

SUNSET EVALUATION UPDATE
PRIVATE INVESTIGATORS AND GUARDS
Chapter 463, Hawaii Revised Statutes

A Report to the Governor and the Legislature of the State of Hawaii

Submitted by the
Legislative Auditor of the State of Hawaii
Honolulu, Hawaii

Report No. 87-7
January 1987

FOREWORD

Under the "Sunset Law," licensing boards and commissions and regulated programs are terminated at specific times unless they are reestablished by the Legislature. Hawaii's Sunset Law, or the Hawaii Regulatory Licensing Reform Act of 1977, scheduled for termination 38 licensing programs over a six-year period. These programs are repealed unless they are specifically reestablished by the Legislature. In 1979, the Legislature assigned the Office of the Legislative Auditor responsibility for evaluating each program prior to its repeal.

This report evaluates the regulation of private investigators and guards under Chapter 463, Hawaii Revised Statutes. It presents our findings as to whether the program complies with the Sunset Law and whether there is a reasonable need to regulate private investigators and guards to protect public health, safety, or welfare. It includes our recommendation on whether the program should be continued, modified, or repealed. In accordance with Act 136, SLH 1986, draft legislation intended to improve the regulatory program is incorporated in this report as Appendix B.

We acknowledge the cooperation and assistance extended to our staff by the Board of Private Detectives and Guards, the Department of Commerce and Consumer Affairs, and other officials contacted during the course of our examination. We also appreciate the assistance of the Legislative Reference Bureau which drafted the recommended legislation.

Clinton T. Tanimura
Legislative Auditor
State of Hawaii

January 1987

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Sunset Evaluation Update
PRIVATE INVESTIGATORS AND GUARDS

This report evaluates the regulation of private investigators and guards under Chapter 463, Hawaii Revised Statutes, to determine whether the public interest is best served by the reenactment, modification, or repeal of Chapter 463. An evaluation of the regulation of private investigators and guards was conducted previously by our office in January 1980. Our findings and recommendations were presented in a sunset evaluation report which was submitted to the Legislature.¹ This update summarizes the information contained in the 1980 report, notes the developments since 1980, and presents our current findings and recommendations.

**Background on the Regulation of
Private Investigators and Guards**

Under Chapter 463, an "investigator" or "detective" (the terms are used interchangeably) is defined as a "licensed person qualified to obtain information and evidence not readily or publicly accessible." A "guard" is defined as a "licensed uniformed or nonuniformed person responsible for the safekeeping by the licensed person's presence of a client's properties and persons within contractually prescribed boundaries, and for observation and reporting relative to such safekeeping."

1. Hawaii, Legislative Auditor, *Sunset Evaluation Report, Private Investigators and Guards, Chapter 463, Hawaii Revised Statutes*, Report No. 80-8, Honolulu, February 1980.

No person or firm is allowed to engage in the business of a detective or guard or to furnish or advertise such services without a license. However, persons employed by the licensed detective or guard need not be licensed. The licensee is held responsible for the licensee's employees. Also excluded from licensing are those who are directly employed by companies as security personnel.

The foregoing means that the most visible and numerous people in the occupation, those who are guards in locations like hotels and condominiums, shopping centers, and other places of business, are not licensed, although their employers would need to be licensed if they are in the business of providing contract guard services.

Although employees of licensed detectives and guards need not be licensed, Chapter 463 stipulates certain qualifications for them: (1) they must have an eighth grade education or its equivalent; (2) they must not have been convicted of a crime (not annulled or expunged) which reflects unfavorably on the fitness to engage in the occupation; and (3) they must disclose whether they have received treatment for any psychiatric or psychological disorder or whether such treatment has ever been recommended. Those seeking to be licensed as guards and detectives must have a high school or equivalent education, be not less than 22 years old, and have four years of experience. In addition, they must not have been convicted of a crime reflecting on their fitness, and they must disclose information on psychiatric or psychological treatment.

According to the records of the Department of Commerce and Consumer Affairs (DCCA), there were 168 licenses under Chapter 463 as of March 1986. These 168 licenses included: 51 guard licenses of individuals and principals; 31 guard agency licenses; 67 detective licenses; and 19 detective agency licenses. In

comparison, there are an estimated 3000 employees in the security industry in Hawaii.

The licensing of detectives and guards is regulated by a seven-member board comprised of two chiefs of police, two private citizens not connected with guard or detective work, one licensed guard, one licensed detective, and the Director of DCCA (as an ex officio nonvoting member) who is usually represented by the board's executive secretary.

The board has the general authority to adopt rules relating to qualifications for the licensing of private detectives and guards, the conduct and operation of the businesses which are licensed, and revocation and suspension of licenses.

Other regulatory provisions of Chapter 463 prohibit licensed persons or their employees from wearing any badge or uniform capable of being associated with the badge or uniform of any government law enforcement agency and the requirement to post a surety bond of not less than \$5000. The latter requirement relating to a bond is subject to change under Act 140, SLH 1986. The act provides generally that when any type of bond or insurance required under a regulatory program run by DCCA or one of its boards cannot reasonably be secured, the department or board can provide by rule for an alternative type of security.

Findings and Recommendations of the 1980 Sunset Evaluation Report

Our evaluation of the regulation of detectives and guards in 1980 presented the following basic finding:

"There is little evidence that regulation is needed. Consumers of the industry's services and the industry itself appear to provide a self check against abuse of authority and dishonest practices. There appears to be little relationship between the licensing requirements and protection of the public health, safety, or welfare."

In our report, we acknowledged that since the basic function or service of a guard or detective is to protect the assets, property, or rights of others, the public is exposed to the possible danger of abuse. However, we also noted that businesses and government agencies are the primary purchasers of protective services, and these entities have a very direct interest in ensuring that the services they purchase do not result in abuse lest they expose themselves to liability. Consequently, it is necessary for those contracting for protective services to select their guard or detective agency with great care. Operating in a highly competitive field, firms providing detectives and guards likewise have a self-interest in preventing abuse of authority and dishonest practices or any actions which might be harmful to their business.

We saw no relationship between the licensing of guards and detectives and the skills required in guard and investigative work. Those required to be licensed (owners and principals of guard and detective agencies and sole practitioners) were merely required to have four years of experience and pass a 28-question, true or false examination which focused on the statute and the board's rules.

We concluded that the statute regulating detectives and guards should be allowed to expire.

Subsequent Developments

In the 1980 legislative sunset hearings, the continuance of regulation received strong support from detective and guard agencies, police departments, and

businesses which use contract guard services. Generally, the arguments for regulation revolved around the need to protect the public from unscrupulous and "fly-by-night" operators. It was also argued that there was a need to protect clients from potential abuses by private investigators. The basic contention was that without regulation, the gates would be opened to unlawful and unethical practices.

