

**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, May 9, 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  
Darryl Perry, Chief of Police, County of Kauai  
Ray Galas, Public Member  
Edward Akiona, Industry Member  
Rodney J. Tam, Deputy Attorney General  
Charlene L.K. Tamanaha, Executive Officer  
Christine Hironaka, Secretary

Excused: None

Guests: Michael Story – Hawaii Tourism Authority (“HTA”)  
Robert Jenkins – Andrews International  
Kelvin Ogata – Pacific Regional Disaster Preparedness Center  
 (“PRDPC”)  
Jessica Stratford – PRDPC  
Mark Behrens – Department of Education (“DOE”)  
Noe Noe Tom – DOE

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 10:48 a.m. by Chairperson Inouye.

Additions to  
Or Deletions  
From the Agenda:

It was moved by Mr. Galas, seconded by Chief Perry, and unanimously carried to add the following to the agenda:

4. Applications
  - a. Guard Instructor  
  
BLUME, Troy D.

CAIRES, Gordon L.  
KAMEALOHA, JR., Morris K.  
LONG, Bradford K.  
LUIS, Paul T.  
TILLOTSON, JR., Joseph  
TOMINAGA, Paul Y.

c. Guard Employees

AGLIAM, Thomas B.  
AGUON, JR., Joseph C.  
AMBLER, Russell E.  
AMORAL, JR., William H.  
ANCOG, JR., Anthony W.  
CARROLL, John C.  
CONLEY, Roberta B.  
GABRIEL, Waylane K. N.  
ISHIZUKA, Gerald J.  
KAWA'A, Likeke L.  
KHAMIS, Sonny K.  
MIGITA, Ross K.  
MILLER, Dale – deferred 4/11/13 meeting  
PACHECO, Dennis T.

6. Act 208 (SLH 2010) and Any Matters Relating to its implementation.

b. Curriculum Review Committee

6) Pacific Regional Disaster Preparedness Center  
Curricula

d. Email requesting determination if Convention Services Attendant/Traffic control and Contract Convention Services Officer positions are subject to the requirements of Act 208.

e. List of Criminal Offenses that would not disqualify an applicant to register as a guard under Act 208 (SLH 2010).

f. Email regarding Department of Education, School Security Attendant and Act 208.

g. Securitas Criminal Background Checks.

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 April 11, 2013 meeting as circulated.

Applications:

a. Guard Instructor

It was moved by It was moved by Mr. Galas, seconded by Vice Chairperson Yabuta and unanimously carried to **approve** the

following applications for Guard Instructor for posting to the Board's website:

Troy D. BLUME  
Gordon L. CAIRES  
Robert S. JENKINS  
Morris K. KAMEALOHA, JR.  
Bradford K. LONG  
Paul T. LUIS  
Sheldon SUZUKI  
Joseph TILLOTSON, JR.

It was moved by It was moved by Mr. Galas, seconded by Vice Chairperson Yabuta and unanimously carried to **approve** the following application for Guard Instructor **pending** receipt of law enforcement experience verification:

Gerard MAHI

It was moved by Chief Perry, seconded by Vice Chairperson Yabuta, and unanimously carried to **defer** the following applications as Guard Instructor **pending** receipt of additional documentation.

Joseph C. AGUON, JR.  
Paul Y. TOMINAGA

b. Guard Instructor Ratification

It was moved by Chief Perry, seconded by Vice Chairperson Yabuta, and unanimously carried to **ratify** the approval of the following Guard Instructors and dates of approval:

Richard P. CANN – 4/30/13  
Morton A. CARTER – 4/30/13  
Frank COMMENDADOR, JR. – 4/30/13  
Randle W. CROWE – 5/8/13  
Martin B. ELLAZAR – 4/30/13  
Robert K. KAAUA, SR. – 4/30/13  
Lorraine KEOPUHIWA – 4/30/13  
Anthony T. LEIATO – 4/30/13  
Newton M. NAKAO – 4/30/13  
Stanley N. OKAMOTO – 4/30/13  
Shawn W. K. PETERSON – 4/30/13  
Tom C. POY – 5/8/13  
Samuel RODRIGUEZ, JR. – 4/30/13  
James N. SANBORN – 4/23/13  
Michael C. YOUNG – 4/23/13

c. Guard Employee

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

Thomas B. AGLIAM  
Russell E. AMBLER  
William H. AMORAL, JR.  
Anthony W. ANCOG, JR.  
John C. CARROLL  
Roberta B. CONLEY  
Waylane K. N. GABRIEL  
Gerald J. ISHIZUKA  
Likeke L. KAWA'A  
Sonny K. KHAMIS  
Ross K. MIGITA  
Dale MILLER – deferred 4/11/13 meeting  
Dennis T. PACHECO  
Afa V. PALEPALE

It was moved by Chief Perry, seconded by Vice Chairperson Yabuta and unanimously carried to **defer** the following guard employee applications:

Joseph C. AGUON, JR.  
George RIVERA

Examination:

a. Review & Report

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

Security Guard Exam (administered April 19, 2013)

Exams Administered	3
Successful	0
Unsuccessful	3

Private Detective Exam (administered April 19, 2013)

Exams Administered	2
Successful	0
Unsuccessful	2

Chairperson Inouye asked the guests to introduce themselves and to inform the Board of the reason they are attending the meeting.

