

**Identity Theft Task Force**  
(Established by Act 140, Session Laws of Hawai`i 2006)  
State of Hawai`i  
[www.state.hi.us/auditor](http://www.state.hi.us/auditor)

**Minutes of Meeting**

The agenda for this meeting was filed with the Office of the Lieutenant Governor, as required by Section 92-7(b), Hawai`i Revised Statutes.

Date: Friday, September 29, 2006

Time: 10:00 a.m.

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

Present: Chair Gary Caulfield, Financial Services Industry  
Vice Chair Marvin Dang, Financial Services Industry  
Clayton Arinaga, County Police Departments Designee  
Lt. Andrew Castro, Honolulu Police Department's Criminal Investigation Division  
Darwin Ching, Department of Education  
Craig De Costa, Hawai`i Prosecuting Attorneys Association  
Senator Carol Fukunaga, President of the Senate's Designee  
Kristin Izumi-Nitao, Department of the Attorney General (in place of Christopher Young)  
Representative Jon Riki Karamatsu, Speaker of the House of Representatives Designee  
Nathan Kim, The Judiciary  
Paul Kosasa, Retail and Small Business Community  
David Lassner, University of Hawai`i  
Stephen Levins, Director of the Office of Consumer Protection  
Representative Colleen Meyer, Speaker of the House of Representatives Designee  
Carol Pregill, Retail and Small Business Community  
Councilmember Mel Rapozo, Hawai`i State Association of Counties Designee  
Robert Takushi, Consumer and Business Organizations  
Tom Terry, United States Postal Service  
Rick Walkinshaw, United States Secret Service Electronic Crimes Unit  
Sharon Wong, Department of Accounting and General Services

Marion M. Higa, State Auditor  
Russell Wong, IT Coordinator  
Jayna Muraki, Special Projects Coordinator  
Pat Mukai, Secretary

Leslie Kondo, Director, Office of Information Practices

Absent: Ronald Johnson, United States Attorney for the District of Hawai`i Designee  
Tim Lyons, Consumer and Business Organizations  
Senator Ron Menor, President of the Senate Designee

Call to Order: State Auditor Marion Higa called the meeting to order at 10:07 a.m. at which time quorum was established.

Introductions: Task Force members and Office of the Auditor staff introduced themselves.

State Auditor Higa gave a brief overview of Act 140 (2006). The focus of Act 140 is primarily on public records that might lead to identity theft or theft of personal information. A contact list, including contact information for the Office of the Auditor was distributed to the members. She noted that the Office of the Auditor maintains a website on which we will post agendas, minutes, and other resource materials of interest. The Task Force will comply with the requirements of HRS Chapter 92, the Sunshine Law.

State Auditor Higa introduced Leslie Kondo, Director of the Office of Information Practices (OIP) to provide a summary of the requirements of the Sunshine Law.

### **Office of Information Practices**

Mr. Kondo stated that the OIP oversees Hawai'i's open government and open records law under the Uniform Information Practices Act (UIPA) as well as the open meetings law, also known as the Sunshine Law. This meeting is subject to the open meetings law. The OIP's greatest challenge is reminding everyone of the importance of open government. The purpose of the statute is to protect the public's right to know and to allow the public to participate in government meetings. The statute says the discussions, deliberations, decisions and actions of government boards shall be conducted as openly as possible.

The law has five requirements: 1) discussions, deliberations and decisions of the government boards happen at a meeting; 2) it requires all meetings be open to the public unless there's a specific exception that allows the board to discuss in a closed meeting; 3) boards must accept public testimony; 4) boards must provide notice of their meeting, including an agenda that details what a board is going to talk about; and 5) the statute require boards to keep written minutes of all their meetings. Mr. Kondo discussed each requirement and some of the exceptions in further detail.

Mr. Kondo suggested that the Task Force institute a policy on the time allowed for public testimony.

State Auditor Higa and Senator Fukunaga acknowledged members Representative Meyer and Paul Kosasa.

Election of  
Chair:

Upon a motion by State Auditor Higa, it was voted on and unanimously carried to open nominations for Task Force Chair.

Member Levins nominated Member Caulfield; Senator Fukunaga seconded.

