

MINUTES

**UTAH
Security Services Licensing Board
MEETING**

February 9, 2012

**Room 210 – 4th Floor – 9:00 a.m.
Heber Wells Building
Salt Lake City, UT 84111**

CONVENED: 9:00 A.M.

ADJOURNED: 3:14

Bureau Manager:

Clyde Ormond

Board Secretary:

Yvonne King

Board Members Present:

Chief Johnny McCoy, Board Chair
Sheriff Jeff Merrell
Perry Rose
Alan Connor
John Tinsley

Board Members Absent:

Jack Gardner

Guests:

Russ Shinrock, Securitas Security
Lynette Phillips, U.S.A.
Joe Chapman, Chapman Security
Daniel Swanson, Broadview University
Rogelio Gutierrez, Probationer
Paul Jarosak, Security Industry Specialists
Robert Orrigoni, Applicant
Joseph Rubio, Probationer
Sam Mahena, Applicant
William Bowyer, Probationer
Christie Holdaway, Applicant

DOPL Staff Present:

Debra Troxel, Compliance

ADMINISTRATIVE BUSINESS:

Approval of the December 8, 2011 Board Meeting Minutes

Sheriff Merrell, seconded by Mr. Rose made a motion to approve the December 8, 2011 Board Meeting Minutes as written. The motion carried unanimously.

APPOINTMENTS

Broadview University
Dan Swanson

Mr. Swanson appeared before the Board for his scheduled appointment. Mr. Swanson had previously submitted an education program from Broadview University in conjunction with their Criminal Justice Program. This

course had been approved through the Security Education Peer Committee contingent on Mr. Swanson adding questions to the exam with respect the Utah Law and Rule, implementing PACSCO to the exam questions, and to include de-escalation of force subject matter.

Mr. Swanson stated that he had contacted Bob Anderton from PACSCO and purchased his program to implement the changes.

The Board then asked Mr. Swanson what the credentials of the instructors were. Mr. Swanson stated that they all have a minimum of a Master's degree in criminal justice. The Board then raised the question to Mr. Swanson if students could just take the 24 hour basic course. Mr. Swanson stated that it could be offered as an elective course however it is designed for the 150 hour course.

Mr. Rose seconded by Mr. Tinsley made a motion to accept Broadview University's course as basic unarmed training. The motion carried unanimously.

E-Learning
Russell Shinrock

Mr. Shinrock appeared before the Board to present an on-line program. Mr. Shinrock presented an e-learning course to be another alternative to the 16 hour continuing education program. Mr. Shinrock stated that this is the way a lot of courses are being presented now.

Joe Chapman explained that continuing education can be just as if not more important than the initial basic training. Mr. Chapman's concern was that it may open the door for other companies to do unqualified online training.

Mr. Rose had a concern that the Basic training may be compromised due to allowing the continuing education to go on-line.

Mr. Shinrock explained that there did not need to be a change in the rule because the e-learning could go under the definition of formal education.

Chief McCoy stated it appeared that e-learning was within the parameters of the rule. Chief McCoy also stated that he felt the qualifying agent was the one responsible for implementing the continuing education with in their respective company.

Chief McCoy suggested including specific language in the definition for formal education.

Sheriff Merrell seconded by Mr. Rose made a motion to

Paul Jarosak
Security Industry Specialists

obtain a definition of formal and Basic training from the Security Education Peer Committee.

Mr. Jarosak appeared before the Board for his scheduled appointment. Mr. Jarosak was applying as the qualifying agent replacement for Security Industry Specialists. Mr. Jarosak had met with the Board previously and the Board denied him due to a conflict of interest with his position as Internal Affairs Commanding Officer for the Salt Lake Unified Police Department. The original request was on the October 5, 2011. Due to the fact that Security Industry Specialists received the denial letter and Mr. Jarosak was not informed, the Director, Mark Steinagel suggested placing the application before the Board for another review.

Mr. Jarosak has a law enforcement background and has also worked for Security Industry Specialists for about three years. Mr. Jarosak stated that he did not feel there was a conflict of interest and explained that he puts in at a minimum of 20 hours a month as required in Statute under regular basis and has not seen anything that would affect his ability to work for Security Industry Specialists. Mr. Jarosak stated he received the recording of the previous meeting and noted the an individual who came before the Board just before his appointment was approved as a Q.A. despite the fact that she lived in Cedar City, the company was located in Salt Lake City and she was currently employed in Las Vegas, NV. Mr. Jarosak stated she appeared to have more conflicts than him.

