditation Meeting	SSB	2
3 10/10/25	Met with Kekaha community members to follow up on prior traffic concerns. They reported improvements, noting that a frequent trespassing violator has not been seen since being cited and arrested. However, they mentioned ongoing UTV activity and increased evening traffic along Kōke'e Road.	POB	
4 10/10/25	Met with the owner of Kelly V's Barbershop; no major issues reported. Fewer homeless individuals observed, and increased patrols are believed to be helping.	POB	
5 10/14/25	Hawaii Criminal Justice Center ABIS, Livescan	SSB	1
6 10/23/25	Quarterly Online OSAC Meeting	SSB	1
7 10/23/25	KEMA Red Flag Meeting	POB	
8 10/24/25	Police Commission Meeting	POB	

Public Information Officer (PIO)

ACTIVITY	COMPLETED	COMMENT
Press Releases	12	
Media Inquiries	18	
Special Projects	3	Monthly Newsletter, Spectrum TV Spot, various K-PAL events



KAUA'I POLICE DEPARTMENT

POLICE COMMISSION MONTHLY REPORT

REPORTING
PERIOD
October 2025

SUPPORT SERVICES BUREAU · CRIMINAL INVESTIGATIONS DIVISION · FIELD OPERATIONS DIVISION

Budget Summary Estimate: Period of October 2025

BUREAU/DIVISION	BUDGET	EXPENDITURES TO DATE	ENCUMBRANCES TO DATE	BALANCE 10/31/25	% OF BUDGET
Chief's Office	\$46,474,407.00	6,495,555.23	4,599,604.07	\$35,379,247.70	24%
Support Services Bureau	\$3,499,781.00	994,277.83	682,746.48	\$1,822,756.69	48%
Criminal Investigations Division	\$595,975.00	87,609.98	250,859.73	\$257,505.29	57%
Police Operations Bureau	\$547,728.00	96,673.03	240,742.26	\$210,312.71	62%
Total General Fund	\$51,117,891.00	7,674,116.07	5,773,952.54	\$37,669,822.39	26%
Asset Forfeiture Funds	\$100,008.00	\$0.00	\$0.00	\$100,008.00	0%

Salary, Overtime & Fringe Benefits Breakdown Summary

Salary & Wages	\$21,975,345.00	\$3,114,902.09		\$18,860,442.91	14%
Overtime	\$2,538,207.00	\$597,725.45		\$1,940,481.55	24%
Fringe Benefits	\$18,633,794.00	\$2,337,287.21		\$16,296,506.79	13%
Total Salary, OT, Fringe	\$43,147,346.00	\$6,049,914.75		\$37,097,431.25	14%
Payroll % of Budget	93%	14%		86%	

Personnel Status as of October 31, 2025

	AUTHORIZED	ACTUAL	VACANT
Appointed	2	2	0
	1-Chief 1-Deputy Chief		
Sworn	164	124	40
	2-Assistant Chief 5-Captain 12-Lieutenant 37-Sergeant 108-Officer		2-Captain [Pos 350, 403] 4-Police Lieutenant [Pos 373, 394, 399, 416] 3-Detective [Pos. 450, 504, 579] 4-Police Sergeant [Pos 457, 470, 567, 580] 24-Police Officer [Pos 367, 407 (John), 447, 449, 453, 468, 500, 503, 505, 508, 509 (Ale), 516 (Dean), 517 (David), 521, 533, 534, 540 (Paddy), 542, 543, 547, 551, 552 (Miller), 576, 587 (Ken), 599, 1318]
Non-Sworn	69	45	24
*3 - Dispatchers Grant funded	5-Accountant 3-Admin Asst. 1-Business Administrator 1-Contracts Specialist 4-Criminalist 1-DV/AV Coord. 1-DVIC 20-Emergency Services Dispatcher 3-Evidence Custodian 1-Fiscal Officer II 1-Fleet Coord. 1-T Prog. Coord. 1-Secretary	2-Parking Enforcement Worker 2-Police Inv. Ops. Asst. 1-Police Records Supervisor 5-Police Records Technician 4-Prog. Support Asst. 2-Public Information Officer 9-Public Safety Worker 1-Weapon Clerk	9-Emergency Services Dispatcher [Pos 311, 314, 315, 353, 473, 536, 537 (Donn), T565, T566] 5-Public Safety Worker I [Pos 378, 379, 380, 1315, 1947] 1-Accounting Technician [Pos 306] 2-Police Evidence Custodian I [Pos 491 (Ray), 1316] 2-Parking Enforcement Worker [Pos 339, 384] 1-Fiscal Officer II [Pos 564] 1-Information & Education Specialist [Pos 561] 1-Police Investigative Operations Assistant [Pos. 300] 1-Administrative Assistant II [Pos. 1314] 1-Police Records Technician [Pos. 588]
Total	235	171	64
Hourly Positions	9	8	1 *Does not factor into vacancy totals
*Does not factor into vacancy totals *Off-Duty Clerk not County funded	2-Background Investigator 6-Sex Assault Forensic Nurse Examiner 1-Clerk (Off-Duty)		1-Clerk (Off-Duty) [Pos T475]
Total - Including Hourly Positions that do not factor into vacancy totals	244	179	65

Recruitment Status as of October 31, 2025

POSITION	VACANCIES	COMMENTS
Police Services Officer (102 nd Recruit Classes)	24	<p><u>Posted: December 1, 2024 – December 31, 2025</u> 10/29/2025 Written Exam: 11 scheduled, 5 took exam, 3 passed & referred</p> <p>Referred – 38 Disqualified – 27 Withdrew – 4 Background Investigation Phase – 7</p> <p>103rd Recruit Class anticipated start date 01/01/2026</p>
Captain	2	Pending Promotional Announcement
Police Lieutenant	4	Promotion Date 1/11/2026 – 1
Detective/Sergeant	7	Promotion Date 1/11/2026 – 7
Emergency Services Dispatcher I	9	<p><u>Posted: July 14, 2025 – Continuous</u> Referred – 15 Disqualified – 9 Withdrew - 2 Background Investigation Phase – 4</p>
Public Safety Worker I	5	<p><u>Posted: July 3, 2023 – Continuous</u> Referred – 3 Disqualified – 1 Background Investigation Phase – 2</p>
Accounting Technician	1	<u>Posted: October 6, 2025 – Continuous</u>
Police Evidence Custodian I	2	<p><u>Posted: Continuous</u> Referred – 1 Background Investigation Phase – 1</p>
Police Evidence Clerk		<p>Referred – 15 Disqualified – 9 Withdrew – 4 Background Investigation Phase – 2</p>
Parking Enforcement Worker	2	<p><u>Posted: July 14, 2025 – Continuous</u> Referred – 2 Disqualified – 1 Background Investigation Phase – 1</p>
Fiscal Officer II	1	<p><u>Posted: Sept 29-Oct 8, 2025</u> Referred – 1 Background Investigation Phase – 1</p>
Information & Education Specialist	1	<p><u>Posted: July 21, 2025 – Continuous</u> Background Investigation Phase – 1</p>
Administrative Assistant I	2	<p><u>Posted: Sept 22, 2025 – Continuous</u> Referred – 14 Background Investigation Phase – 14</p>
Police Records Technician	1	Pending recruitment announcement

Training Provided by Outside Agency: On-Island

	ORDER NO:	START:	END:	TRAINING DESCRIPTION:	PERSONNEL TRAINED:	COURSE HOURS PER TRAINING:
1	25-25122	10/23/25	10/23/25	Grant Recipient Training	2	6
2	25-25099	10/29/25	10/31/25	Quarterly Canine Training	2	30
3	25-25127	10/03/25	10/03/25	Dynamics of Domestic Violence: Recognition, Roles, and Responses	1	2.5
					Total	5
						38.5

Training Provided by Outside Agency: Off-Island

	ORDER NO:	START:	END:	TRAINING DESCRIPTION:	PERSONNEL TRAINED:	COURSE HOURS PER TRAINING:
2	25-25118	10/06/25	10/10/25	Northwest ICAC & Technology Conference	1	40
3	25-25123	10/06/25	10/10/25	Clandestine Laboratory Investigator Training	2	40
4	25-25129	10/08/25	10/09/25	Traffic Safety Summit	1	24
5	25-25121	10/28/25	10/30/25	21 st Century Interdiction Training	1	24
6	25-25098	10/27/25	10/31/25	IHIA – Advanced homicide and violent crimes investigations course	3	40
7	25-25128	10/27/25	10/31/25	Hostage Negotiator and Crisis Intervention Training (Phase I & II)	2	40
8	25-25126	10/01/25	12/31/25	Adult-Adolescent SANE Training (Online)	1	8
9	N/A	10/29/25	10/29/25	Online training titled, "The Medical Evaluation of Fractures in Children" presented by Dr. Suzanne Starling, with training coordinated by the Hawai'i Children's Justice Center.	1	1.5
					Total	12
						217.5

Training Provided by Kaua'i Police Department

	ORDER NO:	START:	END:	TRAINING DESCRIPTION:	PERSONNEL TRAINED:	COURSE HOURS PER TRAINING:
1	24-24124	09/01/25	09/31/25	SRT Training	22	16
2	24-24125	09/01/25	09/31/25	HIBS Training	2	32
3	25-25062	09/01/25	09/31/25	CAST Training	12	8
4	25-25063	09/01/25	09/31/25	CNT Training	6	8
5	25-25125	10/20/25	10/20/25	Dispatch Call Taker Training	6	8
6	N/A	10/01/25	10/31/25	102 nd Recruit Academy	4	184
7	N/A	10/01/25	10/31/25	CSLS New Hire Training	2	8
					Total	54
						264

KPAL Programs

PROGRAMS	LOCATION	#CLASSES	#REGISTERED	#PERSONNEL
Jiu Jitsu	Hanapēpē	8	214	2
Boxing	Hanapēpē	8	77	2
Boxing	Līhu'e	4	108	2
Wrestling	Līhu'e	4	108	2
Wrestling	Kapa'a	8	54	2

Crime Scene and Laboratory Section - Biometric Identification Facial and Ten Print

LATENT PRINT DEVELOPMENT	FACIAL RECOGNITION PROCESSING	TEN PRINT QUALITY CONTROL	TEN PRINT EXAMINATION
0	112	1120	360

Crime Scene and Laboratory Section - Call Out, Lab Request

AUTOPSY	DIGITAL EXAM	SEX ASSAULT KITS	FORENSIC TEST RESULTS INTERPRETATION	KPD WARRANTS	FORENSIC CONSULTATION	CALL OUT TOTAL	TOTAL NEW CASES
2	10	5	2	4	6	8	8

YTD Death Statistics

DEATH TYPES		RESIDENT		UNHOUSED RESIDENT		VISITOR	
Natural Death Involving Autopsy		46		2		8	
Accidental Deaths		13		0		6	
Undetermined-Pending Toxicology Results		2		2		0	
Drug Overdoses		14		1		0	
Suicide		5		0		1	
Homicide		0		1		0	

Person Crimes Section Statistics

(5) DETECTIVES	ASSIGNMENT					CASE DISPOSITION						
	Carry Over Last Month	Cases Assigned/ Follow Up	Total Offenses	Total Case	Unfound	RTP	Record Only	Arrest Self	Arrest Other	Cases Closed/%	PFD	Carry Over Next Month
TOTAL	52	19	83	71	0	12	15	0	2	54.93%	9	34

Person Crimes Section Enforcement

Felony Arrest	MD Arrest	Vio Arrest	Total Arrest	Search Warrant	Special Projects	Arrest Warrant	Grand Jury	Surveillance	Follow Ups	Info Charging
2	0	0	2	0	0	0	1	0	0	0

Property Crimes Section Statistics

		ASSIGNMENT				CASE DISPOSITION							
(6) DETECTIVES	Carry Over Last Month	Cases Assigned/ Follow Up	Total Offenses	Total Case	Unfound	RTP	Record Only	Arrest Self	Arrest Other	Cases Closed/%	PFD	Carry Over Next Month	
TOTAL	37	32	80	69	2	5	15	2	0	34.78%	24	19	

Property Crimes Section Enforcement

Felony Arrest	MD Arrest	Vio Arrest	Total Arrest	Search Warrant	Special Projects	Arrest Warrant	Grand Jury	Surveillance	Follow Ups	Info Charging
1	0	0	1	7	0	0	0	0	25	1

Property Crimes Section Types

	CASES	ADULT ARREST	JUVENILE ARREST	REFER TO PROSECUTORS	PENDING FURTHER DEVELOPMENTS	UNFOUNDED
Criminal Property Damage (CPD)	3	0	0	0	1	0
Unauthorized Entry into a Motor Vehicle (UEMV)	25	2	0	4	17	2
Unauthorized Control of a Propelled Vehicle (UCPV)	15	1	0	0	8	5
Burglary	25	4	0	0	21	0
Theft	17	1	0	2	14	0

Vice Section Statistics

	COCAINE	FENTANYL	METH	HEROIN	MARIJUANA	VEHICLES	CURRENCY	FIREARMS	SEARCH WARRANT	ARREST
OCT	0g	60.9g	105.2g	16.1g	0	1	\$0	0	4	1
YTD	153.1g	215.4g	2,362.5g	16.1g	298g	22	\$29,566.00	4	41	41



Kauai Police Department Firearms Registration Summary Comparison

For Dates Between: 10/01/2025 and 10/31/2025

For Districts: ALL

Print Date: 11/05/2025 04:00

	YTD 2025	YTD 2024	Percent Change	10/01/2025 TO 10/31/2025	09/01/2025 TO 09/30/2025	10/01/2024 TO 10/31/2024
Total Firearms Registered:	2,451	2,488	-1.5%	253	190	176
Handguns:	920	1,103	-16.6%	106	81	71
Rifles:	1,299	1,179	10.2%	120	102	85
Shotguns:	232	206	12.6%	27	7	20
Total Firearms Imported:	1,259	1,375	-8.4%	115	104	113
Handguns:	484	690	-29.9%	48	47	52
Rifles:	653	584	11.8%	54	54	48
Shotguns:	122	101	20.8%	13	3	13
Handgun Applications:	479	288	66.3%	60	53	39
Handgun Permits To Aquire Issued:	457	290	57.6%	85	35	12
Handgun Permits To Aquire Rejected:	1	0	100.0%	0	0	0
Handgun Permits To Aquire Voided:	1	3	-66.7%	0	1	0
Longgun Applications:	456	320	42.5%	46	43	44
Longgun Permits To Aquire Issued:	442	308	43.5%	72	19	19
Longgun Permits To Aquire Rejected:	1	1	0.0%	0	0	0
Longgun Permits To Aquire Voided:	4	7	-42.9%	1	0	0
Permit to Carry Applications:	122	274	-55.5%	8	14	55
Permit to Carry Applicants:	96	206	-53.4%	7	10	38
Security Licenses Issued:	6	7	-14.3%	0	0	0
Security Licenses Denied:	0	0	0.0%	0	0	0
Citizen Licenses Issued:	115	233	-50.6%	16	4	13
Citizen Licenses Denied:	0	0	0.0%	0	0	0
Total Licenses to Carry Issued:	121	240	-49.6%	16	4	13
OC Citizen Applications:	0	1	-100.0%	0	0	0
OC Citizen Licenses Issued:	0	1	-100.0%	0	0	0
Citizen Licenses Denied:	0	0	0.0%	0	0	0
Total Firearms Registered By Dealers:	1,047	933	12.2%	98	82	86



Kauai Police Department
Crime Summary - Preliminary Point & Time Data
for dates between 10/01/2025 & 10/31/2025

Crime Category	Crimes					
	YTD 2025	YTD 2024	Percent Change	10/01/2025 TO 10/31/2025	09/01/2025 TO 09/30/2025	Percent Change
Violent Crimes						
Murder	---	---	---	---	---	---
Completed	1	1	0.0%	0	0	0.0%
Murder Total	1	1	0.0%	0	0	0.0%
Rape	---	---	---	---	---	---
Family	13	15	-13.3%	1	0	100.0%
Known to Victim	24	36	-33.3%	7	1	600.0%
Stranger	3	7	-57.1%	0	1	-100.0%
Undetermined	13	7	85.7%	0	1	-100.0%
Rape Total	52	65	-20.0%	8	3	166.7%
Robbery Total	6	9	-33.3%	1	0	100.0%
Aggravated Assault	---	---	---	---	---	---
04A - Firearms	0	4	-400.0%	0	0	0.0%
04B - Knife or Cutting Instrument	8	10	-20.0%	1	0	100.0%
04C - Other Dangerous Weapon	20	29	-31.0%	6	2	200.0%
04D - Hands, Fist, Feet, Etc	45	45	0.0%	3	6	-50.0%
Other - Unknown	22	29	-24.1%	3	3	0.0%
Aggravated Assault Total	95	115	-17.4%	13	11	18.2%
Total Violent Crimes	154	190	-18.9%	22	14	57.1%
Property Crimes						
Burglary Total	164	172	-4.7%	25	12	108.3%
Larceny Theft Total	938	1,101	-14.8%	87	115	-24.3%
Motor Vehicle Theft Total	103	103	0.0%	10	5	100.0%
Total Property Crimes	1,205	1,376	-12.4%	122	132	-7.6%
Total Crime	1,359	1,566	-13.2%	144	146	-1.4%
Arrests						
Violent Crimes						
Murder Total	2	0	200.0%	0	1	-100.0%
Rape Total	11	3	266.7%	0	0	0.0%
Robbery Total	2	3	-33.3%	0	0	0.0%
Aggravated Assault Total	58	72	-19.4%	13	5	160.0%
Total Violent Crimes	73	78	-6.4%	13	6	116.7%
Property Crimes						
Burglary Total	44	34	29.4%	4	1	300.0%
Larceny Theft Total	191	228	-16.2%	6	21	-71.4%
Motor Vehicle Theft Total	38	20	90.0%	2	4	-50.0%
Total Property Crimes	273	282	-3.2%	12	26	-53.8%
Total Arrests	346	360	-3.9%	25	32	-21.9%



Kauai Police Department
Activity Summary - Preliminary Point & Time Data
for dates between 10/01/2025 & 10/31/2025