- Mr. Jenkins requested the Board accept his apology for his behavior at the last meeting. He understands that the Board was merely requesting documentation, however he was anxious because of the July 1, 2013 deadline.
- Mr. Ogata and Ms. Stratford stated that they were in attendance for the Board's review of the PRDPC Curricula.
- Mr. Story was in attendance for the Board's response to his email inquiry as to whether volunteer guard positions are subject to Act 208.
- Mr. Behrens and Ms. Tom were in attendance to provide more information regarding the email inquiry regarding DOE School Security Attendants and Act 208.

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

**Chairperson Inouye announced he was taking the agenda out of order to address PRDPC Curricula and emails requesting determination if volunteer guard positions are subject to Act 208 and to discuss DOE School Security Attendants.**

b. Curriculum Review Committee

6) Pacific Regional Disaster Preparedness Center Curricula

Executive Session: It was moved by Vice Chairperson Chief Yabuta, 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 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 11:00 a.m.

**EXECUTIVE SESSION**

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

It was moved by Mr. Galas, seconded by Mr. Akiona, and unanimously carried to defer the PRDPC curricula pending receipt of lesson plans, training manual or printed PowerPoint presentation which shall include a narrative of what students will be taught and a description of topic discussions. It should not just restate the statute or rule and that the minimum time allotments and duration of topic discussions meet those set forth in the Board's approved curricula.

c. Email requesting determination if volunteer guard positions are subject to Act 208.

Mr. Mike Story stated that the HTA depends on volunteers to help guard the "transition area" and "aid station" for the Iron Man and other sporting events and festivals and asked "How will the definition of a guard affect these events and will volunteers be required to incur extra expenses for the guard registration?"

The Executive Officer informed Mr. Story that it is the Board's charge to make informal non-binding decisions based on the Board's statute or rule. It is non-binding because the Board makes a determination only upon the information and documentation provided by the inquirer. Deputy Attorney General Tam requested more information on the job titles stated in Mr. Story's email. The Executive Officer suggested Mr. Story look at the definition to determine if the volunteers are acting in a guard capacity.

Chief Yabuta asked "what is the definition of a volunteer?" Mr. Story responded that it is a "function performed by a person not compensated in kind or cash."

After some discussion, Deputy Attorney General Tam stated that Chapter 463-10.5 (a) states:

"Effective July 1, 2013, 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, ...."

Therefore the Board determined that based upon the language of the statute above, volunteers are **not** employed and hence **not** subject to Act 208.

f. Email regarding Department of Education School Security Attendant, and Act 208.

Mr. Behrens from the Department of Education ("DOE") informed the Board that the DOE's position is that School Security Attendant are not subject to Act 208 because they do not function as a regular guard. They are responsible to provide practical assistance to students, teachers, and staff. The "use of force" policy is to be physically present, safekeeping is done incidentally and reports to authorities are filed by the Vice Principal. "School Resource Officers" perform the same functions in middle and high schools on the neighbor islands. Mr. Behrens added that the attendants and teachers already go through a more superior training.

Vice Chairperson Yabuta commented that the job description presented by Mr. Behrens appears to fall within the definition of "acting in a guard capacity" and the type of training provided school Security Attendants appears to verify that the employees are acting in a guard capacity. Mr. Behrens responded that there currently is no pool for substitute security attendants and no funding for registration fees. The security attendants are among the lowest paid DOE employees. Vice Chairperson Yabuta responded that even though funding is a concern, the DOE should be cognizant about liability and felt the DOE should be embracing the notion of standardized training and registration. Deputy Attorney General Tam stated that the security attendant's job description appears to fall within Act 208; however, the teachers will perform these duties incidentally and therefore do not appear to fall within the definition of a guard or acting in a guard capacity. Chairperson Inouye suggested that should the DOE want a clear exemption, the DOE must approach the legislature for an exclusion to Chapter 463-10.5.

Ms. Tom informed the Board that the DOE considered the School Security Attendants duties were incidental and that this presentation was for corroboration of the DOE's position that the employees are exempt and to advise the Board of the training program provided Security Attendants.

