



Ohio Private Investigation & Security Services Commission (OPISSC) February 28, 2013 Minutes

Commission Meeting Date and Location: February 28, 2013, Ohio Department of Public Safety (DPS), 1970 W. Broad Street, Columbus, Ohio 43223

Commission Members Present: Mr. Rodney Armstrong, Mr. Mike Cohen, Mr. Steven Cotner, Mr. Dennis Deskins, Mr. Dwight Holcomb, Mr. Gregg Hollenbaugh, Mr. Bryan Kirk, Mr. Jeffrey Parson, Mr. Joseph Powell, Mr. Brian Simms, and Mr. Mark Wasylshyn

Commission Members Absent: Mr. John Born, Mr. Tom Charles, Mr. Ralph Portier

Also Attending: James Canepa, Aleta Dodson, Julie Faulconer, Kris Marple, Joe Montgomery, Mike Mullaly, Christy Ram, Paul Rapp, Arnie Schropp, Jr., Melanie Schropp, Andy Spencer, Anne Vitale

Visitors Attending: Howard Korn, International Protection Group; Ted Owens, Ohio Special Services Group; Terry Myer and Alfred Nomo, Columbus Detective Agency; Wayne Sever, Highland Security and Investigations; Al Wheeler, Worldwide Protection Group

Mr. Mike Cohen, Chair, called the meeting to order at 1:00 PM.

ROLL CALL:

Mr. Rodney Armstrong	Here	Mr. Gregg Hollenbaugh	Here
Mr. John Born		Mr. Bryan Kirk	Here
Mr. Mike Cohen	Here	Mr. Jeffrey Parson	Here
Mr. Montgomery for Mr. Charles	Here	Mr. Ralph Portier	
Mr. Steven Cotner	Here	Mr. Joseph Powell	Here
Mr. Dennis Deskins	Here	Mr. Brian Simms	Here
Mr. Dwight Holcomb	Here	Mr. Mark Wasylshyn	Here

A quorum was present to conduct business.

TRAINING DEMONSTRATION

Mr. Cohen reported that the OPISSC Training Committee has been evaluating vendor options to find the best way to go forward on providing eight hours of training for new security officers. The committee had three vendor presentations and voted to move forward using DPS' e-Learning group. The Training Committee requested that the DPS e-Learning team present a brief overview of the online training they can develop.

Melanie Schropp, manager of DPS Workforce Planning and Development, introduced web-based training developers, Christy Ram and Chris Marple. A video demonstration highlighted various available options and enables the Training Committee to tailor the training to meet the needs they

envison. Security options were discussed regarding printing the certificate of completion, which included: the user could only print the certificate once, could be prevented from editing the certificate before printing, the user name could be auto-filled from their application, and a user could be restricted from completing the course more than once.

Mr. Cohen explained that OPISSC subject matter experts would be available to assist in creating the final product. The online training will be free, there will be a fee for the exam, and the exam would only be administered by qualifying agents. Once the individual has received their certificate, they can go to any company to work. Mr. Cohen said at this time the exam is primarily geared for security officers, but will have questions that are appropriate for both private investigator and security officers. There will be a second test developed for private investigators down the road. Mr. Powell said he has no frame of reference with the security guard aspect and asked if a Class B provider would be required to take the training and exam as presented even though it does not specifically relate to private investigators. Mr. Cohen said at this time, yes. Mr. Armstrong said that the information is interchangeable, and both private investigators and security officers should know this information as it relates to the legal section and access control, which any 101 investigator should know.

MINUTES

Mr. Cohen asked if there was a motion to approve the minutes from the January 15, 2013, Ohio Private Investigation and Security Services Commission (OPISSC) meeting. Mr. Powell noted a few grammatical changes.

ACTION: Motion to approve the January 15, 2013, meeting minutes with the noted corrections. Wasylyshyn first. Cotner second. None opposed. Deskins abstained. Motion approved.

COMMITTEE REPORTS

Mr. Cohen said both the Legislative and Portability Committees are waiting to hear back from DPS on their review of the legislative rewrite.

ALRS Phase II of III Database Rewrite: Arnold Schropp and Aleta Dodson

Supervisor Aleta Dodson of the Licensing and Registration Unit gave an update on license renewals. As of that morning, 65% of renewals were received; 56% submitted online and only 9% were mailed. The staff is working overtime, busy handling phone calls, answering questions, and assisting individuals trying to get their ID and password for access to renew online. IT is addressing any system errors. Mr. Powell said today is the last day to renew and Ms. Dodson said applications can either be submitted online or postmarked by midnight, March 1. Mr. Deskins asked if it was normal to only receive 65% the day before the deadline. Ms. Dodson said according to staff, that is how it was last year and before that. Mr. Powell asked if there is some reason everything is done at the same time each year rather than spreading it out during the year. Ms. Dodson said when the initial legislation was passed, it was mandated it be done that way. Mr. Cohen said hopefully that will change.

