

BOARD OF PRIVATE DETECTIVES AND GUARDS

Professional and Vocational Licensing Division
Department of Commerce and Consumer Affairs
State of Hawaii

MINUTES OF MEETING

Date: Thursday, September 20, 2012

Time: 10:00 a.m.

Place: Queen Liliuokalani Conference Room
King Kalakaua Building
335 Merchant Street, 1st Floor
Honolulu, HI 96813

Present: Douglas Inouye, Public Member, Chairperson
Gary Yabuta, Chief of Police, County of Maui, Vice Chairperson
Darryl Perry, Chief of Police, County of Kauai
Edward Akiona, Industry Member
Ray Galas, Public Member
Jeffrey Owens, Industry Member
Rodney J. Tam, Deputy Attorney General
Charlene L.K. Tamanaha, Executive Officer
Christine Hironaka, Secretary

Excused: None.

Guests: Jo Ann Uchida Takeuchi, Deputy Director, DCCA
Neal Sakamoto, Intercept Investigative Agency Pacific
Scott Campf, Phoenix Security
Jon Siracusa, Phoenix Security
Spike Denis, Securitas Security Services USA, Inc.
Preshess Willets-Vaquilar, Honolulu Community College

Agenda: The agenda for this meeting was filed with the Office of the Lieutenant Governor as required by §92-7, Hawaii Revised Statutes (“HRS”).

Call to Order: There being a quorum present, the meeting was called to order at 10:39 a.m. by Chairperson Inouye.

Additions to
Or Deletions
From the Agenda: None

Introduction of
Deputy Director,
DCCA: Jo Ann M. Uchida Takeuchi introduced herself as the current Deputy Director of the Department of Commerce and Consumer Affairs and the former Complaints Officer for the Regulated Industries Complaints Office. She explained that she and the Director are introducing themselves to the Boards and Commissions to encourage open communication with the Director’s office. Her dealings with the Board in

her prior role was as the enforcer of the Board's statute and rules, however in her new role she has come to understand the role of the Board in the Department's scheme and appreciates the effort and hard work the Board does especially in light of Act 208. Deputy Director Uchida Takeuchi also encouraged the Board members to attend the October 24, 2012 orientation which was originally conducted for the Chairs. There was so much positive feedback that they decided to offer the training to all members. She thanked everyone for their willingness to serve the public at large and for their efforts for protecting the consumer.

Mr. Galas suggested that Board members have distinguishing identifications so the public would be able to identify members. The Deputy Director responded that the Executive Officer could look into that piece with the Licensing Administrator; however cautioned that Board members not be the point of contact for the public because questions or discussions as to a complaint may arise and Board members would be precluded from discussion on the matter.

The Board thanked Ms. Uchida Takeuchi for her time and looked forward to future dealings with the Director's Office.

Approval of the
Board Minutes:

It was moved by Chief Perry, seconded by Vice Chairperson Chief Yabuta, and unanimously carried to approve the minutes and executive session minutes of the July 12, 2012 meeting as circulated.

Executive Session:

It was moved by Vice Chairperson Chief Yabuta, seconded by Mr. Galas, and unanimously carried to enter into executive session pursuant to HRS §§92-4 and 92-5, to consider and evaluate personal information relating to the applicant applying for licensure at 10:49 a.m.

EXECUTIVE SESSION

Applications:

a. Oral Interview for Licensure

1. Neal Sakamoto, Principal Guard (GD 995)

It was moved by Vice Chairperson Chief Yabuta, seconded by Mr. Galas, and unanimously carried to reconvene to the Board's regular order of business at 11:02 a.m. for the conclusion of the oral interview with the individual applicant.

It was moved by Chief Perry, seconded by Mr. Owens and unanimously carried to approve the above application subject to meeting all licensing requirements.

Mr. Sakamoto was reminded that his badge cannot be similar to the county badges and that he can conduct business not using a badge while awaiting his badge approval by the counties.