After further discussion and review of the position description, it was the consensus of the Board that it could not corroborate the DOE's position that School Security Attendants are exempt from the requirements of Act 208.

The Executive Officer stated that if the DOE can share the FBI and State background checks received from the FBI and State, the Board would accept it and not require fingerprinting through Fieldprint since the DOE has its own fingerprinting machines and has the authority to receive FBI reports. Mr. Behrens responded that he would have to check with the DOE if confidential information can be shared and submitted with the applications.

Vice Chairperson Yabuta suggested that the DOE should submit their curriculum to the Board for approval and if approved, will allow the DOE to provide in-house training. The Executive Officer suggested that the DOE can purchase an approved curriculum from the Honolulu Community College but must have an approved instructor teach the course.

**Chairperson Inouye announced he was resuming the order of the agenda.**

a. Acting in a Guard Capacity - Definition

Deputy Attorney General Tam submitted the following definition for the Board to review:

**DRAFT**  
May 8, 2013

**“ACTING IN A GUARD CAPACITY” (ACT 208)**

The following are the latest draft definitions of “acting in a guard capacity”, “safekeeping”, and “physical presence” that the Board of Private Detectives and Guards approved at its April 11, 2013 meeting:

1. “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 oversees the property owner’s guard employees, for the provision of guard services to the subject property.
2. “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.
3. “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.).

It was moved by Mr. Galas, seconded by Vice Chairperson Yabuta, and unanimously carried to adopt the definition of “Acting



in a Guard Capacity” as circulated to be posted to the Board’s website.

b. Curriculum Review Committee

The Executive Officer may contact members of the committee to meet before the meeting to recommend approval or deferral to the Board.

1) Guardsmark, LLC Course Curricula

It was moved by Chief Perry, seconded by Vice Chairperson Yabuta, and unanimously carried to defer the approval of the Guardsmark, LLC course curricula pending the following:

- Required time allotments for topic discussion shall be provided and meet the Board’s minimum requirements.
- Submit the lesson plans, training manual or printed PowerPoint presentation which shall include a narrative of what students will be taught and a description of topic discussions. It should not just restate the statute or rule. Verify that the minimum time allotments and duration of topic discussions meet those set forth in the Board’s approved curricula.

2) NAH Security Services, Inc. Security Guard Training Curricula

It was moved by Chief Perry, seconded by Vice Chairperson Yabuta, and unanimously carried to defer the approval of the NAH Security Services, Inc. Security Guard Training Curricula pending the following:

- Verify that the minimum time allotments and duration of topic discussions meet those set forth in the Board’s approved curriculum.
- Review the content information notes in the discussion regarding Laws of Arrest and Use of Force as some of the information is incorrect.
- The mandatory eight (8) hour training required by Act 208 shall be universally applicable to all areas of security and should not be site specific. Site specific discussions may be added beyond the eight (8) hour mandatory program but it should not be included in the 8 hours.

3) Palladium Online Security Training Center & Palladium Education, Inc. State of Hawaii Security Guard Certification Training Program

It was moved by Chief Perry, seconded by Vice Chairperson Yabuta, and unanimously carried to defer the approval of the Palladium Online Security Training Center & Palladium Education, Inc. State of Hawaii Security Guard Certification Training Program pending the following:

- Submit lesson plans, training manual or printed PowerPoint presentation which shall include a narrative of what students will be taught and a description of topic discussions. It should not just restate the statute or rule. Verify that the minimum time allotments and duration of topic discussions meet those set forth in the Board's approved curricula.
- Act 208 requires "classroom" training. Provide verification that the online program is a web-based distance learning format with instructor-student interaction facilitated in real-time by a Board approved instructor.

4) Walmart Training Curricula

It was moved by Chief Perry, seconded by Vice Chairperson Yabuta, and unanimously carried to defer the approval of the Walmart Training Curricula pending the following:

- Submit lesson plans, training manual or printed PowerPoint presentation which shall include a narrative of what students will be taught and a description of topic discussions. It should not just restate the statute or rule. Verify that the minimum time allotments and duration of topic discussions meet those set forth in the Board's approved curricula.
- The mandatory eight (8) hour training required by Act 208 shall be universally applicable to all areas of security and should not be site specific. Site specific discussions may be added beyond the eight hour mandatory program but it should not be included in the eight hours.