The Legislature enacted Act 158, SLH 1980, which continued Chapter 463 in the same form. In recommending reenactment, the House Committee on Consumer Protection and Commerce expressed the view that the low level of complaints concerning abuses was due in part to regulation, and it felt that the public should continue to be protected from the potential abuses that could arise out of "client/investigator relationships."²

In 1983, Act 40 amended the statute to require, as noted earlier in this report, that licensing applicants (and the employees of licensees) "shall not have been convicted in any jurisdiction of a crime which reflects unfavorably on the fitness of the employee to engage in the profession, provided there has not been any order annulling or expunging the sentence." The same act required licensing applicants (and the employees of licensees) to disclose whether they have received treatment for any "psychiatric or psychological disorder" or whether such treatment has ever been recommended.

Early in 1986, the Board of Private Detectives and Guards adopted new rules. Included in the rules are the grounds for denying, suspending, and revoking licenses. These grounds include dishonest activity, unfair or deceptive acts, abandonment of a

2. House Standing Committee Report No. 510-80 on House Bill No. 2322-80, Tenth Legislature, 1980, State of Hawaii.

contract without a reasonable excuse, misappropriation of a client's property or funds, conviction of a crime reflecting unfavorably on one's profession, failing to keep proper records, false advertising, use of unlicensed agencies, impersonation of a police officer, failure to maintain a surety bond, and misrepresentation in obtaining a license or in registering employees.³

Current Findings and Recommendations

Summary of findings. Our latest evaluation of the licensing of private investigators and guards has resulted in the following findings:

1. There is a need for some form of regulation of the business of private detectives and guards, but the present form of licensing is misguided.

2. Current regulation focuses more on competency than on licensing provisions that would screen out potentially unscrupulous operators and prohibit unethical business practices.

Need for regulation. In Section 463-3, HRS, the Legislature has declared that "it is the policy of this State to protect the general public from unlawful and unethical conduct and operation of the business of private detectives and guards." There are two elements of this declaration of policy which have a direct bearing on what is to be regulated and for what particular purpose. The first element of the policy is that the *subject* of regulation is the *business* of private detectives and guards. The second element is that the *purpose* of regulation is to protect the public from *unlawful and unethical conduct* by people in the detective and guard business.

3. Section 16-97-46, Hawaii Administrative Rules.

The need for regulation as well as the form of regulation should be assessed in the context of the foregoing legislative policy.

While there is no evidence to indicate that unlawful and unethical practice pervades the detective and guard industry, we acknowledge the views of the many parties who expressed in the 1980 legislative hearings and who expressed to us during the course of our current evaluation that there is a real *potential* for abuse and unscrupulous practice in this industry. We also acknowledge that if abuse and unscrupulous practice does occur, there could be substantial harm to the public. Therefore, we find that some form of regulation is needed.

However, our current evaluation leads us to conclude that recent developments and considerations of new proposals for regulation are pushing this regulatory program in a direction which may be unintended by legislative policy and which may lead only to complications and counterproductive results.

The usual purpose of licensing a particular occupation is to provide the public with some assurance of competency of the practitioners in the occupation. However, this should not be the focus with respect to detectives and guards. Where the scope of work is so wide ranging, where there are no standards for competency and no valid methods to measure or assess competency, the State cannot provide any assurance of competency. Therefore, licensing cannot be for the purpose of assuring competency.

The Legislature has recognized the reality of the foregoing situation in its avoidance of involving the State in the licensing of the employees of licensed guard and detective agencies. It has chosen instead to leave it up to employers, those who have in-house security personnel as well as those who provide investigative and guard services to others, to judge the trustworthiness and competency of their own

employees. We believe that this is a wise policy that should be continued. Additional licensing would be costly and complicated, and its validity and benefits would be questionable. It would also result in the State's vast exposure to liability.

Regulation, then, should focus on regulating *businesses*, whether they are local companies or branches of national concerns or sole practitioners. The focus on business is necessary because the vast majority of those who actually carry out the duties of private investigators and guards are not licensed. They are the employees of licensees. As noted earlier, it is estimated that there are some 3000 employees in the security industry in Hawaii but only a total of 168 licensees. The industry is noted for a high level of turnover in these employees with many of them being transients in the State. The licensees who employ these security personnel must remain responsible for those they hire.

This perspective would make it unnecessary for the State to be involved in such recent developments as requiring licensing applicants to divulge whether they have ever been treated for any psychiatric or psychological disorder or whether they have ever been recommended for treatment. As we discuss in the subsequent section, this type of requirement is questionable, misleading, and leads nowhere. It would also be unnecessary to try to construct examinations to test for competency or as discussed by some in the industry, to have the State establish mandatory training requirements.

These recent developments and proposals are earnest but mistaken efforts to involve the State in assessing individual competency. For reasons that we have already stated, we caution that the State should not cross the line which separates licensing to prevent unlawful and unethical practices from licensing to assure competency. Regulation should focus on guards and detectives as business entities.

To do this would require substantial changes to the current form of regulation, as we discuss in the following section.

Form of regulation. There must be a clear and reasonable relationship between the kind of protection the State seeks to provide to the public and the form of regulation. For example, if the potential harm is the likelihood of fraud, then regulatory provisions should be directed towards minimizing the possibility of fraud.

In the present instance, the State's policy is to protect the public from unlawful and unethical conduct by those who engage in the business of private detectives and guards. Consequently, the form of regulation should be directed towards ensuring lawful and ethical conduct. We believe that what is needed is a strong *business practice statute* with licensing provisions that would screen out the potentially unscrupulous fly-by-night operators. The statute should also have clear grounds for suspension and revocation of licenses and penalties for prohibited practices.

Some of these provisions are already present in Chapter 463. Others, such as the bonding requirement, need to be strengthened. However, Chapter 463 also contains provisions which are ineffective and counterproductive. These should be deleted.

In the following sections, we identify some of the specific statute and rule changes that should be made in regulating private detectives and guards.

Current licensing requirements. Currently, to become licensed as private detectives or guards, applicants must satisfy the following conditions:

- . be not less than 22 years old;
- . have a high school education or its equivalent;

- . disclose treatment for any psychiatric or psychological disorder;
- . have not been convicted of any crime that reflects unfavorably on the applicant's fitness to engage in the profession;
- . have four years of experience as a private detective or guard as appropriate;
- . pass a written examination;
- . pass an oral examination;
- . provide three letters of reference attesting to the applicant's competence, trustworthiness, and fairness; and
- . maintain a bond of \$5000.

Provisions that should be removed. Several of the above requirements are unrelated to the purpose of ensuring lawful and ethical behavior and should be removed.

Psychiatric clearance. In 1983, Act 40 sought to strengthen the regulation of private detectives and guards by amending Chapter 463 in several ways. This included requiring applicants to disclose whether they have received treatment for any psychiatric or psychological disorder or whether any treatment has been recommended.

