



November 18th, 2014

Delegate James M. LeMunyon
P.O. Box 220962
Chantilly, Virginia 20153

Re: Use of Private Investigator Registrants by Licensed Private Security Businesses
as Independent Contractors

Dear Mr. LeMunyon:

On behalf of the Private Investigators Association of Virginia, Inc. (PIAVA), I would like to thank you again for meeting with private security industry representatives on July 24th, 2014. We are very appreciative of your interest in resolving issues of concern to our industry, and your willingness, if necessary, to introduce legislation for that purpose. We understand that a bill has been drafted to permit licensed private security businesses to engage the services of private investigative registrants as "independent contractors." As we indicated in July, we support achievement of that goal. However, we would like to offer comments for your consideration regarding certain of the language present in a draft of that legislation which Robert Blansfield, the former President of the Professional Investigative and Security Association (PISA), shared with us.

We believe that it is in the public's interest for entities which perform private investigative services to be licensed and regulated by the Commonwealth. We also believe that any individual who performs private investigative services in the Commonwealth should be required to register with DCJS and to meet the training and qualification requirements which have been established for the position. However, we find current provisions of the code which require a licensed business to enter an employer-employee relationship with a registrant and/or or to subcontract with another licensed private investigative business in order to deliver investigative services to be problematic and cumbersome. Moreover, we believe the public's interest could be served simply by authorizing only licensed private security business entities to solicit, direct, and/or perform investigative services and requiring that the services be performed only by individuals who have been issued a registration by DCJS as a private investigator. This would permit business license holders to engage a registrant as an "independent contractor" to perform investigative services without requiring the firm and the registrant to enter an employer-employee relationship.

A summary for the draft legislation and language of the draft bill states that it would require:

" the Department of Criminal Justice to issue a registration as a private investigator to a person who (i) is not licensed as a private security services business and (ii) is not employed by a licensed private security services business but who otherwise meets all the criteria for registration."

At present, the Department of Criminal Justice Services (DCJS) currently will issue a private security services business license and an individual registration to the same person. In fact, a number of our members hold both a DCJS private security services business license and a registration issued by DCJS as a private investigator. This arrangement is not unusual, as many private investigative businesses in Virginia are small and, often, are "one-man operations." Thus, we believe that prohibiting the issuance of a business license and a registration to the same person would be counter to established and widely accepted business practices in the industry.

The summary further states: "Currently, the Department will only issue such a registration to a private investigator, who is in an employee-employer relationship with the private security services business." However, this statement is not accurate as DCJS will issue a registration as a private investigator to individuals who meet the training and background qualification requirements for the position, notwithstanding whether they are actually employed by a private security business. While an individual's registration with DCJS is a requirement for the performance of private investigative services in Virginia, a registrant has an unfettered ability to seek employment with any licensed private security business in the Commonwealth.

We believe the heart of the matter is that the proposed legislation should allow: "...a licensed private security services business to hire as an independent contractor a private investigator who has been issued such a registration." To achieve that end, we suggest removing the new language offered in lines 28-31 of the draft, and simply adding the language "Notwithstanding any other provision of this article, a licensed private security services business may employ as an independent contractor a private investigator who has been issued a registration pursuant to this subsection."

We are hopeful that the foregoing comments will contribute to achievement of your objective. Please let us know if we can be of any further assistance to you or your staff in this matter.

In view of your expressed interest in our industry, I would also like to determine if your schedule will permit you to meet with the leadership of PIAVA in the near future to discuss other issues which are of concern to the members of our association. If you are able to do so, would you please contact me via my direct cellphone number (301) 801-8301 or Vice President Todd Troutner at 703-966-6409 at your convenience.

Thanks again for your assistance with this important matter and we look forward to hearing from you soon.

Sincerely,

Kenneth P. D'Angelo
President