



Ohio Private Investigation & Security Services Commission Committee: Legislative Committee Meeting

March 27, 2013

Draft Minutes

Committee Members Present:

Mike Moran, OASIS – Committee Chair
Rodney Armstrong, Securitas Inc.
Gregg Hollenbaugh, Cal Crim, Inc.
Howard Korn, International Protection Group
Ted Owens, Ohio Special Services Group
Jeff Parson, Allied Barton
Jim Sylvania, Sylvania Investigative Services, LLC

Committee Members Absent:

Steve Cotner, Corporate Intelligence Consultants, Inc.
Brian Simms, Franklin County Prosecutor's Office
Blair Staud, Ohio Support Services

Also Attending:

Irwin "Mike" Cohen, OPISSC Chair
Aleta Dodson, PISGS
Julie Faulconer, PISGS
Joe Montgomery, DPS Director's Office
Paul Rapp, PISGS
Arnie Schropp, PISGS
Andy Spencer, PISGS
Anne Vitale, PISGS

Guests Attending:

Wayne Sever, Highland Security

Call to Order - The meeting was called to order at 1:35 p.m. by Chairman Moran and was held at the Department of Public Safety, 1970 W. Broad Street, Columbus, Ohio.

Roll Call - Completed by Chairman Moran; a quorum was present to conduct business.

OLD BUSINESS

ACTION: Motion to approve minutes from the September 20, 2012 and March 11, 2013 Minutes OPISSC Legislative Committee meetings. Hollenbaugh first. Armstrong second. None opposed. None abstained. Motion passed.

Rewrite of Ohio Revised Code (ORC) 4749. – Final Response

Several items to work out include ID card/receipt, term security officer vs. security guard, roster file fee should not be charged (instead raise registrant renewal free from \$25 to \$30 (can go up to \$35 per ORC)), refund of new application would only receive \$275 versus \$375 (PIGS keep \$100 for time spent processing),

Integrity had multiple questions – for registrant and licensee and Ms. Vitale on page 15. (3 – 1, 2, 3). Mr. Korn asked what resources are used in integrity. Ms. Vitale said in PISGS records

***** Mr. Wasylyshyn arrived 1:43 PM *****

Mr. Schropp said the reason for this is SB 337 tied our hands on previous convictions to only a three year look back. One applicant had been in prison three times for drug abuse. Ms. Vitale said this only applies to licensees; will make applicable to prior criminal qualifications (convictions?). Mr. Moran said problem security guards have to meet same as QA. Ms. Vitale said with you back dooring 337 in the building near people and their personal belongings. Mr. Moran said to come up with regulatory language and Ms. Vitale said this is currently for licenses and Mr. Moran said open up. Ms. Vitale requested he bring language for this. She is looking at previous in 4749 and Mr. Moran said remove “but not limited to” to tie it down; 337 for keep nose clean. Ms. Schropp concerned about other than drug or alcohol and Mr. Moran said “character and fitness” and doesn’t want to backdoor 337 records. Mr. Schropp said not in your business, I’d be concerned. Trying to address it here. Mr. Hollenbaugh said like option if been clean for ten years and Mr. Cohen said need consistency. Ms. Vitale said a lot of crimes we want to deny, but department won’t be able to deny who you choose to employ. Mr. Cohen said it is the industry, the department has to decide need to live with 337. Mr. Cohen said they do background checks and Mr. Rapp point out not everyone does. He said making courtesy calls to companies asking if they want to employ them. Mr. Moran said allow BCI reports go to employers, he doesn’t think companies would hire him; have BCI sent to the company. Ms. Vitale would have to come from ??? PISGS gets sealed records in law and Mr. Wasylyshyn said can’t use sealed record for CCW. Mr. Moran said sealment can have two misdemeanors or 2 felonies, restoration for rights – teaching or law enforcement can get that. Mr. Rapp said only use for FAB card; federal law doesn’t; can use sealed record. Ms. Vitale said she and Mr. Montgomery would like to discuss with BCI.

***** Mr. Montgomery left at 1:55 PM *****

Mr. Moran said expungment is an interesting wrinkle and will create language for Ms. Vitale.