Mr. Jarosak did state that his first priority would be with the Police Department. Chief McCoy stated that this would then be a conflict where it could jeopardize a Security Company in his efforts to respond to an emergency. Mr. Jarosak stated that an on-site supervisor would be able to respond to a major situation.

Mr. Tinsley felt that there was a conflict and stated that there is a debate with legislators on this very issue. Mr. Tinsley also stated that there is a very murky line between security and law enforcement and liability comes into play. Mr. Tinsley then explained if we begin to approve qualifying agents to friends in law enforcement we open that door to a lot of scrutiny because there is a potential to use tax payer's money when hiring law enforcement.

Chief McCoy noted that a police officer and a qualifying agent are separate responsibilities and should not be restricted from being a qualifying agent. Chief McCoy stated this is a leadership issue and a police officer can be ethical, moral, and can make the right decisions. Chief McCoy also stated, a police officer using tax payer money

comes down to the ethics of the individual. Chief McCoy then stated there is nothing legislated at this time to prohibit a police officer from being a qualifying agent.

Mr. Rose stated that the bottom line is if there is an emergency and Mr. Jarosak does not respond, he would not be available. Mr. Jarosak disagreed.

Chief McCoy stated that this conflict should not single out one profession.

Sheriff Merrill stated that Mr. Jarosak's duties are not on the front lines. He has the ability to be more flexible than most and if we only require 20 hours a month by statute under "regular basis" does Mr. Jarosak qualify?

Chief McCoy asked what the Board has done in the past. Mr. Conner stated that there have been some shot gun approaches in the past and stated he was not entirely sure the Board had always made the correct decisions.

Chief McCoy made a request of the Board to be fair on where we now stand. Chief McCoy suggested tabling the issue until the next meeting scheduled in April 12, 2012 and see where the legislature stands.

Mr. Tinsley seconded by Mr. Conner Made a motion to table the decision until the next meeting in April 12, 2012. The motion carried unanimously.

Debra Troxel, Compliance

Ms. Troxel reviewed the probation files for Mr. Gutierrez, Mr. Rubio and Mr. Bowyer. Ms. Troxel noted that all probationers were compliant with the Memorandums.

Rogelio Gutierrez

Mr. Gutierrez appeared before the Board for his scheduled interview. Mr. Rose performed the interview. Mr. Gutierrez requested an early release from his probation but because he would be released in April, the Board felt he should complete the probation with the original release date.

The Board would like to see Mr. Gutierrez at the next scheduled meeting in April 12, 2012 before Mr. Gutierrez is released.

Joseph Rubio

Mr. Rubio appeared before the Board for his scheduled meeting. Sherriff Merrill performed the interview. The Board concluded that Mr. Rubio was compliant with his Memorandum.

William Bowyer

Mr. Bowyer appeared before the Board of his scheduled meeting. Mr. Bowyer also provided an expungement and

indicated he would like to be released from his probation.

Mr. Tinsley seconded by Mr. Rose made a motion to suspend Mr. Bowyer's review on his probationary license until such time that he accepts work in field. Mr. Bowyer will still need to submit employer reports monthly. The motion carried unanimously.

Robert Orrigoni

Mr. Orrigoni appeared before the Board for his scheduled appointment. Mr. Ormond explained that Mr. Orrigoni was in security and a police officer in Argentina. Mr. Orrigoni would like to make application for a Contract Security Company. Mr. Orrigoni had asked the Board if the experience in Argentina would count and if the 24 hour basic training requirement could be waived due to his previous experience in Argentina.

Mr. Rose stated if he would like to be a security officer he would need to obtain the 24 hours basic training which Mr. Rose explained is not exempt and can not be waived.

The Board further reviewed Mr. Orrigoni's experience from Argentina with respect to qualifying as a qualifying agent. The Board determined that they could not make that decision.

The Board asked Mr. Ormond to obtain an opinion for the Attorney Generals Office.

Christie Holdaway

Mr. Holdaway appeared before the Board for her schedule appointment. Mr. Ormond had granted a conditional license for Ms. Holdaway pending the outcome with issues from a POST certification. It appeared that the issue was resolved.

