



# Information Privacy and Security Council

## Meeting Minutes

November 18, 2015

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|--|---|---|--|
| Keoni 'Ana Building<br>1177 Alakea St.<br>Room 304<br>Honolulu, HI 96813 | Wailuku State Office Bldg.<br>54 South High St.<br>Third Floor VCC<br>Wailuku, HI 96793 | Lihu'e State Office Bldg.<br>3060 'Eiwa St.<br>Basement VCC<br>Lihu'e, HI 96766 | Hilo State Office Bldg.<br>75 Aupuni St.<br>Basement VCC<br>Hilo, HI 96720 |
|--|---|---|--|

| MEMBERS / DESIGNEES PRESENT             |   |
|---|---|
| Member Name                             | Department                                |
| Decasa, Meliton Jr.                     | Department of Education                   |
| DeMello, Keith (designee; acting chair) | Office of Enterprise Technology Services  |
| Jacobs, Don                             | County of Hawai'i                         |
| Keane, David                            | Department of Human Resources Development |
| Takeshita, Brian (designee)             | Legislature                               |
| Taniguchi, Carol                        | Legislature                               |
| Thornton, Kevin                         | Judiciary                                 |
| Verkerke, Jacob (designee)              | County of Maui                            |
| Tungol, Wilfredo (designee)             | Department of Health                      |
| Yong, Lim                               | Department of Human Services              |

| MEMBERS ABSENT / NOT REPRESENTED |                             |
|----------------------------------|-----------------------------|
| Member Name                      | Department                  |
| Norman, Nyree                    | County of Kaua'i            |
| Yoshimi, Garrett                 | University of Hawai'i       |
| Wong, Mark                       | City and County of Honolulu |

| INVITED GOVERNMENT ATTENDEES      |  |
|-----------------------------------|--|
| Name, Title                       | Department                               |
| Crosby, Todd (executive director) | Office of Enterprise Technology Services |

| OTHER ATTENDEES |                               |
|-----------------|-------------------------------|
| Name            | Affiliation                   |
| Levins, Stephen | Office of Consumer Protection |

- I. **Call to Order — Welcome**  
Acting Chair DeMello called the meeting to order at 1:07 p.m. Quorum was established with nine members present. *Note: This twelve-member Council requires eight members to establish quorum and to take official Council action.*
  
- II. **Discussion of S.C.R. 88 and Suggestions for Amendments, including Any Required Action**  
Chair DeMello deviated from the agenda order out of consideration of Stephen Levins, Executive Director of the Office of Consumer Protection (OCP) of the Department of Commerce and Consumer Affairs (DCCA), to maximize his availability to provide information on OCP practices regarding the receipt of data breach reports. Currently, State law requires businesses to report data breaches of 1,000 or greater to OCP, based on the number of individuals required to be notified. This is relatively high threshold amongst states. Hawai'i shares this threshold with Missouri and South Carolina, while the threshold for California, Florida and Iowa is 500. Approximately 12 states have no threshold for reporting (meaning all breaches are reported).

Levins shared that the number of reported incidences in Hawai‘i involving more than 1,000 individuals totalled six in 2014 and eight in 2015 so far. Although not required, OCP provides this information to the Federal Trade Commission (FTC).

Part of the intent of the IPSC’s proposed amendment requiring OCP to post the information on a central website was to make information about breaches available to potentially impacted individuals who may not be easily reached due to change of address or other reasons. Levins reported that individuals typically check with OCP or the entity involved. Counties, if contacted, tend to refer inquires to OCP.

Levins stated that the concept of posting data breaches on a website is a good concept, but there may be unintended consequences to placing the requirement in statute. The information reported to OCP is already publically available. In addition, many businesses, as a general practice, proactively inform every state based on the lowest threshold among them nationwide. If put in law, this may discourage businesses from reporting incidents that are under the threshold. Additionally, OCP currently has the flexibility and right to post reported incident information. While OCP does not currently post the information on a central website, Levins said OCP will be looking into doing so. There are nominal administrative costs with setting up, but that is not of concern. However, requiring it in statute may inadvertently restrict the state from listing those under 1,000.

The proposed amendment requiring credit monitoring/protection was also discussed. While a breach involving a public or private entity does not require credit monitoring, Levins shared that it is a common practice by businesses as part of good customer relations. The cost of credit protection ranges from an estimated \$7 to \$25 per person annually. California requires private businesses to offer credit monitoring/protection, but does not apply to state. The thought was that requiring it of state agencies by law could present risk for unbudgeted liability to taxpayers. A sizable breach could result in millions of dollars to taxpayers. Levins was not aware of any complaints received by OCP regarding breach protection.

### III. **Approval of Previous Meeting Minutes**

Member Decasa moved and Member Thornton seconded that the IPSC approve the October 2015 regular meeting minutes as amended. In discussion, Member Tungol identified the following amendments:

- Under IV., change “gaging” to “measuring”
- Under VI., correct “Breech” to “Breach”

The IPSC adopted the regular meeting minutes as amended by unanimous consent.

### IV. **Public Testimony on Agenda Items<sup>1</sup>**

None.

### V. **Update from Best Practices and Yearly Reporting Committee:**

#### a. **Status of IPSC Summary Report, Pursuant to HRS Section 487N-5, on the Submission of Personal Information (PI) System Annual Reports**

Chair DeMello provided status of ongoing collections. The IPSC provides a summary report of agencies’ compliance with designating a current privacy design and maintaining

a PI report. The IPSC's report is due annually to the Legislature 20 calendar days prior to the legislative session. This year, State of Hawai'i and City and County of Honolulu agencies have made good progress on their PI system reporting. Additional follow up is required for some county agencies. Status was previously provided to IPSC member and designees for their respective counties.

In recent years, the IPSC's focus has been on collection of reports. The expectation is that agencies should be including plans to reduce use of PI in their reports. Some departments/counties provide blanket reports for multiple agencies, and are therefore required to maintain records for seven on years. Some agencies provided language acknowledge any deficient areas and how they are working toward addressing them. After IPSC has completed its annual report in the past, legislative staff have analyzed the data. There was discussion regarding options to strengthen reporting/data gathering to provide more analysis. It was recommended that the IPSC look at models utilized by Kaua'i County (SharePoint) and the University of Hawai'i (open source), which allow agencies to see past year's report and make updates accordingly. Such enhancement may facilitate reporting. A near final draft of the IPSC annual report is expected by the next regularly scheduled IPSC meeting.

**b. Status of IPSC Report, Pursuant to S.C.R. 88, on the Assessment of Existing Procedures of Notification Required Following the Breach of Personal Information**  
Information relating to the S.C.R. 88 report was discussed above. The Reporting Committee is expected to provide a draft recommendation by the next regularly scheduled IPSC meeting.

**c. Update on S.B. No. 1186, Relating to Personal Information, from the 2015 Legislative Session**

Members discussed and recalled that the intent of this bill was to align State of Hawai'i law in relation to the definition of PII with other states. It was recommended that both the original and latest version of the bill be discussed at the next meeting.

## VII. **Announcements and Good of the Order**

Next meeting date: December 16, 2015, 1 p.m.

Member Keane reported that the Department of Human Resources Development's IPSC member designee has departed. It was also acknowledged that the Department of Education is changing its designee. It was requested that the departments provide official written notification (e.g. memo), which is required according to the Office of Information Practices.

## VIII. **Adjournment**

The meeting adjourned at 2:22 p.m.

Respectfully Submitted,

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Date

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Keith A. DeMello  
Senior Communications Manager  
Office of Enterprise Technology Services  
State of Hawai'i