Section 16-97-38 of the board's rules amplify this requirement by requiring applicants to provide the board with:

- . a signed medical release which authorizes the board to check into the applicant's psychiatric or psychological background;
- . the names of two personal physicians or psychologists that have seen the applicant within the past five years;

- . any information about the applicant's treatment for any psychiatric disorder; and
- . information on any treatment that was recommended but not completed.

In order to implement this requirement, a draft medical statement questionnaire was developed for psychologists and psychiatrists to disclose whether the applicant had been under treatment and the type of disorder being treated.

The department and the board sought the advice of both the Board of Medical Examiners and the Board of Psychology on the questionnaire. The Board of Medical Examiners stated that the matter was not within the scope of its responsibility and referred the matter to the Board of Psychology. The Board of Psychology reviewed the matter and found the proposed questionnaire to be inappropriate because there was no evidence that anyone receiving psychiatric or psychological treatment would be more susceptible to committing a crime than someone who had never undergone treatment.

Currently, this requirement is being met by simply asking applicants in the application form whether they have ever received treatment for any psychiatric or psychological disorder. This question serves little purpose as the board has no guidelines on what kinds of disorders it would consider as sufficient grounds for denial of a license.

The requirement for a psychiatric or psychological clearance has been counterproductive. The question of how to implement this provision has taken a great deal of staff and board time. It is highly questionable that any action can be taken to deny a license if an applicant has received psychiatric or psychological treatment or if treatment has been recommended. As the Board of Psychology

noted, it is also questionable that there is any relationship between treatment and unlawful and unethical behavior. It represents a gross invasion of privacy. This requirement should be removed.

Written examination. Applicants are required to pass a written examination. The examination which was given in the past was locally developed and of questionable validity and reliability. It was also outdated. The test was not given on a regularly scheduled basis because of the lack of applicants. Currently, the department has contracted with a national testing firm to develop a test for private detectives and guards. The first test is expected to be given sometime in 1987.

We find that the examination serves little purpose in screening applicants for lawful behavior. The examination provides little assurance that those who pass the test will perform lawfully and ethically in their businesses. The examination is intended to test applicants for competency. This is not the purpose of regulation. In addition, the field of private detectives and guards covers such a wide range of activity that such a test can only be of limited value. The written examination requirement should be eliminated.

Oral interviews. Section 16-97-26 of the board's rules requires applicants for a private detective or guard license to take and pass an examination and "personally appear before the board for an oral review concerning the applicant's application. Based upon the oral review and other information which is before the board, the board may grant or deny the application for license."

It is not clear what function is served by the oral interview. This requirement subjects applicants to an unstandardized examination situation and allows the board

too much discretion to make decisions on licensure based on subjective value judgments. Applicants should not be subjected to any type of procedure which may be questioned later as discriminatory, arbitrary, or subjective.

Good moral character. The statute requires applicants to have affidavits of three reputable citizens of the State residing in the locality in which the applicant proposes to conduct business stating that the applicant is a person of good moral character.

This requirement is satisfied by a DCCA form which asks the applicant's character reference to sign a notarized statement that the applicant "is competent, trustworthy, and fair." Since there are no criteria on who may attest to these characteristics, other than the fact that they are not related to the applicant, the statement is worthless. In addition, competency, trustworthiness, and fairness are not verifiable qualities and have different meanings for different people.

Additional requirements on demand. Section 16-96-26(f) of the board's rules allows the board to approve an application subject to requirements that the applicant must meet before a license is issued. In effect, this allows the board to require the applicant to meet whatever additional standards it chooses to impose at the moment. The kinds of additional requirements that the board might seek to impose are not spelled out in the rules. This provision could result in arbitrary actions and should be deleted.

Board is unnecessary. We believe that the regulation of private detectives and guards can best be implemented by a strong business practice statute. A board is not needed for this purpose. Board members have few duties to perform. They are no longer involved in examinations or in investigating and

resolving complaints. These functions are already being carried out by DCCA. The regulatory program could be more effective if administered directly by the Director of DCCA. The director can appoint an advisory committee for help when needed.

Not only is a board unnecessary, Chapter 463 currently gives the board extraordinary powers to review and investigate the background of applicants. We believe that these powers are excessive and can easily be abused.

Investigatory powers of the board. Act 40 also amended the statute to authorize the board to require under oath information on an applicant's occupation for the last ten years; date and place of any arrest; treatment for any psychiatric or psychological disorder; fingerprints; and "*conduct such investigation of the applicant's background, character, competency, and integrity as it deems appropriate*"

This is supplemented by the board's rules which state that *nothing* shall limit the board's authority to investigate an applicant's character, background, competency, integrity, experience, and past and future method of doing business as may be deemed necessary in order to pass upon the applicant's qualifications.

These provisions give the board (or the director if the director assumes the authority for regulation) too broad and wide-ranging power and is subject to abuse. Judgments on character, background, and integrity are based on the subjective values held by the individual board members. This broad grant of authority opens the State and the board to charges of discrimination, unfairness, and invasion of privacy.

Vague standards. Section 16-97-29(e) of the board's rules allows the board to deny issuance of licensure if, after investigation, the applicant's background,

character, competency, and integrity is found to be detrimental to the profession or to the best interest of the public. This provision is again too vague and gives the board too much arbitrary authority in determining whether an applicant may be licensed.

Registration. Section 16-97-15(c) requires each detective or guard agency to register with the board within 15 days of hire, the names and addresses of all employees doing any type of investigative and guard work and notify the board, in writing, of any and all changes within 15 days.

The department has tried to maintain a current file of those employed by licensed detective and guard agencies. However, due to the large turnover of employees in the industry, the file is difficult to maintain. Sometimes an agency will hire and dismiss an employee on the same day. The department has not been able to verify that all licensees actually report all employees that they hire and dismiss. Consequently, the file is not useful.

This does not mean that licensed private detective and guard agencies need no longer verify the honesty and trustworthiness of their employees. Instead of an ineffectual state prescribed procedure, the onus is on these licensed businesses to establish their own means of verifying the character of their employees. This could be done through such methods as verifying past employment, credit checks, etc.

Provisions that should be strengthened. We believe there is a need to strengthen provisions to promote the purpose of protecting the public from unlawful and unethical practice.

Criminal records check. Act 40, SLH 1983, gave the board the authority to request fingerprints and criminal history records of applicants for licensure. The

county police departments are to provide such information on request to the board. The board has also expanded this in its rules to require each licensee to provide the board with a statement indicating that the licensee has verified the criminal history of each employee.

We believe that this requirement should be retained as one of the vital means of ensuring the honesty and character of those who enter the business. At the same time, it should be clarified.

There has been difficulty in implementing this requirement. The Hawaii Criminal Justice Data Center stated that it did not have the staff to take on this task. The county police have not all wanted to assume this responsibility although currently, all the county police departments are cooperating in checking the criminal history of applicants and are charging a fee for this service. However, the police departments report that the fee is not sufficient to cover the cost of this service. We understand that a bill will be submitted to the Legislature proposing that this requirement be assumed by the Hawaii Criminal Justice Data Center. We believe that this would result in a more uniform and efficient statewide procedure.