Mr. Sakamoto was apprised of Act 208 and the need for his guard employees to be registered by July 1, 2013. He indicated that he has been following Act 208 through the Board minutes and announcements.

Executive Session: It was moved by Vice Chairperson Chief Yabuta, seconded by Mr. Galas, and unanimously carried to enter into executive session pursuant to HRS §§92-4 and 92-5, to consider and evaluate personal information relating to the applicant applying for licensure and to consult with the Board's attorney on questions and issues pertaining to the Board's powers, duties, privileges, immunities, and liabilities and to consider sensitive matters related to public safety or security in accordance with HRS 92-5(a)(4) and (6) at 11:05 a.m.

EXECUTIVE SESSION

It was moved by Vice Chairperson Chief Yabuta, seconded by Mr. Galas, and unanimously carried to reconvene to the Board's regular order of business at 11:35 a.m.

b. Review for Examination

It was moved by Mr. Owens, seconded by Mr. Galas and unanimously carried to **approve** the following applications for examination:

Guard

- i. Lorraine Keopuhiwa – LICF GD 813
SOS Security Incorporated – GDA
- ii. Thomas J. Marbury – GD
Chenega Operations Services LLC – GDA

Private Detective

It was moved by Mr. Owens, seconded by Mr. Galas and unanimously carried to **approve** the following applications for examination:

- i. Brian A. Martyn – PD
Horsemen Inc. – PDA
- ii. Paul W. Meyer – PD
Sole

c. Reactivation

It was moved by Mr. Owens, seconded by Chief Perry and unanimously carried to **approve** the following applications for reactivation:

Guard

- i. Newton Lyman – GD
Sole

Private Detective

It was moved by Mr. Owens, seconded by Chief Perry and unanimously carried to **approve** the following applications for reactivation:

- i. Newton Lyman – PD
Sole

Examination:

a. Review & Report

The Executive Officer distributed the following results of the Private Detectives' and Guards' examination:

Private Detectives' Exam (administered July 20, 2012)

| | |
|--------------------|---|
| Exams Administered | 1 |
| Successful | 0 |
| Unsuccessful | 1 |

Legislation:

a. Act 208 (S.B. No. 2165)

Chairperson Inouye acknowledged guest, Mr. Scott Campf of Phoenix Security who informed the Board that Hawaii as well as other states are currently addressing similar problems such as guard training, enforcement, not enough qualified trainers and notification of non-compliance. Mr. Campf stated that Washington state issues temporary cards and guard employees are put on pending status by their employers until they receive their permanent cards and that this law also affects guards hired for concert venues and crowd management. Chairperson Inouye suggested Mr. Campf approach the legislature regarding any recommendations to the statute and inform them as to how other states are coping with similar legislation.

i. Review of Impact-Hi, LLC Curriculum

It was the consensus of the Board to defer the review of the curriculum of Impact-Hi, LLC pending verification that the program meets or exceeds the June 27, 2012 Security Guard Training Curricula.

ii. Minimum Qualifications For Security Guard Training Instructors

The Executive Officer stated that the Adhoc Committee recommended the addition of the "Physical Security Professional ("PSP")" to qualify to be a Security Guard Training Instructor.

It was moved by Mr. Owens, seconded by Vice Chairperson Chief Yabuta and unanimously carried to amend the Minimum Qualifications For Security Guard Training Instructors by inserting "or Physical Security Professional ("PSP")" after Certified Protection Professional ("CPP") and replace the July 12, 2012 Minimum Qualifications for Security Guard Training Instructors with the September 20, 2012 amended version on the Board's website.

September 20, 2012

AMENDED
MINIMUM QUALIFICATIONS
FOR SECURITY GUARD TRAINING INSTRUCTORS

Act 208 (SLH 2010)

INTRODUCTION

In 2010, the Legislature established new training requirements for guards in HRS chapter 463. See, Act 208 (SLH 2010).

Effective July 1, 2013, new HRS section 463-10.5(a) requires all guards, and all agents, operatives, and assistants employed by a guard agency, private business entity, or government agency who act in a guard capacity to register with the Board of Private Detectives and Guards ("**Board**"), and (among other things) meet certain training requirements prior to acting as a guard.