OPOTA piece. Mr. Moran didn’t see anything change. Mr. Wasylyshyn was at Sheriff’s Association and were discussing if we could do renewals to expedite process instead of waiting sixty days. Mr. Moran. Hand search records. Mr. Cohen said FAB has to wait 21 days to get class scheduled; doesn’t matter where, then its months. Mr. Armstrong. Mr. Wasylyshyn said sixty days to approve and Mr. Cohen said it doesn’t matter if new or renewal. Mr. Wasylyshyn said since we are already doing CCW, have OPOTA certified FAB instructor and process like CCW. Can customize FP machines to whatever department requires ?? they want to print FAB

card?? Mr. Moran if they have a record, the hit goes to DPS for approval; industry about efficiency. Back-end FAB training. He and Mr. Schropp spoke and discussed with Mr. Fiatal of OPOTA/AG's office. Is okay with giving up?? Hours raised to 158 for security guard without FAB.

DPS does not want to certify instructors. Ms. Vitale met with Mr. Fiatal at OPOTA and will come to next OPISSC meeting. Hopefully come to resolution. Discussion took place on how they certify process. We went to discuss education. Mr. Montgomery said spoke with Mary Broyles and they turnaround requests in 24-48 hours on renewals.. Persona has 90 days in advance to keep their requalification date. But wait to last minute. She always has classes available and some have to travel. Mr. Cohen said someone doesn't schedule the Academy and Mr. Moran wants treated like law enforcement or CCW where they can requalify one or two days before. Flawed system. Forms to open or close academy. Industry at its frustration level. Mr. Montgomery said DPS is not in the qualifying business. OSP goes to OPOTA for their qualifications. This is their OAC that needs changes and they agreed to attend OPIOSCC meeting to hear recommendations. DPS will not submit legislation to certify FAB instructors for PISGS. Ms. Vitale asked to submit language and will discuss with OPOTA. Mr. Moran said doesn't want to open OPOTA statute. Mr. Schropp said we can't change; maybe Sheriff through OPOTA might change. Mr. Wasylyshyn suggested making law enforcement standard to get rid of academy/roster process. Create a short sub-committee to draft language, streamline like what is out there for CCW and peace officers, and modernize statute for private investigator/security guard. Mr. Rapp said OAC has to be changed through OPOTA. Mr. Wasylyshyn said OPOTA will be at meeting. Mr. Owens want rosters for background check. Meet next week before next committee meeting. Discussed arranging a committee for Mr. Schropp, Mr. Cohen, Mr. Wasylyshyn, Mr. Korn, Mr. Owens, OPOTA Bob Fiatal and Sheriff Vern Stanford. A break was taken to determine if a meeting could be set up.

***** Break 2:24 to 2:44 (or 3:14?) *****

Mr. Moran reported Mr. Fiatal said DPS can have whole thing and Mr. Moran will set up meeting.

4749.021(B)(2) – Page 5 Ms. Vitale – let OASIS and other PISGS associations could submit the name. Mr. Moran was not sure why it was there.

4749.03 – use of terms (titles) license requirement – Ms. Vitale said committee didn't make a lot of changes in comments. She redrafted and reorganized. QA so focused PISGS wanted to look at who owns company and mirrored after liquor licenses. Range from mom and pop operations to Target and Krogers. Dealer Licensing owners have to submit affidavit.

Page 8 – Mr. Moran will have to go over with fine tooth comb.

Mr. Moran said bullet #5 – law enforcement term page 19 © is overly broad. Ms. Vitale said allowed company your rep in their title. This is advertising.

Mr. Moran said court constable is sworn in and can get license revoked using termination; commissioned private police. Mr. Schropp said this only occurs in those cities or counties. This language contradicts what is already in cone. Mr. Vitale said this section doesn't apply to private police officer. 2921.51 Mr. Moran said look at this (a)(2) any security guard or privately employed; 2913.44 impersonation statute and anti-fraud. Major cities have these. They want Ms. Vitale to strike federal law enforcement.

Everyone to review 4749.03

#9 4749.04 page 13 #c1-2-3-4- - Ms. Vitale said DPS goal is for undermining public safety. Mr. Moran said unacceptable.

Ms. Vitale drafted language – civil action without judgment and due process. Mr. Armstrong this is about who is in office five years from now. Ms. Vitale and Mr. Schropp and Mr. Rapp have to discuss. Has to do with PISG Dayton security guard murder and shooting people in the line of work. Didn't want to go after business and we can only revoke FAB and they can still work unarmed.