The board's new rule requiring each licensee to provide the board with a statement indicating that the licensee has verified the criminal history background of each employee doing any kind of investigative or guard work is ill-advised. It has created problems and has been of little benefit.

It is reported that private detective and guard agencies have abused this procedure by sending down to the police departments prospective employees other than those they plan to use as guards or detectives, such as dispatchers. In effect, they are using the procedure as an employee screening device.

In addition, the high turnover rate and the mobility of those who are hired as guards in this occupation preclude the use of a criminal records check as an effective screening device. A check of local criminal history is limited and a records check from the Federal Bureau of Investigation takes from three to six months.

We believe that the criminal history check of applicants for licensing should be retained and made more efficient by restricting the requirement to applicants for licensure. The rule requiring licensees to verify the criminal history of their employees should be dropped. Instead, licensees should adopt their own policies and procedures for establishing the trustworthiness of their employees.

Increased bonding. Currently, licensees must be able to maintain a bond of \$5000. The bond is conditioned upon the honest conduct of the business of the licensee and the right of any person injured by any wrongful acts of the licensee to bring action on the bond. We believe that the current bonding requirement of \$5000 is insufficient both as a measure of an applicant's or a licensee's financial standing and as a recourse for damages. A requirement for applicants to maintain a bond of \$25,000 would be more appropriate.

Grounds for suspension, revocation, and refusal to renew a license. The board has adopted rules that define specifically the grounds for suspension, revocation, and refusal to renew a license. These include such acts as the diversion or misappropriation of a client's funds and property, dishonest or deceitful activity which causes damage to a client and misrepresenting or providing false information to a client. We find that these grounds provide sound standards of practice for the occupation. They should be incorporated into the statutes.

Recommendations

We recommend that:

1. Chapter 463, Hawaii Revised Statutes, be reenacted. In reenacting the statute, the Legislature should consider the following:

- . delete the Board of Private Detectives and Guards and assign the authority for regulation to the Director of the Department of Commerce and Consumer Affairs;*
- . delete the provision relating to disclosure of treatment for psychiatric or psychological disorder or whether treatment has ever been recommended;*
- . delete the requirement for good moral character;*
- . increase the bond to \$25,000;*
- . require the Hawaii Criminal Justice Data Center to provide criminal history information to the Department of Commerce and Consumer Affairs upon request; and*
- . incorporate from the rules, the grounds for revocation, suspension, and refusal to renew a license.*

2. If the board is retained, delete the board's authority to conduct such investigations of an applicant's background, character, competency, and integrity as it deems appropriate.

3. If the Board of Private Detectives and Guards is retained, the board amend its rules to:

- . delete the requirements relating to psychiatric or psychological disorders;*
- . delete the requirement for licensees to register the names and addresses of all employees within 15 days and to notify the board of any changes;*

- . *delete the rule that states that nothing shall limit the board's authority to investigate an applicant's character, background, competency, integrity, experience, and past and future method of doing business as may be deemed necessary to pass on the applicant's qualifications;*
- . *remove the board's authority to approve an application subject to requirements that an applicant must meet;*
- . *remove the requirement for an oral review;*
- . *delete the requirement for notarized letters attesting to the applicant's competence, trustworthiness, and fairness; and*
- . *remove the board's authority to deny a license if, after investigation, it finds the applicant's background, character, competency, and integrity to be detrimental to the profession or to the best interests of the public.*

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APPENDICES

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APPENDIX A

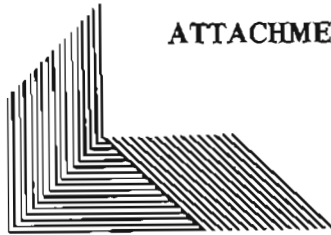
COMMENTS ON AGENCY RESPONSES

A preliminary draft of this Sunset Evaluation Update was transmitted on December 18, 1986, to the Board of Private Detectives and Guards and the Department of Commerce and Consumer Affairs for their review and comments. A copy of the transmittal letter to the board is included as Attachment 1 of this Appendix. A similar letter was sent to the department. The response from the board is included as Attachment 2. The department did not submit a response.

The board states that its members are in unanimous agreement that the board should be continued and that it will be prepared to respond to our findings and recommendations at the legislative hearings. The board's response does not contain any comments on our specific recommendations.

ATTACHMENT 1

THE OFFICE OF THE AUDITOR
STATE OF HAWAII
485 S. KING STREET, RM. 500
HONOLULU, HAWAII 96813



CLINTON T. TANIMURA
AUDITOR

December 18, 1986

COPY

Mr. Stephen D. Goodenow, Chairperson
Board of Private Detectives and Guards
Department of Commerce and Consumer Affairs
State of Hawaii
1010 Richards Street
Honolulu, Hawaii 96813

Dear Mr. Goodenow:

Enclosed are eight preliminary copies, numbered 4 through 11, of our *Sunset Evaluation Update, Private Investigators and Guards, Chapter 463, Hawaii Revised Statutes*. These copies are for review by you, other members of the board, and your executive secretary. This preliminary report has also been transmitted to Robert Alm, Director of the Department of Commerce and Consumer Affairs.

The report contains our recommendations relating to the regulation of private investigators and guards. If you have any comments on our recommendations, we would appreciate receiving them by January 19, 1987. Any comments we receive will be included as part of the final report which will be submitted to the Legislature.

Since the report is not in final form and changes may possibly be made to it, we request that you limit access to the report to those officials whom you wish to call upon for assistance in your response. Please do not reproduce the report. Should you require additional copies, please contact our office. Public release of the report will be made solely by our office and only after the report is published in its final form.

We appreciate the assistance and cooperation extended to us.

Sincerely,

Clinton T. Tanimura
Legislative Auditor

Enclosures

ATTACHMENT 2

John Waihee
GOVERNOR



Robert A. Alm
DIRECTOR

NOE NOE TOM
LICENSING ADMINISTRATOR

BOARD OF PRIVATE DETECTIVES AND GUARDS

STATE OF HAWAII
PROFESSIONAL & VOCATIONAL LICENSING DIVISION
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
P. O. BOX 3469
HONOLULU, HAWAII 96821

December 31, 1986

RECEIVED

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OFFICE OF THE AUDITOR
STATE OF HAWAII

Mr. Clinton T. Tanimura
Legislative Auditor
Office of the Auditor
State of Hawaii
465 S. King Street, Rm. 500
Honolulu HI 96813

Dear Mr. Tanimura:

Thank you for the opportunity to comment on your sunset evaluation on Private Detectives and Guards.

After reviewing the report on December 29, 1986, the members of the board were in unanimous agreement that the Board of Private Detectives and Guards should be continued. To support its position the board will be prepared to respond to the Auditor's findings and recommendations at the legislative hearings.