Investigative Report: Paul Rapp

Mr. Schropp reported that PISGS received approval to hire the final and fourth investigator. The individual will be assigned the northwest region of Ohio and will report out of Findlay. Mr. Rapp distributed copies of the Investigative Compliance report. There are fifteen administrative hearings, five criminal hearings, seven fines, and seven to attend the informational seminar pending. Per Mr.

Rapp, some of these are companies working individuals armed without proper firearm bearer (FAB) certification. Mr. Hollenbaugh asked when you get somebody for unlicensed activity, are you going to allow them to come back and apply for a license? Why would you want somebody that's been breaking the law? The past administration let them do that and I turned in two people that were operating for years without a license, and the state helped them get licensed. In response to Mr. Hollenbaugh's complaint, Mr. Schropp said that revising the code will address that issue. Mr. Schropp distributed examples of the proposed new identification cards for registrants, qualifying agents, and firearm bearer.

OLD BUSINESS

Rewrite of 4749.

Mr. Cohen asked what the status was of ODPS's review of the legislative rewrite to 4749. Anne Vitale provided a brief update that she and DPS staff reviewed. The items that PISGS wanted changed, added or removed were distributed for members to review. They are listed below along with brief comments summarizing points of contention.

- **DPS disagrees with changing the term "security guard" to "security officer"**

DPS has concerns with putting the term "officer" into the Ohio Revised Code. It could open it up for future misrepresentation and could create an issue where a person could more easily misrepresent themselves as a police officer. Eliminating the term "officer" would prevent that. Additional concerns include that a defense attorney may say the ORC says he is an officer and use as a plausible defense; taking away ammunition to go after the individual and takes away a felony conviction. Mr. Simms agreed that he would have a problem with prosecuting that charge and would never get twelve people to convict on that. Specific language was also added about containing the term law enforcement, police, deputy, etc., in their business names in conjunction with Ohio or State in business names or in advertising or on uniforms.

Mr. Armstrong said no one refers to them as security guards anymore, they are called security officers. My question is, by leaving it as guard, does that mean the industry now has to refer to everyone as guard? Mr. Canepa said you can call your employees anything you want to call them; it is once DPS starts recognizing them in a certain way in the law that it becomes problematic from an enforcement standpoint. Mr. Armstrong said he just doesn't understand how all these other states can do it but we can't. Mr. Schropp said it is not a matter of we can't; it's a preference for us for this particular issue, that's all. Mr. Canepa said DPS has a larger responsibility and it would limit law enforcement and the criminal justice system's ability to take additional action against someone representing themselves legally as an officer.

- **DPS agrees with the term "security provider" rather than "security guard provider" for licensees.** All parties were in agreement.

- **DPS disagrees with the proposed changes to 4749.10 shifting the responsibility of approving basic firearm training programs, instructors, and curriculum from OPOTA to ODPS.** State law mandates the Ohio Peace Office Training Academy (OPOTA) has the primary responsibility of certifying peace officers and all other licensing types of individuals who want to qualify for firearms. DPS does not want the responsibility of approving basic firearm training programs, instructors, and curriculum and want it to remain with OPOTA. Some Commission

members expressed displeasure at the length of time it takes OPOTA to qualify someone to carry a gun (sixty to ninety days), stating their industry needs a thirty day turnaround. DPS offered to look into how this can be streamlined and asked for members who would be interested in meeting with OPOTA. Mr. Simms suggested having OPOTA attend a Legislative Committee meeting.

- **DPS added requirements that applicants for licenses must provide in addition to the Qualifying Agent, the names of all business officers, managing members, owners, and partners. This change will allow PISGS to consider the “reputation for integrity” of these same corporate individuals when vetting an application for licensure. No discussion occurred.**
- **DPS added more specific language to prohibit the use of the terms: law enforcement, police, sheriff, deputy, patrolman, peace officer, trooper, constable or patrol in conjunction with “Ohio” or “state” in any form of advertising, correspondence, uniforms, patches or cars. No discussion occurred.**
- **DPS included the same prohibitions for registrants regarding convictions for crimes involving moral turpitude that currently apply to licensees. (This allows for a greater than a three year look-back on registrants as specified in recently enacted Senate Bill 337). No discussion occurred.**
- **DPS added an integrity requirement for registrants. No discussion occurred.**
- **DPS will allow registrants to work 90 days after registration application is submitted, but not issue a temporary card on behalf of the department (company can issue card).** The language presented to DPS wanted the temporary card to be issued by the licensee on behalf of DPS and DPS does not want licensees issuing something on behalf of the Director of the Department of Public Safety, which can open up other issues. After discussion, it was determined the wording simply needed changed and that registrants can print out a receipt and carry it with them until they receive their official card from DPS. Once an individual submits their registration, they can work for 90 days; the only thing removed was the temporary card being issued on behalf of DPS.
- **DPS added authorization to allow PISGS to take disciplinary action if criminal or civil charges are filed.** Ms. Vitale said this would allow the Director to be able to temporarily suspend a company or guards if there is a public safety threat without waiting for conviction. Mr. Schropp said this allows DPS to take immediate action for extreme circumstances. Ms. Vitale said PISG has seen a lot of businesses have civil charges filed against them for something done in the course of business.
- **DPS added authorization to allow PISGS to take disciplinary action against those who proctor the exam.** Ms. Vitale said since the code is adding in an exam, DPS added being able to take action against a person who knowingly allow others to cheat or compromise the exam.
- **DPS clarified that a qualifying agent must be actively involved in the business and is responsible for ensuring that the business is in compliance with the provisions of 4749. No discussion occurred.**