Call Statistics

Calls for Service	YTD	YTD	Percent	10/01/2025	09/01/2025	Percent
	2025	2024	Change	TO 10/31/2025	TO 09/30/2025	
Law Total	39,526	41,567	-4.9%	3,745	3,937	-4.9%
Fire Total	6,821	6,986	-2.4%	688	623	10.4%
EMS Total	6,148	6,089	1.0%	608	588	3.4%
Total Calls for Service	52,495	54,642	-3.9%	5,041	5,148	-2.1%

Officer Initiated

Total Traffic Stops	5,285	6,966	-24.1%	441	522	-15.5%
Total Citations	12,248	16,312	-24.9%	1,045	1,089	-4.0%
Total Warnings	2,271	2,108	7.7%	243	236	3.0%
Total FI's	469	547	-14.3%	51	54	-5.6%

Incidents by District

Lihue	5,064	5,171	-2.1%	545	537	1.5%
Waimea	1,876	1,721	9.0%	181	202	-10.4%
Koloa	1,832	2,047	-10.5%	190	160	18.8%
Kawaihau	3,699	3,788	-2.3%	324	403	-19.6%
Hanalei	1,589	1,547	2.7%	150	125	20.0%
Not Specified	5	3	66.7%	0	0	0.0%
KPD	10	7	42.9%	2	0	200.0%
Total Incidents	14,075	14,284	-1.5%	1,392	1,427	-2.5%

Crash Statistics

Tc Major	416	412	1.0%	43	47	-8.5%
Tc Minor	440	384	14.6%	44	39	12.8%
Total Fatalities	8.00	5.00	60.0%	1.00	2.00	-50.0%
Total Crashes	856	796	7.5%	87	86	1.2%



Kauai Police Department Agency Statistics For dates between 10/01/25 00:00 & 10/31/25 23:59

CALLS FOR SERVICE / INCIDENT SUMMARY

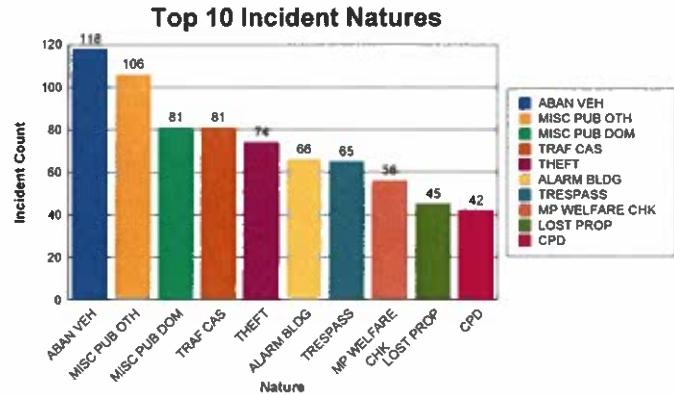
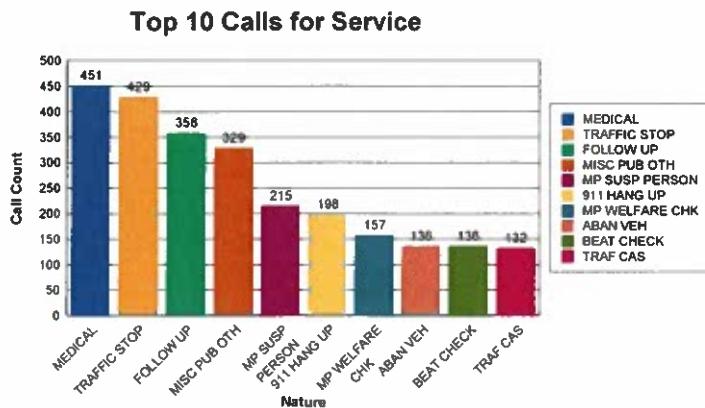
Total Calls for Service: 4,324

Total Law Calls for Service: 3,745

Total Incidents: 1,391

All Units: 5,145

Primary on Incidents: 1,391 Charges Initiated: 1,464



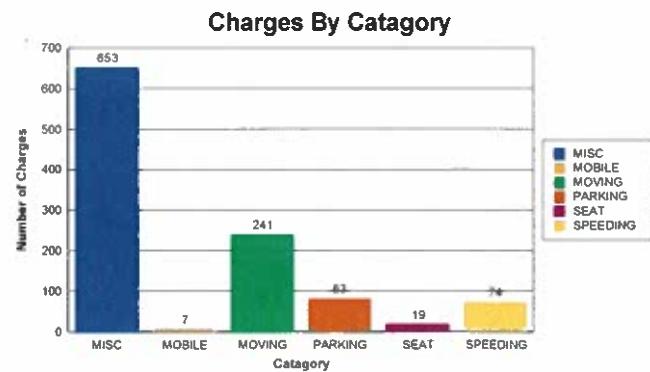
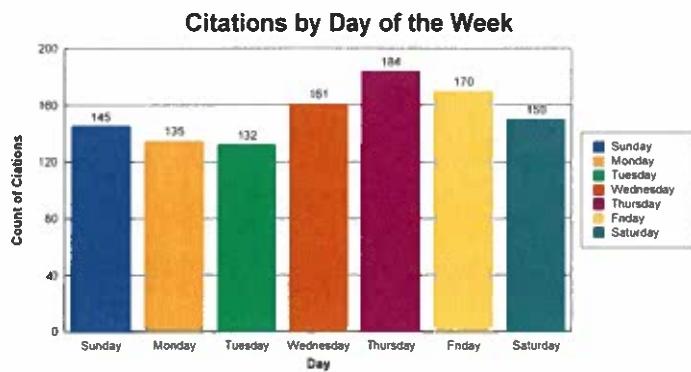
CITATION SUMMARY

Total Traffic Stops: 441

Total Traffic Warning Issued: 235

Total FI's: 50

Misc	Mobile	Moving	Parking	Seat	Speed	Covid	Totals	Viol	Non
646	7	237	83	19	48	0	1,040	338	155





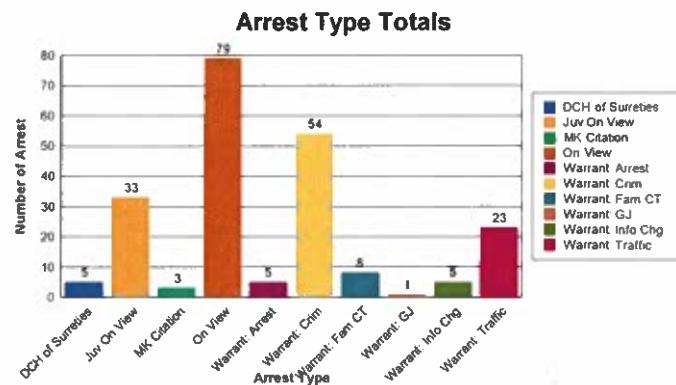
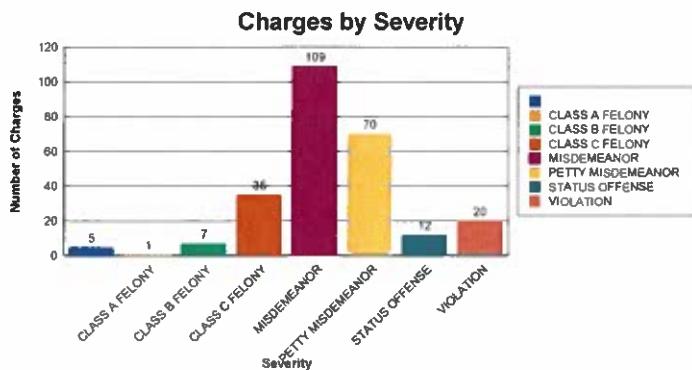
Kauai Police Department Agency Statistics For dates between 10/01/25 00:00 & 10/31/25 23:59

ARREST SUMMARY

Total Arrests: 216 - Juvenile: 33 - Adult: 183

Total Charges: 252 - Felonies: 41 - Total Misdemeanors: 109 - Total Petty Misdemeanors: 70 - Total Others: 32

Total OVUll Arrest Charges: 9



LEGAL SERVICES

Summons / Other	TRO Family Civil	Protective Orders Family Civil	Subpoena	Total
33	0 8	0 10	29	80

WARRANT TYPE All Divisions

Arrest Warrants	Bench Warrants	eBW Traffic	eBW Criminal	Juvenile Warrants
18	0	59	99	1

WARRANT TRACKING All Divisions

Warrant Intake	Served	Recalled	Outstanding
19	110	151	1,904



KAUA'I POLICE DEPARTMENT
POLICE COMMISSION MONTHLY REPORT
OFFICE OF THE CHIEF OF POLICE

REPORTING
PERIOD
November 2025

Notable Highlights

DATE	EVENT DESCRIPTION/LOCATION	BUREAU
1 11/04/25	A head-on collision on Kuamo'o Road resulting in the fatality of a 25-year-old female. The Traffic Unit took over the investigation.	POB
2 11/15/25	A domestic dispute in Kōloa resulted in an Abuse of Family/Household Member case after a male suspect assaulted his girlfriend, who escaped by jumping from a moving vehicle. He nearly hit a bystander and later damaged a patrol car during arrest; the victim sustained minor injuries.	POB
3 11/20/25	Investigating an assault that left a male unconscious with serious injuries in the Nāwiliwili area. Suspects have been identified and investigation remains ongoing.	POB
4 11/20/25	Responded to Kalapāki Bay for an unresponsive male visitor. Autopsy was conducted and ruled an accident and drowning related.	POB
5 11/22/25	Responded to Waipu'a Bay near Shenanigans Restaurant for a swimmer in distress. Male service member drowned after rescuing his two juvenile stepsons from high surf. Autopsy rules accident and drowning related.	POB
6 11/23/25	Investigated a privacy violation in the Kawaihau District resulting in a 34-year-old male recording a juvenile in a bathroom. Arrest made and investigation ongoing.	POB
7 11/23/25	Responded to Lāwa'i Beach for an unresponsive male visitor. Autopsy was conducted and ruled an accident and drowning related.	POB
8 11/25/25- 11/26/25	Investigated a missing 42 yr old women in Kōke'e. She was found after a multi-agency search and treated for hyperthermia and dehydration. Case was closed.	POB
9 11/29/25	A Kīlauea resident reported a bullet hole in his residence wall, and investigation determined that a neighbor had fired a gun toward the home. The suspect was arrested and investigation ongoing.	POB
10 11/30/25	Investigating an arson incident at the Thrifty Mini Mart in Kekaha. Damages are estimated at \$308,000.	POB

Significant Meetings

DATE	EVENT DESCRIPTION/LOCATION	BUREAU	ATTENDEES
1 11/1/25- 11/30/25	Weekly Online Accreditation Meeting for Crime Scene Lab Section	SSB	2
2 11/03/25	Hawaiian Telcom onsite visit at the KPD Dispatch Center	POB	1
3 11/4/25	Multidisciplinary Team/Peer Review meeting coordinated/facilitated by the CJC of Kaua'i.	POB	6
4 11/5/25	Meeting with Kaua'i Search and Rescue (KSAR) representatives to discuss their Disaster Response Capabilities and requests for future joint training opportunities	POB	6
5 11/06/25	Hawai'i Law Enforcement Standard Board	FOD	1
6 11/7/25	Meeting for CWS intake process	POB	6
7 11/14/25	Monthly Section Meeting	SSB	4
8 11/20/25	SANE/SAFE team meeting	POB	6
9 11/23/25	Quarterly OSAC online meeting	SSB	1
10 11/25/25	Case Review & tracking with CJC of Kaua'i	POB	6

Community Engagement

DATE	EVENT DESCRIPTION/LOCATION	HOURS	PERSONNEL COUNT	BUREAU	AUDIENCE COUNT
1 November	Pop Warner Football Announcer – 3 weekends	24	2	POB	800+
2 November	Continued patrols along the Kapa'a Bike Path	40+	10	POB	100+
3 11/03/25	Hō'ike Interview (Topic: SRO's)			SSB	
4 11/04/25	Health Fair at KCC	4	2	SSB	100
5 11/04/25-11/25/25	DARE - Chiefess Kamakahelei Middle School	7	1	SSB	114
6 11/05/25	Kalāheo Elementary School Walking School Bus Program	1	1	POB	50+
7 11/05/25	Kekaha Elementary Tsunami Drill	1	3	SSB/POB	400
8 11/06/25	Kapa'a High School Career Day	4	4	SSB	500
9 11/07/25	Waimea Canyon and Waimea High Career Day	5.5	2	SSB/POB	600
10 11/07/25	Chiefess Kamakahelei Career Day	2.5	1	SSB	45
11 11/07/25-11/21/25	DARE - Kapa'a Middle School	6	1	SSB	130
12 11/07/25-11/25/25	DARE – Wilcox Elementary School	6	1	SSB	100
13 11/12/25	Kaua'i Philippine Culture Center bathroom blessing	1	1	POB	20+
14 11/11/25	Participated in Mahelona Drill for combative patients	2	2	POB	10+
15 11/14/25	Civilian Active Threat / Stop the Bleed Course for Kings Chapel Lihue	2.5	3	SSB	20
16 11/14/25	Wilcox Elementary Career Day	2	6	SSB/POB	700
17 11/17/25	CKMS Evacuation Drill	1	5	SSB/POB	800
18 11/19/25	Kekaha Elementary School Career Day	2	2	SSB	80
19 11/20/25	Assisted in "Thanksgiving Back Project" at Kaniko'o Rice Camp Senior Housing.	2	10	SSB/POB	100
20 11/21/25	Waimea High School – Career Day for Students with Disabilities	1	1	SSB	6
21 11/22/25	Participated in Special Olympic "Holiday Classic Games" on Oahu; Bronze Medal Win for the Unified Bowling Team	1	8	SSB	300
22 11/25/25	Kekaha Elementary School 5 th Grade – Vaping and Bullying Prevention Presentation	3	1	SSB	75
23 11/25/25	Chiefess Kamakahelei Middle School flag football Turkey Bowl	4	1	POB	50+
24 11/26/25	Waimea High Evacuation Drill	1	5	SSB/POB	700
25 11/26/25	'Ele'ele Elementary Walking School Bus Program	1	6	SSB/POB	100
		Total	124.5+	79+	5,900+

Public Information Officer (PIO)

ACTIVITY	COMPLETED	COMMENT
Press Releases	8	
Media Inquiries	21	
Special Projects	2	Monthly Newsletter, Various Multimedia Projects

Special Projects

	DATE	EVENT DESCRIPTION/LOCATION	HOURS	PERSONNEL	BUREAU
1	11/05/25	Assisted the US Marshal Service in locating and apprehending a fugitive wanted in the State of Pennsylvania.	2	2	POB
2	11/08/25	UH Tobacco Compliance Check Project (5 citations issued)	8	4	SSB
3	11/10/25	Waimea District officers assisted County Public Works and State Hawaii Division in clearing encampments and rubbish obstructing a canal in the Hanapepe area. 25 dump trucks of rubbish were removed from the canal.	6	3	FOD
4	11/12/25 - 11/14/25	Extradition to Oakland, CA to transport a wanted fugitive back to Kaua'i for prosecution.	30	2	POB
5	11/25/25 - 11/26/25	Two-day operation to address break-ins at hiking trails in Kapa'a. Suspect was identified and later apprehended.	16	12	POB



KAUA'I POLICE DEPARTMENT

POLICE COMMISSION MONTHLY REPORT

REPORTING
PERIOD
November
2025

SUPPORT SERVICES BUREAU · CRIMINAL INVESTIGATIONS DIVISION · FIELD OPERATIONS DIVISION

Budget Summary Estimate: Period of November 2025

BUREAU/DIVISION	BUDGET	EXPENDITURES TO DATE	ENCUMBRANCES TO DATE	BALANCE 11/30/25	% OF BUDGET
Chief's Office	\$46,474,407.00	12,665,875.08	4,625,321.91	\$32,152,312.01	35%
Support Services Bureau	\$3,499,781.00	1,164,376.53	1,100,342.58	\$1,885,782.89	55%
Criminal Investigations Division	\$595,975.00	148,447.96	223,560.01	\$499,014.03	43%
Police Operations Bureau	\$547,728.00	137,102.40	205,059.61	\$481,592.99	42%
Total General Fund	\$51,117,891.00	14,115,801.97	6,154,284.11	\$30,847,804.92	37%
Asset Forfeiture Funds	\$100,008.00	\$0.00	\$0.00	\$100,008.00	0%

Salary, Overtime & Fringe Benefits Breakdown Summary

Salary & Wages	\$21,975,345.00	\$6,203,149.25	\$15,772,195.75	28%
Overtime	\$2,538,207.00	\$1,148,070.88	\$1,390,136.12	45%
Fringe Benefits	\$18,633,794.00	\$4,832,040.12	\$13,801,753.88	26%
Total Salary, OT, Fringe	\$43,147,346.00	\$12,183,260.25	\$30,964,085.75	28%
Payroll % of Budget	93%	28%	72%	

Personnel Status as of November 30, 2025

	AUTHORIZED	ACTUAL	VACANT
Appointed	2	2	0
	1-Chief 1-Deputy Chief		
Sworn	164	124	40
	2-Assistant Chief 5-Captain 12-Lieutenant 37-Sergeant 108-Officer		2-Captain [Pos 350, 403] 4-Police Lieutenant [Pos 373, 394, 399, 416] 3-Detective [Pos. 450, 504, 579] 4-Police Sergeant [Pos 457, 470, 567, 580] 24-Police Officer [Pos 367, 407 (John), 447, 449, 453, 468, 500, 503, 505, 508, 509 (Alei), 516 (Dean), 517 (David), 521, 533, 534, 540 (Paddy), 542, 543, 547, 551, 552 (Miller), 576, 587 (Ken), 599, 1318]
Non-Sworn	69	45	24
*3 – Dispatchers Grant funded	5-Accountant 3-Admin Asst. 1-Business Administrator 1-Contracts Specialist 4-Criminologist 1-DV/AV Coord. 1-DVIC 20-Emergency Services Dispatcher 3-Evidence Custodian 1-Fiscal Officer II 1-Fleet Coord. 1-IT Prog. Coord. 1-Secretary	2-Parking Enforcement Worker 2-Police Inv. Ops. Asst. 1-Police Records Supervisor 5-Police Records Technician 4-Prog. Support Asst. 2-Public Information Officer 9-Public Safety Worker 1-Weapons Clerk	9-Emergency Services Dispatcher [Pos 311, 314, 315, 353, 473, 536, 537 (Donn), T565, T566] 5-Public Safety Worker I [Pos 378, 379, 380, 1315, 1947] 1-Accounting Technician [Pos 306] 2-Police Evidence Custodian I [Pos 491 (Ray), 1316] 2-Parking Enforcement Worker [Pos 339, 384] 1-Fiscal Officer II [Pos 564] 1-Information & Education Specialist [Pos 561] 1-Police Investigative Operations Assistant [Pos. 300] 1-Administrative Assistant II [Pos. 1314] 1-Police Records Technician [Pos. 588]
Total	235	171	64
Hourly Positions	9	8	1 *Does not factor into vacancy totals
*Does not factor into vacancy totals *Off-Duty Clerk not County funded	2-Background Investigator 6-Sex Assault Forensic Nurse Examiner 1-Clerk (Off-Duty)		1-Clerk (Off-Duty) [Pos T475]
Total – Including Hourly Positions that do not factor into vacancy totals	244	179	65