Very truly yours,

A handwritten signature in blue ink that reads "Stephen D. Goodenow".

STEPHEN D. GOODENOW
Chairman

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APPENDIX B

DIGEST

A BILL FOR AN ACT RELATING TO PRIVATE INVESTIGATORS AND GUARDS

Implements the recommendations of the Legislative Auditor regarding regulation of private investigators and guards. Provides that the functions of the Board of Private Investigators and Guards be assumed by the Director of Commerce and Consumer Affairs. Repeals the Board of Private Investigators and Guards. Raises the security bond required of applicants for a private investigator's license from \$5,000 to \$25,000. Deletes requirement that applicants for a license or employees of a licensee disclose prior treatment for any psychiatric or psychological disorder. Adds grounds for suspension, revocation, or refusal to renew a license.

Extends regulation of private investigators and guards until December 31, 1993 under the sunset law.

A BILL FOR AN ACT

RELATING TO PRIVATE INVESTIGATORS AND GUARDS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 26H-4, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "\$26H-4 Repeal dates. (a) The following chapters are
4 hereby repealed effective December 31, 1987:

5 (1) Chapter 458 (Board of Dispensing Opticians)

6 (2) Chapter 459 (Board of Examiners in Optometry)

7 (3) Chapter 452 (Board of Massage)

8 (4) Chapter 471 (Board of Veterinary Examiners)

9 (5) Chapter 441 (Cemeteries and Mortuaries)

10 [(6) Chapter 463 (Board of Detectives and Guards)

11 (7)] (6) Chapter 455 (Board of Examiners in Naturopathy)

12 (b) The following chapters are hereby repealed effective
13 December 31, 1988:

14 (1) Chapter 465 (Board of Psychology)

15 (2) Chapter 468E (Board of Speech Pathology and Audiology)

16 (3) Chapter 468K (Travel Agencies)

1 (4) Chapter 373 (Commercial Employment Agencies)

2 (5) Chapter 442 (Board of Chiropractic Examiners)

3 (6) Chapter 448 (Board of Dental Examiners)

4 (7) Chapter 436E (Board of Acupuncture)

5 (c) The following chapters are hereby repealed effective
6 December 31, 1989:

7 (1) Chapter 444 (Contractors License Board)

8 (2) Chapter 448E (Board of Electricians and Plumbers)

9 (3) Chapter 464 (Board of Registration of Professional
10 Engineers, Architects, Surveyors and Landscape
11 Architects)

12 (4) Chapter 466 (Board of Public Accountancy)

13 (5) Chapter 467 (Real Estate Commission)

14 (6) Chapter 439 (Board of Cosmetology)

15 (7) Chapter 454 (Mortgage Brokers and Solicitors)

16 (8) Chapter 454D (Mortgage and Collection Servicing Agents)

17 (d) The following chapters are hereby repealed effective
18 December 31, 1990:

19 (1) Chapter 447 (Dental Hygienists)

20 (2) Chapter 453 (Board of Medical Examiners)

21 (3) Chapter 457 (Board of Nursing)

22 (4) Chapter 460J (Pest Control Board)

(5) Chapter 462A (Pilotage)

(6) Chapter 438 (Board of Barbers)

(e) The following chapters are hereby repealed effective
December 31, 1991:

(1) Chapter 448H (Elevator Mechanics Licensing Board)

(2) Chapter 451A (Board of Hearing Aid Dealers and Fitters)

(3) Chapter 457B (Board of Examiners of Nursing Home
Administrators)

(4) Chapter 460 (Board of Osteopathic Examiners)

(5) Chapter 461 (Board of Pharmacy)

(6) Chapter 461J (Board of Physical Therapy)

(7) Chapter 463E (Podiatry)

(f) The following chapters are hereby repealed effective
December 31, 1992:

(1) Chapter 437 (Motor Vehicle Industry Licensing Board)

(2) Chapter 437B (Motor Vehicle Repair Industry Board)

(3) Chapter 440 (Boxing Commission) [.]

(g) The following chapter is hereby repealed effective
December 31, 1993:

(1) Chapter 463 (Private Investigators and Guards)."

SECTION 2. Section 463-1, Hawaii Revised Statutes, is
amended to read as follows:

1 "§463-1 Definitions. As used in this chapter:

2 ["Board" means the board of private detectives and guards
3 described in section 463-2.]

4 "Detective" or "investigator" means a licensed person
5 qualified to obtain information and evidence not readily or
6 publicly accessible.

7 "Detective or guard agency" means a corporation,
8 partnership, or association engaged in the private detective or
9 guard business.

10 "Director" means the director of commerce and consumer
11 affairs.

12 "Guard" means a licensed uniformed or nonuniformed person
13 responsible for the safekeeping by the licensed person's
14 presence, of a client's properties and persons within
15 contractually prescribed boundaries, and for observation and
16 reporting relative to such safekeeping."

17 SECTION 3. Section 463-3, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "§463-3 Policy and standards. It is the policy of this
20 State to protect the general public from unlawful and unethical
21 conduct and operation of the business of private detective and
22 guards. The [board of detective and guards] director may adopt,
23
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1 amend, or repeal rules [and regulations], which shall have the
2 force and effect of law, relating to qualifications for licensing
3 of private detectives and guards, to the conduct and operation of
4 the businesses of such license, and to the revocation or
5 suspension for cause of such licenses. The [board] director
6 shall consult with appropriate state and federal agencies and any
7 appropriate industry or trade organization in establishing such
8 rules [and regulations]. The rules [and regulations] so
9 established shall be on the basis of what the [board] director
10 deems best suited to the public interest."

11 SECTION 4. Section 463-4, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "§463-4 [Procedure] Grounds for and procedure in revocation
14 [or], suspension, or renewal of licenses. (a) Failure of any
15 licensee to comply with this chapter shall be grounds for
16 suspension, revocation, or refusal to renew the license. In
17 addition, the following shall be grounds for suspension,
18 revocation, or refusal to renew the license:

- 19 (1) Any dishonest, fraudulent, or deceitful activity which
20 causes substantial damage to a licensee's client;
21 (2) Unfair or deceptive acts or practices as prohibited by
22 section 480-2;
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- 1 (3) The abandonment of a contract or project without a
2 reasonable or legal excuse;
- 3 (4) The diversion, misappropriation, conversion, or
4 concealment of a client's funds or property;
- 5 (5) Conviction in any jurisdiction of a crime which
6 reflects unfavorably on the fitness of the licensee to
7 engage in the profession; provided the sentence has not
8 been annulled or expunged by court order and provided
9 that licensees may present evidence to the director as
10 to why any conviction of a crime should not be the
11 basis for suspension, revocation, or refusal to renew a
12 license;
- 13 (6) Failure to keep proper business records of a client's
14 account or to maintain possession and custody of
15 property entrusted to a licensee by a client;
- 16 (7) Advertising by means of false and deceptive statements
17 or by statements which tend to deceive or defraud;
- 18 (8) Any use by an agency of an unlicensed person to
19 directly manage the agency;
- 20 (9) Impersonation of a police officer or member of any law
21 enforcement agency by the licensee or licensee's
22 employee;

