

LATE TESTIMONY

February 10, 2011

To: Honorable Henry J.C, Aquino, Chairman
Honorable Ty Cullen, Vice-Chairman
Public Safety & Military Affairs Committee

From: Lorenzo Moises
Liquor Control Investigator III
Dept. of Liquor Control, County of Kaua'i

Subject: Testimony on HB551

I submit this testimony in support of HB551. I have been an enforcement investigator with the Dept. of Liquor Control for the past 12 years. When I am in the field, my work environment is a hotbed of liquor, drugs and violence. Drug arrests usually go hand in hand with weapons confiscated. Over the years, I have encountered assaults, threats and damage to my vehicle. Luckily, there have been no major injuries. We are currently issued handcuffs and pepper spray as our sole source of self defense. As you may or may not know, pepper spray and electric guns are on the same level of force in most jurisdictions. Having been sprayed with full face saturation during annual recertification, I can tell you that it hurts and keeps hurting for well over 45 minutes. Electric guns on the other hand only hurt when the charge is applied. HRS 281-17(5) states "...Every investigator, within the scope of the investigator's duties, shall have the powers of a police officer." While we have the powers of a police officer, we do not have the defensive tools that other police officers have. HB551 amends HRS134-16 to allow county liquor investigators to possess electric guns. Per statute, we are law enforcement officers and I urge you to support this bill and provide us with the protective equipment that other law enforcement officers in this state have. I have attached a copy of our most recent risk assessment.

Mahalo Nui Loa!

LIQUOR CONTROL INVESTIGATOR SAFETY RISK ASSESSMENT

PRESENTED BY:

GERALD T. RAPOZO
LIQUOR CONTROL INVESTIGATOR IV
DEPARTMENT OF LIQUOR CONTROL
COUNTY OF KAUAI

OVERVIEW

The Department of Liquor Control of the County of Kauai consists of three distinct branches:

Administrative
Regulatory
Enforcement

Administrative branch consists of the director, commission/department secretary and senior account clerk. This branch provides services to the regulatory and enforcement branches, liquor commission, as well as licensees and the general public.

Regulatory branch is primarily responsible for the licensing process. The regulatory branch investigates all license applications before they are submitted to the commission for disposition. The regulatory branch, in coordination with the enforcement branch, also processes citations for hearings before the commission.

Enforcement branch is comprised of field investigators who are responsible for conducting daily inspections and investigations on possible liquor law violations. Investigator's duties are as follows:

- Conduct on site inspections of licensed premises.
- Conduct investigations within the licensed premises of liquor law violations.
- Conduct investigations of OVUII cases that resulted from consuming liquor at licensed premises. Contact may be made at the police station, private residence, and/or other locations.
- Conduct investigations of PROHIBITION cases involving minors consuming liquor where it was purchased at licensed premises. Contact may be made at police station, private residence, and/or other locations.
- Conduct "sting" operations to detect licensed premises that sell alcoholic beverages to minors.

- Conduct investigations on vehicle accidents (fatal and non-fatal) where alcoholic beverage consumption was involved. Contact may be made at police station, private residence, and/or other locations.
- Occasionally assist in joint projects with the Kauai Police Department (KPD), Department of Land & Natural Resources (DLNR) and Immigration & Customs Enforcement (ICE).
- Delivery of departmental documents to licensees.
- Delivery of subpoenas at private residences and licensed premises.
- Regularly inspect 15-30 licensed premises per shift. Frequently make contact with persons who may be intoxicated and/or under the influence of narcotics. Often these persons are highly agitated with unpredictable behavior. Most inspections and investigations are accomplished with a single person unit. Investigators are often forced to park and pass through dark and secluded areas. Communications are limited to personal cell phones and two-way radios which are connected to Kauai Police Dispatch. At times there is no response from dispatch when called by field investigators.
- Issue Complaint & Summons citations to violators of liquor laws.
- Work schedules are as follows:

7:45 a.m. - 4:30 p.m.	4:00 p.m. - 12:00 a.m.
12:00 p.m. - 8:00 p.m.	5:00 p.m. - 1:00 a.m.
1:00 p.m. - 9:00 p.m.	6:30 p.m. - 2:30 a.m.
3:00 p.m. - 11:00 p.m.	7:00 p.m. - 3:00 a.m.