Recruitment Status as of November 30, 2025

POSITION	VACANCIES	COMMENTS
Police Services Officer (102 nd Recruit Classes)	24	<p><u>Posted: December 1, 2024 – December 31, 2025</u> 11/26/2025 Written Exam: 9 scheduled, 4 took exam, 2 passed & referred</p> <p>Referred – 40 Disqualified – 29 Withdrew – 4 Background Investigation Phase – 7</p> <p>103rd Recruit Class anticipated start date 01/01/2026</p>
Captain	2	Pending Promotional Announcement
Police Lieutenant	4	Promotion Date 1/11/2026 – 1
Detective/Sergeant	7	Promotion Date 1/11/2026 – 1
Emergency Services Dispatcher I	9	<p><u>Posted: July 14, 2025 – Continuous</u> Referred – 17 Disqualified – 9 Withdrew - 2 Background Investigation Phase – 6</p>
Public Safety Worker I	5	<p><u>Posted: July 3, 2023 – Continuous</u> Referred – 3 Disqualified – 1 Background Investigation Phase – 2</p>
Accounting Technician	1	<u>Posted: October 6, 2025 – Continuous</u>
Police Evidence Custodian I	2	<p><u>Posted: Continuous</u> Referred – 1 Background Investigation Phase – 1</p>
Police Evidence Clerk		<p>Referred – 15 Disqualified – 9 Withdrew – 4 Background Investigation Phase – 2</p>
Parking Enforcement Worker	2	<p><u>Posted: July 14, 2025 – Continuous</u> Referred – 3 Disqualified – 3</p>
Fiscal Officer II	1	<p><u>Posted: Sept 29-Oct 8, 2025</u> Interview scheduled December 1, 2025 – 1</p>
Information & Education Specialist	1	<p><u>Posted: July 21, 2025 – Continuous</u> Interview scheduled December 2, 2025 – 1</p>
Administrative Assistant I	1	<p><u>Posted: Sept 22, 2025 – Continuous</u> Referred – 18 Disqualified – 5 Withdrew – 2 Background Investigation Phase – 11</p>
Police Records Technician	1	Pending recruitment announcement

Training Provided by Outside Agency: On-Island

	ORDER NO:	START:	END:	TRAINING DESCRIPTION:	PERSONNEL TRAINED:	COURSE HOURS PER TRAINING:
1	N/A	11/26/25	11/26/25	Maximizing Evidence Detection: Advanced Forensic Light Source Techniques	1	1
2	N/A	11/06/25	11/06/25	Dr. Rodriguez session on "With Me or Against Me? Navigating Complex Agencies and People, While Pursuing the Mission of the CJC MDT"	7	4
				Total	8	5

Training Provided by Outside Agency: Off-Island

	ORDER NO:	START:	END:	TRAINING DESCRIPTION:	PERSONNEL TRAINED:	COURSE HOURS PER TRAINING:
1	25-25119	11/22/25	11/25/25	CNOA Training Conference	3	32
2	25-25132	11/12/25	11/12/25	Confidential Informant Handling 101	1	6
				Total	4	38

Training Provided by Kaua'i Police Department

	ORDER NO:	START:	END:	TRAINING DESCRIPTION:	PERSONNEL TRAINED:	COURSE HOURS PER TRAINING:
1	24-24124	09/01/25	09/31/25	SRT Training	22	16
2	24-24125	09/01/25	09/31/25	HIBS Training	2	32
3	25-25062	09/01/25	09/31/25	CAST Training	12	8
4	25-25063	09/01/25	09/31/25	CNT Training	6	8
5	N/A	11/01/25	11/30/25	102 nd Recruit Academy	4	144
6	N/A	11/01/25	11/30/25	CSLS New Hire Training	2	8
7	N/A	11/05/25	11/05/25	Simulated Call Out and Crime Scene Processing	1	3
8	N/A	11/13/25	11/13/25	KPD Sergeant Refresher Biological and Friction Ridge Evidence Collection	17	1.5
				Total	66	220.50

KPAL Programs

PROGRAMS	LOCATION	#CLASSES	#REGISTERED	#PERSONNEL
Jiu Jitsu	Hanapēpē	8	214	2
Boxing	Hanapēpē	8	77	2
Boxing	Līhu'e	4	108	2
Wrestling	Līhu'e	4	108	2
Wrestling	Kapa'a	8	54	2

Crime Scene and Laboratory Section - Biometric Identification Facial and Ten Print

LATENT PRINT DEVELOPMENT		FACIAL RECOGNITION PROCESSING		TEN PRINT QUALITY CONTROL		TEN PRINT EXAMINATION	
0		115		990		380	

Crime Scene and Laboratory Section - Call Out, Lab Request

AUTOPSY	DIGITAL EXAM	SEX ASSAULT KITS	FORENSIC TEST RESULTS INTERPRETATION	KPD WARRANTS	FORENSIC CONSULTATION	CALL OUT TOTAL	TOTAL NEW CASES
2	10	5	3	1	5	2	8

YTD Death Statistics

DEATH TYPES		RESIDENT		UNHOUSED RESIDENT		VISITOR	
Natural Death Involving Autopsy		47		2		8	
Accidental Deaths		14		1		8	
Undetermined-Pending Toxicology Results		4		1		0	
Drug Overdoses		17		1		0	
Suicide		6		0		1	
Homicide		0		1		0	

Person Crimes Section Statistics

		ASSIGNMENT				CASE DISPOSITION						
(5) DETECTIVES	Carry Over Last Month	Cases Assigned/ Follow Up	Total Offenses	Total Case	Unfound	RTP	Record Only	Arrest Self	Arrest Other	Cases Closed/%	PFD	Carry Over Next Month
TOTAL	36	13	50	49	0	3	4	0	0	14.29%	2	43

Person Crimes Section Enforcement

Felony Arrest	MD Arrest	Vio Arrest	Total Arrest	Search Warrant	Special Projects	Arrest Warrant	Grand Jury	Surveillance	Follow Ups	Info Charging
0	0	0	0	1	0	0	0	0	0	0

Property Crimes Section Statistics

		ASSIGNMENT				CASE DISPOSITION						
(6) DETECTIVES	Carry Over Last Month	Cases Assigned/ Follow Up	Total Offenses	Total Case	Unfound	RTP	Record Only	Arrest Self	Arrest Other	Cases Closed/%	PFD	Carry Over Next Month
TOTAL	38	80	143	118	3	6	5	10	0	25.42%	49	48

Property Crimes Section Enforcement

Felony Arrest	MD Arrest	Vio Arrest	Total Arrest	Search Warrant	Special Projects	Arrest Warrant	Grand Jury	Surveillance	Follow Ups	Info Charging
1	0	0	1	3	1	0	1	2	20	1

Property Crimes Section Types

	CASES	ADULT ARREST	JUVENILE ARREST	REFER TO PROSECUTORS	PENDING FURTHER DEVELOPMENTS	UNFOUNDED
Criminal Property Damage (CPD)	4	1	0	0	3	0
Unauthorized Entry into a Motor Vehicle (UEMV)	13	2	0	0	11	0
Unauthorized Control of a Propelled Vehicle (UCPV)	23	3	1	1	17	1
Burglary	19	1	1	1	16	0
Theft	21	2	0	2	16	1 (RO)

Vice Section Statistics

	COCAINE	FENTANYL	METH	HEROIN	MARIJUANA	VEHICLES	CURRENCY	FIREARMS	SEARCH WARRANT	ARREST
NOV	69g	0	77.9g	0	144.6g	1	\$0	0	4	0
YTD	222.1g	215.4g	2,440.4g	16.1g	442.6g	21	\$29,566.00	4	45	41



Kauai Police Department Firearms Registration Summary Comparison

For Dates Between: 11/01/2025 and 11/30/2025

For Districts: ALL

Print Date: 12/05/2025 04:00

	YTD 2025	YTD 2024	Percent Change	11/01/2025 TO 11/30/2025	10/01/2025 TO 10/31/2025	11/01/2024 TO 11/30/2024
Total Firearms Registered:	2,663	2,748	-3.1%	204	258	260
Handguns:	1,009	1,205	-16.3%	81	111	102
Rifles:	1,393	1,307	6.6%	94	120	128
Shotguns:	261	236	10.6%	29	27	30
Total Firearms Imported:	1,359	1,491	-8.9%	100	115	116
Handguns:	532	731	-27.2%	48	48	41
Rifles:	693	645	7.4%	40	54	61
Shotguns:	134	115	16.5%	12	13	14
Handgun Applications:	513	336	52.7%	34	60	48
Handgun Permits To Aquire Issued:	497	338	47.0%	45	81	48
Handgun Permits To Aquire Rejected:	1	0	100.0%	0	0	0
Handgun Permits To Aquire Voided:	1	3	-66.7%	0	0	0
Longgun Applications:	504	370	36.2%	48	46	50
Longgun Permits To Aquire Issued:	472	358	31.8%	30	72	50
Longgun Permits To Aquire Rejected:	1	1	0.0%	0	0	0
Longgun Permits To Aquire Voided:	5	9	-44.4%	1	1	2
Permit to Carry Applications:	142	304	-53.3%	20	8	30
Permit to Carry Applicants:	107	226	-52.7%	16	7	26
Security Licenses Issued:	6	7	-14.3%	0	0	0
Security Licenses Denied:	0	0	0.0%	0	0	0
Citizen Licenses Issued:	120	293	-59.0%	5	16	60
Citizen Licenses Denied:	0	0	0.0%	0	0	0
Total Licenses to Carry Issued:	126	300	-58.0%	5	16	60
OC Citizen Applications:	0	1	-100.0%	0	0	0
OC Citizen Licenses Issued:	0	1	-100.0%	0	0	0
Citizen Licenses Denied:	0	0	0.0%	0	0	0
Total Firearms Registered By Dealers:	1,136	1,037	9.5%	89	98	104



Kauai Police Department
Crime Summary - Preliminary Point & Time Data
for dates between 11/01/2025 & 11/30/2025

Crime Category	Crimes					
	YTD 2025	YTD 2024	Percent Change	11/01/2025 TO 11/30/2025	10/01/2025 TO 10/31/2025	Percent Change
Violent Crimes						
Murder	---	---	---	---	---	---
Completed	1	1	0.0%	0	0	0.0%
Murder Total	1	1	0.0%	0	0	0.0%
Rape	---	---	---	---	---	---
Family	17	17	0.0%	4	1	300.0%
Known to Victim	25	37	-32.4%	1	7	-85.7%
Stranger	3	7	-57.1%	0	0	0.0%
Undetermined	13	9	44.4%	0	0	0.0%
Rape Total	57	70	-18.6%	5	8	-37.5%
Robbery Total	6	11	-45.5%	0	1	-100.0%
Aggravated Assault	---	---	---	---	---	---
04A - Firearms	0	4	-400.0%	0	0	0.0%
04B - Knife or Cutting Instrument	8	10	-20.0%	0	1	-100.0%
04C - Other Dangerous Weapon	21	29	-27.6%	1	6	-83.3%
04D - Hands, Fist, Feet, Etc	49	47	4.3%	4	3	33.3%
Other - Unknown	28	30	-6.7%	6	3	100.0%
Aggravated Assault Total	108	118	-8.5%	13	13	0.0%
Total Violent Crimes	172	200	-14.0%	18	22	-18.2%
Property Crimes						
Burglary Total	184	196	-6.1%	19	26	-26.9%
Larceny Theft Total	1,035	1,195	-13.4%	94	87	8.0%
Motor Vehicle Theft Total	125	114	9.6%	21	10	110.0%
Total Property Crimes	1,344	1,505	-10.7%	134	123	8.9%
Total Crime	1,516	1,705	-11.1%	152	145	4.8%
Arrests						
Violent Crimes						
Murder Total	2	0	200.0%	0	0	0.0%
Rape Total	11	3	266.7%	0	0	0.0%
Robbery Total	2	6	-66.7%	0	0	0.0%
Aggravated Assault Total	66	80	-17.5%	8	13	-38.5%
Total Violent Crimes	81	89	-9.0%	8	13	-38.5%
Property Crimes						
Burglary Total	48	44	9.1%	4	4	0.0%
Larceny Theft Total	211	244	-13.5%	20	6	233.3%
Motor Vehicle Theft Total	47	24	95.8%	9	2	350.0%
Total Property Crimes	306	312	-1.9%	33	12	175.0%
Total Arrests	387	401	-3.5%	41	25	64.0%



Kauai Police Department
Activity Summary - Preliminary Point & Time Data
for dates between 11/01/2025 & 11/30/2025

Call Statistics						
Calls for Service	YTD	YTD	Percent	11/01/2025	10/01/2025	Percent
	2025	2024	Change	TO 11/30/2025	TO 10/31/2025	
Law Total	43,208	45,398	-4.8%	3,682	3,745	-1.7%
Fire Total	7,502	7,602	-1.3%	681	688	-1.0%
EMS Total	6,768	6,599	2.6%	620	608	2.0%
Total Calls for Service	57,478	59,599	-3.6%	4,983	5,041	-1.2%
Officer Initiated						
Total Traffic Stops	5,733	7,626	-24.8%	448	441	1.6%
Total Citations	13,210	17,583	-24.9%	960	1,047	-8.3%
Total Warnings	2,452	2,332	5.1%	189	235	-19.6%
Total FI's	543	581	-6.5%	75	50	50.0%
Incidents by District						
Lihue	5,533	5,648	-2.0%	464	547	-15.2%
Waimea	2,051	1,892	8.4%	173	182	-4.9%
Koloa	2,023	2,243	-9.8%	190	190	0.0%
Kawaihau	4,035	4,114	-1.9%	336	324	3.7%
Hanalei	1,735	1,687	2.8%	146	150	-2.7%
Not Specified	5	4	25.0%	0	0	0.0%
KPD	10	7	42.9%	0	2	-200.0%
Total Incidents	15,392	15,595	-1.3%	1,309	1,395	-6.2%
Crash Statistics						
Tc Major	457	447	2.2%	41	43	-4.7%
Tc Minor	473	414	14.3%	33	44	-25.0%
Total Fatalities	9.00	5.00	80.0%	1.00	1.00	0.0%
Total Crashes	930	861	8.0%	74	87	-14.9%



Kauai Police Department Agency Statistics

For dates between 11/01/25 00:00 & 11/30/25 23:59

CALLS FOR SERVICE / INCIDENT SUMMARY

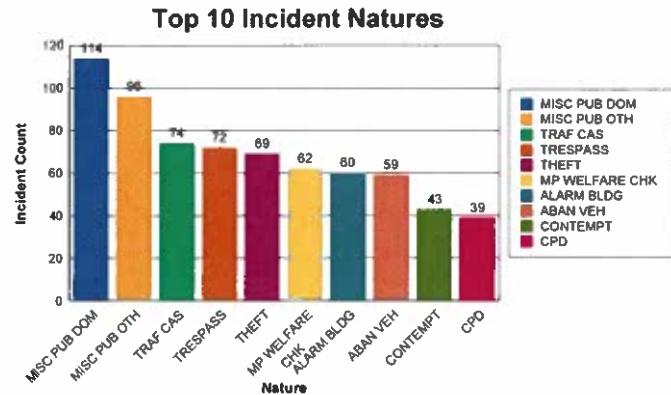
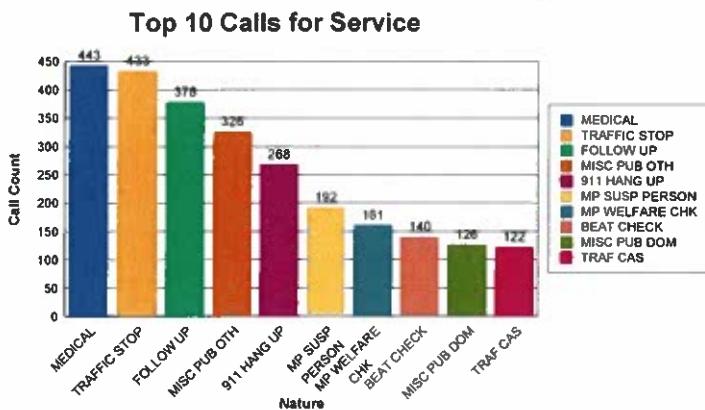
Total Calls for Service: 4,274

Total Law Calls for Service: 3,682

Total Incidents: 1,309

All Units: 4,984

Primary on Incidents: 1,309 Charges Initiated: 1,358



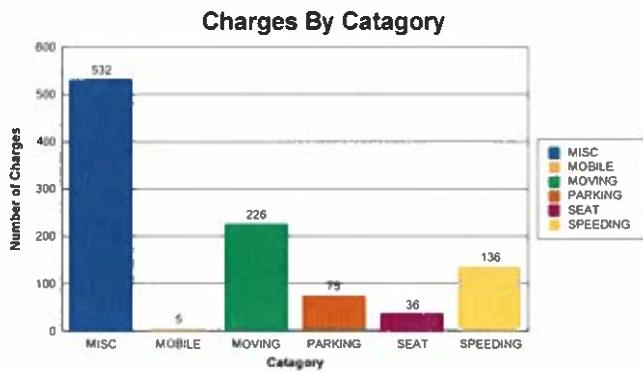
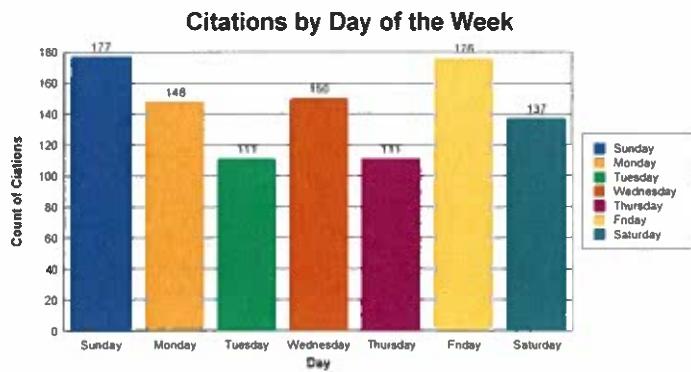
CITATION SUMMARY