- (10) Misrepresentation of any material fact in connection with the submission of employee registration information to the director;
- (11) Failure to maintain a current surety bond as required under section 463-12;
- (12) Misrepresentation of a material fact by an applicant in obtaining a license;
- (13) Providing false information to a client with respect to any surveillance or security project;
- (14) Misrepresenting a material fact on any investigative, surveillance, or security report;
- (15) Soliciting business for an attorney or law firm;
- (16) Failure to submit a completed license renewal application form when due;
- (17) Engaging in any illegal or unlawful conduct which reflects unfavorably on the fitness of the licensee to engage in the profession including, but not limited to, crimes involving felonious injury to persons or property;
- (18) Failing to include the license number on any advertising; or
- (19) Failure in any material respect to comply with this

chapter.

[(a)] (b) Actions to revoke or suspend licenses granted under this chapter shall be subject to chapter 91 and shall be commenced by a notice of hearing.

[(b)] (c) The notice of hearing shall be served by certified mail to the accused's last known business address.

[(c)] (d) The accused shall be given thirty days from the date of mailing such notice in which to answer.

[(d)] (e) Any licensee whose license has been revoked or suspended may file an appeal to the circuit courts.

[(e)] (f) Prosecution of such actions shall be conducted by the department of the attorney general."

SECTION 5. Section 463-5, Hawaii Revised Statutes, is amended to read as follows:

"§463-5 Private detectives, guards, and agencies; license required. No person shall engage in the business of private detective or guard, represent oneself to be, hold oneself out as, list oneself, or advertise as a private detective or guard or as furnishing detective investigating services or guard services without first obtaining a license as a private detective or guard from the [board of detectives and guards] director upon payment of application[, examination] and license fees and no firm,

1 corporation, partnership, or association shall engage in the
2 business of private detective or guard, represent itself to be,
3 hold itself out as, list itself, or advertise as a private
4 detective or guard agency or bureau or as furnishing detective,
5 investigating, or guard services without first obtaining a
6 license as a private detective or guard agency from the [board]
7 director upon payment of application and license fees."

8 SECTION 6. Section 463-6, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "§463-6 Private detective; qualifications for license. The
11 [board of detectives and guards] director may grant a private
12 detective license to any suitable person, corporation,
13 partnership, or association making written application therefor.
14 The applicant, if an individual, or the principal detective of a
15 corporation, shall be a resident of the State, shall be not less
16 than twenty-two years of age, shall have a high school education
17 or its equivalent, and shall have had experience reasonably
18 equivalent to at least four years of full-time investigational
19 work. The applicant shall [disclose whether the applicant has
20 received treatment for any psychiatric or psychological disorder,
21 or whether such treatment has ever been recommended, and shall]
22 not have been convicted in any jurisdiction of a crime which
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1 reflects unfavorably on the fitness of the applicant to engage in
2 the profession, provided such sentence has not been annulled or
3 expunged by court order. Any licensee may employ as many agents,
4 operatives, and assistants as necessary for the conduct of
5 business, provided such licensee, or the principal detective if a
6 corporation is the employer, shall be held responsible for the
7 acts of those employees while they are acting within the scope
8 and purpose of the licensee's business. Employees shall have an
9 eighth grade education or its equivalent. The employee shall
10 [disclose whether the employee has received treatment for any
11 psychiatric or psychological disorder, or whether such treatment
12 has ever been recommended, and shall] not have been convicted in
13 any jurisdiction of a crime which reflects unfavorably on the
14 fitness of the employee to engage in the profession, provided
15 there has not been any order annulling or expunging the
16 sentence."

17 SECTION 7. Section 463-7, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "§463-7 Guard license required. No person, firm,
20 partnership, corporation, or association shall engage in the
21 business of guard for the purpose of protecting persons or
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1 property or to prevent theft or unlawful taking of goods, wares,
2 merchandise, money, bonds, documents, or other articles of value
3 for hire or reward or represent oneself to be, or hold oneself
4 out as such without first obtaining a license as a guard or guard
5 agency from the [board of detectives and guards] director upon
6 payment of the fees set forth in section 463-5."

7 SECTION 8. Section 463-8, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "§463-8 Guard; qualifications for license. The [board of
10 detectives and guards] director may grant a guard or a guard
11 agency license to any suitable person, corporation, partnership,
12 or association making written application therefor. The
13 applicant, if an individual, or the principal guard in the case
14 of a corporation, shall be a resident of the State, shall be not
15 less than twenty-two years of age, shall have a high school
16 education or its equivalent, and shall have had experience
17 reasonably equivalent to at least four years of full-time guard
18 work. The applicant shall [disclose whether the applicant has
19 received treatment for any psychiatric or psychological disorder,
20 or whether such treatment has ever been recommended, and shall]
21 not have been convicted in any jurisdiction of a crime which
22 reflects unfavorably on the fitness of the applicant to engage in
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1 the profession, provided such sentence has not been annulled or
2 expunged by court order. Any licensee may employ as many agents,
3 operatives, and assistants as necessary for the conduct of
4 business, provided such licensee, or the principal guard if the
5 employer is a corporation, shall be held responsible for the acts
6 of those employees while they are acting within the scope and
7 purpose of the licensee's business. Employees shall have an
8 eighth grade education or its equivalent. The employee shall
9 [disclose whether the employee has received treatment for any
10 psychiatric or psychological disorder, or whether such treatment
11 has ever been recommended, and shall] not have been convicted in
12 any jurisdiction of a crime which reflects unfavorably on the
13 fitness of the employee to engage in the profession, provided
14 there has not been any order annulling or expunging the
15 sentence."

16 SECTION 9. Section 463-9, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "§463-9 Form of application for license. Application for
19 such license shall be made under oath on a form to be furnished
20 by the [board of detectives and guards] director which form may
21 require a statement of the applicant's full name, age, date and
22 place of birth, residence and business address, the business or
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1 occupation the applicant has engaged in for ten years immediately
2 preceding the date of the filing of the application with names
3 and addresses of employers, the date and place of any arrest or
4 conviction of a crime where there has not been any order
5 annulling or expunging the sentence or of any offense involving
6 moral turpitude, [whether the applicant has received treatment
7 for any psychiatric or psychological disorder, or whether such
8 treatment has ever been recommended,] and such information,
9 including fingerprints of the applicant and such other
10 information as the board may require to investigate the
11 character, competency, and integrity of the applicant. The
12 [board] director shall [conduct such investigation of the
13 applicant's background, character, competency, and integrity as
14 it deems appropriate, and shall] request criminal history records
15 of the applicant from each jurisdiction in which the application
16 form indicates the applicant lived for any substantial period of
17 time. The police departments of the counties of this State and
18 the Hawaii criminal justice data center shall provide such
19 information on request to the [board. The application shall be
20 accompanied by affidavits of three reputable citizens of the
21 State residing in the locality where the applicant proposes to
22 conduct business, stating that the applicant is a person of good
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1 moral character.] director."

