

Identity Theft Task Force
(Established by Act 140, Session Laws of Hawai'i 2006)
State of Hawai'i
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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, December 7, 2006

Time: 9:00 a.m.

Place: State Capitol
415 South Beretania Street
Conference Room 309
Honolulu, Hawai'i

Present: Chair Gary Caulfield, Financial Services Industry
Vice Chair Marvin Dang, Financial Services Industry
Clayton Arinaga, County Police Departments Designee
Representative Jon Riki Karamatsu, Speaker of the House of Representatives Designee
Nathan Kim, The Judiciary
Paul Kosasa, Retail and Small Business Community
Stephen Levins, Director of the Office of Consumer Protection
Tim Lyons, Consumer and Business Organizations
Senator Ron Menor, President of the Senate's Designee
Carol Pregill, Retail and Small Business Community
Councilmember 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

Jodi Ito for David Lassner, University of Hawai'i

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
Sterling Yee, Assistant Auditor, Office of the Auditor
Pat Mukai, Secretary, Office of the Auditor

Consultant: Jeffrey Loo, J.W. Loo & Associates

Excused: Lt. Andrew Castro, Honolulu Police Department's Criminal Investigation Division
Darwin Ching, Department of Education
Craig De Costa, Hawai'i Prosecuting Attorneys Association
Senator Carol Fukunaga, President of the Senate's Designee
David Lassner, University of Hawai'i
Representative Colleen Meyer, Speaker of the House of Representatives' Designee

Absent: Ronald Johnson, United States Attorney for the District of Hawai'i Designee
Tom Terry, United States Postal Service
Rick Walkinshaw, United States Secret Service Electronic Crimes Unit

Call to Order: Chair Caulfield called the meeting to order at 9:15 a.m. at which time quorum was established

Chair's Report: Announcements, introductions, correspondence, and additional distribution
Chair Caulfield thanked Representative Karamatsu for providing the refreshments. He also indicated that item IV on the agenda would be taken out of order to accommodate Member Kim and his staff.

Minutes of previous meeting

Vice Chair Dang moved to approve the minutes of the of the November 1, 2006 meeting as distributed, seconded by Member Kim. It was voted on and unanimously carried to approve the minutes.

Vice Chair Dang referred back to the minutes of the last meeting and in the minutes, it states if a member has three unexcused absences in a row that the appointing authority will be notified. Perhaps, the future minutes can indicate whether the absences are excused versus not excused.

Informational Briefings: Member Kim of the Judiciary, with Marsha Kitagawa, Public Affairs Office, Lori Okita, Court Administrator, First Circuit Court, Susan Gochros, Intergovernmental & Community Relations Department, provided an informational briefing.

The access policy of the Judiciary is that unless it's prohibited by law or court order, anything is more or less accessible. They have always maintained a very open policy. We do have a small committee, consists of four people (three + Member Kim) who are in the process of drafting access policies for the Judiciary. The Judiciary's case records do not fall under OIP. The department has about 22,000 rolls of microfilm in storage. There are several million documents in storage and thousands of files kept on-site at each of the court houses. This issue is not a small one for the department.

Ms. Okita distributed a handout on Ho'ohiki and briefed the task force on the various types of access to court records at the Judiciary. Basic traffic, district, and circuit court case information is available through the Ho'ohiki and Court Connect. One of the policy decisions the Judiciary adopted with respect to privacy rights of individuals, was that we would not provide date of birth, social security numbers, or home addresses of any parties to the case on the websites. File rooms at the courts are open to the public. Anyone that requests a case file is able to view the actual case file and to make copies of documents.

New probate rules, which take effect January 1, 2007, will require some types of filed documents, such as birth certificates, marriage certificates, death certificates, tax returns, and reports by court-ordered professionals to be confidential.

Discussion:

Member Young asked if any records are redacted or access limited in some way. Member Kim answered that the Judiciary has looked at this issue. For electronic records, it would not be a problem to automatically delete fields, but old records present a problem. We have not adopted a standard policy in terms of having staff go through records and redact. There are concerns on the department's part in terms of employee liability. It's an issue the department has struggled with and there has been no resolution. The court files contain whatever is submitted to the court.

Member Levins asked if there is a discretionary policy on release of information or is the policy to release everything that is not sealed. Member Kim responded that the policy is to release everything not sealed.

Vice Chair Dang asked how the courts assure that probate documents are kept confidential. Ms. Okita answered that under the rules, documents are sealed upon filing. When documents are presented for filing, the clerk will put the file in an envelope and seal it and they are placed in a different area from records that are open to the public.

Vice Chair Dang asked if the Judiciary has a cost estimate to redact older records. Member Kim answered that they have not done a cost analysis. There's also a liability issue involved. Vice Chair Dang noted that some states have given court employees immunity.