Pursuant to HRS section 463-10.5(b), the Board is required to approve the training instructors and establish the training or course curricula. The Board has established the training or course curricula in a separate notice.

MINIMUM QUALIFICATIONS FOR SECURITY GUARD TRAINING INSTRUCTORS

The following are the minimum qualifications to be approved as a security guard training instructor to teach the eight (8) hour training or course curricula, and four (4) hours of on the job training. An individual shall meet at least one of the following qualifications:

1. Be currently licensed as a principal guard with a guard agency for at least two (2) years;
2. Be currently certified as a Certified Protection Professional (“CPP”) or **Physical Security Professional (“PSP”)** by the American Society for Industrial Security, or a Certified Security Consultant (“CSC”) by the International Association of Professional Security Consultants); or
3. Have four (4) years of experience:
 - a. As a guard, plus two (2) years of experience as a supervisor, trainer, instructor, or manager of guard employees;
 - b. As a guard, plus a Bachelor’s Degree in Criminal Justice or its equivalent; or
 - c. As a law enforcement officer with a state or political subdivision thereof, or federal government as defined in HRS section 710-1000(13).

iii. DRAFT Forms for Guard Instructor

The Executive Officer asked the Board to review the following forms related to the Guard Instructor Application:

- Requirements & Instructions – Guard Instructor
- Application - Guard Instructor
- License Verification - Private Detective and Guards
- Experience Verification – Guard Instructor

The Executive Officer asked the Board whether the qualification that the instructor is a currently licensed principal guard for at least two years be amended to require a Hawaii license.

Deputy Attorney General Tam recommended that item a., be left as “Currently licensed as a principal guard for at least 2 years” and Mr. Owens concurred and stated that out of state licensed guards would make good trainers and should qualify.

It was moved by Mr. Galas, seconded by Vice Chairperson Yabuta and unanimously carried to approve the Guard Instructor application in its entirety (all forms listed above) and to be posted on the Board’s website under “Applications Forms & Publications”.

Deputy Attorney General Rod Tam stated that some colleges will accept students without a high school diploma and the college decides what credits are needed for a

degree. Preshess Willets-Vaquilar also stated that Honolulu Community College ("HCC") accepts attestations.

Ms. Willets-Vaquilar announced that the HCC will be conducting Train the Trainer classes on September 27, 2012 and October 19, 2012. Trainer applications from the HCC will be submitted for approval at the next Board meeting to be held on October 11, 2012. The classes will be offered system wide and open to agencies. The cost to purchase the course curricula from Honolulu Community College to use to train employees is \$485 and the trainer must sign a license agreement with the HCC. Mr. Campf asked if the \$485 is refundable if the trainer does not get approved. The Executive Officer replied that the Board would defer that issue to the HCC. The Executive Officer said there are several pathways that the HCC curriculum may be used by employers: (1) individuals can elect to take the course at HCC or one of their campuses for \$45; (2) employers or agencies may purchase the curriculum for \$485 and have an approved instructor train only their employees; and (3) employers may schedule contract classes with any of the Community College campuses. Ms. Willets-Vaquilar also noted that HCC and campuses statewide will also allow associations to train its membership employees. Vice Chairperson Yabuta asked how an employer will know who trained the instructor. The Executive Officer responded that each instructor will be issued a certificate.

iv. Statement of Education Affidavit Form

The Executive Officer provided a sample of an affidavit that the Board may consider using if an applicant cannot get a copy of his/her high school diploma. Deputy Attorney General Rod Tam asked how colleges, the Department of Human Resources, etc., determine life experience to be equivalent to a high school education? The Executive Officer said she will solicit responses from the University of Hawaii, Department of Human Resources Development and HCC and report back to the Board.

