

Identity Theft Task Force
(Established by Act 140, Session Laws of Hawai'i 2006)
State of Hawai'i
www.state.hi.us/auditor

Minutes of Meeting

The agenda for this meeting was filed with the Office of the Lieutenant Governor, as required by Section 92-7(b), Hawai'i Revised Statutes.

Date: Thursday, July 12, 2007

Time: 9:00 a.m.

Place: State Capitol
415 South Beretania Street
Conference Room 325
Honolulu, Hawai'i

Present: Chair Gary Caulfield, Financial Services Industry
Clayton Arinaga, County Police Departments Designee
Fay Ikei, Department of Education
Senator Carol Fukunaga, President of the Senate's Designee
Representative Jon Riki Karamatsu, Speaker of the House of Representatives Designee
Nathan Kim, The Judiciary
Paul Kosasa, Retail and Small Business Community
David Lassner, University of Hawai'i
Stephen Levins, Director of the Office of Consumer Protection
Tim Lyons, Consumer and Business Organizations
Representative Colleen Meyer, Speaker of the House of Representatives Designee
Mel Rapozo, Hawai'i State Association of Counties Designee
Robert Takushi, Consumer and Business Organizations
Sharon Wong, Department of Accounting and General Services
Christopher D.W. Young, Department of the Attorney General

Marion M. Higa, State Auditor, Office of the Auditor
Russell Wong, IT Coordinator, Office of the Auditor
Jayna Muraki, Special Projects Coordinator, Office of the Auditor
Albert Vargas, Analyst, Office of the Auditor
Pat Mukai, Secretary, Office of the Auditor

Jeffrey Loo, J.W. Loo & Associates
Joanna Markle, Goodwill Anderson Quinn & Stifel
Shari Wong, Deputy Attorney General

Excused: Lt. Andrew Castro, Honolulu Police Department's Criminal Investigation Division
Craig De Costa, Hawai'i Prosecuting Attorneys Association
Vice Chair Marvin Dang, Financial Services Industry
Senator Ron Menor, President of the Senate Designee
Carol Pregill, Retail and Small Business Community
Rick Walkinshaw, United States Secret Service Electronic Crimes Unit

Absent: Ronald Johnson, United States Attorney for the District of Hawai'i Designee
Tom Terry, United States Postal Service

Call to Order: Chair Caulfield called the meeting to order at 9:03 a.m. at which time quorum was established.

Chair's Announcements, introductions, correspondence, and additional distribution

Report: List of additional distribution:

1. Consultant Jeffrey Loo's preliminary report
2. Government Accounting Office (GAO) excerpt – Linking ID Theft to Data Breaches
3. United Kingdom guideline on redaction
4. Minutes of the third working group
5. Draft minutes of the June 7, 2007 meeting

Minutes of previous meeting

Member Rapozo moved to approve the minutes. Member Young seconded. It was voted on and unanimously carried to approve the minutes.

Informational Notary Public Program, Department of the Attorney General

Briefings/ Shari Wong, Deputy Attorney General, briefed the task force on the notary public program
Discussion: administered by the Department of the Attorney General.

Overview of the Notary Public Program

The Notary Program is administered by the Department of Attorney General and is governed by Chapter 456, HRS. The program has one full-time staff person who is responsible for administering twice weekly exams on O'ahu and monthly exams on the neighbor islands; processing new applications and renewals, changes in name, address, or employer; and responding to phone and written inquiries and complaints from banks, mortgage companies, lawyers, and notaries themselves.

There are approximately 8,000 notaries currently commissioned in Hawai'i. 245 notaries have not renewed or resigned, and should not be doing any notarial activity. The program does not have the resources to monitor or enforce this.

In addition to issuing new and renewed commissions, the notary program is responsible for storing notaries' record books and seals. Every four years, at the end of the notary's commission term, the notary is required to complete the renewal process and turn in his or her record books to the Attorney General's Office for the term just completed. Notaries are also required to turn in their record books and seals (or stamps) when they resign, are removed from, or abandon, office. Upon a notary's death, the personal representative is responsible for turning in the notary's record books and seal within 90 days. The record books contain personal information of the signers, such as their home address and the manner in which the signer was identified. Although Hawai'i driver's licenses no longer uses social security numbers, some notaries still ask for social security numbers, make copies of passports, or fingerprint signers and attach the documents to their record books. Due to lack of space, storage of these record books is becoming a critical issue for the program..

The program is also responsible for regulating notaries, ensuring they comply with the law, and disciplining them when appropriate. The program has recently completed computerizing the records that were previously kept on index cards, and it is now easy to determine whether a notary is current and properly commissioned.