Total Traffic Stops: 448

Total Traffic Warning Issued: 182

Total FI's: 64

Misc	Mobile	Moving	Parking	Seat	Speed	Covid	Totals	Viol	Non
521	5	218	75	36	103	0	958	299	115





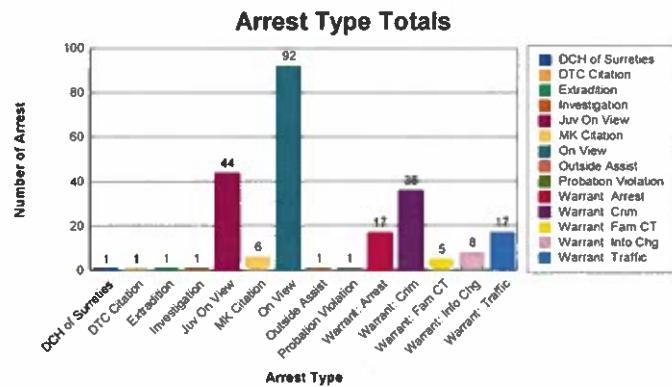
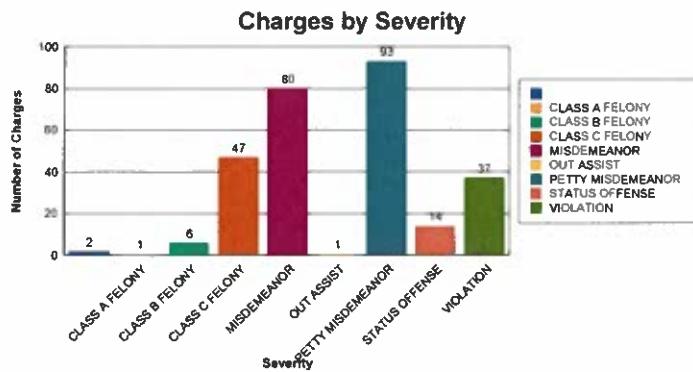
Kauai Police Department Agency Statistics For dates between 11/01/25 00:00 & 11/30/25 23:59

ARREST SUMMARY

Total Arrests: 231 - Juvenile: 45 - Adult: 186

Total Charges: 276 - Felonies: 52 - Total Misdemeanors: 80 - Total Petty Misdemeanors: 93 - Total Others: 51

Total OVUJI Arrest Charges: 14



LEGAL SERVICES

Summons / Other	TRO Family Civil	Protective Orders		Subpoena	Total
		Family	Civil		
14	0 10	0	0	15	41

WARRANT TYPE All Divisions

Arrest Warrants	Bench Warrants	eBW Traffic	eBW Criminal	Juvenile Warrants
20	0	59	67	1

WARRANT TRACKING All Divisions

Warrant Intake	Served	Recalled	Outstanding
22	111	63	1,898

Congress of the United States
House of Representatives
Washington, DC 20515-1101

November 14, 2025

Mr. Walton Hong
Chair
Kaua'i Police Commission
4444 Rice St Ste 300
Lihue, HI 96766-1328

Dear Mr. Hong:

Mahalo for contacting me with your support for S. 725, the Enhancing First Response Act. I greatly appreciate hearing directly from you as a fellow elected official for our state.

S. 725 would require the Office of Management and Budget (OMB) to categorize public safety telecommunicators as a protective service occupation under the Standard Occupational Classification System (SOCS). It would also require the Federal Communications Commission to publish a report on certain activations of the Disaster Information Reporting System.

There is no direct companion version of this bill in the House. However, there is a separate bill (H.R. 637) introduced in the House that would require OMB to recategorize public safety telecommunicators as a protective service occupation under the SOCS. The House has referred this bill to our Committee on Education and the Workforce. While I do not sit on this Committee, I will monitor its deliberations and keep your thoughts in mind this bill come before the full House for a vote.

Thank you again, and please continue to let me know of your views. Please also sign up for regular updates from me and my office through my e-newsletter and social media outreach at <https://case.house.gov/contact>.

With aloha,

Ed Case
Congressman Ed Case
Hawai'i-First District

EC/AM



500 ALA MOANA BOULEVARD
BOX 165
HONOLULU, HAWAII 96813

PHONE: (808)356-4400
FAX: (808)356-4499

November 24, 2025

Kauai Police Commission
c/o Office of Boards & Commissions
4444 Rice Street, Suite 300
Lihue, HI 96766

RE: Rudolph Tai

My name is Gary Yabuta, and I am the Executive Director of the Hawaii High Intensity Drug Trafficking Area (HIDTA)--a grant-funded program of the Office of National Drug Control Policy, Executive Office of the President. The Hawaii HIDTA supports drug interdiction and demand reduction strategies by developing collaborative federal, state, and local enforcement task forces and prevention programs throughout Hawaii, including the City and County of Honolulu, Hawaii County, Maui County, and Kauai County. I was also the Chief of Police for the Maui Police Department, and I have 47 years of law enforcement experience.

I congratulate the Kauai Police Commission for selecting Rudolph Tai as the Chief of Police for the Kauai Police Department, whom I have known personally and professionally for the past 30 years.

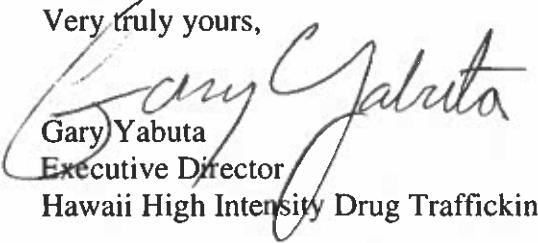
BUREAU OF ALCOHOL TOBACCO AND FIREARMS • CITY & COUNTY HONOLULU DEPARTMENT OF THE PROSECUTING ATTORNEY • DRUG ENFORCEMENT ADMINISTRATION • FEDERAL BUREAU OF INVESTIGATION • HAWAII POLICE DEPARTMENT • HAWAII NATIONAL GUARD • HOMELAND SECURITY INVESTIGATIONS HONOLULU POLICE DEPARTMENT • INTERNAL REVENUE SERVICE • JOINT INTER-AGENCY TASK FORCE -WEST
KAUAI POLICE DEPARTMENT • MAUI POLICE DEPARTMENT • NAVAL CRIMINAL INVESTIGATIVE SERVICE
STATE OF HAWAII DEPARTMENT OF THE ATTORNEY GENERAL • STATE OF HAWAII DEPARTMENT OF PUBLIC SAFETY
UNITED STATES ATTORNEY'S OFFICE • UNITED STATES COAST GUARD • UNITED STATES CUSTOMS AND BORDER PROTECTION
UNITED STATES MARSHALS SERVICE • UNITED STATES POSTAL INSPECTION SERVICE • WESTERN STATES INFORMATION NETWORK
HAWAII HIGH INTENSITY DRUG TRAFFICKING AREA

We first met when Rudolph Tai was a Sergeant for the San Diego Police Department and he came to teach the Maui Police Department in 1995 about Community Policing—a highly successful program for which the San Diego Police Department was recognized for excellence nationwide. Tai's lecture about Community Policing still reverberates in my mind and the principles he spoke about applies to a law enforcement philosophy that I practice to this day—that the study of law enforcement is a dynamic process and if we remain in the paradigm model known as traditional policing, we become ineffective in serving our communities.

I have been blessed with 31 years of service with the Maui Police Department, and coupled with my duties as the Hawaii HIDTA Executive Director, I have been able to identify the hallmark law enforcement agencies of the United States of America, and so I believe that I am more than qualified to identify the San Diego Police Department as one our Country's best. To curtail international drug trafficking just miles away from its headquarters, the San Diego Police Department requires excellence in leadership, as in the likes of Rudolph Tai. When I was the Chief of Police I kept in touch with Tai when he was the San Diego Police Department's Intelligence Commander (rank of Captain) and I was amazed with his astute knowledge of domestic and international criminal organizations and drug cartels, and grateful that he shared his knowledge with me, so that I could apply a defense mechanism against these drug trafficking organizations whose illicit drugs would travel all the way to Hawaii.

With Rudolph Tai as the Kauai Police Department, Chief of Police, I'm excited and optimistic of what will transpire upon his appointment: trust within the Kauai Police Department and throughout the Kauai communities; hope for a future; progress; and the shattering of a "paradigm" that will make the Kauai Police Department dynamic in every sense of the word.

Very truly yours,


Gary Yabuta

Executive Director

Hawaii High Intensity Drug Trafficking Area



STATE OF HAWAII ORGANIZATION OF POLICE OFFICERS
"A Police Organization for Police Officers Only"
Founded 1971

November 26, 2025

Mr. Walton Hong, Chair
Kauai Police Commission
4444 Rice Street, Suite 150
Lihue, HI 96766

SUBJECT: Correction of Official Record Regarding Chief Selection Process

Chair Hong,

First, it is important for you to know that SHOPO has no desire to challenge the Commission's selection of Deputy Chief Rudy Tai as the next Chief of Police. We are committed to working diligently with Chief Tai to solve the staffing crisis, improve morale, and rebuild the Kaua'i Police Department. We need him to succeed.

However, while we accept the *result* of the vote, we cannot accept the false statements made publicly by the Commission regarding the due diligence SHOPO provided. Several comments were disparaging to SHOPO, others publicly mischaracterized the testimony submitted by SHOPO to the public. Nor can we allow incorrect comments made to the public in response to SHOPO's testimony to go uncontested.

No matter how anyone feels about the outcome, there should be no compromise on the veracity of the information given to the public or put on the public record.

Chair Hong's Comments Regarding Deputy Chief Tai's Release from Litigation

During the meeting, you dismissed the information we presented to the Commission and sought to discredit our findings and build a foundation for your vote for Deputy Chief Tai by referencing that Tai was "released" from "the" lawsuit. Your statement gave the impression of legal clearance or exoneration. Neither of those occurred and the lawsuit is not relevant to issues we brought forward for your consideration. We would appreciate you furnishing your source material for your claim.

We deal in facts. Here are the facts regarding the lawsuit relied upon by Commissioner Hong.

It is important to understand *why* Tai was sued. The lawsuit was not filed by the victim involved in the 1990s incident, where Tai was the direct supervisor. The lawsuit was filed **15 years later** by a *different* woman ("Jane Doe") who was sexually assaulted **sometime around 2010-2011 (victim privacy protects the exact date)** by the same officer in the 1990's incident. She sued Tai and other supervisors, arguing that if they had done their jobs and documented the misconduct in the 90s and forward, the predator would have been fired long before **Jane Doe was assaulted**.

It is important to note that the court did not determine fact relative to Tai's actions. It dismissed Tai from the suit based on **Qualified Immunity, not innocence**. The judge did not find that Tai's supervision was proper. In fact, the court record confirms he issued only a verbal warning for a serious allegation of sexual misconduct. The judge stated that because Tai did not participate in the attacks, nor was he aware of a series of attacks beyond the one he was involved in, the Plaintiff did not meet the high constitutional bar for stripping a government official of qualified immunity. The judge released all the supervisors in the case. Being shielded from paying damages is not the same as being legally cleared of culpability.

Please do not take our word for it. Read it from the judge's order you were referencing:

Rather, the evidence shows that they were only aware of allegations involving a single isolated instance of misconduct occurring nearly fifteen years prior to Jane Doe's encounter with Arevalos. This showing is insufficient to hold Defendants Tai, Hollister, and Guevara personally responsible for Jane Doe's injuries...Accordingly, Tai, Hollister, and Guevara are entitled to qualified immunity and dismissal from this action (Emphasis added).¹

SHOPO's testimony did not raise the issue of Deputy Chief Tai being sued in a civil suit as a matter of concern. SHOPO raised the issue of what many considered a lax response to a serious allegation, then the lack of disclosure to the investigative team looking into the allegations against the accused officer. This was followed by a very serious statement made under oath by a DA investigator on the case regarding Tai's actions. All of which we characterized as allegations and stated they were worth you looking into further.

Commission Allows Untrue Testimony to Go Unchecked (Teresa Ewins Interview responses)

The danger of the Commission's failure to conduct its own research was most evident in the candidacy of Teresa Ewins. During her interview, Ms. Ewins characterized the litigation against her as generic liability for "acts committed prior to her tenure." It appears that the Commission had not done its homework, and we feel you had no way to know this was false. Without being able to verify your diligence, we submit that you may have exposed the county to risk and provided the public with information that is untrue.

This is precisely why SHOPO took it upon ourselves to do basic research of your top candidates. Unfortunately, you chose to attack it instead of read it.

As it relates to Ms. Ewins misstatements, SHOPO has court documents (not internet rumors) that prove Ms. Ewins did not provide factual information during her public interview. As we submitted in our report, Ms. Ewins is named in two, ongoing federal lawsuits based on alleged retaliatory actions she took against the plaintiffs.

Ewins petitioned the court claiming exactly what she told you and the public, that she should be released from the lawsuit because everything happened prior to her tenure.

Not only did the judge disagree, he stated that the plaintiff had presented enough facts at that point in time to warrant keeping Ewins as a defendant and piercing her qualified immunity shield which would allow the plaintiff to seek damages from Ewins personally. Recall, qualified immunity is what excused Tai from the suit in question.

In *Khalil v. City of Lincoln* (Case 4:23-cv-03159), the judge explicitly denied Ewins' motion to dismiss claims of First Amendment Retaliation. The court ruled that the plaintiff had alleged sufficient facts to show Ewins personally "knew of discrimination and failed to act" and could be sued in her individual capacity. That decision was not made years ago. It occurred on December 30, 2024, less than a year ago.

In closing out Ewins, what is baffling is how the Commission did not ask her why she left her previous place of employment. She put her tenure in Lincoln as a reason to hire her. You relied on that stated record. Yet, two years after her departure, the community of Lincoln has no clue why their police chief suddenly quit one day and why the Mayor and former Chief refused to talk about it publicly. Ever. That is not internet gossip. It was covered extensively by all mediums of news. The lack of your questioning into these facts supports our suspicion that you did not do your homework.

¹ JANE DOE, PLAINTIFF, V. CITY OF SAN DIEGO, ET AL., DEFENDANTS, ORDER GRANTING SUPERVISOR DEFENDANTS' MOTION FOR SUMMARY JUDGMENT [Doc. No. 191], MICHAEL M. ANELLO, District Judge

Is the Commission implying that SHOPO's decision to make you aware of this enormous red flag was wrong and worthy of ridicule? Why you left your last place of employment is a pretty standard interview or application question. Did you know of these facts? If not, what reason do you have for being so apparently uninformed on a basic question for one of your *top four* candidates?

Clear the Air. What Did You Know?

The public deserves to know what the Commission knew about the finalists before you took your votes.

- Did you know of these issues and discuss them outside of public session?
- What plan did you have to disclose this information?
- What background information did you gather on the candidates?
- Did you discuss SHOPO's testimony outside of public session?
- Did you discuss SHOPO's testimony with any of the candidates outside of public session?
- Did you discuss the need to vote to select a chief at last Friday's meeting versus taking time to assess the information you were provided outside of public session?

Commission's Actions Create Chilling Effect on Future Oversight and Participation

Most concerning of all was the Commission's open hostility toward employee representatives for utilizing the public testimony process.

The Commission's rules designate public testimony as the official mechanism for bringing concerns, including complaints against the Chief, to your attention. By publicly criticizing SHOPO representatives for using this authorized channel to provide relevant background information, you have sent a dangerous message to every employee of the Kaua'i Police Department: *"If you bring us inconvenient facts, we will attack the messenger."* This hostility creates a "chilling effect" that discourages officers from reporting misconduct or safety concerns in the future. It mirrors the exact "failure to listen" that led contributed to the morale crisis caused by Todd Raybuck. The Commission cannot perform its oversight duty if it is hostile to the people it is sworn to oversee.

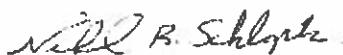
Conclusion

SHOPO is the official bargaining representative of Kauai sworn officers covering the ranks of officer to Lieutenant. We have a duty to ensure our members work in a safe environment, which includes safety from harassment, retaliation, and poor leadership that impacts the overall working conditions.

That environment was allowed to fester too long under the tenure of the previous chief despite our warnings and appeals to the Commission. Your paid consultant, Gallup, has presented you data showing that you benchmark in the bottom 1% of all of the organizations it works with *in the world* when it comes to employee engagement. That should be something to think about when you consider how to treat the employees of the Kauai Police Department when they bring valid concerns to your attention, and when the labor union expresses trepidations in the public forum you operate in.

As we stated above, we look forward to moving ahead with Chief Tai. We are sincere in that pledge. However, we will stay vigilant as it relates to the transparency and rigor of the Commission's processes. The public and our members deserve nothing less.

Sincerely,



NICHOLAS SCHLAPAK
SHOPO President

CC: Mayor Derek S.K. Kawakami; Reiko Matsuyama, Managing Director; Kauai County Councilmembers; Jade K. Fountain-Tanigawa, County Clerk; Ellen Ching, Administrator, Office of Boards and Commissions;

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

JANE DOE,
vs.
CITY OF SAN DIEGO, et al.,

CASE NO. 12-cv-689-MMA-DHB

**ORDER GRANTING
SUPERVISOR DEFENDANTS'
MOTION FOR SUMMARY
JUDGMENT**

[Doc. No. 191]

18 This case arises out of the tortious conduct of former San Diego Police Officer
19 Anthony Arevalos. In response to Arevalos' acts, Plaintiff Jane Doe ("Plaintiff" or
20 "Doe") filed suit against Defendants City of San Diego (the "City"), Arevalos, and
21 nine of Arevalos' past supervisors¹ in the San Diego Police Department (the
22 "Supervisor Defendants"). In the present motion, the Supervisor Defendants seek
23 summary judgment on all of Plaintiff's claims asserted against them. [Doc. No.
24 191.] Upon consideration of the comprehensive record before the Court, including
25 the written and oral arguments of counsel, the Court **GRANTS** the Supervisor
26 Defendants' motion for summary judgment.