Representative Meyer nominated Member Dang. Mr. Dang declined.

Upon a motion by Member Takushi, seconded by Member Rapozo, it was voted on and unanimously carried to close nominations for Chair. By a unanimous vote, Member Caulfield was elected Chair of the Task Force.

Election of  
Vice Chair:

Chair Caulfield opened nominations for Task Force Vice Chair.

Member Levins nominated Senator Fukunaga. Senator Fukunaga declined, but suggested the members consider Member Young, who chaired the previous Anti-Phishing Task Force, or Member Dang who was also a very strong member of the task force.

Member Levins nominated Member Dang, seconded by Representative Meyer. Member Arinaga moved, seconded by Member De Costa, to close nominations for Vice Chair.

The motion carried unanimously. By a unanimous vote, Mr. Dang was elected Vice Chair of the Task Force.

Background: Chair Caulfield provided a recap of the activities of the Anti-Phishing Task Force: 1) a review of roles and activities of police, AG's office, County Prosecuting Attorneys, Consumer Protector, U.S. Attorney's Office, U.S. Postal Service, and U.S. Secret Service, 2) Hawai'i, other state, and federal identity theft statutes; 3) received a report on the AG's Hawai'i High Technology Crime Unit Task Force activities; 4) also reviewed the public and private sector educational and outreach initiatives; and 5) public record sources potentially vulnerable to misuse for identity theft.

The general findings were: 1) Phishing was just one component of the ID theft problem; a) phishing attacks generally originate from outside Hawai'i and U.S.; b) difficult to identify and prosecute phishers from other jurisdictions; 2) theft of personal information (bank accounts, addresses, social security numbers) generally precedes actual ID theft; 3) law enforcement agencies working together with limited resources on ID theft crimes; 4) difficult to prosecute identity thieves in possession of personal information that has not yet caused monetary loss; 5) correlation between illegal drugs and identity theft deserves further study; 6) low-tech solutions such as protecting personal information can be effective; 7) personal information is obtainable through public record checks or formal public record requests; 8) combating ID theft requires coordination at all levels of government and the private sector; 9) Hawai'i law enforcement agencies do not track identity theft crimes in a uniform manner; and 10) consumer education plays an integral role.

The recommendations were: 1) support expanded law enforcement efforts among federal, state, and county agencies, including full funding for the AG's Hawai'i High Technology Crime Unit Task Force; 2) recommend draft legislation to make identity theft in the third degree a crime for possession or transfer of confidential information and to include identity theft as a repeatable offense; 3) support funding for the AG's office to conduct a study as to what effect drug use has upon identity theft; 4) support funding to the AG's office to determine a common definition for identity theft and to develop a uniform reporting system; 5) amend statutes relating to court and public records to protect personal information such as SSNs; and 6) recommend continuation of the Hawai'i Anti-Phishing Task Force to continue development of state initiatives to prevent identity theft crimes.

Senator Fukunaga stated that the task force had received tremendous cooperation from the various government agencies and the legislature really used last year's task force to begin the process of educating ourselves as to how we might better protect personal information. Member Levins and Member Dang provided valuable guidance in terms of what other jurisdictions are doing. Senator Fukunaga asked Member Levins to brief the task force on the consumer protection legislation that were adopted during this past legislative session.

Member Levins stated the passage of these bills will better protect the consumers against the growing problem of identity theft. The first bill allows consumers to put a freeze on credit reports. Victims of identity theft would be able to deny others access to their credit reports. Unfortunately, you have to be a victim of identity theft. In a lot of other jurisdictions, you don't have to establish that you're a victim. Act 135 responded to situations where private and government entities have a security breach. If someone compromises personal information, the entities are required to contact the affected individuals and inform them that personal information has been compromised, and it will allow them to take certain steps to protect their identity. Act 136, on disposal of personal information, is the dumpster diving bill. The bad guys go into your garbage to try to find personal information. This particular act puts the responsibility on both government and

private entities to dispose of personal information in a responsible manner. Act 137 relates to prohibitions on the way social security numbers are handled by government and private entities. For example, if you're sending someone's SSN over the internet, it has to be sent in some encrypted or secure manner. This is an area that the task force needs to examine much more carefully because there are exceptions that allow continued use of SSNs and that could be is a goldmine for identity thieves.