Requirements to become a Notary:

- Be at least 18 years of age
- Resident of the state
- Pass the notary exam
- Secure a \$1,000 surety bond

- Complete filing with the notary program and the circuit court in the circuit where the notary resides

Notary's Responsibilities

The most important responsibility a notary has is ensuring the identity of the person appearing before the notary. Unless the notary knows the signer through personal knowledge, the notary must see some form of official identification.

The notary should also understand the language in which the document being notarized is written. The notaries should not notarize a document written in English if the parties signing do not appear to understand English. If a party appears before a notary is blind, senile, a minor, or a person of unsound mind, or does not appear to understand the nature or importance of the document being signed, the notary should seek counsel from the notary's own attorney or advise the party to see an attorney.

Notaries possess an engraved stamp or seal used to authenticate their acts. The stamp or seal is impressed on every document, and they sign the certificate and include the date their commission expires. The program has a draft rule that would require the notaries to identify the jurisdiction in which the notarial act is recorded, identify or describe the document being notarized, include the proximity to the acknowledgement or jurat, the number of pages and date of such document. As noted in HR 198, there has been an increase in the alteration of notarized documents for identity theft and fraudulent abuse.

Notaries need to record 5 items in their record books:

1. Date, time and type of the notarial act.
2. Title or type and date of the document or proceeding.
3. Signature, printed name, and address of each person whose signature is notarized and of each witness.
4. Other parties to the instrument.
5. Manner in which the signer was identified.

Current Challenges in Protecting Personal Information Against Identity Theft

There are two challenges in protecting personal information against identity theft. The first challenge is that the notary has custody of a signer's personal information. There have been instances of notaries having their record books stolen from their cars, misplacing record books, and leaving the state or stopping practice without notifying the program. HRS §456-15 allows the Attorney General to seek a fine in court, but this is not the best use of the program's resources and the Judiciary.

In addition to ensuring against loss or theft, the notary should be mindful of personal information when someone is signing. The notary should cover the prior entries on the page before the next signer signs to prevent viewing of the prior personal information.

The second challenge involves storage and security of record books that have been surrendered. They are currently stored in a warehouse which may not be an appropriate place to store them.

Suggestions for Making Notary Records More Secure Against Identity Theft

Ms. Wong offered some suggestions which were her personal suggestions and do not reflect the official position of the Attorney General's Office.

1. Authorize the Attorney General to impose administrative fines for the following: failure to properly sign the notary's name on every notarial certificate; failure to notify the program of changes in name, business, residence address, occupation, or judicial circuit; and failure to notify the program of lost or stolen record books. This could be accomplished by amending Chapter 456, HRS.

2. Increase funding to hire additional staff. Additional funding would enable monitoring, compliance, and educating notaries in protecting personal information. Also, the funding would help to digitize or convert to microfiche or other types of media the record books currently stored at the warehouse.
3. Transfer the notary public program to a more appropriate department such as the Lieutenant Governor's Office or the Department of Commerce and Consumer Affairs.

Chair Caulfield asked how often the records have to be searched. Ms. Wong replied on a weekly basis. If the record books are not stored at their office, they then need to check the warehouse. They go to the warehouse once or twice a month. Chair Caulfield stated, with regards to the House Resolution 198, which addresses alteration of notarized documents, has the program received any complaints, and if so, how many and what types. Ms. Wong answered they receive complaints on a weekly basis and have done investigations.

Chair Caulfield further asked, if there is any evidence of altered documents that led to identity theft. Ms. Wong replied that she could not recall any but could only think of notaries who have used their notarial seals for documents probably in a self interest or personal interest to benefit themselves but not where someone took someone else's identity.

Member Lassner stated, the list of items notaries need to record does not include anything that would be worrisome from an identity theft perspective. Ms. Wong agreed, but the problem occurs because some notaries record actual information from the documents presented for identification.

Member Young asked if the 245 individuals who have not renewed or resigned, and still have their notary stamps and record books, could still be notarizing documents. Ms. Wong replied that was correct. If they do not have a bond in place, their notarizations are in question and someone could challenge it.

Member Rapozo shared that he is currently a notary and is familiar with the process. However, he was not aware that identification numbers such as social security numbers and driver's license were not required in the record books. He also reported that attorneys sometimes request that he notarize documents of incompetent persons. Member Rapozo agreed with Member Young as far as criminalizing this because it is a serious matter. Member Rapozo further stated that seals are easy to obtain. Anyone can get a seal as well as the record books sold in office supply stores. He suggested that whoever the authority is should be the one to issue the record books with a numbered stamp on each book. Once a notary seal is obtained, anyone could continue to notarize without the right authority and no one would ever know.