Sheriff Merrill seconded by Mr. Tinsley made a motion to approve Ms. Holdaway for full licensure as an unarmed security officer. The Motion carried unanimously.

Samson Mahana

Mr. Mahana appeared before the Board for his scheduled appointment. Mr. Ormond reviewed the application along with the criminal charge. Mr. Mahana explained the nature of his charge.

Mr. Rose made a motion to deny licensure to Mr. Mahana. Mr. Rose withdrew his motion.

Sherriff Merrill seconded by Mr. Tinsley made a motion to approve Mr. Mahana for a probationary license as a Security officer for 18 months with a standard Memorandum. The motion carried unanimously.

TOPICS FOR DISCUSSION

Legislative Issues
Criteria for a qualifying Agent

Mr. Ormond stated that HB 180 under Armored Car has changed the language with respect to food stamps to SARN.

Mr. Tinsley stated that he has met with legislatures in which there are issues with statute and rule not corresponding collectively with regards to the qualifying agent. Mr. Tinsley suggested with a few rule clarifications the Board could resolve this problem.

Mr. Tinsley stated unlike law enforcement where it is black and white, it is not that way with Security with respect to off duty law enforcement.

Mr. Tinsley noted that when government competes with private business this launches a huge investigation. Mr. Tinsley also noted that in Heber City there was misuse of funds which is happening all over the place.

One of the main issues Mr. Tinsley was concerned about was law enforcement competing with the private sector, law enforcement using public funds and the liability it incurs.

Mr. Tinsley stated in 58-63-304 the law says a peace officer must be employed by or licensed as a contract security company but the rule appears to be vague.

Mr. Tinsley recommended adding to rule 156-63-102 (4) two simple words shall not. Mr. Tinsley said this could end the turmoil between the two professions, law enforcement and contract security.

Mr. Tinsley stated it was suggested by legislature to propose a bill to post the rate of pay for off duty law enforcement when working for the private sector with respect to contract security companies, and to post the name of the company along with the insurance coverage.

Lori Noda from the Attorney General's Office appeared before the Board. The Board asked Ms. Noda if the rule could be changed in definition with regards to a peace officer being a contract security company in 156-63-102 (4). Ms. Noda stated that there would need to be a statutory change for that clarification. The rule follows the statute.

It was then determined that a change could be made in the definition in rule with regards to the qualifying agent in R156-63a-102 (10) which Ms. Noda agreed could be accomplished.

Mr. Ormond then stated that in the past, the Board has not been consistent with their approval of qualifying agents. Mr. Tinsley stated if we define what a conflict is we will not have that inconsistency.

Mr. Shinrock stated in the definition for qualifying agent it stated "substantive changes". It was Mr. Shinrock's interpretation that it did not mean to respond to an emergency.

Mr. Tinsley asked what the Division's interpretation of a Qualifying Agent was. Mr. Ormond stated that in the definition in rule it stated "does not jeopardize the public, safety and welfare of the public". Mr. Ormond also noted that in the past from about 1995 to 2001, there was no definition other than what was built into the statute it self. Mr. Ormond also stated that it was not uncommon to have had qualifying agents for multiple companies. It was Mr. Ormond's opinion that the definition of conflict meant being a qualifying agent for more than one company.

The Board then entertained the thought of creating a license for the qualifying agent.

It was suggested to change the language in R156-63a-102(10) qualifying agent in the rule with the terminology (regular basis) which is defined in 58-63-102(11) as 20 hours a month.

Mr. Ormond stated that he would put some language together and email it to the Board.

R156-63a-102(10)

"Qualifying agent" means an individual who is an officer, director, partner, proprietor or manager of a contract security company who exercises material authority in the conduct of the contract security company's business by making substantive technical and administrative decisions relating to the work performed for which a license is required under this chapter and who is not involved in any other employment ~~or activity~~ on a "regular basis" as defined in 58-63-102(11) ~~which conflicts with his duties and responsibilities to ensure the licensee's performance of work regulated under this chapter does not jeopardize the public health, safety, and welfare.~~

June 14, 2012

Date Approved

Sheriff Jeff Merrill

Chairperson, Security Services Licensing Board

June 14, 2012

Date Approved

Clyde Ormond

Bureau Manager, Division of Occupational & Professional
Licensing
