

PRIVATE INVESTIGATION, RECOVERY AND SECURITY ADVISORY COUNCIL
Tallahassee
December 9, 2010

Minutes

Attendees:

Tim O'Rourke, Chairman
Patricia Schmitt, Vice Chairman
Johnnie Huneycutt
William LaDrew
Leonard Miller
Kelli Moore

Division of Licensing Staff:

Constance N. Crawford
John V. McCarthy
Mike McGuckin
Art Varnadore
Van Greene
Susan Harrell
Kevin Gay
Beverly Springer
Debbie Barber
Celine Melton
Ken Wilkinson

Guests:

Joe Taylor, Chekmate International, Inc., R 9000001, Ocala
Jack Belich, J. Belich & Associates, Inc., St. Petersburg
Grady Snyder, Grady Snyder and Associates, Tampa
Mark Puetz, CIS, Tampa Bay
Adam Clarke, CIS, Tampa Bay
K.C. Poulin, CIS/FASCO, Tampa Bay
Richard Lettera, Plantation Security Inc., Tallahassee
Ivan Holiday, Bouncergear, Inc, Daytona Beach
Anthony Mojica, B & P, Auto Recovery, Orlando
Eddy Esquivel, G4S Secure Solutions, Florida
Jim Harris, Harris Eikland Associates, Tallahassee
Gerald Daugherty, Worldwide Research Services, Tallahassee
Mike Hitchcock, Trident PI, Plant City
Bill Brown, Trident PI, Plant City
Ron Stevenson, Know It All Investigations, West Palm Beach
Vickie P. Burke, Burke & Burke Insurance Investigations, Navarre
Edward M. Burke, Burke & Burke Insurance Investigations, Navarre
Tommy J. Thompson, Donna J Investigations, Tallahassee
James Glenn, Executive Security, C 9900750, Tallahassee
Brian Taylor, Asset Investigations and Recovery, Ocala/Jacksonville
Alan Lamarche, Plantation Security, Tallahassee

Chairman Tim O'Rourke called the meeting to order at 9:00 a.m. and welcomed everyone. He asked Leonard Miller to lead everyone in the Pledge of Allegiance. Mr. O'Rourke introduced himself and asked the other Council members to introduce themselves, their companies, and the industries they represent.

Mr. O'Rourke recognized Joe Taylor as a former council member and thanked him for attending the meeting and for the many contributions he made to the industry and the Council.

Mr. O'Rourke introduced Ms. Crawford, the Director for the Division of Licensing, and asked Ms. Crawford to introduce her staff.

Ms. Crawford stated she is always pleased when the meetings are held in Tallahassee because doing so allows more Division of Licensing personnel to attend. Ms. Crawford began by introducing John McCarthy, Assistant Director; Mike McGuckin, Attorney Supervisor; and Bureau of License Issuance (BLI) staff members Susan Harrell, Bureau Chief, and Kevin Gay and Beverly Springer, Senior Section Administrators. She then introduced Debbie Barber, Administrative Assistant, Celine Melton, Management Analyst, and Ken Wilkinson, Operations and Management Consultant, all of whom work in the Director's office. She continued the introductions with Art Varnadore, Chief of the Bureau of Regulation and Enforcement (BRE), who is in charge of all Regional Offices. Mr. Varnadore introduced Van Greene, the Division's new Investigation Specialist in the Tallahassee Regional Office.

Mr. O'Rourke asked attendees to introduce themselves, provide the name of the agency they represent, location and the types of licenses held. He thanked everyone for taking time from their busy schedules to attend the meeting.

Comments by Chairman

Mr. O'Rourke called for a reading of the September 16, 2010, meeting minutes.

MOTION by Ms. Patricia Schmitt: To waive the reading of the prior meeting minutes and accept as approved.

Second: Mr. Leonard Miller

Motion approved unanimously.

