

FIFTH
EDITION

PRIVATE SECURITY AND THE LAW

CHARLES P. NEMETH



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Private Security and the Law

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To Smiling John and Mighty Joe, twin sons who continue to be not
only gifts, but also young men I am deeply proud of.

Thirty years later, these twin sons continue down a remarkable path—both of them
men of honor and decency—both of them the sons fathers always hope for.

To Saint Thomas Aquinas

It is lawful for any private individual to do anything for the common good,
provided it harm nobody: but if it be harmful to some other, it cannot be
done, except by virtue of the judgment of the person to whom it pertains to
decide what is to be taken from the parts for the welfare of the whole.

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Acknowledgments

The fifth edition of *Private Security and the Law* traces a most remarkable genealogy in the life and times of the private security industry. As done in previous editions, I continue to marvel at the industry's staying power and ability to adapt to an evolving law enforcement marketplace. Onward and upward, the industry goes with the reality of "privatization" now a full-fledged reality. From street and community protection, to the perpetual protection of assets and people, the private sector shows no signs of being stuck in the status quo. In fact the complete opposite is true. Private sector justice will just keep gobbling up once sacrosanct public policing functions. Whole neighborhoods and communities are now part of the delivery system. Dramatic growth everywhere—prisons, courts, policing, energy, art and cultural, educational and medical, community services—to name a few are now part and parcel of private security delivery.

As these obligations rise, so too the concerns for legal liability, legal oversight, and compliance. Despite the evolution of many legal principles, the state of legal application in the world of private security remains remarkably consistent. While there are always efforts to impute new and novel legal protections to those claiming an entitlement or procedural protection, private security finds itself in remarkably similar shape over the last 60 years. This is not to say that courts and legislators, regulators and policymakers, do not tinker or intervene—to be sure, there is a hard court press used at making the private into the public domain. And that is the thrust of this fifth edition—to show recent case law and statutory constructions relevant to private security as well as the maze of regulatory initiatives that seek to deliver oversight to this industry.

Whether constitutional or civil, criminal, or administrative, security management now need a fixed eye on all things legal.

As in the other editions, the project relies on a wide range of people. First, the willingness of CRC Press to continue this legacy is most appreciated. Editor Mark Listewnik continues his unbridled support for the private security industry and displays a strong knack for knowing what is essential in this academic sector. The historical overview provided early in the text remains as fresh and accurate as the day my brother, James E. Nemeth, an historian in his own right, penned. At John Jay College I am forever blessed by a strong crop of undergraduate and graduate students who provide research assistance, particularly Manny Zevallos, Jose Rodriguez, John Carleton, and Alexis Tabak.

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As in all my productions, family drives the enterprise. I know I owe the deepest of gratuities to my beloved family, Jean Marie, wife and friend for 46 years, and the children we have been blessed with—Eleanor, Stephen, Anne Marie, John, Joseph, Mary Claire, and Michael Augustine. It is impossible to imagine life without these incredible blessings.

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Charles P. Nemeth is a recognized expert in homeland security and a leader in homeland security education. An educator for more than 30 years, Dr. Nemeth's distinctive career is a blend of both theory and practice. He has authored more than 40 books on law, security, law enforcement, and homeland security and is currently chair of the Department of Security, Fire, and Emergency Management at John Jay College in New York City. Dr. Nemeth is formerly the editor for the peer-reviewed journal *Homeland Security Review* and also currently serves as the director of the newly established Center for Private Security and Safety at John Jay College in New York City. He is a much sought-after legal consultant for security companies and a recognized scholar on issues involving law, morality, and ethics.



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Chapter 1

Historical Foundations of Private Security

1.1 Introduction: The Concepts of Self-Help and Self-Protection

Historically, the concepts of self-help and self-protection were considered foundational to the enforcement of law and the assurance of social order. The private citizen was, by most measures, the chief party responsible for the safety and security of a community. Public law enforcement is a much more novel concept. Whether private or public in design, ideas about policing and protection arise from a variety of influences. Like any other type of institution, its practices and procedures are not fixed in a day but emerge in an evolutionary sense.¹ For any clear and accurate assessment of private security or public sector justice, first the historical underpinnings need to be examined.

These principles, derived from English law and the Anglo-Saxon tradition, and subsequently adapted to American jurisprudence, provide a panorama for how public and private protection systems not only emerged but legally operate. For example, what were the early parameters for protection of property? Within the common law and even early codifications of English law was the right of self-help first recognized. A man's home was indeed his castle, if he was fortunate enough to possess one. To protect his property and life, a person was entitled to use even deadly force. And have there been historical preferences regarding public protection or private oversight—a tendency to protect oneself instead of waiting for others to protect? Early emanations of self-defense and self-protection can be traced to the earliest civilizations. For example, the maintenance of law and order in the Greek and Roman empires were primarily the function of the military and its command structure. Order was maintained in the empire not because of some formal entity, but because the power base was rooted in military authority. Weaving its way through this very mentality was the natural, almost universal view that citizens had a right to self-defense and had the obligation to defend self and others and to do so without much state interference. The Greek philosopher Demosthenes correlated the power of self-defense with a vision of natural law and natural rights common to every human person. "Is it not monstrous, is it not manifestly contrary to law—I do not mean merely the statute of law but to the unwritten law of our common

humanity—that I should not be permitted to defend myself against one who violently seizes my goods as though I were an enemy?”²

Although the word “police” has a classical origin—the Greek *politeuein* “to act as a citizen of a polis”—the metropolitan police forces we are accustomed to did not exist in the ancient world. A few cities had some form of institutionalized keepers of the peace—“magistrates of the peace”—but municipal police forces are a nineteenth century phenomenon: the British “bobbies” named for the Prime Minister Robert Peel appear in the 1830s.³

Upholding the law and the protection of private and communal person and property was, and is still considered, the responsibility of the individual and the community.⁴ It is as the great jurist Blackstone indicated in the eighteenth century—a most “natural right to security from the corporal insults of menaces, assaults, beating, and wounding”⁵ of others. Inherent in our own autonomy is this view that self-defense and self-preservation could not be more natural.

The law is most effectively served by those who serve themselves. “An unwritten tenet of democracy places enforcement of the law within the domain of ordinary citizens ... under the principles of common law any man still possesses wide authority to protect himself, his family, and to some degree the general peace of the land.”⁶ Coupled with this reality, in a free and capitalist society, some would argue, are the market forces that dictate what things have value and what needs protection based on that value. To be sure, self-help directly ties its undergirding to a philosophy of ownership and personal protection. In other words, the society’s decision on how to parse up its enforcement model, whether it be public or private in design is inexorably tied to demand.⁷

Although self-help in the protection of one’s life and property was socially acceptable, other factors often dictated the practice as the only viable form of law enforcement. For much of European and American history, sparsely populated areas, rugged geography, and a strong distrust of any proposed national police organization forced individual citizens and communities to enact and enforce the law through the best available means. Oftentimes, private individuals acting on their own, or at the behest of communal interests, would be forced to take the law into their hands. This was best demonstrated in the tribal “blood feuds” of the Dark Ages. Order and protection was threatened by nomadic bands of rogues and barbarians, territorial fiefdoms, and blood feuds. Anguished communities were held captive by hordes of intruders.⁸ Primitive justice centered on the retribution of wrongs:

An injury done was primarily the affair of the party injured and of his kindred. It was for him and them to avenge the wrong on the wrongdoer and his kin, and to prosecute a “blood feud” against them until the wrong originally done was wiped out by retaliation.⁹

Although the self-help protection philosophy gave no clear-cut parameters as to what was fair and equitable justice, the origins of common law did develop from a notion of reasonable, nonlethal force in the protection of one’s property. When criminal action threatened only property, the law did not condone the use of deadly, retaliatory force. The law rightfully considered human life more precious than mere property.¹⁰

The issue of self-protection did not, however, exclude the use of deadly force in the protection of life. To be a legitimate use of deadly force, the use of force had to be justifiable, and not disproportionate to the force threatened.¹¹ A person, with justifiable cause, could use force in defense

of family and self, and also in the defense of others.¹² Under the feudal system, the relationship between lord and vassal resembled the present-day system of contract security.

1.1.1 Historical Foundations

1.1.1.1 The Middle Ages

Although modern law enforcement, security organizations, and policing/security functions were not initiated during the Middle Ages, an idea of the need and design for law enforcement and security did originate during this era. While most of the Middle Ages maintains its preference for private justice over centralized public systems, there was a growing recognition that centralized authority may assure a more even result in terms of justice. Yet at the same time, the period fully held fast to the necessity of self-defense, self-protection and self-help as an essential feature of a civil society. Katherine Fisher Drew's masterful work on this public–private comparison during this same captures the full essence of the dilemma:

For the purposes of justice, all these kingdoms recognized the need for self-help and the usefulness of belonging to either a strong family or kin group or enjoying the protection of a more powerful individual, whether he was your lord and you his humble servant or tenant, or whether he was the lord who accepted your free service and provided protection in return.¹³

It is important to understand the chaos and circumstances of Medieval England and Europe that led to the establishment of private, self-policing forces. The vassal–lord relationship had developed a reciprocal self-help approach to the security of one's life and property. Life in feudal times centered on the manors and villages, each responsible for their own protection. Small villages provided their own citizen-police, centering on the ancient “hue and cry” by which the able-bodied men could be summoned to lend assistance when criminal acts occurred or a felon needed to be apprehended.¹⁴ This method proved effective, but only within the limited range of the feudal territory or lord's domain. With each lord having his own system of security and no codified system of English law, the issue of national or regional security was a muddled mess of self-interests and conflicting jurisdictions. As the small manors of feudalism evolved into towns, villages, and eventually cities, the old system of self-help could not keep up with the rising crime rate.

From 1000 to 1300 AD, the developmental seeds of an ordered system of law enforcement began in England.¹⁵ The king appointed shire-reeves, who had law enforcement responsibilities in English counties or precincts. “The shire-reeve seems to have developed from the king's reeve, the local official who looked after the king's business.”¹⁶ He was a royal representative, and it was intended that he would protect the royal interests if they conflicted with the local claims of anyone, including the lord of the county. Above all, the shire-reeve was still the chief officer of the county.¹⁷ Within a manor, an appointed officer known as a “constable” was responsible for dealing with legal matters. Both the shire-reeve, later shortened to sheriff, and the constable were the forerunners of modern sworn police officers.

