

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, April 11, 2013

Time: 10:30 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
Jeffrey Owens, Industry Member
Ray Galas, Public Member
Edward Akiona, Industry Member
Rodney J. Tam, Deputy Attorney General
Charlene L.K. Tamanaha, Executive Officer
Christine Hironaka, Secretary

Excused: Darryl Perry, Chief of Police, County of Kauai

Guests: Kevin Wong
Albert Denis - Securitas
Cedric Cartagena – Andrews International
Robert Jenkins – Andrews International

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 10:50 a.m. by Chairperson Inouye.

Additions to
Or Deletions
From the Agenda: It was moved by Mr. Galas, seconded by Vice Chairperson Chief Yabuta, and unanimously carried to add the following to the agenda:

4. Applications

a. Guard Instructor

Brett ARIZUMI
James B. BRUN
Carey M. DURDEN

Martin B. ELLAZAR
Harrison W.H. HO
Francis B.G. HUNN III
Kevin D.K. KAMEALOA

7. Act 208 (SLH 2010) and Any Matters Relating to its implementation.
 - e. Email request asking “How long is a criminal history result on a guard considered current?”
 - f. Curriculum Approvals
 - 1) Guardsmark, LLC Course Curricula
 - 2) NAH Security Services, Inc. Security Guard Training Curricula
 - 3) Palladium Online Security Training Center & Palladium Education, Inc. State of Hawaii Security Guard Certification Training Program
 - 4) Walmart Training Curricula
 - g. Transcend, Inc. request.
8. Executive Officer’s Report
 - a. Law Enforcement Agencies
 - b. The passing of Warren Ferreira, former chairperson of the Board of Private Detectives & Guards.

Approval of the Board Minutes:

It was moved by Vice Chairperson Chief Yabuta, seconded by Mr. Galas, and unanimously carried to approve the minutes and executive session minutes of the March 14, 2013 meeting as circulated.

Executive Session:

It was moved by Mr. Galas, seconded by Mr. Owens, 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 10:54 a.m.

EXECUTIVE SESSION

Applications

- a. Oral Interview for Licensure
 1. Kevin K.K.M. Wong, Principal Guard
Sole
 2. Kevin K.K.M. Wong, Private Detective
Sole

It was moved by Mr. Galas, seconded by Mr. Owens, and unanimously carried to reconvene to the Board’s regular order of business at 10:58 a.m. for the conclusion of the oral interview with the individual applicant.

It was moved by Mr. Owens, seconded by Vice Chairperson Chief Yabuta and unanimously carried to approve the above applications. The Executive Officer informed Mr. Wong that he will be sent information for the licensing phase and fees.

Chairperson Inouye announced he was taking the agenda out of order to allow guest Robert Jenkins' request to appear before the Board to discuss his guard instructor application.

Executive Session: It was moved by Mr. Galas, seconded by Mr. Owens, 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 10:59 a.m.

EXECUTIVE SESSION

Applications: c. Guard Instructor

Robert JENKINS

It was moved by Mr. Galas, seconded by Mr. Owens, and unanimously carried to reconvene to the Board's regular order of business at 11:40 a.m.

It was moved by Mr. Owens, seconded by Vice Chairperson Chief Yabuta and unanimously carried to defer the above application based upon the documentation on file, pending verification of additional work experience to meet the requisite four (4) years of experience as a guard plus two (2) years of experience as a supervisor, trainer, instructor or manager of guard employees set forth in the board's July 12, 2012 minutes pursuant to the authority granted the Board by Act 208 (SLH 2010).

In lieu of the above verification, applicant may submit verification from Park University that the criminal justice courses he took is sufficient to be awarded a degree in criminal justice, criminal justice administration, police science or equivalent.

Chairperson Inouye announced he was returning to the order of the agenda.

Examination: a. Review & Report

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

Security Guard Exam (administered March 15, 2013)

Exams Administered	2
Successful	1
Unsuccessful	1

Private Detective Exam (administered March 15, 2013)

Exams Administered	3
Successful	1
Unsuccessful	2

Scope:

- a. Airport Law Enforcement Officer (“LEO”) –Albert Denis
(Deferred from the March 14, 2013 meeting)

Deputy Attorney General Tam explained that there are basically 3 types of security employees who are all subject to background checks and trained by the TSA for global international threat assessment:

- 1) Traffic Control Officer (“TCO”) who is uniformed but unarmed.
- 2) Airport Security Officer (“ASO”) who is uniformed but unarmed.
- 3) Law Enforcement Officer (“LEO”) who is uniformed and armed.