²⁸ ¹ William Lansdowne, David Bejarano, Rudy Tai, Danny Hollister, Kevin Friedman, Victoria Binkerd, Robert Kanaski, Max Verduzco, and Jorge Guevara.

1 **BACKGROUND²**

2 The facts surrounding the encounter between Jane Doe and Officer Arevalos
3 have been thoroughly recited by this Court in previous orders and need not be
4 repeated here. Instead, the Court focuses its attention on the facts involving the
5 Supervisor Defendants.³

6 Jane Doe was not Anthony Arevalos' only victim. Rather, beginning in the
7 late 1990's, Arevalos was allegedly involved in a number of other sexually-laced
8 incidents. Plaintiff contends that Arevalos' police supervisors intentionally covered
9 up his repeated misconduct, rendering them personally liable for Plaintiff's injuries.
10 Accordingly, Plaintiff's Fourth Amended Complaint asserts fourteen claims against
11 the Supervisor Defendants.⁴ Liability for the Supervisor Defendants is primarily
12 premised on four past incidents involving Officer Arevalos, in addition to general
13 details regarding Arevalos' misconduct within the SDPD. The Court will briefly
14 outline the facts related to Arevalos' past misconduct.

15

16 ² The following facts are taken from the Supervisor Defendants' moving papers
17 and Plaintiff's opposition, and construed in the light most favorable to Plaintiff.
Horphag Research Ltd. v. Garcia, 475 F.3d 1029, 1035 (9th Cir. 2007). The facts cited
18 are not reasonably in dispute, except where otherwise noted.

19 ³ The Supervisor Defendants object to Plaintiff's presentation of material facts
20 in dispute, on the basis that Plaintiff has improperly supported her statement of facts by
21 citing to the factual statements set forth by her expert witnesses in their reports rather
22 than citing to facts in the record. The Court agrees that Plaintiff's presentation of the
23 facts is improper. "The law is clear . . . that an expert report cannot be used to prove
24 the existence of facts set forth therein." *In re Citric Acid Litigation*, 191 F.3d 1090,
25 1102 (9th Cir. 1999). Thus, to the extent Plaintiff relies solely on the expert reports to
support her factual statement, the Court **SUSTAINS** Defendants' objection. Moreover,
the Court **SUSTAINS** Defendants' objections to Plaintiff's exhibits WW, YY, CCC,
DDD, HHH through RRR, UUU, AAAA, CCC, DDD, and KKKK. Each of these
exhibits either contain inadmissible hearsay, were not properly authenticated, or are
irrelevant. All evidentiary objections not referenced herein are either overruled, or the
evidence in question was not material to the resolution of this motion, rendering the
objections moot.

26 ⁴ The claims asserted against the Supervisor Defendants are identical to those
27 asserted against Arevalos: (1) Sexual Assault; (2) Sexual Battery; (3) False Arrest; (4)
28 False Imprisonment; (5) Violation of Civil Code § 52.1; (6) Violation of Civil Code §
51.7; (7) Violation of Civil Code § 52.4; (8) Violation of 42 U.S.C. § 1983; (9)
Violation of 42 U.S.C. § 1985; (10) Violation of 42 U.S.C. § 1986; (11) Negligence;
(12) Intentional Infliction of Emotional Distress; and (13) Injunctive Relief.

1 **The 5150 Detainee Incident: Defendants Tai, Hollister, and Guevara**

2 The first report of misconduct involving Officer Arevalos occurred in the late
3 1990's. At that time, Officer Arevalos, along with Officer Francisco Torres, was
4 dispatched to a call regarding a young, naked woman dancing at a local park.
5 Officer Torres persuaded the woman to put her clothes on, and the officers placed
6 her in handcuffs for a psychiatric hold pursuant to California Welfare and
7 Institutions Code section 5150.

8 Officer Torres states that as they were driving to a local hospital, Officer
9 Arevalos encouraged the female to undress again, and that the female said that she
10 would have sex with the officers. Arevalos engaged in and encouraged the sexual
11 banter.

12 Upon arrival at the hospital, Officer Torres went to get a nurse. Torres claims
13 that when he returned to the patrol car, the detainee was naked again and Torres saw
14 what appeared to be camera flashes. Torres assumed Arevalos was taking pictures
15 of the nude girl. Officer Torres alleges that the girl had Officer Arevalos' police
16 baton inserted into her vagina.

17 Torres contacted his own supervisor, Defendant Danny Hollister, to report the
18 incident. According to Defendant Hollister, Torres informed him that Arevalos had
19 an inappropriate conversation with the female, had encouraged her to disrobe, and
20 had taken photographs of her. Hollister testified that he did not remember if Torres
21 mentioned anything about Arevalos encouraging the detainee to place his service
22 baton in her vagina.

23 Defendant Hollister, who was not in Arevalos' chain of command, informed
24 Defendant Rudy Tai, Arevalos' direct supervisor, of Arevalos' behavior. Officer
25 Torres also met with Defendant Tai. There is a dispute over what information
26 Defendant Tai received regarding the incident. Tai denies being told by Torres that
27 Arevalos photographed the detainee or encouraged her to use his baton in a sexual
28 fashion. Torres claims, however, that he told Tai everything that he had witnessed.

1 Tai interviewed Arevalos, who admitted to making inappropriate sexual
2 remarks, but characterized them as flirtatious and joking. Tai also informed his
3 commanding officers, Defendant Jorge Guevara and Captain Olias,⁵ of the
4 inappropriate remarks by Arevalos. Tai conducted and completed his investigation
5 regarding the allegations, and concluded that Arevalos' conduct was unprofessional.⁶
6 Arevalos was verbally reprimanded and instructed that this type of conduct would
7 not be tolerated in the future. A written reprimand was not issued.

8 **The Susy S. Incident: Defendant Chief Bejarano**

9 Susy S. contends Arevalos mistreated her during a traffic stop in March or
10 April 2001. While driving a marked police car, Arevalos pulled up next to Ms. S's
11 vehicle, made flirtatious comments to her, and asked her to pull her vehicle over and
12 stop. Ms. S refused to stop and drove towards her home instead; Arevalos followed.

13 Ms. S contends that she stopped her car in front of her apartment building and
14 Officer Arevalos stopped almost bumper-to-bumper behind her. Ms. S was
15 frightened and began screaming, "What are you doing? Why are you trying to pull
16 me over?" and "Help me." Ms. S claims that when she exited her vehicle, Arevalos
17 grabbed her wrists behind her back and pushed his groin into her buttocks. She
18 claims he also placed his hands on her breasts.

19 Ms. S contends her husband came outside as she was screaming, and that she
20 began describing the situation to him. Officer Arevalos said that she failed to signal
21 for a turn, and he wrote her a citation. Ms. S refused to sign the citation and
22 knocked the ticket book to the ground, but her husband picked it up and told her to
23 sign the citation.

24 Ms. S claims she called the police department the next day to report Arevalos,
25 and that she met personally with Defendant Chief Bejarano. She also claims that she
26 had a second meeting with Chief Bejarano a few days later. She testified that Chief

27 ⁵ Since deceased.
28

29 ⁶ Plaintiff contends that the investigation by Tai was a "sham."

1 Bejarao met her in a parking structure near City Hall and told her that “everything
2 was taken care of” and that Arevalos was “going to have consequences.” Susy S.
3 told Chief Bejarano that she wanted Arevalos fired.

4 Ms. S’s husband has no recollection of his wife ever telling him that Arevalos
5 touched her. Nor does he recall her telling him that she was going to SDPD to
6 complain about Arevalos’ conduct. She told him that she was upset because the
7 officer had tried to pull her over in an alley.

8 The Supervisor Defendants contend Susy S.’s claim is not supported by the
9 record, and that it is a fictionalized account such that no reasonable jury could
10 believe it. For instance, Arevalos was stationed in the Southern Division in 2001,
11 and the alleged incident with Susy S. occurred within the parameters of the Western
12 Division. Also, it was not the practice or custom of intake officers to contact Chief
13 Bejarano and advise him that a citizen was filing a complaint regarding an officer’s
14 conduct. Nor was it Bejarano’s practice to meet personally with citizens who
15 complained of officer misconduct. Bejarano has no recollection of ever having an
16 appointment to meet with Susy S. during his tenure with the SDPD.

17 **The MP Incident: Defendants Verduzco and Binkerd**

18 In July 2007, sixteen-year-old MP, wearing a bathing suit covered by a top,
19 was stopped while driving by Officer Arevalos. Arevalos told her that her license
20 plate tags were about to expire, but MP responded that the tags were valid until
21 October or December. Arevalos told her to exit her vehicle so she could look at the
22 tags. Once behind the vehicle, Officer Arevalos told MP to “bend over” to look at
23 the tags. Even though she could see the tags while standing, MP bent over as she
24 was told. Officer Arevalos was standing behind MP as she did so, and MP states
25 that Arevalos was “really weird and uncomfortable.” MP immediately drove home
26 and told her father, LP, what had occurred. LP called a friend in the police force,
27 Sergeant Art Bowen, to complain. LP told Bowen that Arevalos had stood behind
28 MP while making her bend over to look at her plainly visible tags. Sergeant Bowen

1 then used the Department's messaging system to contact Arevalos' supervisor,
2 Sergeant Max Verduzco, providing the details of what MP and LP reported.

3 Later, LP called Sergeant Verduzco directly to report Arevalos' behavior. LP
4 thought Arevalos should be fired. Verduzco told LP that parents in La Jolla cause
5 trouble anytime their kids are pulled over. LP then contacted Verduzco's supervisor,
6 Victoria Binkerd. After speaking with Binkerd, LP decided against filing an official
7 complaint. According to Plaintiff, LP did not pursue the matter further because he
8 did not want to risk damage to his friend Art Bowen's career at the SDPD. Binkerd
9 did not document, investigate, or discipline Officer Arevalos for his conduct.

10 **The Jane Roe Incident: Defendants Friedman and Kanaski**

11 On February 20, 2010, Jane Roe consumed a significant amount of alcohol
12 before and after working as an exotic dancer. She attempted to drive herself home,
13 despite her intoxicated state. Roe side-swiped a shopping cart corral and crashed
14 into a flower box outside an office supply store. A security guard took her keys, and
15 called 911 to report the crash. Officer Arevalos was one of several officers that
16 responded to the scene. Roe was visibly upset and agitated. She was put into the
17 back of Arevalos' patrol car and taken to headquarters for a forced blood draw to
18 determine her blood alcohol content. Roe's blood alcohol level was 0.19%.

19 Thereafter, Arevalos transported Roe to the Las Colinas Women's Detention
20 Center. On the way, Roe claims that Arevalos pulled his vehicle off the road, put
21 blue latex gloves on, shined his flashlight in her face, then shoved his "hand" into
22 her vagina. Arevalos then continued driving to Las Colinas.

23 Upon arrival at Las Colinas, Roe continued to act wildly. She yelled and
24 screamed insults at Arevalos, and accused him of raping her and putting his hand
25 inside her vagina. A nurse at the jail took Roe's vital signs and told the officers that
26 she could not be admitted because her heart rate was too high. Defendant Friedman,
27 Arevalos' supervisor, was notified of the situation and went directly to Las Colinas.
28 Friedman was able to get Roe to calm down. He listened to Roe's allegations, but

1 did not believe them based upon the nature of the allegations and Roe's intoxicated
2 state. Arevalos then drove Ms. Roe to UCSD Medical Center, with Friedman
3 following.

4 Roe told the admitting clerk that she had been sexually assaulted. Two
5 officers from Internal Affairs came to the hospital and conducted an interview with
6 Roe and took photographs. Allegedly, Roe requested a rape examination ("SART"),
7 which did not take place until several days later. The results of the SART exam
8 were inconclusive. Two days after the assault, Roe allegedly called the police
9 department and was told there was no record of her making a complaint.

10 Friedman reported the incident to the Watch Command and Internal Affairs.⁷
11 Two separate investigations into the allegations were conducted. One was criminal,
12 conducted by the Sex Crimes Unit, and one was administrative, conducted by
13 Internal Affairs. Pending the investigations, Arevalos was assigned a desk job and
14 removed from the field. Ultimately, the District Attorney's office declined to
15 proceed with pressing charges because the evidence against Arevalos was
16 insufficient.

17 On April 7, 2010, Arevalos sent an email to Defendant Kanaski noting the
18 District Attorney's decision of rejection and asking Kanaski when Arevalos could be
19 returned to the field. Defendant Kanaski responded that his "goal was to get
20 [Arevalos] back in the field as quickly as possible. I will not be waiting for the
21 entire investigation to be completed." [Doc. No. 219, Ex. BBBB.]

22 SDPD Internal Affairs conducted its own separate investigation after the
23 criminal case was rejected by the DA. The Internal Affairs investigation concluded
24 on September 23, 2010, with a finding of not-sustained.⁸ Based upon the non-

25
26 ⁷ Plaintiff contends that Friedman erred by categorizing Roe's sexual assault
27 claim as a Public Service Inquiry ("PSI") rather than a Category I complaint. However,
28 it is undisputed that Friedman reported the incident, and that two investigations were
subsequently performed.

⁸ Plaintiff states that the conclusion of the Internal Affairs investigation is highly
suspect and a sham. Nonetheless, it is undisputed that the investigation occurred.

1 sustained finding, there was no basis for imposing discipline or changing Arevalos'
2 assignment. He was returned to his prior assignment in the Traffic Division.

3 Sex Crimes Investigators checked the automatic vehicle location ("AVL")
4 system in Arevalos' vehicle and discovered that there was a time lapse of one-
5 minute and twenty-nine seconds during the time he was transporting Roe where it
6 appeared that Arevalos was stopped in the area of 163 North at Friars Road.
7 Detectives went to that location five days after Roe's arrest and found eight blue
8 latex gloves. Sergeant Friedman confirmed that SDPD officers are issued blue latex
9 gloves as part of their personal protection supplies. The gloves were tested for
10 DNA. Six of the gloves did not match either Roe or Officer Arevalos, and two of
11 the gloves did not contain sufficient DNA to conduct a test.⁹ Sergeant Friedman said
12 this information was very disconcerting to him and caused his "jaw to drop."

13 Neither Friedman nor the Internal Affairs investigator told Arevalos that the
14 AVL system showed his vehicle was parked for one-minute and twenty-nine
15 seconds, nor did they ever confront Arevalos with the fact that blue latex gloves,
16 similar to the gloves issued to SDPD officers, were found at the location where Roe
17 and the AVL indicated that he had stopped.

18 **Additional Facts Regarding Defendant Friedman's Knowledge of
19 Arevalos' Misconduct**

20 Plaintiff contends there are separate grounds for establishing Defendant
21 Friedman's liability. Specifically, Plaintiff cites the following facts:

22 • Friedman admitted that he knew that Arevalos showed off the driver's
23 license photos of his attractive female arrestees and that Arevalos would
24 sometimes print out DMV photographs from a department computerized
25 system "Cal Photo."
26

27 • Friedman stated that he believed that Arevalos would use the department's
28 computers to access social networking sites. Yet, he never confronted

27 ⁹ Plaintiff contends that delays in initiating the investigation seriously
28 undermined the investigation. For instance, due to unwarranted delays, the DNA
material on the blue latex gloves was too old to be accurately tested for genetic material.
However, no evidence links Defendant Friedman to the delays or other investigation
shortcomings.

1 Arevalos, counseled or disciplined Arevalos, or contacted Internal Affairs
2 to have Arevalos' computer routinely inspected.

3 • Friedman stated that Arevalos often boasted about stopping cute girls and
4 because of this, he spent more time supervising Arevalos than the other
5 officers on his squad. Although Friedman stated that Arevalos' boasting
6 was such a concern that he demanded more supervision than any of his
7 other officers, Sergeant Friedman admitted that he never spoke with
8 Arevalos regarding his concerns.

9 **Defendant Lansdowne's Knowledge of Arevalos' Misconduct**

10 Former SDPD Chief William Lansdowne was appointed to his position in
11 2003. He was Chief of Police at the time of the Jane Roe incident, and agreed with
12 the Internal Affairs report which found that Roe's allegations against Arevalos could
13 not be sustained. Apart from the Roe incident, Lansdowne was not aware of any
14 other complaints alleging sexual misconduct against Arevalos.

15 In March 2007, Arevalos was caught accessing adult porn sites on his
16 computer. Lansdowne received notice of Arevalos' behavior in conjunction with
17 Arevalos' disciplinary transfer from the detective's squad to the traffic division.

18 **DISCUSSION**

19 Plaintiff's primary cause of action against the Supervisor Defendants arises
20 under 42 U.S.C. § 1983. Plaintiff seeks to impose supervisory liability under § 1983
21 upon the Supervisor Defendants for their alleged failures to properly investigate,
22 document, and report the past complaints involving Officer Arevalos. The
23 Supervisor Defendants claim summary judgment is appropriate because they are
24 entitled to qualified immunity with respect to Plaintiff's claim under § 1983. For the
25 reasons discussed below, the Court agrees.

26 **A. Summary Judgment Standard**

27 A motion for summary judgment should be granted if there is no genuine
28 issue of material fact and the moving party is entitled to judgment as a matter of law.
29 Fed. R. Civ. P. 56(a). The purpose of summary judgment "is to isolate and dispose
30 of factually unsupported claims or defenses." *Celotex v. Catrett*, 477 U.S. 317,
31 323–24 (1986). The moving party bears the initial burden of informing the Court of

1 the basis for the motion, and identifying portions of the pleadings, depositions,
2 answers to interrogatories, admissions, or affidavits which demonstrate the absence
3 of a triable issue of material fact. *Id.* at 323. The evidence and all reasonable
4 inferences therefrom must be viewed in the light most favorable to the non-moving
5 party. *T.W. Elec. Serv., Inc. v. Pac. Elec. Contractors Ass'n*, 809 F.2d 626, 630–31
6 (9th Cir. 1987).