Ms. Gochros discussed the release of documents to the media in the Clyde Arakawa case, an Administrative Driver's License Revocation Office (Office) case in which the Judiciary and the Office's Chief Adjudicator were sued for violation of privacy rights. In that case, the Federal District Court found that the Judiciary and Chief Adjudicator were entitled to qualified immunity. However, the Office now carefully reviews the records when there is a request for documents and excises Social Security numbers, residence addresses, and telephone numbers.

Member Kim stated that the Judiciary is very concerned about the disclosure of personal information and continues to work toward a resolution. One possibility being considered is to separate and seal personal identifiers and financial information. However, this would have to be prospective and would place the burden on the parties to separate the information.

Chair Caulfield asked if the Judiciary is actively assessing what other jurisdictions are doing and looking for best practices? Ms. Gochros indicated there is a national committee trying to get all the states together to talk about what they're doing. We're hoping to attend that conference to find out what their best practices are.

In response to questions by Chair Caulfield, Member Kim stated the Judiciary does have a retention schedule, and Ms. Okita said on average, they receive 600 to 900 requests for files each month. A photo ID and a written request are required to access files.

Auditor's
Report

Mr. Wong introduced the consultant, Mr. Jeffrey Loo of J.W. Loo & Associates. Mr. Loo distributed a status report and briefed the task force on his work. The scope of work includes:

- Defining personal identifying information.
- Conducting a risk assessment of state and county agencies looking at the volume of information collected and focusing on assessment of risk and impact of disclosure.
- Identifying best practices in other jurisdictions.
- Reviewing practices in use and disclosure of social security numbers.

Since it's an assessment of all state and counties, it will be a high level of review. They will send out about 100 surveys. In addition to the survey, they will attempt to do interviews with 3-4 representatives from agencies to get more detailed information on their practices. The survey will give them an idea of volume and general statement of policies. They will probably conduct the interviews in January. The thought right now is to focus on two state agencies, one that is focused on services to the public and one department that focuses on services to other state organizations. They will also be looking at a smaller agency and a county agency to give us a cross-section. The plan is to perform an analysis in the February timeframe and completing that by March. A final report will be submitted to the 2008 legislative session.

Report to the 2007 Legislature: Mr. Wong reported that the current plan is to submit a letter summary status report 20 days prior to start of session which is the 28th. Member Young asked if the letter will be circulated by email prior to submission. Mr. Wong said, yes.

Investigative Working Groups: Chair Caulfield said, as discussed at the last meeting, the task force can enable sub-task forces to do a little more work. He suggested the creation of two sub-task forces: 1) focus on criminal legislation, chaired by Member Young; and 2) focus on public information, including best practices for business and public / private education or information sharing, chaired by Member Levins.

Member Dang moved to establish two sub-task forces, seconded by Member Rapozo. It was voted on and unanimously carried to approve the two sub-task forces and the two chairmen, Members Young and Levins.

The sub-task forces will make recommendations and report back to the task force. The two sub-task forces are as follows:

Legislative

- Chris Young, Chair
- Nathan Kim
- Mel Rapozo
- Sharon Wong
- Senator Menor
- Representative Karamatsu
- Clayton Arinaga

Public Information

- Stephen Levins, Chair
- Bob Takushi
- Marvin Dang
- Tim Lyons
- Carol Pregill
- Paul Kosasa
- Gary Caulfield

Other

Member Wong indicated she had preliminary discussions within ICSD and will be more than happy to provide some information. ICSD handles a lot of different types of information. It handles the mainframe information which contains confidential information, such as social security numbers, addresses, etc. The division also handles other types of servers that provide access to public information. There are a lot of security issues.

Member Levins suggested we should have a county representative. The Chair asked Member Rapozo to report back to his council along the lines of what was heard at today's meeting.

Senator Menor asked about the county's perspective. Member Rapozo responded that people are not informed, and he hopes we would come up with some kind of manual. The Chair suggested getting a contact from the county.

Member Young suggested we have a presentation on private sector issues. Member Pregill said last session's ID theft bills were not ideal but were manageable. There were concerns about the social security number protection bill. We communicate via social security numbers to identify employees and third party issues. Our concerns were addressed and included as one of the exceptions. DCCA came out with guidelines which

we emailed to all of our members. Chair Caulfield asked if a best practices template would be useful and how do we get the message to small businesses.

Meeting Schedule: Chair Caulfield noted that we agreed at the last meeting to meet on the first Thursday morning of each month. Member Lassner has indicated that he has a standing commitment on that day. We will explore other possibilities.

Next Meeting: To be determined.

Adjournment: The Chair moved to adjourn the meeting, seconded by Member Young. It was voted unanimously to adjourn the meeting. With no further business to discuss, the Chair adjourned the meeting at 10:48 a.m.

Reviewed and approved by:

Russell Wong
IT Coordinator

December 28, 2006

[] Approved as circulated.

[.....] Approved with corrections; see minutes of _____ meeting.

ID Theft/120706