Mr. Moran 4749.041 summary suspension language - Need to go back to that and add registrant in that and delete #9. Ms. Vitale will talk with Mr. Schropp and Mr. Rapp. Con wants to remove civil action and indictments.

Page 4 (K) qualifying agent definition “designated in writing to the department by the licensee”

Registration definition business as licensee and gets registration card. Mr. Moran said they are not registered they just get card. Sole proprietor is the QA.

Proctoring exam language end of 4749.04 bottom 13 and top 14. Mr. Moran liked language.

#I added back in adopt rule and kept out mitigating hearing officers so they can make this rec. owend. We get process. Mr. Moran said other agencies provide guideline and are helpful to hearing officer. Mr. Korn asked for example and Mr. Moran said mitigating factors – how long in business, revocation won't occur on first paper violation. Ms. Vitale said we have to make a rule with those guidelines. Mr. Cohen has 10 list, someone comes forward with new eleventh one; Mr. Cohen agrees with Ms. Vitale. Mr. Armstrong said DPS would make a list of discipline sanctions in rule, just not in law. CSI process and JCARR process and hold public hearing to change rules. Mr. Moran said quasi-legislative and does have law behind it. Ms. Vitale said easier to change by law still has process to go through. Mr. Moran said licensee or registrant top high for registrant. Ms. Vitale said two caps, one for registration of \$1,000 and one for licensee of \$25,000. Mr. Korn said consistency law for felony now.

#13 Ms. Vitale asked why keep genealogists out as 4749.06 already exempts them.

Page 17 – F. Mr. Cohen said one week in advance of commission meeting. Mr. Wasylyshyn draft before next committee meeting. Mr. Cohen in time for Committee to review at meeting. Mr. Cohen said OPOTA is most critical item to get to Commission. Mr. Armstrong clarification on 4749.03 page 7 € license fee biennial and page 10 middle of page, says \$550. Branch licenses are critical to us. Okay in 4749.03?

Next legislative meeting will be April 18 at 8:30 AM. Aleta won't need minutes done before then.

Mr. Sever had question about FAB. Mr. Wasylyshyn said DPS okay with OPOTA instructor. Mr. Wasylyshyn and Mr. Moran will arrange meeting with OPOTA.

Committee members reviewed the changes and additions DPS had regarding the rewrite of Ohio Revised Code (ORC) 4749. as presented to the OPISSC at their February 28, 2013 meeting. Items discussed were:

1. DPS does not want to change the term “security guard” to “security officer”. DPS said out of all the states, thirty-four use the term security guard, nine use the term security officer, and seven have no requirements. DPS has a concern that this could create problems in court cases where a security guard impersonates a law enforcement officer. If the title is changed in statute to security officer, this could create a legal defense in such cases because “officer” is in their official title. The committee requested DPS contact the nine states where they are called officer to see if they have encountered such problems.
2. Everyone agreed to use the term “security provider” in place of “security guard provider”.
3. DPS disagreed with the changes to 4749.10 shifting the responsibility of approving firearm training programs, instructors, and curriculum from the Ohio Peace Officer Training Academy (OPOTA) to DPS. Mr. Moran said OPOTA has made it clear they want nothing to do with certifying private investigator and security guards. Committee members said they experience long delays in getting people re-qualified. Mr. Schropp clarified DPS’s issue is with how the language is written; he has no problem allowing certified OPOTA instructors to do the firearm requalification, but does not want to get into the business of certifying firearm instructors when that is OPOTA’s job. Mr. Moran says right now companies have to deal with two different state agencies when the Governor is trying to make doing business easier in Ohio. Other items discussed included an exemption from attending firearm classroom training for law enforcement and retired military, whether DPS needs a score sheet or only evidence of requalification, and allowing National Rifle Association and other similar organizations teach firearm training. Mr. Cohen said the goal is to eliminate the bureaucracy of getting an individual qualified. It was decided that:
 - a. The language should be changed to say “DPS will accept firearm re-qualifications by any OPOTA certified firearm instructor” and the OPOTA instructor would approve the range where the test would be conducted.
 - b. The initial qualification and 20 hour class would remain in place.
 - c. Rewrite language to indicate requalification can be done by certified OPOTA instructors.
 - d. Develop a standardized form for firearm instructors to submit results to DPS.
 - e. Mr. Moran will re-write this section.
4. DPS added requirements that license applications include the names of all business officers, managing members, owners, and partners (CEO, CFO, etc.) of non-publicly traded companies to allow PISGS to consider their reputation for integrity along with the qualifying agent (QA) when vetting an application for licensure. Mr. Moran felt this language could be interpreted so many ways and asked the department to provide more specific language to the committee.
5. DPS added additional language to prohibit the use of terms such as law enforcement, police, constable, etc., in conjunction with “Ohio” or “State” in any form of advertising, uniforms, cars, etc., excepting commissioned police officers.