5) University of Phoenix Act 208 Course Design Guide

It was moved by Mr. Galas, seconded by Vice Chairperson Yabuta, and unanimously carried to approve the University of Phoenix Act 208 Course Design Guide and to amend the agenda to remove 100% online as the course will not be taught online.

b. Ad Hoc Committee Report – Ray Galas, Chairperson

Mr. Galas submitted the following draft of the 4-hour continuing education requirement for Act 208 from the Curricula Review Committee

**DRAFT**  
**BOARD PRIVATE DETECTIVES AND GUARDS**  
**CONTINUING EDUCATION FOR ACT 208 (SLH 2010)**  
**(4 Hours min.)**

<u>Section Component</u>	<u>Minutes</u>
<b>INTRO</b> Program Introduction: Act 208 HRS.....	15
1. Professional Image and Aloha Training 30	30
2. Active Shooter .....	30
a. Profile of an Active Shooter	
b. Response: Active Shooter in Vicinity	
c. Response: When Law Enforcement Arrives	
d. Response: Managing Consequences of Active Shooter	
3. Workplace Violence .....	45
a. Recognizing Potential Workplace Violence	
b. Indicators of Dangerous Behavior	
c. Proactive Response and Notification of Management	
4. Fire Safety .....	30
b. Fire: causes, prevention, response	
c. Different Types of Fire & Type of Fire Extinguishers	
d. Basic Evacuation Procedures	
5. Bloodborne Pathogen Exposure Awareness: .....	30
a. Required OSHA Training for First Responders	
b. Various Diseases, Fluids, Routes of Transmission	
c. Exposure Prevention Methods	
d. Proper Personal Protective Equipment	
e. Disease/Vaccination Info: HIV, Hepatitis B, Hepatitis C	
6. Professional Ethics: State Ethics Code, Chapter 84, HRS.....	30
a. Definitions, Checklist, Resources:	
b. Two Page Definitions and Checklist: <a href="http://hawaii.gov/ethics/pubs_guides/ethics_checklist.pdf">http://hawaii.gov/ethics/pubs_guides/ethics_checklist.pdf</a>	
c. Resource and Reference: <a href="http://www.state.hi.us/ethics">www.state.hi.us/ethics</a> Phone: (808) 587-0460, Email: <a href="mailto:ethics@hawaiiethics.org">ethics@hawaiiethics.org</a>	

- 7. Liability (Section for DEP AG RT Review/Input) ..... 30
  - a. Lawsuits, Claims
  - b. Intentional Common Law Tort
  - c. Common Law Negligence Claims
  - d. Civil Rights Violations Claims
  - e. Liability Insurance

**EXAM**

**Wrap up**

- d. Email requesting determination if Convention Services Attendant/Traffic Control and Contract Convention Services Officer positions are subject to requirements of Act 208.

The Board reviewed the email from Sean Knox and after some discussion, the Board determined that the Convention Services Attendant/Traffic Control is not subject to the requirements of Act 208; however, the Contract Convention Services Officer is subject to the requirements of Act 208 based on the information submitted.

- e. List of Criminal Offenses that would not disqualify an applicant to register as a guard under Act 208 (SLH 2010).

Deputy Attorney General Tam submitted a condensed list of criminal offenses for which the Board has delegated the Executive Officer to approve.

It was moved by Mr. Galas, seconded by Vice Chairperson Yabuta, and unanimously carried to approve the List of Criminal Offenses that would not disqualify an applicant to register as a guard under Act 208 (SLH 2010) with the removal of offenses against Public Health and Morals, HRS Chapter 712 from the list and delegating the Executive Officer to approve guard employee applications with not more than one conviction per offense from the list.

The Board commended Deputy Attorney General Tam for a job well done on finalizing the List of Criminal Offenses that would not disqualify an applicant to register as a guard under Act 208 (SLH 2010).

- g. Securitas Criminal Background Checks

Mr. Denis requested the Board's approval to accept the Securitas documents for its employees working at the airports in lieu of the Fieldprint documents from the Hawaii Criminal Justice Data Center ("HCJDC") and the Federal Bureau of Investigation ("FBI"). The Securitas documents are similar to the Bank of Hawaii

criminal history check documents that meet or exceed the background checks required in Act 208. The FBI background checks will be performed at the airports and the HCJDC checks will be obtained from ECRIM. Mr. Denis also stated that the Board's approval of the documents will avoid duplication of process and expense to the employees who remain to be trained and registered since the airports contract requires periodic FBI criminal history checks conducted on all airport contract employees.

The Board reviewed the sample documents provided by Mr. Denis and found that the "ECRIM" report does not include the FBI report which was also confirmed with the HCJDC. The Board can only accept documents from the FBI.

Chairperson Inouye appointed Jeffrey Owens to the Ad Hoc Committee.

Chairperson Inouye asked for a minute of silence in remembrance of former Chairperson Warren Ferreira.

Next Meeting: Thursday June 20, 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 1:15 p.m.

Reviewed and approved by:

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

Taken by:

/s/ Christine Hironaka  
Christine Hironaka  
Secretary

6/7/13

- [ X ] Minutes approved as is.  
[ ] Minutes approved with changes; see minutes of \_\_\_\_\_.