The system of English legal protection continued to expand and define itself more clearly. Under the Statute of Winchester of 1285 a system of “watch and ward” was established to aid constables.¹⁸ The watch and ward system was comprised of a justice of the peace, constable, constable's assistants, and night watchmen whose primary function was the care and tending of a designated area of a town or city known as a “ward.”¹⁹ Even today political subdivisions are often broken

down into the ward structure. Regular patrols of citizens were established to stand watch nightly and to arrest criminals and strangers found wandering at night. When an offender was caught in a criminal act, the “hue and cry” was raised.²⁰

It was then the duty of all men in the community, fifteen years and older, to rally at the scene and uphold justice. In addition, they were required by law to carry arms and form a *posse comitatus* to pursue criminals.²¹ Maintaining the king’s peace and enforcing the law remained a public responsibility.²²

Although all men had the general duty and the right to make arrests, the constables and sheriffs had additional specific peacekeeping duties and powers. Unfortunately, the officers were ill-equipped to handle the urban growth that created cities with huge populations. Because constables were unpaid, ill-trained, and ill-equipped, English law enforcement was in dire straits. Lord Chancellor Bacon, in 1618, complained that constables were “of inferior stock, men of base conditions.”²³ The towns and cities of England, especially London, fell into virtual anarchy because of the lack and inadequacy of publicly appointed and underpaid professional peacekeepers. Unfortunately, the bulk of the watchmen and constables lacked the essential qualities for success.²⁴ In his book, *Hue and Cry*, Patrick Pringle states:

Such is our respect for institutions that when an established system breaks down we are quick to blame people and defend the system; but the lesson of history seems to be that systems must be made for people, because people cannot be made for systems. To be effective, any system—whether political, religious, economic, or judicial—must expect people to be base and selfish and venal.²⁵

Due to the rising crime rate, and the inability of the poorly organized English system of law enforcement to effectively combat it, private persons and businesses developed their own means of protection. As towns and cities expanded, merchants and artisans banded together for mutual protection. In his book *On Guard*, Milton Lipson relates how:

Guild members united to perform the duty of watching their contiguous property in the heart of these medieval towns, serving as watchmen themselves, later assigning their apprentices and thereafter hiring special guards. In these practices are the visible roots of both modern insurance and private security.²⁶

What is clear is that the American fore into law enforcement has not been as clean or transitionally predicable as one might hope and, in fact, can be properly described as a “tangled web of what are typically referred to as public and private police forces.”²⁷

Other forces played into the impetus for a more formal law enforcement system. The expanding trade and transportation of vital goods and services were temptations for criminals. It also demanded the need for protection of private interests, property, and self. From this arose the concepts of proprietary and contract security. Throughout the sixteenth century, different kinds of police agencies were privately formed. Individual merchants hired men to guard their property and merchant associations created merchant police to guard shops and warehouses.²⁸ The status of these private guards “was by no means uniform; some were sworn in as constables, while others continued in employment as private watchmen or guards. There were also no general scales of payment, rules of conduct, or assigned duties for these newly created private security forces.”²⁹ These areas were solely under the discretion of the employer. The essence of private security was born in the chaos of the Middle Ages, especially that of the “contract” variety, but the standardization of its organizational hierarchy, duties, and pay was yet to come.³⁰

1.1.1.2 Colonial America

The influence of the English culture and tradition in America is quite evident in our legal system, and especially evident in early colonial law enforcement. Colonial America incorporated the systems of sheriff, constable, and watch as its earliest forms of law enforcement. With subsequent empire building came further pressure to regularize and formalize the protection system. However, the concept of a uniform police force was still far in the future. George O'Toole contends in his book, *The Private Sector*, that

...police, public or private, are not one of America's oldest traditions: the Republic was nearly 70 years old before the first public force was organized, the infant nation had few laws to enforce, and the protection of life and property was largely a do-it-yourself matter in the tiny wilderness communities that made up the frontier.³¹

As in Medieval England and Europe, population and geographic factors in Colonial America favored a loosely structured communal law enforcement system. Generally, the sheriff served in unincorporated areas, the constables in towns and villages.³² In Colonial America, the sheriff was charged with the execution of all warrants directed to him, both civil and criminal. He shared with other peace officers special powers of arrest without warrant, but did not serve as an important agent in the detection and prevention of crime.³³

In 1607, the first constable was appointed in Jamestown, Virginia, becoming the first duly appointed law officer in the New World.³⁴ As in England, the constable's position was difficult to fill. His duties were many and varied, the pay was minimal, the hours long, and the prestige associated with the job was low.³⁵ The constable was, however, the main law enforcement officer for the local American government in the 1800s.³⁶

The watch system in America was derived as colonists coming to the New World banded together for mutual safety and business protection.³⁷ The first night watch formed in Boston in 1634.³⁸ Serving as a watchman was the duty of every male citizen over the age of 18. The tour of duty usually began at 9 or 10 p.m. and ended at sunrise.³⁹ As in the selection of constables, finding men of high caliber to serve watch was difficult. The powers of the night watch were more limited than those of constables, and they had no policing power and limited arrest authority.⁴⁰

Primarily, the early colonial need for security did not center on proprietary or commercial interests, but on the fear of fire, vagrants, and Indian attacks. As urban populations grew, the system of sheriffs, constables, and the watch proved inadequate in meeting law enforcement needs. The diversity of the original colonies did not promote any concept of uniform law enforcement practices or national police. Even with increasing urban congestion and a rising crime rate, little would change in American law enforcement. "Watchmen remained familiar figures and constituted the primary security measures until the establishment of full-time police forces in the mid-1800s."⁴¹ The seemingly unchanging organization of colonial American law enforcement was not so much a sign of social stability, but more likely a wariness of any public or national force controlled by a federal government. "The principle of states' rights had a profound and continuing impact upon law enforcement."⁴² Americans, especially right after the American Revolution, were leery of any federal entity that sought to control and administrate over state and local matters. Law enforcement and security, like other facets of life, were to be controlled by state and local government, which reflected the "states' rights" mentality of the age and the supremacy of a decentralized federalism. Although local and state jurisdictions might have felt politically comfortable with the watch system of security, other factors necessitated a change in American security practices. As in

England, the old systems of law enforcement became outdated and inadequate in facing the security problems of the growing nation. “The basic deficiencies of the watch and constable systems rendered them ill-prepared to deal with the unrest that occurred in many American cities during the first half of the nineteenth century.”⁴³ New methods of organizing and defining public and private law enforcement were needed to combat urban problems.

1.1.1.3 *Law Enforcement in the Industrial Revolution*

The first half of the nineteenth century saw a rise in urbanization, crime, and the need for better law enforcement.⁴⁴ Private security existed, but only on a small scale for business and merchant protection. Although private police greatly contributed to keeping the peace, it became obvious, particularly in the cities, that a centralized public police department was a necessity. Even so, the clamor did not always match the support for a governmental system that controlled the day-to-day activities of the people.⁴⁵ In many ways the move to a public perception regarding law and order came tediously. Charles Reith’s observations on the ambiguity could not be clearer when he notes, “The new Police found, as soon as they appeared in the streets, that their creation had united against them, in a demand for their immediate disbandment, all parties, classes, and factions in the state.”⁴⁶

In England, an early version of public policing was affectionately labeled the “Bow Street Runners,” since their activities emanated from London’s Bow Street in Covent Garden. A magistrate’s court would instruct these early “police” types to run after and pursue criminals. The first legitimate police force would arise in England. The Metropolitan Police Act, passed in 1829 under the sponsorship of Sir Robert Peel, created a carefully selected corps of policemen trained and organized in a military fashion.⁴⁷ Sir Robert Peel, the oldest son of a wealthy cotton manufacturer, was educated at Harrow and Oxford University.⁴⁸ Peel’s system, although it “spread slowly and sporadically,”⁴⁹ became the primary model for efficient urban public policing. Peel, widely known as the “father of policing,” recognized the need for a more effective police force to replace the old watch and ward system as well as the limited capabilities of the Bow Street Runners. Peel believed that by organizing a group of professionally trained full-time police officers, he would be able to reduce the level of crime through proactive prevention techniques instead of relying solely on prevention through punishment. To accomplish this evolutionary process, Peel promulgated new rules for police operations, including the following:

- To prevent crime and disorder.
- To recognize that the power of the police is dependent on public approval and respect.
- To secure the respect of the public means also securing the cooperation of the public.
- To seek and to preserve public favor by constantly demonstrating impartial service to law, without regard to the justice or injustices of individual laws, without regard to wealth or social standing; by exercise of courtesy and friendly good humor; and by offering of individual sacrifice in protecting and preserving life.
- To use physical force only when necessary on any particular occasion for achieving a police objective.
- To recognize always the need for strict adherence to police-executive functions.
- To recognize always that the test of police efficiency is the absence of crime and disorder.⁵⁰

Peel’s *Principles of Law Enforcement*, authored in 1829, still remain highly instructive for both the public and the private police models. His major tenets are outlined in [Figure 1.1](#).⁵¹

Sir Robert Peel's Principles of Law Enforcement 1829

1. The basic mission for which police exist is to prevent crime and disorder as an alternative to the repression of crime and disorder by military force and severity of legal punishment.
2. The ability of the police to perform their duties is dependent upon *public approval* of police existence, actions, behavior and the ability of the police to secure and maintain *public respect*.
3. The police must secure the willing cooperation of the public in voluntary observance of the law to be able to secure and maintain public respect.
4. The degree of cooperation of the public that can be secured diminishes, proportionately, to the necessity for the use of physical force and compulsion in achieving police objectives.
5. The police seek and preserve public favor, not by catering to public opinion, but by constantly demonstrating absolutely impartial service to the law, in complete independence of policy, and without regard to the justice or injustice of the substance of individual laws; by ready offering of individual service and friendship to all members of society without regard to their race or social standing, by ready exercise of courtesy and friendly good humor; and by ready offering of individual sacrifice in protecting and preserving life.
6. The police should use physical force to the extent necessary to secure observance of the law or to restore order only when the exercise of *persuasion, advice and warning* is found to be insufficient to achieve police objectives; and police should use only the minimum degree of physical force which is necessary on any particular occasion for achieving a police objective.
7. The police at all times should maintain a relationship with the public that gives reality to the historic tradition that *the police are the public and the public are the police*; the police are the only members of the public who are paid to give full-time attention to duties which are incumbent on every citizen in the intent of the community welfare.
8. The police should always direct their actions toward their functions and never appear to usurp the powers of the judiciary by avenging individuals or the state, or authoritatively judging guilt or punishing the guilty.
9. The test of police efficiency is the *absence* of crime and disorder, not the *visible evidence* of police action in dealing with them.

Figure 1.1 Sir Robert Peel's Principles of Law Enforcement.

The Peelian model was extremely influential in nineteenth-century American law enforcement. "The riots of the 1840s provided an impetus for finding a more effective means of dealing with urban unrest."⁵² The need for a unified public force would begin to override the self-interest protection provided by private security. However, both fields would continue to grow together, defining themselves as separate, yet cooperating, law enforcement sectors.

The early 1800s witnessed the birth of American policing as a viable peacekeeping force. New York City had started the rudiments of a police department in 1783, and by 1800 had established

the first paid daytime police force. Daytime police forces were also started in Philadelphia (1833) and Boston (1838).⁵³ These early departments did not supplant the system of the watch but worked as the daytime counterpart. Since the day and night watches would prove inadequate in fighting crime, New York City became the first city to combine its day and night watches into a unified police force in 1844.⁵⁴ “Other large cities began to follow the lead—Chicago in 1851, New Orleans and Cincinnati in 1852, and Providence in 1864. The snowballing effect stimulated the modernization of American policing.”⁵⁵

Find out about the full and comprehensive history of the New York City Police Department by visiting <https://www.nycpm.org/>

The rapid development of the modern police force in no way sounded the death knell of private security. On the contrary, private security forces would continue to grow, expand, and complement other law enforcement agencies in fighting crime. Now, two arms of law enforcement were becoming more closely defined along public and private lines.⁵⁶

By 1830 in England, and within a decade or so thereafter in the United States, the beginnings of a separation of the security function into two spheres of responsibility were taking place. Public police departments, with their sworn duties, were charged with maintaining law and order. The burden of security for private property and personal safety thereon had to be redefined. The world of private security was to be limited.⁵⁷ With public police forces centering their efforts on the enforcing of law and order, private security would expand and grow as guardians of the corporate sector.