Mr. Denis reported that the Ad Hoc Committee sent a questionnaire through The American Society for Industry Security, the Hawaii Hotel Visitor Industry Security Association and the Hawaii Joint Police Association regarding the number of employees who could provide proof of high school, GED or higher education. There were approximately 22 respondents representing approximately 3,615 guards. 1,895 guards were able to provide proof of a high school education and 1,720 guards did not have

proof of a high school education. The Ad Hoc Committee members commented that the high school education requirement was “not a problem” for the retail community, but a high school education or equivalency will be challenging for community associations and property management firms.

Mr. Denis also added that the security industry has been challenged by the Equal Employment Opportunity Commission recently concerning the high school requirement which may result in discrimination issues.

The Ad Hoc Committee recommends the Board consider the following:

- If a security guard has been performing the essential functions of “acting in a guard capacity,” (e.g., deter, detect, observe, report, follow post orders; patrol the premises; prepare hourly log reports; prepare incident reports; able to provide proper response to emergencies on site (fire, water damage; in some cases CPR, AED, evacuation) and, has the ability to continue to learn evolving additional functions as the industry upgrades, why should he or she be eliminated from registration after demonstrating the ability to execute essential functions of acting in a guard capacity?
- Other regulated industries provide for an “affidavit – statement of education” where applicants note the high school attended, address, graduation date and reason they are unable to submit proof, and certify and declare under penalty of perjury that they did in fact receive a high school education. Such an affidavit for security guards would be very useful when it is obvious records cannot be obtained either due to a high school being in a foreign country; no longer possessing transcripts or other records; or records and/or facilities have been destroyed, etc.
- Consider an employer’s certification that a guard successfully performs the essential functions and skills required of security guards “acting in a guard capacity.” If an employer can certify that for a period of time that an applicant/ registrant has performed the essential functions required by the industry custom and practice, then perhaps the burden could be shifted from the state to the employer for compliance verification.

v. Proposed Criminal, Traffic and Other Laws Accepted for Guard Registration

Mr. Denis reported that the Ad Hoc Committee recommends that the Board review all applications that indicate felony convictions. The Ad Hoc Committee recommends the misdemeanor convictions that would **not require** Board review are as follows:

- a) Failure to appear
- b) Contempt of court
- c) Driving related but not limited to...
 - DUI (driving under the influence)
 - OUI (operating under the influence)
 - DWI (driving while intoxicated)
 - DWAI (driving while ability impaired)
 - Drunk driving
 - Driving while BAC (blood alcohol content) any
 - Wet reckless
 - Chemical test revocation
- d) Non felony traffic convictions
 - Driving without insurance card
 - Driving under the influence of drugs/controlled substance
 - Under influence of controlled substance
 - Driving while impaired (drugs/controlled substance)
 - Operating while under the influence of drugs/controlled substance
- e) Substance abuse
- f) Controlled substances violations
- g) Harmful intoxicants
- h) Minor related but not limited to...
 - Under age drinking
 - Under age drinking and driving
 - Minor in possession of alcohol
 - Unlawful sale of alcohol to minor
 - Contributing to delinquency
 - Purchasing alcohol beverages for a child/minor
 - Unlawful sale of tobacco to minor

- i) Miscellaneous alcohol related including, but not limited to...
 - Possession of alcohol
 - Open container
 - Drunk in public
 - Intoxicated in public
- j) Failure to charges, including, but not limited to...
 - Failure to pay child support
 - Failure to pay income tax
 - Failure to file income tax
 - Failure to appear
 - Failure to identify
- k) Criminal mischief
- l) Illegal gambling
- m) Loitering

Mr. Denis reported that the length of time an initial FBI/Hawaii Criminal Justice Data Center (“HCJDC”) check is considered “current” was one of four questions addressed in the industry questionnaire. 98% of the respondents chose the one-year duration. Mr. Denis noted that California considers the initial FBI/DOJ and California DOJ checks “current” for one year. The Executive Officer commented that the one year duration proposed by the Ad Hoc committee that a criminal history be considered current is consistent with the Board’s current rules. HAR section 16-97-31 considers an application abandoned if not completed within one year and a new application is required because the criminal and psychological histories may have changed. Deputy Attorney General Rod Tam suggested the ad hoc committee research other states for information regarding criminal background checks.