7 If the moving party meets its initial burden, the burden then shifts to the
8 non-moving party to present specific facts showing that there is a genuine issue of
9 material fact for trial. *Celotex*, 477 U.S. at 324. The opposing party “must do more
10 than simply show that there is some metaphysical doubt as to the material facts.”
11 *Matsushita Elec. Indus. Co. v. Zenith Radio*, 475 U.S. 574, 588 (1986). When a
12 party fails to properly address another party’s assertions of fact, a court may
13 consider these facts as undisputed. Fed. R. Civ. P. 56(e)(2). If the motion and
14 supporting materials, including facts considered undisputed, show the movant is
15 entitled to summary judgment, the Court may grant the motion. Fed. R. Civ. P.
16 56(e)(3). Summary judgment is not appropriate if the non-moving party presents
17 evidence from which a reasonable jury could resolve the disputed issue of material
18 fact in his or her favor. *Anderson*, 477 U.S. at 248; *Barlow v. Ground*, 943 F.2d
19 1132, 1136 (9th Cir. 1991). However, “[w]here the record taken as a whole could
20 not lead a rational trier of fact to find for the non-moving party, there is no ‘genuine
21 issue for trial.’” *Matsushita*, 475 U.S. at 587.

22 **B. Supervisory Liability Under 42 U.S.C. § 1983**

23 “Section 1983 creates a private right of action against individuals who, acting
24 under color of state law, violate federal constitutional or statutory rights.”
25 *Devereaux v. Abbey*, 263 F.3d 1070, 1074 (9th Cir. 2001). “To establish § 1983
26 liability, a plaintiff must show both (1) deprivation of a right secured by the
27 Constitution and laws of the United States, and (2) that the deprivation was
28 committed by a person acting under color of state law.” *Tsao v. Desert Palace, Inc.*,

1 698 F.3d 1128, 1138 (9th Cir. 2012).

2 Supervisory officials “may not be held liable for the unconstitutional conduct
3 of their subordinates under a theory of *respondeat superior*.” *Ashcroft v. Iqbal*, 556
4 U.S. 662, 676 (2009) (italics in original). Rather, a plaintiff must establish that each
5 individual “Government-official defendant, through the official’s own individual
6 actions, has violated the Constitution.” *Id.* In other words, supervisory officials
7 “cannot be held liable unless they themselves” violated a constitutional right. *Id.*
8 Thus, supervisory liability can be imposed only if (1) the supervisor was personally
9 involved in the constitutional deprivation, or (2) there is a sufficient causal
10 connection between the supervisor’s wrongful conduct and the constitutional
11 violation. *Hansen v. Black*, 885 F.2d 642, 646 (9th Cir. 1989).

12 “The requisite causal connection can be established . . . by setting in motion a
13 series of acts by others, or by knowingly refus[ing] to terminate a series of acts by
14 others, which [the supervisor] knew or reasonably should have known would cause
15 others to inflict a constitutional injury.” *Starr v. Baca*, 652 F.3d 1202, 1207–08 (9th
16 Cir. 2011) (internal citations omitted). “A supervisor can be liable in his individual
17 capacity for his own culpable action or inaction in the training, supervision, or
18 control of his subordinates; for his acquiescence in the constitutional deprivation; or
19 for conduct that showed a reckless or callous indifference to the rights of others.”
20 *Id.* at 1208 (citations omitted).

21 Because supervisory liability is personal liability, an official against whom a
22 claim of supervisory liability is advanced may assert the affirmative defense of
23 qualified immunity. *al-Kidd v. Ashcroft*, 580 F.3d 949, 963–65 (9th Cir. 2009)
24 (citation omitted). The doctrine of qualified immunity provides a public official
25 performing a discretionary function immunity in a civil action for damages, provided
26 his or her conduct does not violate clearly established federal statutory or
27 constitutional rights of which a reasonable person would have known. *Harlow v.*
28 *Fitzgerald*, 457 U.S. 800, 818 (1982). The immunity is “immunity from suit rather

1 than a mere defense to liability[.]” *Mitchell v. Forsyth*, 472 U.S. 511, 526 (1985).

2 The analysis employed in determining whether a government official is
3 entitled to qualified immunity consists of two questions. First, “[t]aken in the light
4 most favorable to the party asserting the injury, do the facts alleged show the
5 officer’s conduct violated a constitutional right?” *Saucier v. Katz*, 533 U.S. 194, 201
6 (2001). Under this inquiry, if there is no constitutional violation no further inquiry
7 is necessary. *Id.*

8 Second, if a violation of a constitutional right can be found, was the right
9 clearly established? *Id.* Under this inquiry, a defendant may be shielded from
10 liability if his or her “actions did not violate ‘clearly established statutory or
11 constitutional rights of which a reasonable person would have known.’” *Hope v.*
12 *Pelzer*, 536 U.S. 730, 739 (2002) (quoting *Harlow*, 457 U.S. at 818).

13 When considering qualified immunity, the court has “discretion in deciding
14 which of the two prongs of the qualified immunity analysis should be addressed first
15 in light of the circumstances in the particular case at hand.” *Pearson v. Callahan*,
16 555 U.S. 223, 236 (2009).

17 Where a plaintiff asserts liability against a supervisory defendant for his or her
18 conduct in connection with a subordinate, for purposes of the qualified immunity
19 analysis, the plaintiff must establish that each individual defendant participated in
20 the violation of a constitutional right. The plaintiff must establish that the
21 subordinate committed a violation of a constitutional right, and that the violation is
22 attributable to the personal conduct of the supervisory defendant. *Poe v. Leonard*,
23 282 F.3d 123, 133–35 (2nd Cir. 2002); *see also al-Kidd*, 580 F.3d at 963–65
24 (citation omitted). Conduct that violates a constitutional right must be attributable to
25 each individual defendant. *McDade v. West*, 223 F.3d 1135, 1142 (9th Cir. 2000).

26 **C. Section 1983 Analysis**

27 The Supervisor Defendants assert that they are entitled to qualified immunity
28 on Jane Doe’s Section 1983 claim. “In order to be entitled to qualified immunity,

1 the officers must show that their discretionary conduct did not violate any clearly
2 established rights of which a reasonable person should have known.” *Penilla v. City*
3 *of Huntington Park*, 115 F.3d 707, 709 (9th Cir. 1997). Plaintiff contends that her
4 right to be free from police sexual battery is clearly established under the Fourteenth
5 Amendment. The pivotal question, however, is not whether Plaintiff was
6 constitutionally harmed, but whether the Supervisor Defendants are personally liable
7 for the harming. The answer resides within the confines of Section 1983’s
8 supervisory liability jurisprudence.

9 As the Court previously noted, supervisory liability can be imposed only if (1)
10 the supervisor was personally involved in the constitutional deprivation, or (2) there
11 is a sufficient causal connection between the supervisor’s wrongful conduct and the
12 constitutional violation. *See Hansen*, 885 F.2d at 646. It is undisputed that the
13 Supervisor Defendants did not personally participate in the sexual assault and
14 battery of Jane Doe. Accordingly, to prevent summary judgment, Doe must produce
15 evidence demonstrating a causal connection between the Supervisor Defendants’
16 conduct and Doe’s injury.

17 The Supervisor Defendants contend that this burden is insurmountable
18 because the requisite causal connection can only be forged by demonstrating
19 repeated failure to act to abate repeated constitutional violations, and it is undisputed
20 that at the time of Doe’s injuries each Supervisor Defendant knew of only one prior
21 allegation of sexual misconduct against Officer Arevalos.¹⁰

22 Plaintiff disagrees with the Supervisor Defendants’ interpretation of
23 supervisory liability requirements. She contends that the requisite culpability for
24 supervisory inaction can be established on the basis of a single incident of
25 subordinate misconduct. [Opp. at 32 (citing *Gutierrez-Rodriguez v. Cartagens*, 882
26

27 ¹⁰ Defendants Friedman and Lansdowne also had knowledge of miscellaneous
28 misconduct engaged in by Officer Arevalos. However, as discussed below, this
misconduct did not rise to the level of a constitutional violation.

1 F.2d 553, 567 (1st Cir. 1989).] Upon review of *Gutierrez-Rodriguez* and the other
2 cases relied on by Plaintiff, however, the Court finds that the limits of supervisory
3 liability are not so unrestrained.

4 In *Gutierrez-Rodriguez v. Cartagens*, 882 F.2d 553, 562 (1st Cir. 1989), four
5 police officers shot at Carlos Gutierrez as he was driving away from a traffic stop.
6 One bullet struck Gutierrez in the back, causing him to lose control of the vehicle.
7 Gutierrez suffered extensive and permanent injuries as a result of his gunshot
8 wound. Gutierrez sued the four officers who were at the scene under Section 1983,
9 and also brought suit against Domingo Alvarez, the Director of the Drugs and
10 Narcotics Division and Desiderio Cartagena, the Police Superintendent. The court
11 permitted supervisory liability to attach to both Alvarez and Cartagena because the
12 supervisors' positions, responsibilities, and conduct not only demonstrated reckless
13 or callous indifference to the constitutional rights of others, but was also
14 affirmatively linked to the officers' misconduct. *Id.* at 562.

15 Among other things, Alvarez was aware that Officer Soto, the officer in
16 charge of the squad, had a reputation for having a violent character in mistreating
17 citizens. Alvarez had authority to assign Soto to a desk job, but continued to send
18 Soto out as a squad supervisor despite a number of complaints that had been filed
19 about Soto. Alvarez admitted that he was aware that Soto had been the subject of
20 ten citizen complaints charging abuse during his tenure with the division. Alvarez
21 also knew that Soto had been suspended for five days only five months before the
22 Gutierrez incident. Then, Soto, as a round supervisor, stood by and pointed a gun
23 while those under his command beat up a civilian doctor.

24 Superintendent Cartagena was ultimately responsible for the supervision of all
25 of the officers under his command. Every complaint filed against an officer went to
26 Cartagena for disposition. He made the final decision as to whether an officer was
27 guilty or not guilty. Soto was the subject of at least thirteen separate complaints
28 filed within four years of the Gutierrez incident. Cartagena personally signed letters

1 dismissing the charges against Soto in twelve of the thirteen complaint cases.
2 Despite his power to do so, Cartagena emphatically refused to consider an officer's
3 past history of complaints when reviewing that officer's conduct. Plaintiff's expert
4 stated that the number of complaints levied against Soto alone should have signaled
5 that he needed immediate attention.

6 On these facts, the First Circuit concluded that both deliberate indifference
7 and a causal link between the supervisors' inaction and Gutierrez's injuries existed.
8 Importantly, supervisory liability in *Gutierrez-Rodriguez* was not premised on
9 knowledge of one past incident of misconduct, but, rather, a long history of past
10 complaints and violence.

11 In *Campbell v. City of Springboro, Ohio*, 700 F.3d 779 (6th Cir. 2012),
12 several plaintiffs attacked by the same police dog brought a Section 1983 action
13 against the canine handler, the chief of police, and the city of Springboro, Ohio. In
14 relevant part, the Sixth Circuit concluded that Police Chief Jeffrey Kruithoff was not
15 entitled to qualified immunity because a causal connection between his acts and the
16 alleged constitutional injuries was suggested by the record. Specifically, Chief
17 Kruithoff allowed a police dog, Spike, in the field after his training had lapsed, and
18 after ignoring many complaints regarding the need to keep Spike up to date on his
19 training. Moreover, Chief Kruithoff "never required appropriate supervision of the
20 canine unit and essentially allowed it to run itself. He failed to establish and publish
21 an official K-9 unit policy, and he was seemingly oblivious to the increasing
22 frequency of dog-bite incidents involving Spike." *Id.* at 790. Accordingly, the Sixth
23 Circuit concluded that Chief Kruithoff's apparent indifference to maintaining a
24 properly functioning K-9 unit could be reasonably expected to give rise to just the
25 sort of injuries that occurred. *Id.* Significantly, however, *Campbell* did not permit
26 supervisory liability based on knowledge of one past incident of subordinate
27 misconduct. Rather, liability was established based on a showing of "many
28 complaints," and "frequent dog-bite incidents" involving the subject dog. *Campbell*,

1 700 F.3d at 790.

2 Plaintiff further relies on *Larez v. City of Los Angeles*, 946 F.2d 630, 646 (9th
3 Cir. 1991), which stands for the proposition that, in limited circumstances, a
4 supervisor's subsequent "ratification" of another's conduct can form the basis for
5 supervisory liability. In *Larez*, the Ninth Circuit held there was no plain error in a
6 jury verdict finding Los Angeles Chief of Police Daryl Gates liable for his officers'
7 use of excessive force. *See Larez*, 946 F.2d at 646. *Larez* presented evidence that
8 Gates personally dismissed his excessive force complaint against the officers who
9 searched *Larez*'s house. *Id.* at 635. He also presented an expert witness who
10 testified that Chief Gates should have disciplined the officers and established new
11 procedures to avoid future similar incidents. *Id.* at 636. The expert further testified
12 that, based on a two-year comparative study he had conducted, Los Angeles police
13 officers almost never received discipline as a result of citizens complaints. *Id.*
14 *Larez* held that on this evidence the jury could have found Chief Gates "condoned,
15 ratified, and encouraged excessive use of force" among the officers he supervised,
16 and thereby caused *Larez*'s constitutional violations. *Id.* at 646. Here, Plaintiff is
17 not proceeding on a ratification theory, and thus *Larez* is inapplicable.

18 Plaintiff also cites *Marchese v. Lucas*, 758 F.2d 181, 188-89 (6th Cir. 1985), a
19 case in which the Sixth Circuit held that failing to investigate and impose discipline
20 for the events that caused the plaintiff's injuries could lead to municipal liability
21 under *Monell v. Dep't of Soc. Servs.*, 436 U.S. 658, 694 (1978). *Marchese* is not
22 relevant in this present motion, where the question is whether *individual* supervisory
23 liability—not municipal liability—should attach.¹¹

24 Upon review of the case law—cited by Plaintiff or otherwise—the Court
25 cannot find any case which imposes personal liability on a supervisor for having
26 knowledge of a single prior act of misconduct on the part of a subordinate. *Ontha v.*
27

28 ¹¹ The same applies to *Brandon v. Allen*, 645 F. Supp. 1261 (W.D. Tenn. 1986).

1 *Rutherford County, Tenn.*, 222 Fed. App'x 498 (6th Cir. 2007),¹² has been cited for
2 the proposition that supervisory liability can be imposed based on a truly egregious
3 single incident. *See Dillingham v. Millsaps*, 809 F. Supp. 2d 820 (E.D. Tenn. 2011).
4 *Ontha* states, however, that “[supervisory] liability attaches only if a constitutional
5 violation is part of a pattern of misconduct, or where there is essentially a complete
6 failure to train the police force, or training that is so reckless or grossly negligent
7 that future police misconduct is almost inevitable or would properly be characterized
8 as substantially certain to occur.” *Ontha*, 222 Fed. App'x at 504. “Only in such
9 circumstances can it be said that a supervisor’s liability rests upon ‘active
10 unconstitutional behavior,’ as opposed to ‘a mere failure to act.’” *Id.* (quoting
11 *Shehee v. Luttrell*, 199 F.3d 295, 300 (6th Cir. 1999)). Here, Plaintiff does not
12 proceed on a theory that the Supervisor Defendants utterly failed to train Arevalos;
13 thus, the limited exception espoused by *Ontha* is inapplicable here.

14 Upon review of the case law, the Court concludes that, for cases involving
15 supervisory inaction following subordinate misconduct, a supervisor must have
16 knowledge of pervasive and widespread conduct posing an unreasonable risk of
17 constitutional injury before supervisory liability can attach. *See Shaw v. Stroud*, 13
18 F.3d 791, 799 (4th Cir. 1994); *Starr*, 652 F.3d at 1207–08 (“The requisite causal
19 connection can be established . . . by setting in motion a series of acts by others, or
20 by knowingly refus[ing] to terminate a series of acts by others, which [the
21 supervisor] knew or reasonably should have known would cause others to inflict a
22 constitutional injury.”) (emphasis added); *Cottone v. Jenne*, 326 F.3d 1352, 1360
23 (11th Cir. 2003) (“The necessary causal connection can be established when a
24 history of widespread abuse puts the responsible supervisor on notice of the need to
25 correct the alleged deprivation, and he fails to do so.”) (internal formatting omitted).

26 Both parties favorably cite the Fourth Circuit’s elemental test for supervisory
27 liability, which the Court finds congruent with Ninth Circuit requirements:
28

¹² Plaintiff does not cite *Ontha* in her brief.

- 1 (1) the supervisor had actual or constructive knowledge that his
2 subordinate was engaged in conduct that posed a pervasive and
3 unreasonable risk of constitutional injury to citizens like the
4 plaintiff;
- 5 (2) the supervisor's response to that knowledge was so inadequate as
6 to show deliberate indifference to or tacit authorization of the
7 alleged offensive practices; and
- 8 (3) there was an affirmative causal link between the supervisor's
9 inaction and the particular constitutional injury suffered by the
10 plaintiff.

11 *Shaw*, 13 F.3d at 799 (internal quotations and citations omitted). “Establishing a
12 ‘pervasive’ and ‘unreasonable’ risk of harm requires evidence that the conduct is
13 widespread, or at least has been used on several different occasions and that the
14 conduct engaged in by the subordinate poses an unreasonable risk of harm of
15 constitutional injury.” *Id.* (citation omitted).

16 To satisfy the deliberate indifference requirement, a plaintiff may demonstrate
17 a supervisor’s “continued inaction in the face of documented widespread abuses.”
18 *Id.* (citation omitted). “[O]rdinarily, the plaintiff cannot satisfy his burden of proof
19 by pointing to a single incident or isolated incidents, . . . A supervisor’s continued
20 inaction in the face of documented widespread abuses, however, provides an
21 independent basis for finding he either was deliberately indifferent or acquiesced in
22 the constitutionally offensive conduct of his subordinates.” *Id.* (alterations and
23 citations omitted).