OBJECTIVE

1. Identify hazards that a Liquor Control Investigator may encounter in a hostile work environment.
2. **Officer safety** by ensuring the safety of the Liquor Control Investigator through proper training and the use of safety equipment.

THREATS

The enforcement personnel often encounter hostile persons when making onsite inspections of licensed premises. Present clientele are persons that may be intoxicated, may be under the influence of narcotics or both, and normally highly agitated. Person may be armed with a weapon such as a knife, handgun, etc.

Will encounter hostile persons while conducting investigations within licensed premises of liquor violations. Hostile persons may be intoxicated, may be under the influence of narcotics or both, and normally agitated. Licensees will often not take control of a situation with an intoxicated person. They might point out a Liquor Control Investigator and say, "he said you had too much to drink", which transfers the burden to us creating a combative situation. Belligerent persons may challenge Liquor Control Investigators while intoxicated or under the influence of narcotics or both. Persons may be armed with a weapon. Several licensed premises

are known to have assaults in their parking lots at closing. To date there has been one assault on a Liquor Control Investigator where convictions resulted against the aggressors.

Will encounter hostile persons while conducting closing hour checks at licensed premises. Normally, persons consuming liquor in a licensed premises after the legal closing time will be intoxicated or under the influence of narcotics or both and highly agitated. These persons may challenge the Liquor Control Investigator.

Will encounter hostile persons or animals while conducting follow-up investigations of Prohibition or OVUII cases. These cases may be conducted at a police station, and/or a person's residence. Persons may be intoxicated or under the influence of narcotics or both. May encounter vicious dogs at person's residence.

May encounter hostile persons while conducting "sting" operations for underage alcohol sales. Seller of licensee may be highly agitated due to the issuance of a citation.

May encounter hostile persons in licensed premises that are in the act of committing a crime. Persons may be conducting a narcotics transaction, robbery, or an assault on another person. These persons are normally armed with weapons and are aware that you are a Liquor Control Investigator and will tend to be aggressive to ensure they are not caught.

VULNERABILITIES

Liquor Control Investigators are prone to be subjects of an assault due to the following:

Work Environment

The surroundings in which the Liquor Control Investigators normally conducts their inspections and investigations are in an environment that includes belligerent persons that are intoxicated or under the influence of narcotics or both. Also, said persons may be armed with some sort of weapon.

Liquor Control Investigators predominately work 5:00 p.m. to 1:00 a.m. as a single person unit performing inspections of licensed premises. Early morning hours may result in person's over consumption of liquor creating a hostile situation.

The role of alcohol in crime victimization constitutes a probability of workplace violence for Liquor Control Investigators.

Frequently walk in isolated areas where radio and cell phone communications are not always reliable. These forms of communications are the only means to request back-up assistance if needed.

Training

Liquor Control Investigators do not possess defensive tactics training. Nor are they trained to be armed with tools needed to protect themselves or the public from an assault, knife attack, or a gun intrusion. Liquor Control Investigators may be able to walk away from a fist assault, if allowed to walk away, but may not be able to walk away from a knife attack or a gun intrusion.

Liquor control Investigators are currently trained in verbal judo. **Verbal judo instructors have stated that it is a known fact; verbal judo will not work with a highly intoxicated person or person under the influence of narcotics.**

CONTROLS

Train Liquor Control Investigators in:

Defensive tactics with annual certification

Constitutional law, detention, search incident to a lawful arrest, with annual review

First aid re-certification every two years

Train, certify and arm Liquor Control Investigators with handgun, pepper spray and defensive clothing. Qualify handgun certification semi-annually; re-certify pepper spray annually. Carry defensive weapons concealed or in a waist pack to portray a less aggressive stance.

Train and certify Liquor control Investigators in weapon retention. Re-certify annually.

Conduct unannounced drug testing.

Perform inspections and investigations with a two person unit after 11:00 p.m.

CONCLUSION

The Department of Liquor Control has been very fortunate that its enforcement personnel have not been seriously injured in previous confrontations. Confrontational incidents could easily result in injury or death of a Liquor Control Investigator. Risk Management is the responsibility of the Program Manager to ensure its enforcement personnel are well equipped, well trained and protected from unnecessary physical harm. It is understood that these endeavors will encompass financial costs, man-hours and a dedicated commitment. However, one life saved would be the principal benefit.

Risk assessment should be an ongoing process to determine how risks change in society trends regarding crime rates and weapons use throughout the life cycle of the program. Good risk management is good program management.