2 SECTION 10. Section 463-10, Hawaii Revised Statutes, is
3 amended by amending subsection (a) to read as follows:

4 "(a) The license shall state the name and address of the
5 principal office or place of business of the licensee, the name
6 under which the licensed business is to be conducted, and the
7 name of the principal detective or guard, if the licensee is a
8 corporation.

9 The holder of a license issued by the [board of detectives
10 and guards] director who continues in active practice shall
11 biennially renew the license and pay the renewal fee not later
12 than June 30 of each even-numbered year.

13 The holder of an expired license may have the license
14 restored within one year of the date of expiration upon due
15 application therefor and payment of the delinquent fees and a
16 penalty fee."

17 SECTION 11. Section 463-12, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "\$463-12 Bond. Each licensee, individual or corporate,
20 shall give to the [board of detectives and guards] director a
21 bond in the sum of not less than [\$5,000] \$25,000 executed by the
22 applicant as principal and by a surety company authorized to do
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1 business in the State as surety. The bond shall be in such form
2 as the [board] director may prescribe, conditioned upon the
3 honest conduct of the business of the licensee, and the right of
4 any person injured by the wilful, malicious, or wrongful act of
5 the licensee to bring in the person's own name an action on the
6 bond."

7 SECTION 12. Section 463-15, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "§463-15 Penalties. Any employee or former employee of a
10 licensee who divulges any information gained by the employee or
11 former employee in the course of such employment except as the
12 employee's or former employee's employer directs or as required
13 by law, or who wilfully makes a false report to the employee's or
14 former employee's employer, shall be fined not more than \$100 or
15 imprisoned not more than six months, or both. Any person who
16 violates any other provision of this chapter or any rule [or
17 regulation] adopted by the [board of detectives and guards]
18 director under this chapter shall be fined not more than \$500 or
19 imprisoned not more than one year, or both."

20 SECTION 13. Section 463-16, Hawaii Revised Statutes, is
21 amended to read as follows:

22 "§463-16 Disposition of funds. All moneys collected by the
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1 [board of detectives and guards] director shall be [paid to the
2 department of commerce and consumer affairs and shall be]
3 deposited with the state director of finance to the credit of the
4 general fund of the State."

5 SECTION 14. Section 463-2, Hawaii Revised Statutes, is
6 repealed.

7 ["§463-2 Board of private detectives and guards;
8 appointment; qualifications; term. Appointment and removal.
9 There shall be a board of detectives and guards consisting of
10 seven members, six of whom shall be nominated, and by and with
11 the advice and consent of the senate, appointed by the governor.
12 The terms of such members shall be for four years. Each term
13 shall commence on July 1 and expire on June 30. No person shall
14 be appointed consecutively to more than two terms, provided that
15 such membership shall not exceed eight consecutive years. The
16 director of commerce and consumer affairs shall be an ex officio
17 nonvoting seventh member of the board and may designate a
18 representative to sit in the director's stead.

19 Of the six appointed members, two shall be chiefs of police
20 of any of the four counties, two shall be private citizens not
21 engaged in any of the licensed practices, and two shall be
22 persons actively engaged in any of the licensed practices;
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1 provided that one person shall be a licensed private detective
2 and one person shall be a licensed guard.

3 The board shall examine applicants for private detective or
4 guard licenses, grant licenses, and revoke or suspend licenses of
5 licensees who violate this chapter."]

6 SECTION 15. Statutory material to be repealed is bracketed.
7 New statutory material is underscored.

8 SECTION 16. This Act shall take effect upon its approval.

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10 INTRODUCED BY: _____
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DIGEST

A BILL FOR AN ACT RELATING TO PRIVATE INVESTIGATORS AND GUARDS

Implements the recommendations of the Legislative Auditor regarding regulation of private investigators and guards. Raises the security bond required of applicants for a private investigator's licensee from \$5,000 to \$25,000. Deletes requirement that applicants for a license or employees of a licensee disclose prior psychiatric or psychological treatment.

Extends regulation of private investigators and guards until December 31, 1993 under the sunset law.

A BILL FOR AN ACT

RELATING TO PRIVATE INVESTIGATORS AND GUARDS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 26H-4, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§26H-4 Repeal dates. (a) The following chapters are
4 hereby repealed effective December 31, 1987:

5 (1) Chapter 458 (Board of Dispensing Opticians)

6 (2) Chapter 459 (Board of Examiners in Optometry)

7 (3) Chapter 452 (Board of Massage)

8 (4) Chapter 471 (Board of Veterinary Examiners)

9 (5) Chapter 441 (Cemeteries and Mortuaries)

10 [(6) Chapter 463 (Board of Detectives and Guards)

11 (7)] (6) Chapter 455 (Board of Examiners in Naturopathy)

12 (b) The following chapters are hereby repealed effective
13 December 31, 1988:

14 (1) Chapter 465 (Board of Psychology)

15 (2) Chapter 468E (Board of Speech Pathology and Audiology)

16 (3) Chapter 468K (Travel Agencies)

1 (4) Chapter 373 (Commercial Employment Agencies)

2 (5) Chapter 442 (Board of Chiropractic Examiners)

3 (6) Chapter 448 (Board of Dental Examiners)

4 (7) Chapter 436E (Board of Acupuncture)

5 (c) The following chapters are hereby repealed effective
6 December 31, 1989:

7 (1) Chapter 444 (Contractors License Board)

8 (2) Chapter 448E (Board of Electricians and Plumbers)

9 (3) Chapter 464 (Board of Registration of Professional
10 Engineers, Architects, Surveyors and Landscape
11 Architects)

12 (4) Chapter 466 (Board of Public Accountancy)

13 (5) Chapter 467 (Real Estate Commission)

14 (6) Chapter 439 (Board of Cosmetology)

15 (7) Chapter 454 (Mortgage Brokers and Solicitors)

16 (8) Chapter 454D (Mortgage and Collection Servicing Agents)

17 (d) The following chapters are hereby repealed effective
18 December 31, 1990:

19 (1) Chapter 447 (Dental Hygienists)

20 (2) Chapter 453 (Board of Medical Examiners)

21 (3) Chapter 457 (Board of Nursing)

22 (4) Chapter 460J (Pest Control Board)

1 (5) Chapter 462A (Pilotage)

2 (6) Chapter 438 (Board of Barbers)

3 (e) The following chapters are hereby repealed effective
4 December 31, 1991:

5 (1) Chapter 448H (Elevator Mechanics Licensing Board)

6 (2) Chapter 451A (Board of Hearing Aid Dealers and Fitters)

7 (3) Chapter 457B (Board of Examiners of Nursing Home
8 Administrators)

9 (4) Chapter 460 (Board of Osteopathic Examiners)

10 (5) Chapter 461 (Board of Pharmacy)

11 (6) Chapter 461J (Board of Physical Therapy)

12 (7) Chapter 463E (Podiatry)

13 (f) The following chapters are hereby repealed effective
14 December 31, 1992:

15 (1) Chapter 437 (Motor Vehicle Industry Licensing Board)

16 (2) Chapter 437B (Motor Vehicle Repair Industry Board)

17 (3) Chapter 440 (Boxing Commission)[.]