24 Finally, “[c]ausation is established when the plaintiff demonstrates an
25 ‘affirmative causal link’ between the supervisor’s inaction and the harm suffered by
26 the plaintiff.” *Id.* “This concept encompasses cause in fact and proximate cause.”
27 *Id.* With this rubric in place, it is clear that no triable issues of material fact exist
28 with respect to the Supervisor Defendants’ Section 1983 liability.

29 **Defendants Tai, Hollister, and Guevara**

30 Defendants Tai, Hollister, and Guevara were informed, to some degree, of the
31 5150 incident. While there are factual disputes as to what precisely they were told, it

1 is undisputed that they were not on notice of any other conduct by Arevalos that
2 posed an unreasonable risk of harm of constitutional injury to Jane Doe. Indeed, no
3 evidence in the record demonstrates that Arevalos engaged in any misconduct prior
4 to the 5150 incident. Accordingly, Defendants Tai, Hollister, and Guevara did not
5 know that Arevalos was engaged in conduct that posed a pervasive and unreasonable
6 risk of constitutional injury. *See Shaw*, 13 F.3d at 799.

7 Nor do the facts support a finding that they displayed “inaction in the face of
8 widespread abuses.” *Id.* Rather, the evidence shows that they were only aware of
9 allegations involving a single isolated instance of misconduct occurring nearly
10 fifteen years prior to Jane Doe’s encounter with Arevalos. This showing is
11 insufficient to hold Defendants Tai, Hollister, and Guevara personally responsible
12 for Jane Doe’s injuries. *See Starr*, 652 F.3d at 1207–08 (“The requisite causal
13 connection can be established . . . by setting in motion a series of acts by others,” or
14 by “knowingly refus[ing] to terminate a series of acts by others, which [the
15 supervisor] knew or reasonably should have known would cause others to inflict a
16 constitutional injury.”) (internal citations omitted) (emphasis added). Liability on
17 these facts would eviscerate the framework of supervisory liability and render it
18 nearly indistinguishable from vicarious liability.

19 Thus, the Court concludes that no genuine issues of fact remain with respect
20 to whether Defendants Tai, Hollister, and Guevara caused a violation of Plaintiff’s
21 constitutional rights. Accordingly, Tai, Hollister, and Guevara are entitled to
22 qualified immunity and dismissal from this action.

23 **Defendant Bejarano**

24 Viewing the evidence in the light most favorable to Plaintiff, Defendant
25 Bejarano had knowledge that Arevalos allegedly engaged in sexual misconduct
26 towards Susy S. However, it is undisputed that Defendant Bejarano had no
27 knowledge of any past incidents involving Arevalos. Thus, for the same reasons as
28 above, Defendant Bejarano cannot be held personally liable for Jane Doe’s injuries.

1 He did not have knowledge that Arevalos was engaged in conduct that posed a
2 pervasive and unreasonable risk of constitutional injury to citizens like Jane Doe.
3 *See Shaw*, 13 F.3d at 799. Even assuming Defendant Bejarano's alleged inaction
4 was negligent, such inaction is insufficient to hold him personally liable for
5 Arevalos' sexual assault and battery of Jane Doe. Therefore, Defendant Bejarano is
6 entitled to qualified immunity and dismissal from this action.

7 **Defendants Verduzco and Binkerd**

8 Defendants Verduzco and Binkerd handled the MP complaint. The evidence,
9 viewed in the light most favorable to Plaintiff, demonstrates that Arevalos required
10 MP—scantly clad at the time—to exit her car and bend over to look at her car's
11 registration tab. While Arevalos' behavior was morally suspect—and arguably
12 should have been punished—his actions did not provide Defendants Binkerd and
13 Verduzco with knowledge that Arevalos posed an unreasonable risk of constitutional
14 injury to Jane Doe. MP's allegations placed them on notice that Arevalos lacked
15 basic moral judgment, not that Arevalos would later sexually assault and batter Jane
16 Doe. There are no genuine issues of material fact with respect to whether
17 Defendants Verduzco and Binkerd participated in Jane Doe's constitutional injury,
18 and they are entitled to qualified immunity.

19 **Defendant Friedman**

20 Plaintiff argues that Defendant Friedman may be held liable under Section
21 1983 because of his involvement in the Jane Roe case, and because of his general
22 knowledge of Arevalos' suspect behavior.

23 Beginning with the Jane Roe matter, Plaintiff contends that Friedman is
24 personally liable for her injuries because he knew of Roe's complaint but did not
25 ensure that an immediate criminal investigation was initiated or that a SART exam
26 was conducted. However, it is undisputed that two separate investigations into
27 Roe's allegations were conducted. One was criminal, conducted by the Sex Crimes
28 Unit; the other was administrative, conducted by Internal Affairs. [Defs' Statement

1 of Facts ¶ 193.] While Plaintiff contends that these investigations were botched,¹³
2 there are no facts to link Friedman to the quality of the investigations. Moreover,
3 there are no facts to demonstrate that Friedman attempted to cover up the incident;
4 on the contrary, Friedman *reported* the incident to the Watch Command and Internal
5 Affairs. While Plaintiff contends Friedman should have reported the incident as a
6 Category 1 complaint rather than a Public Service Inquiry, the facts demonstrate that
7 the incident was thoroughly investigated.

8 Nor can Friedman's general knowledge of Arevalos' deviant behavior make
9 him personally liable for Jane Doe's injuries. Specifically, Plaintiff points to the
10 following "facts" as proof of Friedman's liability:

11 (1) Friedman admitted that he knew Arevalos showed off the driver's license
12 photos of attractive females.

13 (2) Friedman stated that he believed that Arevalos would use the department's
14 computers to access social networking sites. Yet, he never confronted, counseled, or
15 disciplined Arevalos, and he never contacted Internal Affairs to have Arevalos'
16 computer routinely inspected.

17 (3) Friedman stated that Arevalos often boasted about stopping "cute girls,"
18 and because of this, he spent more time supervising Arevalos than the other officers
19 on his squad. Although Sergeant Friedman stated that Arevalos' boasting was such
20 a concern that he demanded more supervision than any of his other officers,
21 Friedman admitted that he never spoke with Arevalos regarding his concerns.

22 These additional facts regarding Friedman's knowledge of Arevalos' behavior
23 cannot make him personally liable for Arevalos' acts perpetrated against Jane Doe.
24 Importantly, Arevalos' conduct known to Friedman did not give him knowledge that
25 Arevalos was engaged in conduct that posed a pervasive and unreasonable risk of

27 ¹³ Plaintiff puts forth an involved theory in which "SDPD upper echelon" foiled
28 the Roe investigation. Even assuming the truth of this theory, it is irrelevant to the
question of whether Friedman acted with deliberate indifference to Plaintiff's rights.
Friedman, after all, was not a member of the investigation teams.

1 constitutional injury to Jane Doe. Friedman's awareness that Arevalos stopped "cute
2 girls" and displayed their driver's license photos did not give him knowledge that
3 Arevalos would sexually assault and batter Jane Doe. Thus, supervisory liability
4 under Section 1983 cannot attach to Defendant Friedman, and he is entitled to
5 qualified immunity.

6 **Defendant Kanaski**

7 During the time that Officer Arevalos was suspended for the Jane Roe
8 investigation, Officer Arevalos exchanged several emails with Assistant Chief
9 Kanaski. In those emails, Arevalos told Kanaski that Kanaski was the only person
10 who responded to his questions, and then asked when he would be returned to the
11 field, since the District Attorney had rejected the criminal case against him.
12 Defendant Kanaski responded that his "goal was to get [Arevalos] back in the field
13 as quickly as possible. I will not be waiting for the entire investigation to be
14 completed." [Doc. No. 219, Ex. BBBB.] Defendant Kanaski's liability is premised
15 on this misguided comment. However, Kanaski's statement cannot be considered
16 the cause of Plaintiff's injuries. The Internal Affairs investigation was subsequently
17 completed and cleared Arevalos, allowing him to return to the field. Moreover,
18 Plaintiff's expert Jeffrey Noble only opines that Kanaski "engaged in risky behavior
19 contrary to the practices of reasonable police managers." This opinion might
20 support a finding that Kanaski acted negligently, but not with deliberate indifference.
21 And "negligence falls short of deliberate indifference." *Washington v. Harrington*,
22 2012 WL 1910172, § IV.C (E.D. Cal. May 25, 2012). Thus, Plaintiff has not
23 proffered sufficient evidence to create a genuine issue of material fact with respect to
24 Defendant Kanaski's liability, and he is entitled to qualified immunity.

25 **Defendant Lansdowne**

26 Finally, Plaintiff seeks to hold former Police Chief William Lansdowne liable
27 under Section 1983. Primarily, Plaintiff premises liability on Lansdowne's
28 knowledge of two prior events involving Arevalos. First, in March 2007, Officer

1 Arevalos was caught accessing adult porn sites on his computer. Lansdowne
2 received notice of this behavior in conjunction with Arevalos' disciplinary transfer
3 from the detective squad to the Traffic Division. Second, Lansdowne was informed
4 about the allegations against Arevalos stemming from the Jane Roe case. He agreed
5 with the Internal Affairs report which found that the allegations against Arevalos
6 could not be sustained. Additionally, Plaintiff contends that Lansdowne failed to
7 reasonably ensure management oversight to prevent the type of behavior engaged in
8 by Officer Arevalos.

9 Plaintiff does not produce sufficient evidence to demonstrate a genuine issue
10 of material fact with respect to whether Defendant Lansdowne acted with deliberate
11 indifference towards Plaintiff's constitutional rights. Defendant Lansdowne was
12 made aware of only one incident involving Arevalos' sexual misconduct that rose to
13 the level of a constitutional violation. Moreover, this incident—Jane Roe—was
14 fully investigated. Thus, like the previous supervisors, Plaintiff has not produced
15 evidence demonstrating that Lansdowne displayed "inaction in the face of
16 widespread abuses." *Shaw*, 13 F.3d at 799.

17 The remainder of the "facts" presented about Defendant Lansdowne,
18 including the lengthy comments made by Plaintiff's counsel during oral argument,
19 relate to Plaintiff's *Monell* claim, and do not tend to establish that he is personally
20 liable for Jane Doe's injuries.

21 **D. Remaining Claims**

22 In addition to the Section 1983 claim, Plaintiff asserts eleven other claims
23 against the Supervisor Defendants. Prior to the summary judgment hearing, the
24 Court tentatively granted the Supervisor Defendants' request for summary judgment
25 on these claims. Plaintiff did not object to the Court's tentative ruling. Thus, the
26 Court **AFFIRMS** its tentative ruling as to Plaintiff's remaining claims and enters
27 summary judgment in favor of the Supervisor Defendants.

28 ///

CONCLUSION

2 For the reasons set forth above, the Court **GRANTS** the Supervisor
3 Defendants' motion for summary judgment in its entirety. Accordingly, the Court
4 **DISMISSES** Plaintiff's claims against the Supervisor Defendants **with prejudice**.

IT IS SO ORDERED.

6 DATED: March 27, 2014

William - Rello

Hon. Michael M. Anello
United States District Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

SARA KHALIL,

Plaintiff,

vs.

THE CITY OF LINCOLN, a political subdivision; LERION GAYLOR-BAIRD, and TERESA EWINS,

Defendants.

4:23CV3159

MEMORANDUM AND ORDER

This matter is before the Court on Defendant's, The City of Lincoln, ("the City"), Lerion Gaylord-Baird ("Mayor Gaylord-Baird") and Teresa Ewins ("Chief Ewins"), motions to dismiss, [Filing No. 36](#), [Filing No. 37](#) and [Filing No. 38](#).¹ Plaintiff Sara Khalil alleges she was harassed and discriminated against based on her national origin, color and gender. [Filing No. 35](#), Second Amended Complaint. This is an action under the following: Title VII of the Civil Rights Act, as amended; [42 U.S.C. § 1981](#); the First Amendment to the United States Constitution; the 14th Amendment to the United States Constitution; [42 U.S.C. § 1983](#); and for defendants' failure to remedy the illegal discrimination and retaliation that Plaintiff experienced during her service as a police officer and firefighter. Plaintiff filed her charge of discrimination with the Equal Opportunity Commission and dually filed with the Nebraska Equal Opportunity Commission. Plaintiff was issued three Right to Sue Letters on charges 2, 3, and 4. Plaintiff also filed pursuant to [Nebraska Revised Statute §13-905](#) of the Political Subdivisions Tort Claims Act, ("PTSCA"). Plaintiff

¹ The defendants are using the briefs from a previous motion to dismiss previous complaints. See [Filing No. 19](#) [Filing No. 20](#), [Filing No. 28](#), [Filing No. 30](#), [Filing No. 31](#), [Filing No. 32](#) & [Filing No. 22](#), [Filing No. 29](#) & [Filing No. 32](#). The Plaintiff filed briefs in opposition. See [Filing No. 27](#), [Filing No. 28](#) and [Filing No. 29](#).

filed notice to Lincoln City Clerk, Soulinnee Phan, regarding her tort claim against the City and Chief Ewins regarding tort claims for invasion of privacy false light. Six months passed, and the City made no final disposition pursuant to Neb. Rev. Statute § 13-906.

BACKGROUND

Plaintiff is female, was born in Iraq, and is a person of color. Plaintiff is a former police officer with the Lincoln Police Department ("LPD") and a former probationary trainee/firefighter for Lincoln Fire & Rescue ("LFR"). As stated above, Plaintiff contends she was harassed and discriminated against based on her national origin, color and gender. Plaintiff complained to management regarding her and other female officer experiences, and as alleged by Plaintiff, she was thereafter targeted, subjected to internal investigations, denied special assignments, and then fired.

Plaintiff contends that from the time of her hire in 2013 until she was discharged in 2022, she and other female officers at LPD were subjected to: misogyny at every rank, including their failure to enforce policies forbidding sex discrimination, sexual harassment, retaliation, failure to hire female officers, failure to promote female officers over less qualified male officers, unfair discipline of female officers, failure to discipline male officers, failure to provide a place Mothers could express milk, and support of male employees who committed misconduct.

The allegations of misogyny included sexual and sexist jokes; rape; sexual assaults; discussions regarding sexual conquests; sexual propositions; use of sexualized gender slurs; and the refusal to provide back-up, to name a few. During her tenure at LFR, Plaintiff contends she experienced discrimination on the basis of her national origin.

Defendants argue that the Amended Complaint shows a lack subject matter jurisdiction pursuant to Fed. R. Civ. P. 12(b)(1) and failure to state a claim upon which relief can be granted pursuant to Fed. R. Civ. P. 12(b)(6).

STANDARD OF REVIEW

Under the Federal Rules of Civil Procedure, a complaint must contain “a short and plain statement of the claim showing that the pleader is entitled to relief.” Fed. R. Civ. P. 8(a)(2); *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 556 n.3 (2007). “Specific facts are not necessary; the statement need only ‘give the defendant fair notice of what the . . . claim is and the grounds upon which it rests.’” *Erickson v. Pardus*, 551 U.S. 89, 93 (2007) (quoting *Twombly*, 550 U.S. at 555). In order to survive a motion to dismiss under Fed. R. Civ. P. 12(b)(6), the plaintiff’s obligation to provide the grounds for his entitlement to relief necessitates that the complaint contain “more than labels and conclusions, and a formulaic recitation of the elements of a cause of action will not do.” *Twombly*, 550 U.S. at 555. “Factual allegations must be enough to raise a right to relief above the speculative level.” *Id.*

Under *Twombly*, a court considering a motion to dismiss may begin by identifying pleadings that, because they are no more than conclusions, are not entitled to the presumption of truth. *Ashcroft v. Iqbal*, 556 U.S. 662, 679 (2009). Although legal conclusions “can provide the framework of a complaint, they must be supported by factual allegations.” *Id.* (describing a “two-pronged approach” to evaluating such motions: First, a court must accept factual allegations and disregard legal conclusions; and then parse the factual allegations for facial plausibility). “A claim has facial plausibility when the

plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.” *Id.*

For a motion to dismiss under Rule 12(b)(1), the party asserting subject-matter jurisdiction bears the burden of proof. *Bagley v. United States*, 215 F. Supp. 3d 831, 833 (D. Neb. 2016). A Rule 12(b)(1) motion can be presented as either a “facial” or “factual” challenge. *Id.* “When reviewing a facial challenge, the court restricts itself to the face of the pleadings, and the nonmovant receives the same protections as it would facing a Rule 12(b)(6) motion.” *Id.* For a factual challenge, “the court considers matters outside the pleadings, and the nonmovant does not receive the benefit of Rule 12(b)(6) safeguards.” *Id.* Trial courts have wide discretion to allow affidavits, other documents, and a limited evidentiary hearing to resolve disputed jurisdictional facts under Rule 12(b)(1). *Ekeler v. Fed. Emergency Mgmt. Agency*, 550 F. Supp. 3d 782, 787 (D. Neb. 2021).

There is no heightened pleading standard in Title VII cases. *McDonald v. Santa Fe Trail Transp. Co.*, 427 U.S. 273, 283 n.11 (1976). Both the Supreme Court and the Eighth Circuit have squarely held that employment discrimination plaintiffs are not required to plead facts that establish the elements of a *prima facie* case. *Swierkiewicz v. Sorema N. A.*, 534 U.S. 506 (2002); *Ring v. First Interstate Mortg., Inc.*, 984 F.2d 924 (8th Cir. 1993).

DISCUSSION

a. Filing No. 36, motion to dismiss

Defendant City of Lincoln files a motion to dismiss Plaintiff’s Second Amended Complaint pursuant to Fed. R. Civ. P. 12(b)(1) and (6), in particular, Causes of Action I & II in their entirety; III to the extent based on alleged sex and national origin discrimination

under 42 U.S.C. § 1981; IV in its entirety; V & VI to the extent based on an alleged hostile work environment; and VII in its entirety, or in the alternative, to the extent based on an alleged hostile work environment. City further moves the Court, pursuant to Fed. R. Civ. P. 12(b)(1), for an Order dismissing Cause of Action IX for lack of subject-matter jurisdiction.

The City contends that Plaintiff does not allege that she experienced severe or pervasive harassment throughout her entire employment with LPD and that sporadic incidents, over "a number of years," are insufficient to state a plausible hostile work environment claim. *Warmington v. Bd. of Regents of Univ. of Minnesota*, 998 F.3d 789, 800 (8th Cir. 2021). This argument applies to Causes of Action, I, II, V, VI & VII. The Court finds that the facts alleged in the Second Amended Complaint are sufficient under the standards set forth in *Iqbal* and *Twombly*. The parties shall proceed with discovery on these issues, and if appropriate, may file a summary judgment motion at a later date.