Ms. Izumi-Nitao briefed the task force on Act 139. This bill originated from the first Anti-Phishing Task Force. The bill essentially empowered law enforcement to arrest individuals in possession of other people's confidential/personal information and making it a Class C felony, which is up to five years in prison. This will also help us work better with federal law enforcement, such as the U.S. Attorney's Office, who also has strengthened laws in this area. We also oversee a task force, composed of state, county, and federal law enforcement, and Act 139 allows better collaboration and the ability to determine the right prosecuting authority.

Focus of Act 140:

Senator Fukunaga said Act 140 reconstitutes the task force. As we went through our hearings this past session, some of the participants of this task force, specifically retail merchants and small business representatives, would be able to give us some guidance over issues that they will face in safeguarding personal information. Government needs to be just as proactive and just as prudent as we are requiring the private sector to be. We began looking at possible deadlines for removing and safeguarding personal information from government records, particularly hard copy records, microfiche records, and a whole host of different kinds of uses for which personal information is used in government records. This task force was designed to continue the collaborative work between state, local, federal law enforcement entities, government agency representatives, as well as private sector representatives. We wanted to really make sure we have the benefit of: 1) best practices being used in other jurisdictions and 2) ways we might be able to help government agencies and private sector business as we went forward.

Chair Caulfield continued with focus of the Task Force – Act 140, page 4, states what the Legislature intends for us to do: 1) examine the policies, procedures, and operations of state agencies charged with the responsibility of developing policies to prevent electronic commerce-based crimes. This is carried over from the past task force; 2) review other jurisdictions' activities, policies, directives, and laws related to preventing electronic commerce-based crimes and derive best practice models; 3) explore any other options available to the task force to deter electronic commerce-based crimes from occurring in the state; 4) establish findings and develop recommendations on how the State may best deter electronic commerce-based crimes from occurring in the state; what the legislature added, 5) identify the best practices to prevent identity theft by reviewing other jurisdictions' activities, policies, and laws; 5) (A) the review of current practices associated with use and disclosure for public inspection of SSNs in any records or documents maintained by state and county agencies; (B) the review of the current volume of these records or documents and likely future increase or decrease in the volume of these records or documents; and (C) the practicability of any proposed mandatory redaction for certain types of records or documents, bank account numbers to last 4-digits, and the impact that any proposed mandatory redaction may have on human or other resources necessary to implement the redaction; and 6) identify and recommend solutions to issues involving social security number protection, including the sale, lease, trade, rent, or otherwise intentional release of an individual's SSN to a third party.

Member Levins stated the members were shocked at the extent of personal information available for public consumption. The Judiciary has a lot of information that is open to the public. There were bills last year at the Legislature that tried to address some of

these problems, especially with SSNs. It's apparent that there are a whole slew of concerns and problems that were not able to be addressed during the session hearing process. Something has to be done about all of this publicly available information that the Judiciary, other parts of state government, and maybe counties possess. To speak for the legislative task force, there was a consensus that this is something that should be a big focus of what we look at this year.

Vice Chair Dang agreed with Member Levins. Nathan Kim from the Judiciary now is a member of this task force and can possibly inform us as to the hurdles they face. At the State Bureau of Conveyances, SSNs are part of the public record in connection with judgments because one of our statutes says that if you're going to record a judgment against an individual at the State Bureau of Conveyances, which is part of the Department of Land and Natural Resources, you should record the SSN with the judgment. These are some of the areas that are not well-known to the public, but if the public really became aware of this, it could certainly be used for devious purposes and also be of concern to individuals' privacy interests.

Ms. Izumi-Nitao mentioned that her office receives telephone calls regarding zabasearch.com, a website which essentially compiles public information and makes it available by searching a name.