Mr. O'Rourke explained the purpose of the Council. He advised that the Council has eleven members. Five represent the private security industry, three represent the private investigative industry, one represents the recovery industry, one member regularly contracts with a Class "A", "B", or "R" agency, and one is an active law enforcement officer. Their terms are for four years. The members of the Council hold non-paid positions; their only reimbursement is for expenses to meetings. Council meetings are held quarterly at various locations throughout the state. The Council's role is to listen to input from the industry and make recommendations to the Division of Licensing.

Mr. O'Rourke requested attendees to be recognized by the chair and to provide his/her name prior to addressing the Council in order to help move the meeting along.

Mr. O'Rourke asked Ms. Crawford to proceed with comments on behalf of the Division of Licensing.

Comments by Division of Licensing – Constance N. Crawford, Division Director

Status of Division of Licensing Workload

Director Crawford commented that the Division's workload remains consistent because of the funding approved by the Legislature for the additional temporary positions that were hired last year. The Division also received an allocation for 28 new full-time equivalent (FTE) positions. Ms. Crawford stated the Division is averaging from 8,000 to 10,000 documents in process a week which is certainly down from the 90,000 to 100,000 peak of documents in process experienced in the past.

Ms. Crawford announced the Division is more than half way through with the hiring process for the eight (8) BRE investigators, one (1) for each regional office. Five (5) of the investigators have been hired and their training process is underway. The remaining three (3) are in process in various stages.

Investigation of Security Officer Training Facilities and Instructors

Ms. Crawford reported that the Division's Bureau of Regulation and Enforcement (BRE) is continuing its proactive and undercover investigations of Class "DS" Security Officer Schools and Training Facilities and Instructors throughout the state and will continue to do so. The Division will work to assure that schools and instructors are teaching the curriculum in compliance with the law. As reported at the last two (2) meetings, some schools were found to be in compliance and some were not; for those not in compliance, administrative action is being initiated. Ms. Crawford said she is committed to these investigations for as long as the Division has funds available.

2011 Transition Planning for New Commissioner of Agriculture

Ms. Crawford reported that the Division's management team and the Director's office staff has been working very hard for the last 2-3 months addressing items needed for Commissioner Elect Putnam and his transition team. She stated she is excited about the future: Commissioner Elect Putnam has so much to offer, both from the agriculture perspective and from the consumer perspective.

Proposed Legislation

Ms. Crawford stated that she is still not certain whether there will be a general agricultural bill for the 2011 Legislative Session. Ms. Crawford reminded PIRSAC members that she had provided each member a copy of House Bill 1445 and Senate Bill 382 from the 2010 legislative session at the last few PIRSAC meetings. She explained again that the text for the 2010 bills was essentially taken from the 2009 Department bills. Ms. Crawford explained that should she be asked if the Division has any recommendations, she is starting with that product. She again asked the council members to review the bills to see if there were any items of concern so that she could present them to the Commissioner when asked.

Ms. Crawford explained that an action has been filed against the Division under Chapter 120, which is the Administrative Procedures Act, stating that rules, not just compliance guidelines, are needed to define under what conditions and circumstances (where and when) a properly licensed person who is authorized to carry a firearm in the performance of his or her duties may do so. The Division has initiated the rulemaking process and will hold a public meeting on the matter in January. That meeting will be noticed in the Florida Administrative Weekly and Ms. Crawford said the Division is looking forward to input from industry members. Ms. Crawford then asked the Division's Attorney Supervisor, Mr. McGuckin, to inform everyone about 2010 legislation that will have a significant impact on the rulemaking process.

Mr. McGuckin stated that House Bill 1565, was passed by the 2010 Legislature and subsequently vetoed by the Governor. The veto, however, was overridden in the recent special session of the legislature. Pursuant to the text of the bill, if a proposed rule may have an adverse impact on small businesses or is likely to increase the regulatory cost in excess of \$200,000.00 within a year after implementation, it will require a Statement of Estimated Regulatory Cost to be completed and presented with the proposed rule. In addition, if a proposed rule has an adverse impact on more general matters such as economic growth, private sector job creation, employment, or investments and it has a fiscal impact over a five (5) year period that would be in excess of a million dollars, the proposed rule must be approved by the Legislature before it can take effect.