Deputy Attorney General Tam also added that the definition of a law enforcement officer is in HRS Chapter 710-1000 and that HRS Chapter 261-17, confers upon the Director, and such officers, employees, agents and representatives of the Department of Transportation, the powers of police including the power to serve notices, execute warrants and arrest offenders. This section also defines agents and representatives to include persons performing services at the airports under contract with the Department of Transportation.

The Board determined that the airport LEOs are active law enforcement officers when they are on duty at the airports and while so employed are exempt from Act 208.

The Board further determined that the Traffic Control Officer (“TCO”) and Airport Security Officer (“ASO”) are subject to Act 208.

- b. Email requesting determination if an active reserve law enforcement officer is considered to be active law enforcement and exempt from Act 208.

The Board reviewed the email inquiry as to whether a retired police officer who is currently an active reserve police officer with the HPD, is exempt from the requirements of Act 208.

Mr. Owens and Vice Chairperson Chief Yabuta stated that a reserve police officer is equivalent to an active duty police officer but without pay. A reserve police officer has police powers 24/7 and is obligated to respond even if off duty. This differs from an ACO who is not required to respond off duty.

It was the consensus of the Board that an active reserve police officer is a fully commissioned police officer, who has "police powers 24-7" and who has a duty to respond, is an active duty law enforcement officer and therefore exempt from the requirements of Act 208. The Board also determined that should the status of an active reserve police officer change, the exemption to Act 208 will no longer apply.

Act 208 (SLH 2010)
and Any Matters
Relating to its
Implementation:

a. Criminal Convictions (Deferred from the March 14, 2013 meeting)

Deputy Attorney General Tam distributed a report that listed the details of the Criminal Conviction list for the Board to review.

It was moved by Mr. Owens, seconded by Mr. Galas and unanimously carried to accept the Criminal Conviction list of misdemeanors.

Deputy Attorney General Tam stated that he will be forwarding a condensed list to the Executive Officer to aid in her review of applications.

b. Definition of "Guard Acting in a Guard Capacity"
(Deferred from the March 14, 2013 meeting)

Deputy Attorney General Tam informed the Board that he could not leave out the words "incidental" and "primary" as requested by the Board. He made other amendments as discussed last month and other non substantive amendments.

The amended definition is as follows:

DEFINITION OF "ACTING IN A GUARD CAPACITY" (ACT 208)

1. 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 shall apply to register with the board . . ."

2. Current definitions of a “guard”

a. HRS section 463-1:

““Guard” means a registered uniformed or nonuniformed person responsible for the safekeeping of a client's properties and persons within contractually prescribed boundaries, and for observation and reporting relative to such safekeeping. “Guard” shall not include any active duty federal, state, or county law enforcement officers or personnel.”

b. HAR section 16-97-2:

““Guard” means a uniformed or nonuniformed person who for compensation, reward, or by employment, is responsible for the safekeeping of a client's person and property within contractually prescribed boundaries, and for observation and reporting relative to the safekeeping of that person or property. This includes companies that respond to alarms by sending out employees or assistants to physically safeguard and secure the premise or property. “Guard” includes individuals, persons, corporations, partnerships, or agencies who provide guard services to associations of apartment owners, provided an employer-employee relationship does not exist between the association of apartment owners and the individual guarding the property. Association of apartment owners means all of the apartment owners acting in accordance with the association's bylaws and declaration.

The term does not include a person employed solely by an employer in connection with the affairs of the employer [**note: this exemption (i.e., the in-house guard) was deleted in HRS section 463-13 by Act 208**]; nor does it include any lawful activity of any board, body, commission, agency, state, territory or possession of the United States, or any political subdivision thereof.”