Senator Fukunaga stated there are a lot of different purposes for which SSNs are legitimately collected but inadvertent or unintended use of SSNs sometimes goes far beyond what was originally intended. For example, the Office of Elections would find it incredibly difficult to replace SSNs with a new means of identifying individuals for voting purposes. Agencies involved in social services, welfare, and other kinds of programs have identified the difficulties they would have in making changes to the kinds of identification used. Maybe the first step would be for the task force and the Auditor's office to identify and work with state and county agencies on some of the specific uses for which SSNs and other information is currently used and coming up with some order of magnitude as to the scope of the hardcopy and electronic records that are currently maintained by those agencies. The task force could make recommendations for addressing the protection of personal information. That was one the reasons the task force was given an extended timeframe. We thought it would probably be a major undertaking both from a resource as well as staffing standpoint. We believe that it could probably take two sessions to actually address all of the various issues.

State Auditor Higa said the appropriation to her office was \$50,000 for this year. The office will draft the specifications from their best guess of what legislation calls for. After today's meeting, the office will finalize the specifications and procure the services that are beyond the office's capability. Hopefully a contractor will be on board within six weeks at most.

Member Takushi asked if the scope of services will include how the various state and county agencies utilize SSNs. State Auditor Higa answered that would be included, as well as looking for best practices.

Representative Meyer asked about how various agencies are protecting information? State Auditor Higa said this would be part of the research.

Vice Chair Dang asked if the Auditor's office is only concentrating on section 5 or also addressing section 6. The State Auditor said that section 6 is currently in the draft specifications.

Member Lassner stated that the task force should also look at how easy it is for a criminal, once in possession of information, to use it. The industry makes it trivial for

criminals to abuse the information once in their possession. The State Auditor said it might be within the scope of item No. 6.

Member Rapozo asked if there is any component regarding education and awareness. As much as we talk about identity theft, and as much publicity as it gets in the media, people still don't think it's going to happen to them.

Member Takushi asked if the state has an education program. Member Levins said his office has produced four public service announcements.

Ms. Izumi-Nitao mentioned that the task force she administers also has a public awareness component. They have issued a lot of pamphlets, do public awareness presentations and are currently working with the Department of Commerce and Consumer Affairs to launch a new awareness program.

Representative Meyer left the room at 11:30 a.m.

Member Takushi asked if there's some body that knows what everyone is doing or is everyone just carrying out their own particular responsibility? Ms. Izumi-Nitao said when they get together as a task force, agencies can report on resources and cooperatively work together.

Senator Fukunaga said the banks and financial services entities have undertaken a number of outreach approaches. This year, AARP is spending a lot of time and energy on financial fraud and ID theft kinds of issues. We are at a very early stage and perhaps coordination would be very helpful.

Member Ching suggested getting the word out through the schools.

Member Kosasa asked if someone is going to make sure that what we do does not conflict with what the federal agencies are doing and with federal laws. Member Walkinshaw stated that many state laws, whether Hawai'i or mainland, do mirror federal laws. Speaking for the task force, our goal, as investigative law enforcement, is to take the federal laws and state laws and find where it best fits during the investigation.

State Auditor Higa suggested that the task force may want to consider these as agenda items. Possibly educating ourselves about what education efforts are currently underway. In the specifications, the contractor will be required to give periodic updates to the task force.

Vice Chair Dang moved to adopt the contract specifications and education as the task force goals. Member Rapozo seconded, and the motion carried unanimously. Chair Caulfield briefed the task members on Federal Trade Commission Identity Theft Victim Complaint Data which he distributed. He cautioned that it is believed that identity theft is underreported. In Hawai'i, 810 cases were reported during the period January 1 through December 31, 2005. There are also breakdowns by type of fraud and age. In a comparison of states, Hawai'i ranks 25<sup>th</sup>. In 2005, the FTC received 255,000 identity theft complaints.

Chair Caulfield and State Auditor Higa discussed having the next meeting in about three to four weeks.

Vice Chair Dang, seconded by Senator Fukunaga, moved to adjourn the meeting. The motion carried by unanimous vote.

Adjournment: With no further business to discuss, the Chair adjourned the meeting at 11:49 a.m.

Reviewed and approved by:

Russell Wong  
IT Coordinator

October 25, 2006

[ ] Approved as circulated.

[.....] Approved with corrections; see minutes of \_\_\_\_\_ meeting.

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