1.1.2 Coming of Age: Private Security

Despite the growth and formalization of public policing, the private sector police model continued down an unabated and parallel path.⁵⁸ Major factors that served as the impetus for the growth of the private security industry included the growth of the commercial sector, the strained administrations of public law enforcement agencies, and the great westward expansion of America in the 1840s and 1850s. All of these dynamics combined to entrench the private police model.

1.1.2.1 Lack of an Effective Public Force

It became apparent that with the growth of the private business and commercial sector in the United States during the 1800s, the newly created public police agencies were unable or unwilling to provide for their security needs. Public police organizations had little experience or capabilities in handling wide-scale security protection services. With the newly created sworn police serving mainly in metropolitan areas, their jurisdictions were strictly limited to their own territory. Local sheriff and watch were also restricted to local, county, or state lines.⁵⁹ Big business and industries found criminal problems surpassing the jurisdictional and functional capabilities of the public police. With interests that often covered vast areas and multiple jurisdictions, businesses and commercial associations began to hire their own protective sources.

1.1.2.2 Movement of Goods and Services

The transportation industry was instrumental in developing the private security industry. Henry Wells and William G. Fargo had established the American Express Company and Wells Fargo

in the 1850s as protective services for commercial shipments both in the East and the Far West. Wells Fargo's security measures included the use of armed guards, ironclad stagecoaches, and an expert investigative service.

The railroad industry also had substantial security needs. As the greatest source of commercial transportation of the nineteenth century, railroads were also susceptible to criminal activity. Prior to the Civil War, the railroads contracted with private detective companies, namely the Pinkertons. After the war, the trend was toward developing company-owned internal police forces. The railroad police became instrumental in pursuing train robbers, watching out for petty theft and embezzlement, and securing the trains from unwanted vagrants.⁶⁰ On industry-wide problems, the security forces of different railroad companies often cooperated, increasing the security and efficiency of the industry as a whole. Railroad police, with their far-reaching jurisdictions and official powers, would represent the closest America would ever come to a national police force. During the latter half of the nineteenth century, only the railroad police agencies were with full police powers. In many areas, especially the West, the railway police provided the only security services until effective local government units were established.⁶¹

1.1.2.3 The Pinkerton Factor: Industrialization and Unionization

As the industrial revolution matured, economic interests for both company and worker solidified. To be sure, workers—whether in coal mines or steel works—no longer saw themselves as mere rabble to enrich the elites. Grumbings and rumblings of worker dissatisfaction were commonly heard, particularly in the industrial cities and centers for major industries.⁶² Security firms were crucial players in this company–worker dynamic. Allan Pinkerton started the first contract private security agency in America.⁶³ Scottish immigrant and barrel maker by trade, Pinkerton developed an interest in detective work and had been named the city detective of Chicago in 1849. In 1850, he formed his own North-Western Police Agency, the first private detective agency in America. Capitalizing on the rapid growth of the country's railroad industry, Pinkerton began to contract his security forces to protect the railroads of the Midwest. The Illinois Central, Michigan Central, Michigan Southern and Northern Indiana, Chicago and Galena Union, Chicago and Rock Island, Chicago, Burlington, and Quincy Railroads all utilized Pinkerton's protective services.⁶⁴ It was through his association with the railroad industry that Pinkerton met George B. McClellan, vice-president and chief engineer of the Illinois Central Railroad, and later commander in chief of the Union Army during the Civil War. With the outbreak of the Civil War, McClellan would take Pinkerton and his detectives along as the United States' first military intelligence unit.

Pinkerton's early success helped define the role and abilities of the private security industry.⁶⁵ For more than 50 years, the "Pinks" were the only officers involved in interstate activities such as the provision of security for transcontinental railroads and multilocation industrial concerns.⁶⁶ Pinkerton had definitely developed into the biggest protective service in the United States, but it would be in post-Civil War America where the greatest test for the fledgling industry would take place.

Postwar industrial expansion, fed by an increasing flow of immigrants, also helped Pinkerton's business. With growth came labor unrest and movements to organize workers. In the strife that ensued, the use of private security guards to combat efforts to unionize became commonplace. Pinkerton and his company were used by industry, especially railroads and mining groups.⁶⁷

While Pinkerton officers were serving as the protectors of American railroads and as, basically, the only uniform system of law in the West, labor–management conflicts developed in the latter decades of the nineteenth century in the East. As America was immersed in its Industrial

Revolution, a growing consensus of American laborers, usually immigrants who toiled in the mines and mills, worked for the development of labor representation. In many instances, management refused to bargain with labor organizations and would send in strike-breakers to dismiss the mobs. On the other hand, labor unions and secret societies often used unethical tactics in their determination to change unfair labor practices. Pinkertons, Baldwin-Felts, and others were often hired by business management to disrupt and disband labor activities. In all, Pinkerton's agency would involve itself in over 72 labor–management disputes in the second half of the nineteenth century.⁶⁸

One of the first labor disputes the Pinkerton Company contracted out for involved the Molly Maguires. The Molly Maguires was a secret society that originated out of nineteenth-century Ireland, a country then racked by poverty and hunger. Their life in America had improved little as they toiled in the coal mines of northeastern Pennsylvania.

Find out about how the Molly Maguires played a crucial role in the life of the security industry at <http://ehistory.osu.edu/exhibitions/gildedage/content/mollymaguires>

Pinkerton used undercover agents such as James McParland, who lived and worked with the Molly Maguires under the assumed name Jim McKennon, from 1873 to 1886. It was McParland's subsequent testimony in a murder trial, changing certain important players in the organization that effectively ended the Molly Maguires as an effective labor organization. At the same time in southern West Virginia the Baldwin-Felts Detective Service was assigned by management to uphold justice and disband union experts in the coal mining towns.⁶⁹

Another landmark labor–management dispute that involved the Pinkerton Agency was the Homestead Steel Strike of 1892.⁷⁰ In July of 1892, workers at the Carnegie Steel Company in Homestead, Pennsylvania went on strike, protesting a proposed pay cut set forth by Carnegie Steel's new manager, Henry Clay Frick. Frick cited poor business as the reason for the designed wage cuts. Instead of acquiescence to management's demands, the striking steel workers blockaded and fortified the steel plant. In response, Frick secretly ordered his hired Pinkerton men to regain control of the plant.⁷¹

As 300 armed Pinkerton guards attempted to sneak up the river side of the plant, an estimated 10,000 angry steelworkers confronted the Pinkerton force. In the intense battle that ensued, eight were killed (three Pinkerton officers and five steelworkers). The Pinkerton officers were surrounded, forced to surrender, and were physically escorted to the railroad station. The Homestead Massacre was a debacle that ultimately hurt the image of private security agencies, and for a time the Pinkerton Company. The name Pinkerton became synonymous with labor spying and strike-breaking during the late nineteenth and early twentieth centuries. Its image was so badly tarnished that a House Judiciary Subcommittee began a formal investigation of Pinkerton and the private security industry in 1892. In 1893, the House passed the Pinkerton Law, which stated:

... an individual employed by the Pinkerton Detective Agency, or similar organization, may not be employed by the government of the United States or the government of the District of Columbia.⁷²

In the aftermath of the Pinkerton Law, Pinkerton announced it would no longer take sides in any labor disputes. Again, the roles and parameters of the private security industry were being redefined. Strike-breaking was out and labor surveillance within legitimate bounds was in.

For a full survey of Pinkerton History, see: <https://www.pinkerton.com/about-us/history/>

1.1.2.4 Western U.S. Expansionism

While the labor disputes of the nineteenth century were an important watershed in the development of private security, they certainly did not signal a decline in the uses and demand for private security forces. Pinkerton and other private security forces were attaining a booming business in the as yet unsettled frontiers of the American West. With Pinkerton controlling the security and investigative services of the railroads, and Wells Fargo controlling the stages, law enforcement in the towns and territories of the West was largely in the hands of sheriffs or private individuals. The ancient legal tenet of self-help saw its last vestiges of practice in the American West.

See the history of the Wells Fargo Company at: <https://www.wellsfargohistory.com/history/>

As the guilds and businesses had done in a previous age, western businessmen, traders, bankers, and ranchers banded together for mutual benefit. “Business sponsorship of law enforcement started with the earliest days of the frontier ... railroads, ranchers, mining concerns, oil field operators—all established their own investigating and law enforcement agencies.”⁷³

In some cases, private security was provided by an association of businesses in the same area of commerce. A system of Merchant Police was formed in the towns and cities to safeguard mercantile interests. Cattle ranchers in the West joined forces to create associations that frequently employed agents to prevent and investigate cattle rustling.⁷⁴ These detectives, although paid by private groups, were often given official state or territorial recognition, and sometimes were given powers as official public law enforcement officers. Detective forces, each specializing in various forms of business and trade, appeared on the western scene in increasing numbers. F. Prassel’s work, *The Western Peace Officer*, described their purpose:

At their worst, such security organizations constituted a combination of the protection racket and violence for hire... At its best, a private detective force could provide real services with integrity and discretion.⁷⁵

By contemporary standards, western justice and law enforcement had less regard for procedural due process. Vigilantes, private individuals with no formal authority acting in self-interest or in the interests of a specific group, served as enforcers. The first American vigilantes, the South Carolina Regulators, appeared in 1767, but only really flourished after 1850.⁷⁶ Both the Los Angeles and San Francisco police departments originated as volunteer vigilante forces.⁷⁷ “The true vigilante movement was in social conformance with established procedures and patterns of structural leadership.”⁷⁸ This was not often the case, as abuses of legal power became commonplace. Wyoming had such a distrust of private security forces as to adopt a statute in 1889, which stated:

No armed police force, or detective agency, or armed body, or unarmed body of men, shall ever be brought into this state, for the suppression of domestic violence, except upon the application of the legislature, or executive, when the legislature cannot be convened.⁷⁹

Other western states passed similar laws in attempts to curb abuses by private individuals or security forces. For many years, only private security forces served as the quasi-law enforcement

agencies in the West. All major transportation systems and various commercial interests were protected by private security forces in one way or another.