Ms. Crawford concluded her comments.

Council Member Input Regarding Industry Trends and Planning for the Future – Patricia Schmitt

During the last PIRSAC meeting, Ms. Schmitt stated that Ms. Crawford asked her to obtain any input from council members, associations or individuals concerning information that is pertinent to Chapter 493 F.S., with regard to industry trends and planning for the future. Ms. Schmitt stated the only input she received was from council member Johnnie Huneycutt and asked Mr. Huneycutt to summarize his input.

Mr. Huneycutt stated his comments pertain to detection deterrence and defense strategies and is from a more global perspective rather than a Florida-only perspective. He said that, with regard to Homeland Security, there appears to be only a one-way sharing of threat-based information and there is a need for such information to be shared not only *from* members of the private security industry *to* local, state and federal law enforcement agencies, but that threat information from those agencies should also be shared *with* the members of the private security industry. He suggested that, from the defense perspective, Florida needs to have a reciprocity mechanism in place to allow private security personnel licensed to perform armed services in another state to come into Florida, not only in the event of a terrorist threat but also in the event of a declared emergency.

K.C. Poulin then presented items that he believes will be of concern for the industry. He said the first is reciprocity for armed security, suggesting the need for a hurricane mitigation plan to be in place that will allow licensed security personnel from other states that have license requirements similar to Florida's to provide armed security in the State of Florida, without being licensed in this state. Mr. Poulin said another issue is the need for establishing rules for the use of secondary weapons. Mr. Poulin also suggested that there needs to be a rule or change in the statute to limit the amount of videos or media that can be used in the required 40-hour training for security personnel.

Mr. Poulin then brought forth a recommendation from Mr. Miller who had suggested that the Division may want to consider creating a pool of volunteer law enforcement retirees who could attend classes offered by licensed security schools and subsequently file a report with the Division regarding the quality of instruction, number of hours taught, etc. Ms. Crawford explained the Division had tried to find retired officers to hire as temporary OPS employees and did not find any who were interested because of the low hourly rate offered. Mr. Poulin stated that he believes there are a lot of retirees who are looking for something to do. Ms. Crawford asked PIRSAC members to stay in touch with their industry members and if they find people interested in volunteering to let her know.

Mr. Joe Taylor advised he wanted to remind council members that proposed regulations regarding unlicensed activity in the recovery industry had been presented to the Council several meetings ago. Mr. Taylor asked council members to remember this topic when the Division is being advised because there is more unlicensed activity now than before. Mr. O'Rourke commented that he is aware that three state associations, which represent the members of the regulated industries -- Florida Alliance of Certified Asset Recovery Specialists (FLACARS), Florida Association of Licensed Investigators (FALI), Florida Association of Security Companies (FASCO) -- have joined together and hired a lobbyist to address their mutual concern of unlicensed activity. They are working on a proposed revision to Chapter 493 that will follow the model used in Texas, Michigan, and Ohio to deal with unlicensed activity. He explained that when a person is found performing unlicensed activity, it would not be handled as an administrative process. The first offense would be a misdemeanor; a second offense would show deliberate indifference to the law and would be a felony. The second offense would also include a \$10,000.00 fine. Mr. O'Rourke said that after talking to the associations around the country that have implemented this process in their state, it has been very effective for the curtailing of unlicensed activity and beneficial to legitimate operators in those states.

Ms. Kelli Moore asked whether the proposed legislation included any other items. Mr. O'Rourke stated there is no other proposed legislation from the investigative industry. Mr. O'Rourke said that, with regard to Mr. Poulin's recommendation on oversight of secondary weapons, he believes it would be easy to address by rule that if a licensee carries a Taser, the individual needs to be Taser-certified by a Taser instructor who is recognized by Taser International. Ms. Crawford asked Mr. O'Rourke as the Chairman of PIRSAC if he would, or task someone, to provide proposed language regarding his recommendation. Mr. O'Rourke said he would share that information, hopefully in March 2011.