vi. Exempted Law Enforcement Agencies

Mr. Denis compiled the determinations made at the March 17, July 14, September 15, and November 15, 2011 Board meetings relating to those subject to Act 208 and those exempt pursuant to HRS sections 710-1000 and 712 A-1 **the following agencies are “law enforcement agencies” and are not subject to HRS Chapter 463 (Act 208):**

- County police departments (Honolulu, Maui, Kauai, Hawaii)

- Department of Public Safety
- Department of the Attorney General
- County Prosecuting Office (Honolulu, Maui, Kauai, Hawaii)
- Sheriff's Department
- Department of Transportation Harbor Police
- County Liquor Commissions (Honolulu, Maui, Kauai, Hawaii)
- Federal Marshall's Office
- Federal Bureau of Investigation
- Internal Revenue Service
- Federal Food and Drug Administration

September 15, 2011 meeting

- Department of Conservation and Resources Enforcement officers

The Board determined that the following job classifications are not subject to Act 208:

- Adult Corrections Officer Recruit
- Adult Corrections Officer Series
- Youth Corrections Officer Series
- Youth Corrections Officer Supervisor

Kauai County

- Liquor Control Investigator Trainee, I, II, & III
- Public Safety Worker I & II
- Special Investigator
- School Crossing Guard
- Police Evidence Clerk
- Police Evidence Custodian I & II
- Career Criminal and Property Crime Investigator (unclassified, contract)
- Background Investigator (unclassified, contract)

Maui County

- Police Evidence Specialist I, II, III
- Records and Identification Manager
- Police Evidence Custodian I, II
- Evidence and Identification Technician I, II
- Storekeeper I, II
- Inventory Maintenance Technician
- Elections Warehouse Technician
- Public Safety Aide
- Pool Guard
- Senior Pool Guard
- Ocean Safety Officer I, II, III

- Supervising Ocean Safety Officer
- Liquor Control Officer Trainee
- Liquor Control Officer I, II, III, IV

The Board determined that the following positions of various agencies are subject to Act 208:

March 17, 2011

Maui County

- Parking Lot Aide
- Park Security Officer I, II

Department of Human Resources Development

- Security Attendant I
- Security Officer I, II, III
- University Security I, II, III
- Parking and Security Officer I, II
- Parking and Security Supervisor

Kauai County

- Park Security Officer I & II

Hawaii County

- Parking Control Officer

b. 2012 Legislation

The Executive Officer reviewed the following Acts signed by the Governor during the 2012 legislative session which affect all licensing boards:

- Act 202, SB2737SD1 HD2 CD1 Relating to Public Meetings

Board meetings can be held with interactive conference technology which means any form of audio or audio and visual conference technology.

- Act 241, SB2739 SD2 HD1 CD1 Relating to the Small Business Regulatory Review Board

Authorizes the Small Business Regulatory Review Board to question the Board's rationale in bit addressing the public's concern in rule making.

- Act 247, HB2257 HD1 SD1 Relating to Professional and Vocational Licensing

Requires the licensing authority to expedite consideration of the application and issuance of a license by endorsement, license by reciprocity, or temporary license to a qualified nonresident military spouse if licensing requirements are equivalent.

- Act 248, HB2258 HD2 SD1

Requires licensing boards to accept military education, training and service towards qualifications for a license. The Board already accepts military experience.

Next Meeting: Thursday November 8, 2012
Exam Room
King Kalakaua Building
335 Merchant Street, Third Floor
Honolulu, Hawaii 96813

Adjournment: There being no further business to discuss the meeting adjourned at 1:15 p.m.

Reviewed and approved by:

Taken by:

/s/ Charlene L.K. Tamanaha
Charlene L.K. Tamanaha
Executive Officer

/s/ Christine Hironaka
Christine Hironaka
Secretary

10/5/12

- Minutes approved as is.
 Minutes approved with changes; see minutes of _____.