1.1.3 Contemporary Private Security

World War II and the years that followed would have a profound effect on the type, organization, and need for American private security. The secrecy and vulnerability of war usually brings a demand for more internal security. With the dual need for fighting soldiers and security protection, the government could not solely rely on the depleted ranks of the local and state police. "Wartime requirements compelled local police establishments, already strapped because their young men had gone to war, to take on tasks beyond those it normally assumed. Industrial plants, drinking water and its sources, utilities and their transmission lines, and other vital services had to be guarded."⁸⁰

With these massive security problems facing the United States, thousands of men and women served their country in the ranks of private security forces. By war's end, over 200,000 individual private security personnel had worked for the government.⁸¹ With the end of World War II, the importance and usefulness of private security personnel would be a given, and the need for various forms of security increased dramatically. The Private Security Task Force of 1976 claims that, "after the war, the use of private security services and products expanded from an area of defense contractors to encompass all segments of the private-public sectors."⁸²

The United States, assuming the status of a world power, heightened security problems and increased political and governmental suspicion and secrecy. Cold War reality and rumor led to an increased use of private security forces to protect government installations and secrets. Protection against information theft also became a growing security field. The fears of the 1950s allowed former Federal Bureau of Investigation (FBI) agent George R. Wachenhut and three other former agents to found the Wachenhut Corporation.⁸³ With a long list of experienced personnel, the Wachenhut Corporation grew to be one of the largest private security contractors in the United States. Remarkably, Wachenhut was also able to skirt the previous legislative intention of the Pinkerton Law of 1893 by gaining security contracts for government installations, including National Aeronautics and Space Administration (NASA) and the Department of Defense.

Since then, the private security industry has faced steady growth. "Private security personnel also significantly outnumber sworn law enforcement personnel and nonmilitary government guards by nearly 2 to 1."⁸⁴ Today, the public interacts with and depends upon a private-sector model whose tentacles reach into every aspect of communal living. ASIS International sees the opportunities present in the field now and in the future, and states that the demand for heightened security is being increased by theft of information, workplace violence, terrorism, and white collar crime. The security industry in the United States is a \$100 billion a year business and growing. Opportunities exist at all levels with the security industry. All businesses, no matter how small, have security concerns such as fraud, theft, computer hacking, economic espionage or workplace violence.⁸⁵

The developing complexity of the world marketplace, the technological evolution of goods, services, and the transference of money and other negotiable instruments, served as a catalyst to private security growth. By way of example, ponder the cyclonic revolution in the banking industry, from automated teller machines (ATMs) to paperless checks, from wire transactions to credit card issuances. These practices are essentially novel, and at the same time, the subject of some inventive criminality. Look at the range of security concerns one division of Citibank of New York has: "traveler's checks, money orders, official checks, and other instruments issued by the Citicorp financial organization."⁸⁶ Its security response is quite sophisticated:

The 33-member staff, located in eight countries around the world, is a blend of individuals from various law enforcement backgrounds—including the Royal Hong Kong Police, the Belgium Police, Scotland Yard, the New York City Police Department, and the Drug Enforcement Agency.⁸⁷

Private security engages citizens even more than its public counterpart. And it has done so without the fanfare to match its astonishing rise. David Sklansky’s *The Private Police* targets the central implications.

For most lawyers and scholars, private security is terra incognita—wild, unmapped, and largely unexplored... Increasingly, though, government agencies are hiring private security personnel to guard and patrol government buildings, housing projects, and public parks and facilities, and a small but growing number of local governments have begun to experiment with broader use of private police.⁸⁸

The quiet revolution⁸⁹ of private security could not have greater impact. More than ever, the enormous public demands piled upon the private security industry call for professional planning and policy making, and a renewed dedication to the advancement of this dynamic industry. Combine technology with a rampant wave of economic crime and the climate of accommodation to the private security industry could not be better.

There is no question that much “ordinary crime”—burglary, larceny, robbery, for example—substantially affects business. In retailing, the U.S. Department of Commerce estimates that the combination of shoplifting by customers and internal pilferage by employees add as much as 15% to customer retail prices (see Figure 1.2).⁹⁰

Crime in the workplace includes such white-collar crimes as fraud and embezzlement. Computer-related crime is perhaps the most devastating of these crimes, because losses are often in the hundreds of thousands of dollars. In 2006, total credit and debit card fraud losses are estimated at \$3.718 billion.⁹¹

The rise of these sorts of criminal behaviors gives impetus to privatized services.

Problems of Retail Theft are now global challenges. See the Barometer of data at: http://www.retailresearch.org/grtb_currentsurvey.php

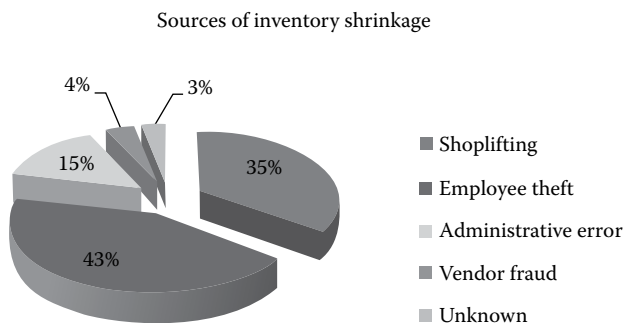


Figure 1.2 Sources of Shrink in the United States.

On top of this, there is an emerging preference for private sector involvement in American foreign policy. Throughout the Middle East, Iraq, and Afghanistan, the fingerprint, or better said, the footprint, of the private security industry, could not be more apparent.⁹² Labeled either as private military specialists or the “dogs of war” mercenaries will say much about the tension this new dimension causes. For those in favor, the private sector soldier provides “great flexibility, with an ability to create unique solution for each case, knowledge about the problem area and operational expertise, business integrity, secure confidentiality, and a generally apolitical nature.”⁹³ Critics charge that the privatized military operations “exploit violence for personal gain, serve as agents for unsavory power, or happily promote repression, turmoil, and human rights violations...”⁹⁴ Neither of these cases is fully accurate and the caricature that the Blackwater firm has turned into provides a poor illustration of this new and emerging dynamic.⁹⁵ The role of private security firms play in armed conflicts is a natural progression of mission and privatization.⁹⁶

Whole-scale security systems in the war on terror have come to depend on the private sector system. The fit of private sector justice in the world of military action, seems, at first glance rather odd, yet the deeper the correlation is considered, the more sense it makes. Private security companies now “possess great flexibility, with an ability to create unique solutions for each case, knowledge about the problem area and operational expertise, business integrity, secure confidentiality and a general apolitical nature.”⁹⁷ Put another way, the private security industry can provide a mercenary force that sees the problem dispassionately and thus, is an agency more reasonable and rational in outlook.

This turning over of the guard, whether it be executive protection, private prison processing, community and neighborhood intelligence, diplomatic protection, to name just a few functions, manifest a change in the overall paradigm.⁹⁸ In both war and peace one witnesses the staggering interlocking of a private justice model in public functions. Whether in military action or block security, the trend to privatization is undeniable and unstoppable. What was normative in the early annals of the American experience, namely self-help and self-reliance, appears again on the front burner.⁹⁹

Privatization is now predictable nomenclature in the world of public policy and the delivery of governmental services. Coming full circle, legislators and policymakers now evaluate programs and their delivery considering outsourcing, private contracts, delegable services and partnerships with the private sector. No longer is this sort of thinking on the fringe. Although the shift has now become self-evident, the transition troubles many. Scott Sullivan’s excellent discourse, “Private Force/Public Goods” keenly lays out the dilemma: The privatization of governmental services has repeatedly arisen as a controversial topic of legal scholarship. The controversy inherent to privatization largely flows from a difficulty in identifying a definitive line separating core public responsibilities. This ambiguity, along with a renewed enthusiasm for cost-efficiency and belief in the virtues of the market, has spurred increased privatization of a variety of public goods and services over the course of the past forty years. As privatization has spread, the universe of government activities viewed as unmistakably public, and thus unmistakably inappropriate for privatization, has diminished.¹⁰⁰

The National Institute of Justice has insightfully discerned the shift back to privatized justice in the form of nonpublic law enforcement:

Such expanded use of private security and increased citizen involvement signals an increasing return to the private sector for protection against crime. The growth and expansion of modern police reflected a shift from private policing and security initiatives of the early nineteenth century. Now the pendulum appears to be swinging back. Despite the expanded role of the police in crime prevention in recent years, it appears that the private sector will bear an increased prevention role while law enforcement concentrates more heavily on violent crimes and crime response. Economic realities are forcing law enforcement to seek ways to reduce workloads.¹⁰¹

In the final analysis, there is something empowering about this reality, and as some have described a “participatory democratic self-government.”¹⁰² In what greater sense does the citizen bear responsibility for the world around them than when that citizen assumes the responsibility of self-help and self-protection?

It appears private security’s role in the administration of American justice is both multifaceted and entrenched. Its areas of service not only entail private, individual, or property security, but loss prevention, insurance, military intelligence and related functions, as well as computer security. Security as a practice, process, and system is embedded in the nation’s tradition and is an essential contributor to justice in modern America.

DISCUSSION QUESTIONS

1. Historically, policing efforts were private by design. Could the converse have been true? Can you envision a context in which the public police model would have been first and private sector justice second?
2. What other areas in the private sector economy has the private security industry fit and served well?
3. Does a right to self-help or the calling of a posse still exist?
4. How does modern western law enforcement reflect its historical heritage, particularly in states like California, Texas, and Arizona?
5. By the nature of its mission, would it have been possible for the private security industry to have been supportive of the union movement rather than antagonistic to it?
6. Is private security’s tradition the protection of assets and business and commercial property rather than persons?
7. Can you name the oldest contract security company in your geographic region?
8. Did early law enforcement processes in the American Colonies imitate the British system?
9. Is it fair to conclude that the bulk of policing history has essentially been more private than public in design and delivery?
10. If you had to project, where and what ways will privatization continues without much resistance? Could one conclude that the golden age of public policing is now over?

NOTES

- 1 For an interesting look at one side of the evolution, namely bounty hunting, see Rebecca B. Fisher, *The History of American Bounty Hunting as a Study in Stunted Legal Growth*, 33 N.Y. U. Rev. L & Soc. Change 199 (2009); see also Joshua Horwitz and Casey Anderson, *A Symposium on Firearms: The Militia and Safe Cities: Merging History, Constitutional Law and Public Policy*, 1 Alb. Gov’t. Rev. 496 (2008).