3. Proposed definition of “Act in a guard capacity”

“Act in a guard capacity” or “acting in a guard capacity” means the performance of safekeeping, observation, and reporting functions by a uniformed or nonuniformed employee for the person’s employer; provided that:

- (1) An employee who performs safekeeping, observation, and reporting functions only incidentally to the employee’s primary job functions and responsibilities shall not be considered to be acting in a guard capacity; and
- (2) The following are examples of such excluded employees:
 - (A) A person stationed at the entrance or exit of a retail or commercial establishment whose function is to verify a customer’s membership with and the accuracy of purchases from the retail or commercial establishment;
 - (B) A parking lot attendant whose responsibility is limited to control the ingress and egress of the parking lot, facility, or structure;

- (C) A person whose responsibility is limited to performing water safety and rescue services at a swimming pool, beach, or other body of water;
- (D) A person whose responsibility is limited to taking tickets from customers at the entrance or exit of an entertainment, recreational, commercial, or sporting event; and
- (E) A residential or commercial property manager who oversees the property owner's agreement with a licensed guard agency or the property owner's guard employees for the provision of guard services to the subject property.

4. Proposed definition of "safekeeping"

"Safekeeping" means protecting property, assets, or persons through a physical presence to detect and deter illegal actions, inappropriate actions, violations of the property's or premise's rules or code of conduct, or unsafe conditions; including but not limited to theft, damage, harm, or risk of injury to such persons or property, as applicable.

"Physical presence" means maintaining a post (e.g., a stationary guard, bouncer, etc.) or patrolling the premises (e.g., physically responding to alarms or incidents on the property, etc.).

Chairperson Inouye stated that "oversees" should be inserted after "or" in 3. (2) (E).

It was moved by Mr. Galas, seconded by Vice Chairperson Chief Yabuta and unanimously carried to adopt the proposed definition of "Act in a guard capacity" as amended

Chairperson Inouye announced he was taking the agenda out of order to address the remaining applications under 4. Applications.

Applications: b. Review for Examination

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

1. Guard

- i. Jeffrey J. Armstrong, Jr. – GD
 Alutiiq Pacific, LLC – GDA
- ii. Carey M. Durden – GD
 Kona Metro Parking & Watchman Service, Inc.
 GDA-824
- iii. Donald Wiggins – GD
 Alii Security Systems, Inc. – GDA-773

c. Guard Instructor

It was moved by It was moved by Vice Chairperson Chief Yabuta, seconded by Mr. Owens and unanimously carried to **approve** the following applications for Guard Instructor for posting to the Board's website:

Brett ARIZUMI
James B. BRUN
Chad K. CAMPBELL
Ernesto A. GAGARIN, JR.
Ananias J. HAWKINS
Robert P. HICKCOX
Harrison W. H. HO
Francis B. G. HUN, III
Kevin D. K. KAMEALOHA
Terrence M.U. KUMAEWA
Shawn J. MCBRIDE
Arthur Y. NISHIDA
Jeremiah A. PAHUKULA, JR.
George M. SAPE
Regis W. SNATCHKO
Yvette P. STALKER
Irvin K. UEMOTO
Kevin K.M. WONG

It was moved by Vice Chairperson Chief Yabuta, seconded by Mr. Owens, and unanimously carried to **approve** the following as Guard Instructor for posting to the Board's website **pending** receipt of documentation to verify a high school education.

Michael D. CHOCK
Kenneth M. CHOY

It was moved by Mr. Galas, seconded by Mr. Owens, and unanimously carried to **defer** the following applications as Guard Instructor for **pending** receipt of additional documentation.

Joseph C. AGUON, JR.
Edward DU BOYCE
Carey M. DURDEN
Martin B. ELLAZAR
Robert S. JENKINS
Newton M. NAKAO
Shawn W.K. PETERSON

d. Guard Employee

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

Reno S. ALAIPALELEI
Floyd EICHENLAUB II
Buckley K. WATSON

It was moved by Mr. Galas, seconded by Mr. Owens and unanimously carried to **defer** the following guard employee application:

Dale MILLER

e. Guard Employee Ratification

It was moved by Mr. Galas, seconded by Mr. Owens, and unanimously carried to **ratify** the approval of the following guard employee applications.

Harold CATHCART
Henry K.S. CHONG
John M.T. DE LIMA
Charles T. LAURICIO
Vincent J. LEDDY
Keith P. NAONE
Roy L. ROSETE

Chairperson Inouye left the meeting at 12:24 p.m. and thanked Mr. Denis for his research and contributions.

Vice Chairperson Chief Yabuta announced he was resuming the order of the agenda.