18 (g) The following chapter is hereby repealed effective
19 December 31, 1993:

20 (1) Chapter 463 (Board of Private Investigators and
21 Guards)."

22 SECTION 2. Section 463-5, Hawaii Revised Statutes, is
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24

1 amended to read as follows:

2 "§463-5 Private detectives, guards, and agencies; license
3 required. No person shall engage in the business of private
4 detective or guard, represent oneself to be, hold oneself out as,
5 list oneself, or advertise as a private detective or guard or as
6 furnishing detective investigating services or guard services
7 without first obtaining a license as a private detective or guard
8 from the board [of detectives and guards] upon payment of
9 application[, examination] and license fees and no firm,
10 corporation, partnership, or association shall engage in the
11 business of private detective or guard, represent itself to be,
12 hold itself out as, list itself, or advertise as a private
13 detective or guard agency or bureau or as furnishing detective,
14 investigating, or guard services without first obtaining a
15 license as a private detective or guard agency from the board
16 upon payment of application and license fees."

17 SECTION 3. Section 463-6, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "§463-6 Private detective; qualifications for license. The
20 board [of detectives and guards] may grant a private detective
21 license to any suitable person, corporation, partnership, or
22 association making written application therefor. The applicant,
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1 if an individual, or the principal detective of a corporation,
2 shall be a resident of the State, shall be not less than
3 twenty-two years of age, shall have a high school education or
4 its equivalent, and shall have had experience reasonably
5 equivalent to at least four years of full-time investigational
6 work. The applicant shall [disclose whether the applicant has
7 received treatment for any psychiatric or psychological disorder,
8 or whether such treatment has ever been recommended, and shall]
9 not have been convicted in any jurisdiction of a crime which
10 reflects unfavorably on the fitness of the applicant to engage in
11 the profession, provided such sentence has not been annulled or
12 expunged by court order. Any licensee may employ as many agents,
13 operatives, and assistants as necessary for the conduct of
14 business, provided such licensee, or the principal detective if a
15 corporation is the employer, shall be held responsible for the
16 acts of those employees while they are acting within the scope
17 and purpose of the licensee's business. Employees shall have an
18 eighth grade education or its equivalent. The employee shall
19 [disclose whether the employee has received treatment for any
20 psychiatric or psychological disorder, or whether such treatment
21 has ever been recommended, and shall] not have been convicted in
22 any jurisdiction of a crime which reflects unfavorably on the
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1 fitness of the employee to engage in the profession, provided
2 there has not been any order annulling or expunging the
3 sentence."

4 SECTION 4. Section 463-8, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "§463-8 Guard; qualifications for license. The board [of
7 detectives and guards] may grant a guard or a guard agency
8 license to any suitable person, corporation, partnership, or
9 association making written application therefor. The applicant,
10 if an individual, or the principal guard in the case of a
11 corporation, shall be a resident of the State, shall be not less
12 than twenty-two years of age, shall have a high school education
13 or its equivalent, and shall have had experience reasonably
14 equivalent to at least four years of full-time guard work. The
15 applicant shall [disclose whether the applicant has received
16 treatment for any psychiatric or psychological disorder, or
17 whether such treatment has ever been recommended, and shall] not
18 have been convicted in any jurisdiction of a crime which reflects
19 unfavorably on the fitness of the applicant to engage in the
20 profession, provided such sentence has not been annulled or
21 expunged by court order. Any licensee may employ as many agents,
22 operatives, and assistants as necessary for the conduct of
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1 business, provided such licensee, or the principal guard if the
2 employer is a corporation, shall be held responsible for the acts
3 of those employees while they are acting within the scope and
4 purpose of the licensee's business. Employees shall have an
5 eighth grade education or its equivalent. The employee shall
6 [disclose whether the employee has received treatment for any
7 psychiatric or psychological disorder, or whether such treatment
8 has ever been recommended, and shall] not have been convicted in
9 any jurisdiction of a crime which reflects unfavorably on the
10 fitness of the employee to engage in the profession, provided
11 there has not been any order annulling or expunging the
12 sentence."

13 SECTION 5. Section 463-9, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "§463-9 Form of application for license. Application for
16 such license shall be made under oath on a form to be furnished
17 by the board [of detectives and guards] which form may require a
18 statement of the applicant's full name, age, date and place of
19 birth, residence and business address, the business or occupation
20 the applicant has engaged in for ten years immediately preceding
21 the date of the filing of the application with names and
22 addresses of employers, the date and place of any arrest or
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1 conviction of a crime where there has not been any order
2 annulling or expunging the sentence or of any offense involving
3 moral turpitude, [whether the applicant has received treatment
4 for any psychiatric or psychological disorder, or whether such
5 treatment has ever been recommended,] and such information,
6 including fingerprints of the applicant and such other
7 information as the board may require to investigate the
8 character, competency, and integrity of the applicant. The board
9 shall [conduct such investigation of the applicant's background,
10 character, competency, and integrity as it deems appropriate, and
11 shall] request criminal history records of the applicant from
12 each jurisdiction in which the application form indicates the
13 applicant lived for any substantial period of time. The police
14 departments of the counties of this State and the Hawaii criminal
15 justice data center shall provide such information on request to
16 the board. [The application shall be accompanied by affidavits
17 of three reputable citizens of the State residing in the locality
18 where the applicant proposes to conduct business, stating that
19 the applicant is a person of good moral character.]"

20 SECTION 6. Section 463-12, Hawaii Revised Statutes, is
21 amended to read as follows:

22 "§463-12 Bond. Each licensee, individual or corporate,
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1 shall give to the board of detectives and guards a bond in the
2 sum of not less than [~~\$5,000~~] \$25,000 executed by the applicant
3 as principal and by a surety company authorized to do business in
4 the State as surety. The bond shall be in such form as the board
5 may prescribe, conditioned upon the honest conduct of the
6 business of the licensee, and the right of any person injured by
7 the wilful, malicious, or wrongful act of the licensee to bring
8 in the person's own name an action on the bond."

9 SECTION 7. Statutory material to be repealed is bracketed.
10 New statutory material is underscored.

11 SECTION 8. This Act shall take effect upon its approval.

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13 INTRODUCED BY: _____
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