Consultant's
Report

Jeffrey Loo of J.W. Loo and Associates, consultant, presented the draft report on the first two chapters regarding:

1. Define Personal Information; and
2. Review of Best Practices

Mr. Loo summarized the draft report and reported the following:

He asked the task force members to review the draft report and provide their feedback before the next meeting. Mr. Loo's plans are to finish the last two chapters by the September meeting.

Best Practices

The draft report includes a compilation of best practices in other states and the strategic plan released by the President's Task Force on Identity Theft. The strategic plan contains a number of recommendations that are relevant to protecting personal information managed by government agencies at the state and county levels.

California is the leader in terms of comprehensive protective measures among agencies to safeguard information. The State of Arizona just enacted a statute creating an Office of Information Security that will look at centralizing authority where agencies could report breaches. Some states require agencies submit annual reports to the legislature or lieutenant governor's office on personal information they maintain and the kind of security in place. Some states require the use of logs or electronic audit trails to monitor employees' access to records.

In addition to the four chapters of the report, a section will be included on recommendations taken from the summary of our existing practices.

Senator Fukunaga stated that an important part of the report is the discussion of the current practices on disclosure of social security numbers. The section that identifies the volume of records and information collected by the agencies and the extent to which the personal information is in electronic form versus hard copy form is of importance. One major problem is that while some agencies are committed to modifying their electronic systems to safeguard personal information, they do not have a handle on addressing hard copy information. Any models for electronic and hard copy records would be helpful to the task force.

Mr. Loo stated that in the best practices section, some states eliminated the requirement for social security numbers. However, other states have gone to the extent to refuse to accept documents with social security numbers. Phase II of the Identity Theft Task Force report will address the redaction of personal information. The United Kingdom National Archives Reference Document has some interesting recommendations that address the original versus copies, display, redaction of information, and impact on legality of documents.

Senator Fukunaga said moving forward, all personal information that is vulnerable or not currently safeguarded should be safeguarded. There was some discussion of the initial legislation that was adopted that was tailored to address specific problems the task force was aware of at the outset. The private sector probably has more sophisticated levels of data security and protection than we realized, and we are now looking at a lesser degree of data security for government records. Senator Fukunaga further stated that it would be useful to examine some of the background as to why we adopted the legislation, and as we are looking at the government records portion, whether there should be changes because we found that the degree of security is much less than we would like to see.

Mr. Loo responded, in the survey, the agencies reported the types of records that they held containing obtain personal information. The agencies were asked about the volume, extent of safeguards to protect the information, and if they have policies.

The task force was provided with an excerpt of the GAO report to Congress regarding personal information. The GAO report summarized information on data breaches and noted that challenges exist in determining the link between data breaches and identity theft. The report includes a table illustrating 24 large publicly reported data breaches and evidence resulting in identity theft. The GAO quantified the different kinds of breaches and suggested that whether identity theft results from a breach really depends more on the motive for the breach. This is the first study that has tried to establish a relationship

between exposure of government records and actual identity theft.

Investigative Working Groups – Reports: Chair Caulfield stated that the minutes of the third working group were included in the distribution therefore no discussion is required. Member Levins reported he is still trying to obtain more information from colleagues from the mainland. Member Young indicated that there was no report at this time.

Meeting Schedule: Chair Caulfield reported the next task force meeting is scheduled for Thursday, August 2, 2007. He asked the task force to read the consultant's report and send any comments to Mr. Wong via email before August 2, 2007. Chair Caulfield requested that an email be sent to the members who did not attend this meeting informing them to review the draft report and email their comments by the August 2, 2007 meeting.

The Consumer Data Industry Association (CDIA) is scheduled to do a presentation at the August 2, 2007 meeting.

Other: Member Young announced that the Attorney General's Office is having an ID Theft Training of Trainers at the end of July. The training is free to private and public entities. Member Young will be sending flyers out to all members of the task force. The sessions will be limited to 50 trainers for each island. Each trainer will receive a PowerPoint presentation on CD, reference materials, identity theft brochure, listing of national and state resources, trainer's manual, and more.

Adjournment: Member Takushi moved to adjourn, seconded by Senator Fukunaga. It was voted on and unanimously approved to adjourn the meeting.

Next Meeting: With no further business, the Chair adjourned the meeting at 10:05 a.m.
date: Thursday, August 2, 2007
time: 9:00 a.m.
address: to be determined

Reviewed and approved by:

Russell Wong
IT Coordinator

July 18, 2007

[] Approved as circulated.

ID Theft/071207