Act 208 (SLH 2010)
and Any Matters
Relating to its
Implementation:

c. Financial Institutions – Background check

The Executive Officer stated that according to the banking industry, they are able to submit fingerprint requests to the FBI and share the criminal (FBI and State) background check for their guard employees. The FBI check is a mandatory requirement for the guard employee registration and the report the bank submits must be within six months of the application filing date.

Deputy Attorney General Tam stated that the burden is on the bank to prove that the report is equivalent to the reports obtained by Fieldprint.

It was moved by Mr. Galas, seconded by Mr. Akiona, and unanimously carried to exempt bank guard employees from using Fieldprint for FBI criminal history check provided a current .(within 6 months of the application filing date) FBI report is submitted to the Board.

d. Ad Hoc Committee Report – Ray Galas, Chairperson

Mr. Galas reported that the committee will discuss the topics to be added to the 7/1/14 – 6/30/16 CE curriculum at the next Ad Hoc Committee meeting.

The Hawaii Employers Council has been invited to attend the next meeting to provide more outreach to affected stakeholders.

e. Email request asking “How long a criminal history report on a guard employee considered current?”

The Board reviewed the email inquiry from Mr. Denis and confirmed the prior discussion that a criminal history record shall be considered current if it is submitted within six months of the application filing date.

f. Curriculum Approvals

- 1) Guardsmark, LLC Course Curricula
- 2) NAH Security Services, Inc. Security Guard Training Curricula
- 3) Palladium Online Security Training Center & Palladium Education, Inc. State of Hawaii Security Guard Certification Training Program
- 4) Walmart Training Curricula

After some discussion it was moved by Mr. Galas, seconded by Mr. Owens and unanimously carried to amend the Board's approved 8 hour curricula to delete “implied arrest” as a subtopic. The Board discussed that it invoked more questions and uncertainty and therefore warranted its removal.

The Board determined that it will be up to the curriculum provider to inform their instructors of the change to the curriculum. There is no problem if they leave it in, but it will no longer be required. The Board discussed the time required for curricula review and that the review is very time consuming. The time for review at Board meetings is insufficient and therefore the Board established the Applications and Curriculum Review Committee. The responsibility of the committee is to review applications for examination or approval subject to Board ratification prior to licensure, approve an application which was previously reviewed

by the Board and approved pending the ARC review of additional information, review and approve training curriculum subject to Board ratification, approve a curriculum which was previously reviewed by the Board and approve pending the CRM review of additional information. The concurrence of two members shall constitute the authority to allow the applicant to sit for the examination, or to make a final determination of the sufficiency of documentation or additional information; provided that if two members do not concur, the application or curriculum would be deferred for review by the full Board.

After some discussion, it was moved by Mr. Galas, seconded by Mr. Owens and unanimously carried to defer review of the curriculums submitted for approval to the Curriculum Review Committee subject to ratification by the Board at the next Board meeting.

It was moved by Vice Chairperson Chief Yabuta, seconded by Mr. Galas, and unanimously carried to appoint Ray Galas, Jeffrey Owens and Ed Akiona to the Application and Curriculum Review Committee.

g. Email request from Transcend, Inc.

Mr. Owens asked the Board to remove from the website his connection to Solutions 4 Security because he has never conducted any class using the Solutions 4 Security curricula.

The Executive Officer informed Mr. Owens that the website will be amended according to his request.

Executive Officer's
Report:

a. Law Enforcement Agencies

The Executive Officer provided the Board with a list of agencies the Board has determined are law enforcement agencies and job classifications the Board has determined are exempt from the registration requirements of Act 208. The list also notes the Board Meeting date at which the determination was made.

b. Warren Ferreira

The Executive Officer informed the Board of Warren Ferreira's passing. Mr. Ferreira served on the Board since July 1, 2003 and as its Chairperson from July 2004. He was a diligent and contributing member, an effective leader who facilitated discussions and efficiently conducted meetings. He was also responsible for updating the antiquated guard and detective examinations and the Board's rules. He touched the lives of many

and will be sorely missed. The Executive Officer will send a
condolence letter from the Board to the Ferreira ohana.

Next Meeting: Thursday May 9, 2013
Queen Liliuokalani Conference Room
King Kalakaua Building
335 Merchant Street, First Floor
Honolulu, Hawaii 96813

Adjournment: There being no further business to discuss the meeting adjourned at
12:50 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

5/3/13

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