- 2 Demosthenes, *Oratio 23 against Aristocrates*, in: James Herbert Vince (trans.), *Demosthenes against Meidias, Androton, Aristocrates, Timocrates, Aristogeiton*, Cambridge, MA: Harvard University Press (1935), 212–367, at pp. 253–255 [sec. 61 of the Oratio]; see also Jan Amo Hessbruegge, *Human Rights and Personal Self-Defense in International Law*, New York: Oxford University Press (2017).
- 3 Fred Mench, *Policing Rome: Maintaining Order in Fact and Fiction*, at <https://intraweb.stockton.edu/eyos/page.cfm?siteID=78&pageID=35>, last accessed 01/08/2017; see also: Trevor Jones and Tim Newburn, *Private Security and Public Policing* (1998); James F. Pastor, *Privatization of Police in America: An Analysis and Case* (2003).
- 4 See *Blackstone's Commentaries* concerning these foundational components of a free society at: William Blackstone, *Commentaries* 1:120–41, (1765), <http://press-pubs.uchicago.edu/founders/documents/amendIXs1.html>.
- 5 William Blackstone, *Commentaries* 1:120–41, 1765 part 3 <http://press-pubs.uchicago.edu/founders/documents/amendIXs1.html>.
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Chapter 2

Regulation, Licensing, Education, and Training: The Path to Professionalism in the Security Industry

2.1 Introduction: The Impetus for Increased Regulation

Much needs to be said about the security industry's call for increased professionalism and standards. Is it merely shallow puffery—calling for respect, skilled personnel, occupational status, and direction—without taking the requisite steps to insure that reality? Or is private security following the path to professionalism, insisting on well-regulated personnel, highly proficient in the field's varied tasks, properly educated and motivated to continuous training and professional improvement? "Professionalism carries with it certain responsibilities as well as certain privileges," according to Sackman.¹

Any quest for professionalism mandates serious licensing requirements and quantifiable standards or levels of personal achievement, education, and experience. Security personnel must be both aware and strictly attentive to the dramatic surge of law and legislation outlining required levels of training and standards. "The private security field is entering a new era—an era of governmental regulation...and training of the guard force is a major focus of this regulatory thrust."²

The National Private Security Officer Survey, whose respondents included security directors, facilities and plant managers, security executives, and professional organizations, manifests an appreciation for regulation, either of a public or private variety, to insure a quality workforce.³ Some findings were

- 75% check personal references
- 24% use psychological evaluation
- 40% use drug screening
- 53% believe there will be increased federal regulation of security officers
- 40% favor increased regulation⁴

Governments have not been shy about jumping into the oversight role of the private security industry, and this tendency has heightened since 9/11. A bipartisan bill, the Private Security Officer Employment Standards Act of 2002, sponsored by Senators Levin, Thompson, Lieberman, and McConnell, sought a review of past criminal histories of private security personnel. The legislative intent concerning the Act is plain on its face:

Congress finds that

1. Employment of private security officers in the United States is growing rapidly;
2. Private security officers function as an adjunct to, but not a replacement for, public law enforcement by helping to reduce and prevent crime;
3. Such private security officers protect individuals, property, and proprietary information, and provide protection to such diverse operations as banks, hospitals, research and development centers, manufacturing facilities, defense and aerospace contractors, high-technology businesses, nuclear power plants, chemical companies, oil and gas refineries, airports, communication facilities and operations, office complexes, schools, residential properties, apartment complexes, gated communities, and others;
4. Sworn law enforcement officers provide significant services to the citizens of the United States in its public areas and are supplemented by private security officers;
5. The threat of additional terrorist attacks requires cooperation between public and private sectors and demands professional security officers for the protection of people, facilities, and institutions;
6. The trend in the nation toward growth in such security services has accelerated rapidly;
7. Such growth makes available more public sector law enforcement officers to combat serious and violent crimes;
8. The American public deserves the employment of qualified, well-trained private security personnel as an adjunct to sworn law enforcement officers;
9. Private security officers and applicants for private security officer positions should be thoroughly screened and trained; and
10. Standards are essential for the selection, training, and supervision of qualified security personnel providing security services.⁵

Terrorism alone has justified a new vision of professionalism and corresponding oversight.⁶ The U.S. State Department paints a grim picture of terrorism's impact on asset and facility integrity. Terrorism has changed the landscape. Data on numbers of international attacks from 1998 to 2003, shown in [Figure 2.1](#), unfortunately charts an inclined plane with no end in sight.⁷

The security industry itself wishes some level of standardization in matters of licensure, regulation, and professional standards. Because private security personnel are increasingly involved in the detection and prevention of criminal activity, use of ill-trained, ill-equipped, and unsophisticated individuals is not only unwarranted but foolhardy (see [Table 2.1](#)).⁸

Consider the potential liabilities, both civil and criminal, that can potentially arise from a security employee who has little or no training, or has not been diligently screened. J. Shane Creamer, former attorney general for the Commonwealth of Pennsylvania, argues decisively:

There is a variety of problems involving abuse of authority which impact society itself. These range from very serious instances in which a private security officer shoots someone to a minor instance of using offensive language. These actions occur in the context

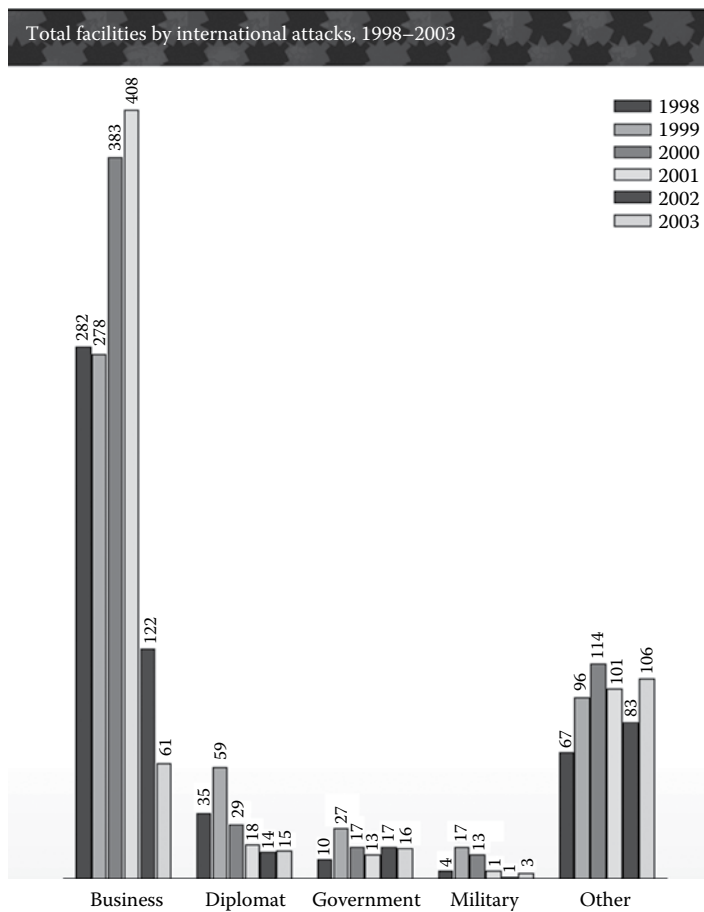


Figure 2.1 Facilities struck by international terrorist attacks.

of an attempted arrest, detention, interrogation or search by a guard or a retail security officer. There is a striking consistency among private security executives' views, personal-injury claims statistics, responses of security personnel, complaints recorded by regulatory agencies, court cases, and press accounts. One is led to the inescapable conclusion that serious abuses occur—even if their frequency is unknown.⁹

Lack of proper standards, training, and educational preparedness results in a predictable shortage of skilled and dutiful security practitioners. Promotion of these traits and professional characteristics could and does curtail a plethora of common private enforcement problems, including

- Unnecessary use of force
- False imprisonment claims
- False arrest assertions
- Improper or illegal search and seizure techniques
- The proliferation of lawsuits
- Misuse of weaponry
- Abuse of authority

Table 2.1 Employment by Industry, Occupation, and Percent Distribution, 2008 and Projected 2018

33-9021 Private detectives and investigators (Employment in thousands) Industries with fewer than 50 jobs, confidential data, or poor quality data are not displayed									
Industry	2008			2018				Percent Change	Employment Change
	Employment	Percent of ind	Percent of occ	Employment	Percent of ind	Percent of occ	Percent of occ		
TOT001									
	Total employment, all workers	45.5	0.03	100.00	55.5	0.03	100.00	21.98	10.0
WSE100	Total wage and salary employment	36.1	0.03	79.30	44.6	0.03	80.34	23.58	8.5
WSE110	Wage and salary employment, except agriculture, forestry, fishing, hunting, and private households	36.1	0.03	79.30	44.6	0.03	80.34	23.58	8.5
220000	Utilities	0.2	0.03	0.35	0.1	0.03	0.24	-16.62	0.0
221000	Utilities	0.2	0.03	0.35	0.1	0.03	0.24	-16.62	0.0
221100	Electric power generation, transmission, and distribution	0.1	0.03	0.26	0.1	0.03	0.17	-19.44	0.0
310000-330000	Manufacturing	0.1	0.00	0.13	0.1	0.00	0.11	-3.10	0.0
440000-450000	Retail trade	1.6	0.01	3.53	1.7	0.01	2.98	2.81	0.0
445000	Food and beverage stores	0.2	0.01	0.54	0.2	0.01	0.44	-0.86	0.0
445100	Grocery stores	0.2	0.01	0.54	0.2	0.01	0.44	-0.86	0.0
448000	Clothing and clothing accessories stores	0.2	0.01	0.35	0.2	0.01	0.29	-0.50	0.0

(Continued)

Table 2.1 (Continued) Employment by Industry, Occupation, and Percent Distribution, 2008 and Projected 2018

33-9021 Private detectives and investigators (Employment in thousands) Industries with fewer than 50 jobs, confidential data, or poor quality data are not displayed		2008			2018			Employment Change
Industry		Employment	Percent of ind	Percent of occ	Employment	Percent of ind	Percent of occ	
448100	Clothing stores	0.1	0.01	0.31	0.1	0.01	0.26	1.13
452000	General merchandise stores	1.1	0.04	2.43	1.1	0.03	2.05	2.96
452100	Department stores	0.7	0.05	1.57	0.6	0.04	1.06	-17.27
452900	Other general merchandise stores	0.4	0.03	0.86	0.5	0.03	0.99	39.83
480000-490000	Transportation and warehousing	0.4	0.01	0.95	0.4	0.01	0.81	3.66
482000	Rail transportation	0.2	0.07	0.37	0.2	0.07	0.30	-1.47
482100	Rail transportation	0.2	0.07	0.37	0.2	0.07	0.30	-1.47
510000	Information	0.5	0.02	1.08	0.5	0.02	0.89	0.59
517000	Telecommunications	0.4	0.03	0.77	0.3	0.03	0.56	-11.53
517100	Wired telecommunications carriers	0.2	0.03	0.51	0.2	0.03	0.37	-12.91
517200	Wireless telecommunications carriers (except satellite)	0.1	0.03	0.12	0.1	0.03	0.09	-6.69
								0.0

(Continued)

Table 2.1 (Continued) Employment by Industry, Occupation, and Percent Distribution, 2008 and Projected 2018

33-9021 Private detectives and investigators (Employment in thousands) Industries with fewer than 50 jobs, confidential data, or poor quality data are not displayed									
Industry	2008			2018				Percent Change	Employment Change
	Employment	Percent of ind	Percent of occ	Employment	Percent of ind	Percent of occ	Percent of occ		
18000-9000									
	Data processing, hosting, related services, and other information services	0.1	0.02	0.16	0.1	0.02	0.18	37.45	0.0
520000	Finance and insurance	3.9	0.06	8.53	4.3	0.07	7.71	10.27	0.4
521000-2000	Monetary authorities, credit intermediation, and related activities	2.4	0.09	5.22	2.7	0.09	4.82	12.75	0.3
522000	Credit intermediation and related activities	2.4	0.09	5.22	2.7	0.09	4.82	12.75	0.3
522200	Nondepository credit intermediation	0.6	0.09	1.28	0.5	0.09	0.95	-8.83	-0.1
522290	Other nondepository credit intermediation, including real estate credit and consumer lending	0.3	0.08	0.73	0.3	0.08	0.56	-6.14	0.0
522300	Activities related to credit intermediation	0.1	0.05	0.28	0.1	0.05	0.26	12.50	0.0