For Cause of Action III, Plaintiff alleges sex, national origin, and/or color discrimination under Title VII & 42 U.S.C. § 1981. However, the City argues that 42 U.S.C. § 1981 does not encompass sex or national origin discrimination. See *Torgerson v. City of Rochester*, 643 F.3d 1031, 1053 (8th Cir. 2011); *Leiting v. Goodyear Tire & Rubber Co.*, 117 F. Supp. 2d 950, 955 (D. Neb. 2000). But, distinctions can be made between race and national origin and in some cases it is indistinguishable. *Reyes v. Pharma Chemie, Inc.*, 890 F. Supp. 2d 1147, 1158 (D. Neb. 2012). The Court notes that the sex discrimination claims are also brought under § 1983 which has a completely different analysis than a § 1981 claim.

Following review of the Second Amended Complaint, the law, and the arguments of the parties, the Court finds the sex discrimination claims set forth under § 1981 are not cognizable. In addition, the national origin claim is not cognizable under § 1981, absent allegations over overlapping allegations of race discrimination. No such facts have been alleged in the case before this Court.

Plaintiff's Fourth Cause of Action alleges sex discrimination under NFEPA as it relates to the denial of her application for a duty disability pension made by Mayor Gaylor-Baird. The City contends that there are insufficient facts to support this allegation. The Court agrees that this cause of action for sex discrimination is not cognizable under § 1981. *Leiting*, 117 F. Supp. 2d at 955; *DeGraffenreid v. Gen. Motors Assembly Div., St. Louis*, 558 F.2d 480, 486 n.2 (8th Cir. 1977) ("The district court correctly observed that sex discrimination in employment is not cognizable under § 1981."); *Hout v. City of Mansfield*, 550 F. Supp. 2d 701, 720 (N.D. Ohio 2008) ("[I]t is long settled that claims of sex discrimination are not cognizable under § 1981."). Likewise, § 1981 "does not authorize discrimination claims based on national origin." *Torgerson*, 643 F.3d at 1053.

Plaintiff's Seventh cause of action alleges that the City of Lincoln violated the Equal Protection Clause. The City of Lincoln contends that that the Equal Protection Clause does not provide protection from workplace retaliation. See *Burton v. Arkansas Sec'y of State*, 737 F.3d 1219, 1236 (8th Cir. 2013) (claims that an employee "was treated differently in retaliation for his speech are, at their core, free-speech retaliation claims that do not implicate the Equal Protection Clause"); *Edwards v. City of Goldsboro*, 178 F.3d 231, 250 (4th Cir. 1999) ("A pure or generic retaliation claim . . . simply does not implicate the Equal Protection Clause."). The Court finds that the Equal Protection Clause is not a

basis for a pure free speech retaliation claim. Accordingly, the Court will dismiss the Equal Protection claim that implicates the First Amendment.

With regard to the Plaintiff's Ninth Cause of Action for invasion of privacy false light, the City argues that it has sovereign immunity under the Nebraska Political Subdivisions Tort Claims Act ("PSTCA") for claims arising out of slander and libel. *Neb. Rev. Stat. § 13-910(7)*. Plaintiff argues that she is bringing a false light claim, not a libel or slander claim, and as such, it should proceed and is thus subject to the broad waiver of immunity in *Neb. Rev. St. §13-908*, and not *Neb. Rev. St. § 13-910(7)*. In *Wadman v. State*, 510 N.W.2d 426 (Neb. Ct. App. 1993), the Nebraska Court of Appeals explicitly held that "the State Tort Claims Act on its face provides for the waiver of the government's immunity from invasion of privacy suits by the broad sweeping language of §§ 81-8,215 and 81-8,210(4)." Accordingly, the Court will allow this claim to proceed at this juncture of the case. If, however, the parties deem it appropriate, they may file a summary judgment motion following discovery on these issues.

At this point in the case, the Court generally agrees that this is not a motion that should be granted but should be made after "discovery has unearthed relevant facts and evidence." See *Swierkiewicz*, 534 U.S. at 512. "The issue is not whether a plaintiff will ultimately prevail, but whether the claimant is entitled to [unearth and] offer evidence to support the claims." *Scheuer v. Rhodes*, 416 U.S. 232, 236 (1974). The Court finds that with the exceptions of third cause of action for sex discrimination, national origin, and the eighth cause of action claim for First Amendment retaliation under the Equal Protection clause, Plaintiff has set forth sufficient facts under the standards for motions to dismiss to move forward with discovery. The Court will dismiss the claim for sex discrimination and

national origin under § 1981 and the claim for First Amendment retaliation under the Equal Protection Clause.

b. Filing No. 37, Motion to Dismiss

Defendant Teresa Ewins, Police Chief, moves to dismiss the case against her pursuant to Fed. R. Civ. P. 12(b)(6) in the cause of action VIII of the Second Amended Complaint. Plaintiff alleges that she was subjected to harassment over her entire career with LPD sufficient to form a hostile work environment, that she was wrongfully disciplined and denied specialized positions or assignments, that she was wrongfully terminated, and that City improperly denied her application for disability retirement benefits ("duty disability pension"). Chief Ewins argues she cannot be liable for an alleged hostile work environment when the alleged harassment predates much of her employment with the City.

Chief Ewins contends that the only negative action by the City or Ewins during Plaintiff's tenure was her termination from LPD for dishonesty in relation to a work-related injury. Neither of these actions, argues Ewins, serve as a basis for sex discrimination under the Equal Protection Clause. As stated above, there is no Equal Protection Clause violation. Free speech cases such as this one, do not implicate the Equal Protection Clause. See *Burton*, 737 F.3d at 1236 (claims that an employee "was treated differently in retaliation for his speech are, at their core, free-speech retaliation claims that do not implicate the Equal Protection Clause"). The same analysis applies here.

Plaintiff also claims individual liability under 42 U.S.C. § 1983. In order for §1983 to apply, the plaintiff must plead that the defendant, a government official, violated the United States Constitution through his or her own actions. *Parrish v. Ball*, 594 F.3d 993,

1001 (8th Cir. 2010) (quoting *Ashcroft*, 556 U.S. at 676). “[A] supervising officer can be liable for an inferior officer’s constitutional violation only if he directly participated in the constitutional violation, or if his failure to train or supervise the offending actor caused the deprivation.” *Id.* (internal quotations omitted). To hold a supervisor liable for failure to supervise or train, the plaintiff must show that “the supervisor (1) had notice of a pattern of unconstitutional acts committed by subordinates; (2) was deliberately indifferent to or tacitly authorized those acts; and (3) failed to take sufficient remedial action; (4) proximately causing injury to [the plaintiff].” *Perkins v. Hastings*, 915 F.3d 512, 524 (8th Cir. 2019).

The Court finds that the plaintiff has alleged sufficient facts against Ewins in this regard to comply with the requirements of *Iqbal* and *Tombly*. She has alleged that Ewins knew of this discrimination and failed to act and take appropriate action against the perpetrators. The additional arguments set forth by Ewins are much more appropriate for a summary judgment motion.

Next, Plaintiff alleges a hostile work environment on the basis of sex under both Title VII and § 1983. *Wright v. Rolette Cnty.*, 417 F.3d 879, 884–85 (8th Cir. 2005). To state a claim for a hostile work environment based on sexual harassment, a plaintiff must show that (1) she belongs to a protected group; (2) she was subject to unwelcome sexual harassment; (3) the harassment was based on sex; (4) the harassment affected a term, condition, or privilege of her employment; and (5) the employer knew or should have known of the harassment and failed to take proper remedial action. *Blomker v. Jewell*, 831 F.3d 1051, 1056 (8th Cir. 2016). The harassment must be “sufficiently severe or pervasive to alter the conditions of [the victim’s] employment and create an abusive

working environment." *Paskert v. Kemna-ASA Auto Plaza, Inc.*, 950 F.3d 535, 538 (8th Cir. 2020).

"At the pleading phase, the court must determine whether the alleged harassment is severe or pervasive enough to create an objectively hostile or abusive work environment and the victim must subjectively believe her working conditions have been altered." *Warmington*, 998 F.3d at 799.

Defendants contend that the Amended Complaint focuses on non-harassing conduct and alleges very few factual allegations of harassment, and instead, the allegations are conclusory. The Court notes that hostile work environment claims are distinct from retaliation claims. *Parker v. State of Del., Dep't of Pub. Safety*, 11 F. Supp. 2d 467, 475 (D. Del. 1998). In this case, Plaintiff must allege in Count VIII, a distinct hostile environment based on sex). See *Blomker*, 831 F.3d at 1057 (observing that "the alleged harassment must be so intimidating, offensive, or hostile that it poisoned the work environment"); *Warmington*, 998 F.3d at 800 (sporadic incidents over "a number of years" were insufficient to state a plausible hostile work environment claim).

Further, defendants contend that Ewins cannot be liable for a hostile work environment which pre-dated her employment. Ewins did not become LPD's Police Chief until August 2021. To prove hostile work environment harassment based on sex or because one complained about discrimination, Plaintiff must prove that (1) she is a member of a protected class; (2) she was exposed to unwelcome harassment; (3) the harassment was based on a protected characteristic of the plaintiff, her sex; (4) the harassment affected a term, condition, or privilege of employment; and (5) the employer knew, or should have known, about the harassing behavior, but failed to take proper action

to alleviate it. *Arraleh v. Cnty. of Ramsey*, 461 F.3d 967, 978 (8th Cir. 2006). The standards for a hostile work environment under Title VII apply to the Equal Protection Clause and 42 U.S.C. § 1983. See *Wright*, 417 F.3d at 884–85. Further, Plaintiff contends that discrete employment actions count for purposes of alleging a hostile work environment claim.

Plaintiff alleges she is entitled to bring this claim as a First Amendment retaliation claim and can sue Chief Ewins in her individual capacity under § 1983 for retaliating against her based on Plaintiff's protected speech under the First Amendment. See *Lane v. Franks*, 573 U.S. 228 (2014). The United States Supreme Court has specifically held that “[t]ruthful testimony under oath by a public employee outside the scope of his ordinary job duties is speech as a citizen for First Amendment purposes.” *Id.* at 238. Chief Ewins, argues Plaintiff, is not entitled to qualified immunity. With regard to this cause of action and these claims, the Court finds Plaintiff has sufficiently pleaded her claims. She was fired. She was not promoted. She alleges that a number of incidents that may or may not be seen as retaliation. But, for purposes of this motion, her allegations are sufficient, and the parties should proceed to the discovery stage.

Ewins started working in August 2021. The Court agrees that any type of discriminatory behavior is not appropriately raised against Ewins prior to her employment. Accordingly, the Court will allow the motion to dismiss against Ewins as it relates to incidents prior to her employment. The remaining allegations are properly plead and shall proceed to discovery.

Even if Plaintiff could allege a proper retaliation claim, argues Ewins, she will not win, as Ewins has immunity on this claim. *Hurd v. City of Lincoln*, No. 4:16CV3029, 2018

WL 10468025, at *22 (D. Neb. July 23, 2018) (granting qualified immunity for Equal Protection Clause retaliation claims). To determine if qualified immunity is applicable, there is a two-step inquiry: "(1) whether the facts shown by the plaintiff make out a violation of a constitutional or statutory right; and (2) whether the right was clearly established at the time of the defendant's alleged misconduct. *Ellis v. Houston*, 742 F.3d 307, 324 (8th Cir. 2014). "The purpose of qualified immunity is to 'excuse an officer who makes a reasonable mistake in the exercise of his official duties,' but not one who "intentionally abuse[s] a person's known rights." *Id.* at 326, citing, *Edwards v. Baer*, 863 F.2d 606, 607 (8th Cir. 1988).

Plaintiff, in opposition, argues as follows: First, Plaintiff contends that Chief Ewings showed hostility towards individuals who raised concerns about LPD's history of misogyny and sexist culture. For example, Plaintiff contends that the Chief was alerted by Mayde McGuire that Captain Still perpetuated a sexist culture, and yet Chief Ewings promoted McGuire to Assistant Chief, anyway. Second, Plaintiff contends that Chief Ewings was also involved in terminating employees who raised complaints about harassment and discrimination. Third, Chief Ewings allegedly minimized a report which indicated 47% of sworn women who participated in the survey experienced discrimination or harassment at LPD and 41% witnessed discrimination or harassment. Fourth, Chief Ewings, after firing Plaintiff, allegedly publicly disclosed that she believed Plaintiff to be a liar and a criminal and disclosed personnel and worker's compensation personnel issues, in violation of the confidentiality policy.

Plaintiff contends that she has stated a claim for personal liability against Ewings. *Williams v. Dakota Cnty. Bd. of Comm'rs.*, No. 8:09CV201, 2010 WL 964699, at *3 (D.

Neb. Mar. 10, 2010), citing *Parrish*, 594 F.3d 993; and *Ashcroft*, 556 U.S. 662. “[T]he individual action required to overcome qualified immunity can involve direct participation in the constitutional violation, direct supervisorial responsibility for a constitutional violation, or a supervisor’s failure to train or supervise the offending actor.” *Elder v. Gillespie*, 2021 U.S. Dist. LEXIS 61967 *59 (E.D. Ark. Mar. 31, 2021) (citing *Marsh v. Phelps Cnty.*, 902 F.3d 745, 754 (8th Cir. 2018)). Plaintiff argues that her amended complaint sufficiently alleges supervisory liability under § 1983, and she was charged with enforcement of the law and was the final policymaker regarding employment policies and decisions.

Again, the Court finds that Plaintiff has stated sufficient facts and law to support her claim at this motion to dismiss stage of the litigation. This issue shall also proceed to discovery, and Ewins can raise the arguments with a motion for summary judgment, if appropriate.

c. Filing No. 38, motion to dismiss

Defendant Gaylor-Baird was the Mayor of Lincoln during all relevant times herein. The Mayor argues that the only claim against her involves a denial of the disability claim filed by the Plaintiff. The Mayor contends this is insufficient to constitute a § 1983 claim. “We have long held that neither municipal nor supervisory liability may attach in section 1983 actions unless individual liability is first found on an underlying substantive claim.” *Schoettle v. Jefferson Cnty.*, 788 F.3d 855, 861–62 (8th Cir. 2015). The Mayor argues that Plaintiff has failed to show that she was individually involved in any of the alleged discrimination, harassment, or retaliation. Additionally, the Mayor argues the Plaintiff provides no additional claims or facts regarding sexual discrimination.

Thus, the Mayor argues she is entitled to qualified immunity. Government officials, or a supervising officer, "will not be individually liable for an otherwise unlawful act if he is entitled to qualified immunity." *Parrish*, 594 F.3d at 1001. "Qualified immunity shields government officials from liability in their individual capacity so long as the official has not violated 'clearly established statutory or constitutional rights of which a reasonable person would have known.'" *Id.* (quoting *Harlow v. Fitzgerald*, 457 U.S. 800, 818 (1982)). Determining the existence of qualified immunity at the Rule 12(b)(6) stage requires a two-part inquiry: (1) whether, on the face of the complaint, the facts alleged make out a violation of a constitutional or statutory right, and (2) whether that right was clearly established at the time of the defendant's alleged misconduct. *Nance v. Sammis*, 586 F.3d 604, 609 (8th Cir. 2009). The Mayor argues that Plaintiff has not plausibly alleged that a constitutional violation occurred. See *Schoettle*, 788 F.3d at 861–62 ("We have long held that neither municipal nor supervisory liability may attach in section 1983 actions unless individual liability is first found on an underlying substantive claim."). Further, Mayor Gaylor-Baird argues she could not "know about the conduct and facilitate it, approve it, condone it, or turn a blind eye" when she was not City's mayor at the time.

Plaintiff argues that the Mayor's response and at times lack of response arise to the level of permitting a hostile environment. Further, the plaintiff argues the Mayor denied her application for disability on unlawful bases, thus leading to individual liability and no basis for qualified immunity. To state a claim for personal liability under 42 U.S.C. § 1983, "it is enough to show that a government official, acting under color of state law, caused the deprivation of a federal right." *Elder v. Gillespie*, 2021 U.S. Dist. LEXIS 61967

*59 (E.D. Ark. Mar. 31, 2021); *Williams*, 2010 WL 964699, at *3, citing *Parrish*, 594 F.3d 993; and *Ashcroft*, 556 U.S. 662.

With regards to Mayor Gaylor-Baird's involvement, she was elected to office as Lincoln's Mayor in 2019 and continues to serve as of the date of her brief. As Mayor, she has general supervision of the division of city government known as the Lincoln Police Department ("LPD"). Mayor Gaylor-Baird is also the Chief Executive Officer of the City responsible for enforcing all city ordinances and applicable laws for City employees. In addition, Plaintiff alleges that Mayor Gaylor-Baird was aware of the hostile work environment based on sex and retaliation within LPD but allegedly did nothing to address or correct the problem.

Plaintiff also complained directly to Mayor Gaylor-Baird regarding LPD's discriminatory environment towards women by letter and in person, but Mayor Gaylor-Baird allegedly continued to ignore the problem. Under Lincoln Municipal Code § 2.06.010, Mayor Gaylor-Baird has general supervision of the division of city government known as the Lincoln Police Department ("LPD").

The Court finds the plaintiff has alleged sufficient facts in her Second Amended Complaint to meet the notice and pleading requirements of *Iqbal* and *Twombly*, with the exception of the § 1981 claims alleging sex and national origin discrimination; and the Equal Protection claims alleging Causes of action that are First Amendment claims. The Court finds that these remaining issues must proceed to discovery.

THEREFORE, IT IS ORDERED THAT:

1. The City of Lincoln's motion to dismiss, Filing No. 36, is denied in part and granted in part, as set forth herein.

2. The motion to dismiss, by Chief Teresa Ewins, [Filing No. 37](#), is denied in part and granted in part, as set forth herein.
3. The motion to dismiss by Mayor Lerion Gaylor-Baird, [Filing No. 38](#), is denied in part and granted in part, as set forth herein.

Dated this 30th day of December 2024.

BY THE COURT:

s/ Joseph F. Bataillon
Senior United States District Judge