6. DPS added the same prohibitions to registrants regarding convictions or crimes involving moral turpitude that currently only apply to qualifying agents. This corrects the change SB 337 made that eliminated this from 4749. Mr. Schropp said this will again allow PISGS to look back longer than three years in moral turpitude cases that were not an F1 or F2 level. Everyone was in agreement.
7. DPS added integrity requirement for registrants. Mr. Moran felt this language could be interpreted so many ways and asked DPS to provide more specific language to the committee.
8. DPS does not want companies to issue a temporary card on behalf of DPS. As far as the state is concerned, registrants in applied status should carry their receipt in their wallet as proof they are in applied status. Committee members agreed with this.
9. DPS added authority for PISGS to take disciplinary action while criminal or civil charges are pending. Mr. Schropp said this would be where DPS can take disciplinary action in extreme cases such as where the security guard killed someone or there is a public safety issue. The Committee requested DPS provide more specific language to the committee.
10. DPS added authority to take disciplinary action against those who proctor the proposed mandatory training exam. Committee members agreed.
11. 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 provisions of 4749. Mr. Schropp said a qualifying agent for six different companies cannot be actively involved in the operations. Committee members agreed with this.
12. DPS clarified that a commissioned peace officer exemption from registration only applies to those working within their area of jurisdiction. DPS and committee members agreed. In regard to DPS's proposal to extend the exemption to federal law enforcement officers, committee members were not in agreement and requested it be removed. Mr. Schropp agreed.
13. DPS added back in the exemptions for architects, genealogists, etc., from having to register as security guards/private investigators that had been removed from the definitions code as they thought this was an oversight. Committee members said they do want these removed. Mr. Moran said the intent was to tighten up the exemptions to regulate unregulated people including peace officers working outside their jurisdiction. Mr. Schropp will check with Ms. Vitale as she was the one who reinserted into definitions.
14. DPS proposed increasing the civil penalty cap to \$25,000. Mr. Schropp pointed out that currently there is no cap on fines and feels that \$10,000 is very low. He said when fines are assessed, PISGS takes into consideration whether it is a mom and pop operation versus a large company. The committee requested DPS provide more specific language on this.
15. DPS removed the requirement that a schedule of fines be adopted in rule. Mr. Moran thinks the industry needs to know what they might have to pay and Mr. Schropp pointed out that each case is looked at differently. Mr. Schropp said latitude would not be available if there was a fine schedule in place. The committee requested DPS provide more specific language on this.

16. DPS added a yearly administrative fee for registrants to be reported by the licensee. When a company hires a person, they are to submit the roster report with \$5 for each person they hire; there would be no fee when they are terminated. Members want it to be a one-time fee, not an annual fee. Mr. Schropp agreed to that. Mr. Moran said that could be considered a user fee. A discussion took place regarding PISGS budget cuts and that portability will increase the cost of doing business. Some members felt the industry needs protected from having excess PISGS monies raided like what happened in 2006. Member suggested perhaps increasing the registration fees instead. Mr. Schropp will work on the language for this.

A meeting was tentatively scheduled for March 28th. Mr. Moran will check with Mr. Cohen regarding cancelling the OPISCC meeting scheduled that same day and hold the Legislative Committee meeting instead. Mr. Moran will update Ms. Dodson on the status of the meeting date.

ACTION: Motion to adjourn the meeting. Owens first. Parson second. None opposed. None abstained. Motion passed.

The meeting was adjourned at 3:42 p.m.