(Continued)

Table 2.1 (Continued) Employment by Industry, Occupation, and Percent Distribution, 2008 and Projected 2018

33-9021 Private detectives and investigators (Employment in thousands) Industries with fewer than 50 jobs, confidential data, or poor quality data are not displayed									
Industry	2008			2018			Percent Change	Employment Change	
	Employment	Percent of ind	Percent of occ	Employment	Percent of ind	Percent of occ			
523000									
	Securities, commodity contracts, and other financial investments and related activities	0.1	0.02	0.32	0.2	0.02	0.28	7.14	0.0
524000									
	Insurance carriers and related activities	1.3	0.06	2.93	1.4	0.06	2.55	6.07	0.1
524100									
	Insurance carriers	0.5	0.04	1.20	0.5	0.04	0.91	-8.01	0.0
524120									
	Direct insurance (except life, health, and medical) carriers	0.3	0.06	0.69	0.3	0.06	0.52	-9.10	0.0
524200									
	Agencies, brokerages, and other insurance-related activities	0.8	0.09	1.72	0.9	0.09	1.64	15.89	0.1
524210									
	Insurance agencies and brokerages	0.1	0.02	0.30	0.2	0.02	0.27	8.53	0.0
524290									
	Other insurance-related activities	0.6	0.27	1.42	0.8	0.27	1.37	17.46	0.1
540000									
	Professional, scientific, and technical services	2.3	0.03	5.02	3.2	0.03	5.85	42.15	1.0
541000									
	Professional, scientific, and technical services	2.3	0.03	5.02	3.2	0.03	5.85	42.15	1.0

(Continued)

Table 2.1 (Continued) Employment by Industry, Occupation, and Percent Distribution, 2008 and Projected 2018

33-9021 Private detectives and investigators (Employment in thousands) Industries with fewer than 50 jobs, confidential data, or poor quality data are not displayed									
Industry	2008			2018			Percent Change	Employment Change	
	Employment	Percent of ind	Percent of occ	Employment	Percent of ind	Percent of occ			
541100	Legal services	1.3	0.12	2.95	1.9	0.13	3.37	39.38	0.5
541300	Architectural, engineering, and related services	0.1	0.01	0.24	0.1	0.01	0.25	25.62	0.0
541500	Computer systems design and related services	0.4	0.03	0.94	0.6	0.03	1.07	38.80	0.2
541600	Management, scientific, and technical consulting services	0.2	0.02	0.54	0.5	0.02	0.81	83.62	0.2
541700	Scientific research and development services	0.1	0.02	0.29	0.2	0.02	0.29	23.43	0.0
541710	Research and development in the physical, engineering, and life sciences	0.1	0.02	0.28	0.2	0.02	0.28	24.12	0.0
550000	Management of companies and enterprises	1.2	0.06	2.69	1.4	0.07	2.54	14.90	0.2
551000	Management of companies and enterprises	1.2	0.06	2.69	1.4	0.07	2.54	14.90	0.2
551100	Management of companies and enterprises	1.2	0.06	2.69	1.4	0.07	2.54	14.90	0.2

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Table 2.1 (Continued) Employment by Industry, Occupation, and Percent Distribution, 2008 and Projected 2018

33-9021 Private detectives and investigators (Employment in thousands) Industries with fewer than 50 jobs, confidential data, or poor quality data are not displayed									
Industry	2008			2018			Percent Change	Employment Change	
	Employment	Percent of ind	Percent of occ	Employment	Percent of ind	Percent of occ			
560000	Administrative and support and waste management and remediation services	19.6	0.24	43.16	25.4	0.27	45.84	29.55	5.8
561000	Administrative and support services	19.6	0.26	43.16	25.4	0.28	45.84	29.55	5.8
561100	Office administrative services	0.1	0.03	0.26	0.1	0.03	0.26	19.30	0.0
561200	Facilities support services	0.1	0.08	0.23	0.1	0.08	0.25	31.98	0.0
561300	Employment services	0.3	0.01	0.75	0.4	0.01	0.75	22.31	0.1
561400	Business support services	0.3	0.04	0.75	0.4	0.05	0.77	25.48	0.1
561600	Investigation and security services	18.5	2.30	40.78	24.1	2.51	43.47	30.05	5.6
561610	Investigation, guard, and armored car services	18.5	2.68	40.73	24.1	2.95	43.42	30.06	5.6
561900	Other support services	0.2	0.06	0.39	0.2	0.06	0.34	4.67	0.0
610000	Educational services, public and private	0.2	0.00	0.36	0.2	0.00	0.32	8.85	0.0

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Table 2.1 (Continued) Employment by Industry, Occupation, and Percent Distribution, 2008 and Projected 2018

33-9021 Private detectives and investigators (Employment in thousands) Industries with fewer than 50 jobs, confidential data, or poor quality data are not displayed									
Industry	2008				2018				Employment Change
	Employment	Percent of ind	Percent of occ	Employment	Percent of ind	Percent of occ	Percent Change	Employment Change	
611000	Educational services, public and private	0.2	0.00	0.36	0.2	0.00	0.32	8.85	0.0
620000	Health care and social assistance	0.1	0.00	0.31	0.2	0.00	0.29	16.05	0.0
621000-3000	Health care	0.1	0.00	0.21	0.1	0.00	0.19	11.09	0.0
622000	Hospitals, public and private	0.1	0.00	0.17	0.1	0.00	0.16	10.72	0.0
710000	Arts, entertainment, and recreation	0.1	0.01	0.27	0.1	0.01	0.24	7.11	0.0
713000	Amusement, gambling, and recreation industries	0.1	0.01	0.26	0.1	0.01	0.22	6.50	0.0
713100	Amusement parks and arcades	0.1	0.05	0.18	0.1	0.05	0.15	3.50	0.0
720000	Accommodation and food services	0.1	0.00	0.27	0.1	0.00	0.24	6.49	0.0
721000	Accommodation, including hotels and motels	0.1	0.01	0.27	0.1	0.01	0.23	6.55	0.0
721120	Casino hotels	0.1	0.02	0.12	0.1	0.02	0.11	12.06	0.0

(Continued)

Table 2.1 (Continued) Employment by Industry, Occupation, and Percent Distribution, 2008 and Projected 2018

33-9021 Private detectives and investigators (Employment in thousands) Industries with fewer than 50 jobs, confidential data, or poor quality data are not displayed									
Industry		2008			2018			Percent Change	Employment Change
		Employment	Percent of ind	Percent of occ	Employment	Percent of ind	Percent of occ		
721110,90,300	Hotels (except casino), motels, and all other traveler accommodation	0.1	0.00	0.14	0.1	0.00	0.12	1.83	0.0
810000	Other services (except government and private households)	0.3	0.01	0.64	0.3	0.01	0.61	16.92	0.0
813000	Religious, grantmaking, civic, professional, and similar organizations	0.2	0.01	0.41	0.2	0.01	0.38	14.58	0.0
813400-900	Civic, social, professional, and similar organizations	0.2	0.02	0.38	0.2	0.02	0.36	14.94	0.0
813900	Business, professional, labor, political, and similar organizations	0.2	0.3	0.38	0.2	0.03	0.36	14.94	0.0
930000	Government	5.3	0.05	11.65	6.3	0.05	11.39	19.28	1.0

(Continued)

Table 2.1 (Continued) Employment by Industry, Occupation, and Percent Distribution, 2008 and Projected 2018

33-9021 Private detectives and investigators (Employment in thousands) Industries with fewer than 50 jobs, confidential data, or poor quality data are not displayed									
Industry	2008			2018			Percent Change	Employment Change	
	Employment	Percent of ind	Percent of occ	Employment	Percent of ind	Percent of occ			
932000	State and local government, excluding education and hospitals	5.3	0.06	11.65	6.3	0.07	11.39	19.28	1.0
933300	State government, excluding education and hospitals	3.47	0.15	8.09	4.4	0.16	7.92	19.42	0.7
934300	Local government, excluding education and hospitals	1.6	0.03	3.56	1.9	0.03	3.47	18.96	0.3
SE1000	Self-employed and unpaid family workers, all jobs	9.4	0.08	20.70	10.9	0.09	19.66	15.86	1.5
SE1300	Self-employed workers, all jobs	9.4	0.08	20.70	10.9	0.09	19.66	15.86	1.5

Certainly, state legislatures, federal authorities, and even local governing bodies are mindful. “On the local level, governmental regulation dealing with training is proliferating. Cities, counties, and states are contemplating, or have already enacted, legislation or ordinances mandating standards for private security guards within their jurisdiction—standards that rarely fail to include training requirements.”¹⁰ Oversight is fairly expected and sensibly demanded of our governmental bodies.

The states have the authority to regulate and license the private security industry, whether private detectives, watchmen, guard services, security agencies or any other activity related to personal and property security. The state may set reasonable standards and requirements for licensing. The courts stand ready to examine the regulations but only when these enactments appear unreasonable, capricious in purpose or arbitrary in design. Furthermore, they stand ready to examine either the uniformity or disparateness of impacts when implementing the regulations.¹¹

The ramifications of inadequate regulation and licensing are far reaching. The 1985 study, *Crime and Protection in America: A Study of Private Security and Law Enforcement Resources and Relationships*,¹² by the National Institute of Justice, categorized how abuses and unprofessional behavior usually manifests itself in conduct such as

- Deceptive advertising
- Improper equipment
- Conflicting uniform designs
- Aggressive, unprofessional techniques
- Deceptive sales techniques
- Fictitious bidding processes
- High turnover rates (personnel)
- Lack of business longevity
- Internal fraud and criminal corruption
- Avoidance of confrontation
- Lack of liability insurance
- Low-grade personnel¹³

Even from an industry self-interest point of view, increased standards and regulatory requirements seem to correlate to eventual salary and position. The ASIS International database and study, *Compensation in the Security Loss Prevention Field*, corroborates the correlation:

The survey serves as a benchmark, confirming what many industry professionals have known: For instance, unarmed security officers rank at the low end of the salary spectrum, with an average income of less than \$16,000 a year. The compensation study also highlights some more novel findings, pointing to the Certified Protection Professional (CPP) designation as a distinct factor in higher income.¹⁴

Salaries also vary by geographic region and by armed or unarmed status. In 1993, unarmed salaries ranged between \$12,000 and \$21,000, and salaries for armed security officers ranged between \$13,000 and \$35,000.¹⁵ Salaries will also vary by position and assigned responsibility. In 2015, the American Society of Industrial Security confirmed the continuous rise of salary and

compensation for the managerial class in private security.¹⁶ With increased compensation levels comes increased expectations of professional performance.

