



New Mexico Regulation and Licensing Department

BOARDS AND COMMISSIONS DIVISION

Private Investigations Advisory Board

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NEW MEXICO PRIVATE INVESTIGATIONS ADVISORY BOARD

Regulation and Licensing Department

5200 Oakland Avenue NE, Main Conference Room

Albuquerque, New Mexico

Regular Board Meeting May 5, 2009

MEMBERS PRESENT:

Donald Jochem, Board Chair

Gurutej Khalsa

Al Stotts (arrived at 10:32)

Mark Smith

Jim Wilson

AMENDED DRAFT

MEMBERS ABSENT:

None

STAFF PRESENT:

Steve Herrera, Board Administrator

Julie Ann Meade, Chief Counsel/Deputy Superintendent

OTHERS PRESENT:

See Sign-In-Sheet

I. Call To Order:

Chair Jochem called the meeting to order at 10:19 am, roll call was taken and a quorum was established.

II. Approval of Agenda:

Mr. Khalsa moved for approval of the agenda as amended; Mr. Wilson seconded, motion passed unanimously.

III. Approval of Minutes – March 18, 2009 (Regular Board Meeting).

Mr. Khalsa moved for approval of the March 18, 2009 Regular Board Meeting minutes. Mr. Smith seconded, motion passed unanimously.

IV. Date and Place of Future Meeting:

July 16, 2009, 10:00 am in Santa Fe RLD Office

SPECIAL MEETING TO BE HELD ON JUNE 16, .

V. New Business – New Training Curriculum and Instructor Approval Recommendations.

Board Administrator Steve Herrera provided the Board with the list of the new instructors and companies who were to be recommended for approval by the Superintendent. Mr. Khalsa made a motion to recommend that the list be approved, the motion was seconded by Mr. Wilson. Motion passed unanimously.

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VI. Federal background checks in lieu of state background checks.

Mr. Eddie Rodriguez of the Diamond Group approached the Board requesting to use their federal background checks in the place of the state background checks provided by the board and the Department of Public Safety. Mr. Rodriguez brought up 16.48.1.11B(5) which references working on federal property and the training required. Mr. Rodriguez mentioned the fact that he had no problem paying the \$29.95 however that the background checks were high clearance and could suffice for the state requirement. Mr. Khalsa stated that he did not have a problem being that the two checks were closely related and that in fact the federal was a higher level of check. Ms. Julie Meade interjected by stating that 16.48.1.11B(5) pertained to licensure and had nothing to do with background checks. She went on to state that the board office is mandated by statute to use the Department of Public Safety whom is our conduit to the FBI. Mr. Khalsa stated that the OPM also goes through the FBI. Mr. Jochem commented on the fact that the OPM background is good for 5 years. Mr. Khalsa stated he would welcome an OPM for initial licensure but for renewal purposes they would need to utilize DPS. Ms. Meade then pointed everyone's attention to 61-27B-34 A(2) which explicitly states that the all background checks must be performed by the Department of Public Safety.

VII. Powers of arrest as it pertains to 16.48.2.19C (13):

Mr. Jochem stated that he had checked with DPS and conversed with him regarding deadly force and the powers of arrest. He mentioned a book titled the "Police Use of Force a Line Item Guide". Mr. Jochem asked that the same principles be applied for level three guards and that for the record the board adopt the same standard for level three guards to be mandatory. Mr. Herrera emphasized the fact that the phrase "Powers of Arrest" was also mentioned and that he and Mr. Jochem were slightly confused over the language being that security guards have no arrest powers in the State. Ms. Meade clarified the confusion stating that the security guards needed training on the laws pertaining to powers of arrest so that they will know the levels of detainment. Mr. Khalsa stated there was a fine line between arrest and detainment. He further reiterated that a crime witnessed would require a citizen's arrest on behalf of the security guard but could also create substantial liability on the part of the company. Mr. Dennis Kelly stated that the book mentioned goes in part with another program that states that the 16 hrs of training for the program must be taught by a DPS certified trainer. Mr. Kelly also mentioned that DPS is going to discontinue training people other than certified law enforcement. Ms. Meade stated that DPS had previously agreed to train the firearm instructor's, but that she would do some research to clarify DPS's current stance on the issue.

VIII. Rule Hearing

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Mr. Herrera told the Board that there will be Rule Hearing to re-insert some language that was inadvertently left out after last years rule change. He expressed the importance of the language as it pertains to the Polygraph License. Mr. Smith asked if the rules become effective immediately to which Mr. Herrera responded that there is a 30 day filing time between the actual filing of the rules and the effective date.

IX. Guard Cards

Mr. Herrera introduced Mr. Michael Redman and Ms. Victoria Rascon both employed by AKAL security. Mr. Redman (Regional Director) stated that he was having a hard time with the turn around time receiving guard cards. Ms. Rascon stated the hard part about it was that the guards could not get to work until they have their cards. Mr. Herrera stated that the cardscan machine was not fully functional and that it created a problem for both the companies and the board office. Mr. Redman wanted to make sure that the process would run smoother for the State Fair time. Mr. Jochem asked if the board had provisional authority. Ms. Meade stated that she was unaware of any. Mr. Herrera pointed out 16.48.2.17C (4) which talks about provisional licenses for level 1 security guards. The question arose if this provisional license was good for all guards. Ms. Meade stated that it was good for only level 1 and level 2. Mr. Herrera stated that no provisional licenses were issued for level 3 and that when the State Fair time came about the cardscan machine would be up and fully functional. Mr. Redman also asked if guard cards can be sent directly to the company office. Ms. Meade stated that statutorily the board office is obligated to send the card directly to the guard. Mr. Herrera stated that the board office can send copies of the cards to the company office.

X. Deliberation/Action on adjudications, complaints and licensing matters.

Motion was made at 11:24 am by Chair Jochem seconded by Mr. Wilson to enter into Executive Session pursuant to Sections 10-15-1.H (1) and (3) of the Open Meetings Act. Motion passed unanimously.

Executive Session

IN: Pursuant to 10-15-1(H)(1) and (3) of the Open Meetings Act, I move to go into Executive Session to discuss matters pertaining to complaints for the items listed on the agenda.

1. Executive Session: Deliberation on Executive Session Items:

Mr. Khalsa made the following motions:

Issuance of NCA:

Case # 2008-03

Recommendation to Dismiss:

Case # 2008-15

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**2008-32
2008-34
2009-01**

Mr. Stotts seconded the **Motions** (Roll Call: Gurutej Khalsa, James Wilson, Al Stotts and Mark Smith voted in the affirmative with Mr. Jochem abstaining). **Motions** passed unanimously.

OUT: Pursuant to 10-15-1(H)(1) and (3) of the Open Meetings Act the matters discussed in the closed meeting were limited only to those specified on the agenda.

ADJOURN – Chair Jochem adjourned the meeting at 12:01 pm.

Submitted By:

Steve T. Herrera, Board Administrator

Date

Approved on Behalf of the Board By:

Don Jochem, Chairman

Date