Ms. Crawford again asked PIRSAC members for input with regard to the proposed revisions to Chapter 493. She explained that she needs to know should the Commissioner ask her if the Division has input. She also reminded PIRSAC members that she had hoped to receive their input with regard to the Issue Paper, regarding return of uniforms and equipment, that was presented at the September 16, 2010, PIRSAC meeting.

Mr. William LaDrew asked whether the copy of the Issue Paper and the copy of revisions to Chapter 493 in the member packets today, were the same documents that council members received at the September PIRSAC meeting. Ms. Crawford responded saying the statute revisions and the Issue Paper are the same. She explained that she had just received input from FASCO regarding the issue paper and had also included it in the member packets.

Mr. Miller asked Mr. Poulin if he had any additional items to discuss. Mr. Poulin said one of the trends in the security industry is the bodyguard business. He stated that it has become more defined over the past ten years and especially in this day and age with travel issues that executives face. He believes there needs to be some kind of training or guideline put in place that will meet this need. He stated there are many individuals doing this kind of work that do not have that specific type of training. Mr. O'Rourke said this would require statutory change. Mr. Poulin said there has been a lot of discussion regarding tiered licensing for that particular career path. He further stated that this is not something the associations have discussed and there is no proposed revision to the statute being recommended at this time. Mr. Poulin advised there is going to be a need as time moves on.

Old Business

Mr. O'Rourke asked if anyone had old business to discuss. Ms. Crawford presented a plaque on behalf of Charles Bronson, Commissioner of the Department of Agriculture and Consumer Services, to Mr. O'Rourke thanking him for his service and term as Vice Chairman on the Council during the last year and she stated she is looking forward to working with Mr. O'Rourke as Chairman of the PIRSAC council for the upcoming year.

New Business

Mr. O'Rourke indicated that the Division had received e-mail from a licensee regarding "MB" licensure and suggested revisions to Chapter 493, Florida Statutes, and asked Ms. Crawford to present the topic. Ms. Crawford read the e-mail. Mr. O'Rourke stated that his understanding has always been the licensed manager is the person in charge of the agency or branch office. To qualify for a security agency manager license, the individual must show he or she has related security experience; the same would be true for a manager of an investigative agency, who must have related investigative experience. Mr. Poulin stated that by statute the manager licensee is the individual who directs the individuals performing regulated activities. Ms. Schmitt said the M, MA, and MB licenses help professionalize the industries, ensuring that the individual who directs the regulated activities of licensed personnel have a standard of minimum experience. Ms. Schmitt said she would not want the manager license to go away, as it would diminish the importance of having a licensed leadership manager with a proven track record.

Mr. LaDrew said the manager license also affects the recovery industry for the same reasons. He also commented that the revision to the law that removed the insurance requirement for

recovery agencies has made it easy for people to get into the recovery business, thereby making the business less professional. Mr. LaDrew stated he is not opposed to keeping the manager license for the recovery industry.

Mr. Taylor commented that the insurance requirement was removed from the statute because the required \$300,000 general liability coverage had nothing to do with repossession. He stated the proposed regulation requires a million dollars in wrongful repossession.

Ms. Schmitt stated that she was on the Council when it voted to eliminate the \$300,000 insurance requirement for the investigative and recovery industries. She explained the thought behind eliminating the insurance was that a responsible business owner would do whatever it takes to preserve and protect his or her agency, employees and the public.

Mr. LaDrew suggested putting something together to propose to the Council for a recommendation to the Division. He believes the lack of required insurance is ruining the recovery industry.

Mr. Poulin suggested that if the various industry associations have a concern regarding whether insurance should be required in Chapter 493, each association should submit its proposal to PIRSAC for review and consideration so the Council can advise the department: the needs of the investigative industry are different from the needs of the recovery industry because each industry has different interests.

Ms. Moore asked how the council should respond to Mr. Bottfeld. Mr. O'Rourke indicated he would contact Mr. Bottfeld regarding his e-mail.