As the public justice system privatizes further, increased regulation and licensing will occur. Without it, abuse of authority will only escalate. At present, there is no national regulatory consensus to ensure a uniform design though most states fall into one of these categories:

1. Some jurisdictions have absolutely no regulatory oversight in the private security industry.¹⁷
2. Some jurisdictions heavily regulate armed security professionals, but disregard other private security activities.¹⁸
3. Some jurisdictions use existing state and municipal police forces to regulate the industry, while others promote self-regulation and education.¹⁹
4. Some jurisdictions cover the activities of alarm companies, while others exempt them.
5. Some jurisdictions devise separate regulatory processes for private detectives, but not for security guards or officers, while others make no distinction.²⁰
6. Most jurisdictions have little education or training requirements, though the trend is toward increased education.²¹
7. Jurisdictions that require examinations for licensing are in the minority.
8. Those that regulate have an experience requirement.
9. Criminal record checks for prospective private employees for those states that regulate are increasing.

At present, the regulatory climate is a hodgepodge of philosophies exhibiting increasing uniformity. Moreover, regulation at the state and local levels has often been hastily developed and quickly enacted following media accounts alleging abuses of power by security guards and the commission of criminal actions by guards.²² Usually, one hears about the regulatory crisis when scandal erupts or some criminality occurs within the security community. It is indisputable that there is a linkage between the behavior, good or bad, and the level of regulatory requirements and oversight in the security industry. More effective licensing and regulation for the private security industry can be attained by statewide preemptive legislation and interstate licensing agency reciprocity. With the number of national private security companies, the legislatures must address these two critical components of the licensing and regulation process. In states with a proliferation of local licensing ordinances, legislatures must take a leadership role in establishing uniform and fair legislation.

In addition, states must participate in interstate licensing reciprocity similar to that used by public law enforcement agencies in such matters as auto licenses, driver's licenses, and similar regulation. Currently, the national security companies are required to be licensed in many states. This is not cost-effective either for the security companies or ultimately the users of security services. The same burden is experienced by many smaller security companies that operate in several jurisdictions in adjacent states.²³

Given these dynamics, a call for professionalism both from industry sources as well as governmental entities has been continuous and steadfast and there are signs of significant progress. At both the federal and state level, the push is on for increased controls, but our examination will weigh these questions:

Federal and State Regulation—What is the present level of governmental regulation of the security industry? Has there been increased attention given to qualifications? To education and training? Is a movement afoot to professionalize legislatively?

Education and Training—How much education and training has been legislated for security personnel? Is security education a viable academic exercise? What forms of specialized education should be legislatively or administratively required?

Model Statutory Designs that Promote Security Professionalism—How are statutes that involve the security industry composed? What types of statutory designs exist? What types of statutory authority promote professionalism in the security industry?

As the security industry takes on higher levels of responsibility in the elimination of crime, the enforcement of law, and the maintenance of the community, legislation and regulatory policy can only accelerate.

2.1.1 Federal Regulation

Aside from the states' efforts to professionally regulate the security industry, the federal government, through both direct and indirect means, has had some input into this industry's current standing. Historically, private security's union/business activities, from the Molly Maguires to the Homestead Steel Strike, have forced national scrutiny of the industry.²⁴ Recent events of paramilitary security contractors engaged in covert activities in the Middle East, especially in Iraq and Afghanistan, only heighten this penchant for oversight. Through the opinions of the U.S. attorney general and congressional passage of the Anti-Pinkerton Acts, private security has been the subject of continuous governmental oversight.²⁵

The administrative agencies of the federal government, who extensively contract out for private security services, also influence private sector qualifications through their numerous requirements. These regulatory agencies have set standards on age, experience, education, and character:

- Department of Homeland Security
- Federal Aviation Administration
- Department of Defense
- Interstate Commerce Commission
- Nuclear Regulatory Commission
- Securities and Exchange Commission
- Food and Drug Administration
- Office of the Inspector General
- General Accounting Office²⁶

Federal legislation that impacts private security practice is another means of regulatory control. Throughout the Clinton and Bush years, and certainly since the debacle of 9/11, various bills have been proposed to nationalize and standardize the security industry and its practice. In reaction to terrorism, Congress has enacted a host of measures which deliver security services in many contexts.²⁷ The Homeland Security Act of 2002²⁸ signifies a major reorientation in the legislative landscape. In 2003, the mission of the Homeland Security Agency noted, "In technology and safety, rules and facilities practices, the security world has been turned on its head."²⁹ In addition, there is an expectation that private security companies and corporations will continue to be active, cooperative players in the defense of a nation as to terror. The Department of Homeland Security (DHS) promotes the integration of private sector security firms working in conjunction

with public law enforcement. More specifically, DHS erected a Private Sector Office and Outreach Group dedicated to these ends.³⁰

The federal system entangles itself in all sorts of activities prompted by laws and legislation. Data collection, information gathering, and its maintenance are often the subject of federal legislation such as

- *The Fair Credit Reporting Act*³¹
- *The Freedom of Information Act*

Polygraphs have also been the subject of congressional oversight with the passage of the Polygraph Protection Act of 1980³² and the Employee Polygraph Protection Act.³³ With extensive limitations on pre-employment screening and further encumbrances on internal investigations, employees and polygraph vendors see little promise in the future role of the polygraph,³⁴ yet the statutes manifest a federal nervousness about the industry.

There is momentum for increased regulation, particularly since the terrorist attacks of 2001. At the federal level, The Law Enforcement and Industrial Security Cooperation Act of 1996 (H.R. 2996)³⁵ was introduced, though not passed. H.R. 2996 encouraged cooperation between the private and public sectors. If passed, this bill would have been a solid step for the security industry to take toward an active role in opening the lines of communication with law enforcement and in turn, sharing ideas, training, and working in conjunction with each other, all indirectly influencing standards. The content of the proposed bill is instructive and certainly foretells an active future for the security industry. The rationale for bill adoption is fourfold:

1. Seventy percent of all money invested in crime prevention and law enforcement each year in the United States is spent by the private sector.
2. There are nearly three employees in private sector security for everyone in public law enforcement.
3. More than half of the responses to crime come from private security.
4. A bipartisan study commission specially constituted for the purposes of examining appropriate cooperative roles between public sector law enforcement and private sector security will be able to offer comprehensive proposals for statutory and procedural initiatives.³⁶

The Private Security Officer Employment Standards Act of 2002³⁷ represents formidable federal involvement.

The impetus for federal legislation is real and forceful. So much of what the industry does has grave consequences. Technical and electronic intrusions into the general citizenry, especially in the technological age, raise many concerns. The private security industry must be attuned to legal and human issues that involve privacy. The industry must adopt policies and practices that achieve “a delicate balance between the forces of liberty and authority—between freedom and responsibility.”³⁸

2.1.2 State Regulation

Few would argue the enhanced trend toward regulation. Even police organizations such as the International Association of Police Chiefs (IACP) have promulgated minimum standards. All private security officers must meet the applicable statutory requirements and the established criteria of the employer, which may exceed minimum mandated requirements. Federal law mandates that

candidates for employment must be citizens or possess legal alien status prior to employment. All applicants who are hired or certified as a private security officer should meet the minimum criteria listed below.

1. Be at least 18 years of age—“unarmed” private security officer.
2. Be at least 21 years of age—“armed” private security officer and comply with U.S. Public Law 104-208 Section 658 (The Omnibus Consolidated Appropriations Act of 1997).
3. Possess a valid state driver’s license (if applicable).
4. Not have been:
 - a. Convicted or pled guilty or nolo contendere to a felony in any jurisdiction.
 - b. Convicted or pled guilty or nolo contendere to a misdemeanor involving moral turpitude, acts of dishonesty or acts against governmental authority, including the use and/or possession of a controlled substance within a seven-year period.
 - c. Convicted or pled guilty or nolo contendere to any crime in any jurisdiction involving the sale, delivery, or manufacture of a controlled substance.
 - d. Declared by any court to be incompetent by reason of mental disease or defect that has not been removed or expunged.
5. Submit two sets of classifiable fingerprints and two passport-sized photographs, along with applicant’s name, address, date of birth, social security number, citizenship status, and a statement of conviction of crimes in order to conduct a state criminal record check, and a FBI criminal history check, prior to permanent employment as a private security officer. In all instances, these actions must be taken prior to the private security officer’s being armed.
6. Furnish information about all prior employment through the employer making a reasonable effort to verify the last seven years of employment history, and checking three personal references.
7. Successfully pass a recognized pre-employment drug screen.

Suggested nonregulated pre-employment applicant criteria include the following:

1. High school education or equivalent
2. Military discharge records (DD 214)
3. Mental and physical capacity to perform duties for which being employed
4. Armed applicants shall successfully complete a relevant psychological evaluation to verify that the applicant is suited for duties for which being employed³⁹

An overwhelming majority of American states have passed legislation governing the security industry. This legislation promulgates standards on education and training, experiential qualifications, and personal character requirements.

That the power to regulate is quite extraordinary is indisputable. The grant or denial of a license has economic and professional implications and regulatory authority must be attentive to due process and constitutional challenges. Most case law reviews not the constitutionality of the regulatory power, but the procedural rules and due process that accompany the industry’s oversight. Appellate cases that challenge the process of oversight are fairly common. In *Moates v. Strength*,⁴⁰ an appeals court granted summary judgment to the licensing authority because appellant was incapable of showing a disregard for procedural regularity. The court noted, “The court cannot recognize a party’s subjective belief that wrongdoing will occur as a viable claim for deprivation of that party’s civil rights.”⁴¹

While it is not the function of this section to review every piece of legislation promulgated by the states, the reader will be provided with a broad-based overview of legislative trends and standards. To commence, review the complete Florida Act given in Appendix 1. In Florida, as in most jurisdictions, state legislation tends to emphasize these regulatory categories:

- Age
- Experience requirements
- Gradations of licensure
- Personal character
- Education and training

2.1.2.1 Age

Age and its relation to eligibility are evident in most regulatory frameworks. Does age provide any assurance of better performance, ethical adherence, and professional demeanor? When one considers the seriousness of many security tasks, it seems logical that age is a crucial factor in licensing and regulation. Connecticut's statutory provision is a case in point:

The applicant for a private detective or private detective agency license shall be not less than twenty-five years of age and of good moral character and shall have had at least five years' experience as a full-time investigator, as determined in regulations adopted by the commissioner pursuant to section 29-161, or shall have had at least ten years' experience as a police officer with a state or organized municipal police department.⁴²

Most states are less rigorous than Connecticut, though age is usually a factor correlating with the type of license applied for. In many jurisdictions, age limitations are outlined when applying for a private investigator's license. Examples include the following states:

<i>Hawaii</i>	Be not less than 18 years of age; ⁴³
<i>Indiana</i>	is at least 21 years of age; ⁴⁴
<i>Delaware</i>	Be at least 25 years of age; ⁴⁵
<i>Arkansas</i>	Be at least 18 years of age. ⁴⁶

More typically, state legislatures propose minimal age requirements. Iowa makes a qualification for a license conditional on being at least 18 years of age.⁴⁷ Other jurisdictions following the 18-year-old rule for numerous licensed positions in security include Maine⁴⁸ and Georgia.⁴⁹ All in all, most jurisdictions allow applicants to be admitted at the legal age of majority.