- **DPS limits the peace officer exemption from registration to those peace officers working within the jurisdiction of their commission and allows federal law enforcement officers to be included in the peace officer exemption.** The Ohio law definition for law enforcement or peace officer does not include federal officers. PISGS wanted to include them because there have been occasions where retired federal agents, like Mr. Cohen, have applied to be a qualifying agent. Some Commission members expressed concern for having an officer with no experience with Ohio law or who doesn't normally work misdemeanors and felt they should go through the process of registering. PISGS will add the applicable federal section of code that defines a federal officer. Both law enforcement representatives on the Commission were against a federal exemption.
- **The exemptions that were removed from the definitions section were put back in.** Ms. Vitale said there was a lot of discussion during the Legislative Committee meetings about people doing genealogical research or engineers, and DPS could not see a reason to remove these exemptions. Mr. Armstrong said the Commission wanted them removed.
- **Increase the civil penalty cap to \$25,000.** Commission members had requested a \$10,000 cap and did not understand raising it to \$25,000. Currently, there is no cap and PISGS feels the cap is too low for serious issues such as firearm or registration violations. Mr. Armstrong suggested using a percentage of annual revenue instead of a cap as a \$25,000 fine could put small companies out of business. Mr. Schropp said a \$25,000 cap is low for a large company and Mr. Deskins said for some, it's the price of doing business. Mr. Montgomery said the settlement agreements he signs are usually only for \$80 to \$100, and rarely are they over a grand. Mr. Canepa said if a company is set on continuing to violate, why would you want to cap it?
- **Remove the requirement that a schedule of fines be adopted in rule.** The statute already provides limits on PISGS on the types of violations and a maxim fine of \$100 a day. Ms. Vitale researched other regulatory agencies' schedules and most are policy driven and not in rule. They are very broad and simply tier major and minor offenses, not first, second, or third offenses. The general assembly has already set limits, so to put them in rule again is like going through another legislative process to get something that PISGS already has the ability to do. Mr. Armstrong said by doing it through policy, it can change with a stroke of a pen. When it is in rule, notifications are sent to industry members and hearings have to be held before changes can be made.
- **Establish a yearly administrative fee based on the company roster.** DPS proposed a \$5 per person fee for the company's annual roster report. When portability is in place, if someone works for three companies, it will eliminate each company having to register a security guard; the individual will only need to register once. Right now all three companies must pay to register them.

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After review of these changes, some members expressed frustration with the changes. Ms. Vitale said she understood the concerns, but very few changes had been made to what the Legislative Committee and Commission recommended. She said she knows it seems slow, but redrafting was necessary and new personnel needed briefed on the changes. Personnel that were in the meetings are no longer with PISGS. Mr. Hollenbaugh said he has no problem with current staffing; you guys are 100% more efficient than the people at Commerce. It's just we go through all this and now there are changes you are bringing back and some of us have heartburn with. Ms. Vitale said it was made clear all along that PISGS might come back with some changes; nor was there an agreement that

DPS would take every change presented and not comment on it. Mr. Cohen said the Commission was expecting DPS to come back with a draft prior to this meeting so all the commission members would have had an opportunity to review it and then have a discussion today. Ms. Vitale said last month she told the Commission that there would be something from the Director's office for them to review. Each line has been reviewed and is here today. It might not be thirty pages of legislation, but getting the actual language together is very complicated. Mr. Cohen requested to have a draft from DPS before the next meeting. Ms. Vitale said it is being worked on, but she could not guarantee a complete legislative draft by the next meeting due to prior commitments.

Mr. Wasylyshyn and Mr. Cotner needed to leave for another meeting. Ms. Vitale asked if there would still be a quorum to continue the meeting. Ms. Dodson said there would be.

***** Mr. Wasylyshyn and Mr. Cotner left at 2:35 PM *****

Mr. Cohen requested the Legislative Committee meet to review these changes and come back with a formal response to the Commission. Once these are resolved, we will be able to move forward.

Mr. Cohen requested a meeting with OPOTA be arranged with representatives from both the Training and Legislative Committees and legislative representatives of the Commission in attendance. He felt all commission members would attend, which is probably the most expeditious way to get it resolved.

Mr. Cohen said the next scheduled Commission meeting is March 28th and requested representatives from OPOTA be in attendance.

PUBLIC COMMENTS

Terry Myer of Columbus Detective Agency said he appreciates everyone's work. The industry has come a long way and still has a lot to do. He appreciates DPS' willingness to help expedite OPOTA licensing.

ACTION: Motion to adjourn. Simms first. Kirk second. None abstained. None opposed. Motion passed.

The meeting was adjourned at 2:38 PM.