Determination Regarding Next Meeting Locations

March – Safety Harbor/Tampa
June – Fort Lauderdale
September – Jacksonville
December – Tallahassee

Comments by Industry Associations

Recovery – Jamie Blackburn, President, FLACARS, expressed his gratitude for people taking time from their busy schedules to attend the meetings throughout the year to improve the regulated industries. He stated he did not have any other topics to discuss. Mr. LaDrew stated that he wanted to personally thank Jamie Blackburn and Brian Taylor for everything they do for the recovery industry.

Security - K.C. Poulin, President, FASCO. He stated FASCO does not have any issues to discuss. He also stated that FASCO's John Russi Award would not be presented today because of a scheduling conflict but would be presented in March. He stated there is a meeting today with Marion Hammer and the lobbyist for Florida Alliance of Certified Asset Recovery Specialists (FLACARS), Florida Association of Licensed Investigators (FALI), and Florida Association of Security Companies (FASCO), to develop a strategy for their legislative agenda to address unlicensed activity. They are developing a working proposition to change the statute to allow for a second offense of unlicensed activity to be a felony with a \$10,000.00 fine. Impersonating a police officer will also be discussed. Mr. Poulin stated that the security industry's detention bill for critical infrastructure is back up, but overall the main focus for the three associations is unlicensed activity.

Ms. Moore asked if the combined group consulted with the Division about the proposed language, and if so what was the response. Mr. Poulin said there have been some unofficial conversations to get a feel if they could use the tool but that they will wait until there is formally written proposed language before presenting it to the Division under the new Commissioner.

Mr. LaDrew said he wanted to thank personally people like Joe Taylor, Alan Lamarche, Art Varnadore, K.C. Poulin, and Connie Crawford for doing everything they do. He said these are the people that are making a positive difference to the regulated industries.

Private Investigation – Jack Belich announced the Florida Association of Licensed Investigators would hold the 17th Annual Educational Conference, June 9-11, 2011, at the InterContinental Hotel in the Tampa Bay area.

Ms. Moore asked about moving the PIRSAC meeting in June to Tampa since the FALI Conference will be there, so that licensees could attend both the conference and the PIRSAC meeting. There was discussion regarding supporting the investigative industry by switching the meeting from Fort Lauderdale to Tampa in June. Ms. Moore asked Ms. Barber to see if the meeting could be held at the same hotel as the FALI conference or a hotel that would be close by. Ms. Barber stated she would check availability, cost, etc., and let the Council know as soon as possible.

Comments from Public/Industry

Mr. Ivan Holiday of Bouncergear, Inc., a Security Officer Instructor, gave a presentation regarding specialized nightclub security. He stated that he attended today's meeting as a representative hoping to bring more professionalism to that segment of the industry. His focus is to get a special endorsement for the "D" license for professionals in the nightclub industry. Mr. Holiday's proposal is for a Class "D" security officer licensee, who wants to provide nightclub security, to take an additional 12 hours of his training, which would authorize the licensee to receive a special endorsement on the license. Mr. O'Rourke said that one of the things the Council has discussed before is tiered licensing but that he does not know if proposed legislation could name a specific training provider. He commented that asking for a statutory change of that nature may be a huge undertaking. Mr. Poulin stated that the state should never be in a position to force any specific program on agencies; he said he could understand the state outlining the criteria of the program, however. Mr. James Glenn suggested that Mr. Holiday may want to discuss his proposal with the Department of Business and Professional Regulation's Division of Alcoholic Beverages and Tobacco. Mr. Lamarche stated that the Class "D" security officers licensees working in nightclubs reflect on the security industry as a whole and for that reason Mr. Holiday's idea needs to be looked at by the security industry. Mr. O'Rourke stated there should be a requirement for proprietary entities to do a background check on individuals who are not licensed. Ms. Schmitt said many in-house employers do have licensed security officers because of the liability factor.

MOTION by Ms. Patricia Schmitt: To adjourn the meeting.

Second: Mr. William LaDrew

Motion approved unanimously.