2.1.2.2 Experience Requirements

A majority of states have an experience requirement, a fact somewhat inconsistent with the age qualifications. North Carolina experience provisions are more stringent than most states:

Experience Requirements/Security Guard and Patrol License

1. In addition to the requirements of 12 NCAC 07D.0200, applicants for a security guard and patrol license shall:

- a. *provide security guard and patrol services on an individual employer–employee basis to any person, firm, association or corporation which is not engaged in a contract security guard and patrol business.*
- b. *Law enforcement officers, while off-duty, may be employed by a licensed security guard and patrol business provided such officer is registered with the Board.*
- c. *A law enforcement officer employed by a proprietary security organization at times when the officer is not scheduled for work with the employing law enforcement agency shall not be considered as being employed regularly and exclusively as an employee in connection with the business affairs of such employer.*⁵⁰

Requiring experience in justice-related occupations seems the norm. Georgia's experience requirements represent this tendency:

(7) The applicant for a private detective company license has had at least two years' experience as an agent registered with a licensed detective agency, or has had at least two years' experience in law enforcement, or has a four-year degree in criminal justice or a related field from an accredited university or college; and the applicant for a security company license has had at least two years' experience as a supervisor or administrator in in-house security operations or with a licensed security agency, or has had at least two years' experience in law enforcement, or has a four-year degree in criminal justice or a related field from an accredited university or college;⁵¹

The Georgia legislature allows police and law enforcement training as a substitute for the experience requirement. Other substitute activities for the experience requirements are as follows:

Have a minimum of two years of experience, education or training in any one of the following areas, or some combination thereof:

Course work that is relevant to the private investigation business at an accredited college or university;⁵²

Employment as a member of any United States government investigative agency, employment as a member of a state or local law-enforcement agency or service as a sheriff;

Employment by a licensed private investigative or detective agency for the purpose of conducting the private investigation business;

Service as a magistrate in this state; or

Any other substantially equivalent training or experience;⁵³
an insurance adjuster;⁵⁴

an internal investigator or auditor while making an investigation incidental to the business of the agency or company by which the investigator or auditor is singularly and regularly employed.⁵⁵

The emphasis placed on experience is a positive sign in the industry's quest for professionalism. Inept and inexperienced persons should not be entrusted with the obligations of private security. This trend toward security professionalism is further evidenced by the statutory reciprocity that exists between public and private justice, namely credit granted for law enforcement experience, or a waiver of the experience qualifications for those who have served in public law enforcement. Hawaii's statute is typical of this reciprocity:

Experience requirements. The board may accept the following:...

- (3) Have had experience reasonably equivalent to at least four years of full-time investigational work;⁵⁶

While great strides are evident in the jurisdictional experience rule, many states blatantly disregard the experience issue. Kansas lacks experience requirements.

75-7b05. License, initial or renewal; fee set by attorney general.

- a. Every application for an initial or a renewal license shall be accompanied by a fee in an amount fixed by the attorney general pursuant to K.S.A. 2008 Supp. 75-7b22, and amendments thereto.
- b. In addition to the application fee imposed pursuant to subsection (a), if the applicant is an organization and any of its officers, directors, partners or associates intends to engage in the business of such organization as a private detective, such officer, director, partner or associate shall make a separate application for a license and pay a fee in an amount fixed by the attorney general pursuant to K.S.A. 2008 Supp. 75-7b22, and amendments thereto.⁵⁷

Equally silent on experience is New Jersey.⁵⁸

2.1.2.3 *Licensure*

Regulation by license is the state's effort to regularize security practice and its particular positions. By overseeing occupations and professions, from lawyers to security officers, the state gives credence to the field's influence and importance and symbolizes a need to quality control those engaging in its activities. Review the Private Detective, Private Alarm, Private Security, and Locksmith Act of 2004.⁵⁹ Licensure classifications are as follows:

- *Classes of Individual Licenses*
 - Private detective⁶⁰
 - Private security contractor⁶¹
 - Private alarm contractor⁶²
- *Classes of Business Certification*
 - Private detective agency⁶³
 - Private security contractor agency⁶⁴
 - Private alarm contractor agency⁶⁵

Varying degrees of experience, education and training, bond, and age are cited, depending upon the license desired. Not surprisingly, the licensure requirements impose the heaviest burdens on those who can exert force, handle weaponry, or those owning and operating a security agency.

These statutory gradations are testimony to the dynamic growth and maturation of the security industry. Legislators, as a rule, make laws when pressed or prodded by the ebb and flow of social and political pressure. At times, political action comes from enlightened activism, at other times the impetus is scandal or some reactionary setting. "This new era—an era of regulation for the private security industry offers a great challenge, and that challenge will be met if the interested parties recognize their common business interests as well as their collective responsibility to the community at large."⁶⁶

The Florida legislature poses another set of licensure categories even more grandiose:

5N-1.116 Classification of Licenses; Insurance; Fees.

(1) Classifications. The following shall be the classifications of licenses:

PRIVATE INVESTIGATION

Agency	Class "A"
Private Investigator	Class "C"
Armed Private Investigator	Class "C" & Class "G"
Branch Office	Class "AA"
Manager	Class "C," Class "MA," or Class "M"
Intern	Class "CC"

PRIVATE SECURITY

Agency	Class "B"
Security Officer	Class "D"
Armed Security Officer	Class "D" & Class "G"
Branch Office	Class "BB"
Manager	Class "MB" or Class "M"

REPOSSESSION ACTIVITY

Agency	Class "R"
Recovery Agent	Class "E"
Branch Office	Class "RR"
Manager	Class "MR" or Class "E"
Intern	Class "EE"

COMBINED PRIVATE INVESTIGATION AND SECURITY

Agency	Class "A" & Class "B"
Branch Office	Class "AB"
Manager	Class "M"

SCHOOLS

Security Officer School/Training Facility	Class “DS”
Security Officer Instructor	Class “DI”
Recovery Agent School/Training Facility	Class “RS”
Recovery Agent Instructor	Class “RI”

FIREARMS

Instructor	Class “K”
Statewide Firearm License	Class “G”

MANAGERS

Private Investigative Agency or Branch	Class “C,” “MA,” or “M”
Private Security Agency or Branch	Class “MB” or “M”
Recovery Agency or Branch	Class “E” or “MR”
Armed Manager	Appropriate Manager’s License & Class “G” ⁶⁷

Florida licensing law promotes an interplay and reciprocity between public and private law enforcement by granting credit for public law experience. Equally stressed is education, its level obtained and degree correlating to the security position. In sum, the more complicated the position, the higher the regulatory demand. For example, a private investigator applicant may substitute some of the experiential requirements by adhering to the following regulatory pattern:

1. Private investigative work or related fields of work that provided equivalent experience or training;
2. Work as a Class “CC” licensed intern;
3. Any combination of paragraphs (a) and (b);
4. Experience described in paragraph (a) for one year and experience described in paragraph (e) for one year;
5. No more than one year using:
 - a. College coursework related to criminal justice, criminology, or law enforcement administration; or
 - b. Successfully completed law enforcement-related training received from any federal, state, county, or municipal agency.⁶⁸

Additionally, the Florida statute fully recognizes the serious burden that is placed upon the armed security officer. Both armed personnel and their instructors are placed under stringent guidelines:

In order to qualify for the Class “G” license, you must have successfully completed 28 hours of range and classroom training provided by a licensed Class “K” Firearms Instructor within the preceding 12 months. The Firearms Instructor will issue a

Certificate of Firearms Proficiency (Form DACS-16005) to you upon completion of this training. A copy of this certificate must be included with your application.

Acceptable Alternatives for the 28 Hours of Range and Classroom Training

1. If you are certified by FDLE's Criminal Justice Standards & Training Commission (CJSTC) as a law enforcement officer or correctional officer AND you are currently employed in either of these capacities, a copy of your valid ID card issued to you by your employing law enforcement agency will satisfy the training requirement.
2. If within the preceding 12 months you have successfully completed a training program approved by the CJSTC for certification of graduates as law enforcement officers or correctional officers, a copy of your certificate of completion from that program will satisfy the training requirement.
3. If you qualify for a Class "K" Firearms Instructor License in accordance with the requirements set forth in s. 493.6105(7)(a), FS, a copy of one of the law enforcement or security firearms instructor certificates listed in this section will satisfy the training requirement.⁶⁹

Licensure grades and requirements vary according to the level of responsibility exerted. Some states need the security agency itself to perform internal oversight of its own employees. Thus, the security firm or proprietor needs a license that includes a right to supervise or evaluate those under its command. Given the growth of security personnel, it makes good sense to transfer the task of policing one's own to those in occupational proximity—the agency itself. New Mexico sets up such a policy in its list of qualifications for operation of business. The statute holds

A licensee shall at all times be legally responsible for the good business conduct of each of his employees, including his managers.⁷⁰

Those holding themselves out Armed Security Officers need adhere to licensing and regulatory requirements. In *U.S. v. Kelly*⁷¹ police officers checked on security officers at local nightclubs and found them lacking proper licensure and certification. Law enforcement confiscated those weapons. In sum, these legislative classifications are further evidence of the technical, business, and professional sophistication evolving in the security industry. As the field matures and develops, legislative activity and regulation mirrors the development.

2.1.2.4 *Personal Character*

Traditionally, "good" character was the chief criteria for license issuance. Stating such criteria is easy. Definition and interpretation of these criteria is highly subjective. The diversity of good character definitions is testimony to the creative draftsmanship of legislators. The desire is plain—to license only those individuals who are not thieves, liars, untrustworthy scoundrels, or other reprehensible characters. Character bespeaks loudly the man or woman's suitability for the job.

In North Carolina, a license will be issued to a person who "is of good moral character and temperate habits."⁷² Who is the judge of temperance? Can this trait be objectively measured? Indiana tries to make it plain by denying a license to applicants who have not:

- (c) The board may deny a license unless the applicant makes a showing satisfactory to the board that the applicant or, if the applicant is a business entity, the officer or partner referred to in subsection (b):

1. has not committed an act which, if committed by a licensee, would be grounds for the suspension or revocation of a license under this chapter;
2. has not been convicted of a:
 - A. felony; or
 - B. misdemeanor that has a direct bearing upon the applicant's ability to practice competently;⁷³

While this legislative guidance is commendable, the lawmaker and regulator must be keen on the clarity of the act in question. Imprecision of language leads to abuse of discretion. Character is a difficult thing to measure precisely. Ohio provides more objective criteria.

(a) Has a good reputation for integrity, has not been convicted of a felony within the last twenty years or any offense involving moral turpitude, and has not been adjudicated incompetent for the purpose of holding the license, as provided in section 5122.301 [5122.30.1] of the Revised Code, without having been restored to legal capacity for that purpose.⁷⁴

With this statutory definition, the evaluator measures the applicant by a past criminal history. Arizona does an even better job of delineating the notion of good character.

The applicants shall:

Within the five years immediately preceding the application for an agency license, not have been convicted of any misdemeanor act involving:

1. Personal violence or force against another person or threatening to commit any act of personal violence or force against another person.
2. Misconduct involving a deadly weapon as provided in section 13-3102.
3. Dishonesty or fraud.
4. Arson.
5. Theft.
6. Domestic violence.
7. A violation of title 13, Chapter 34 or 34.1 or an offense that has the same elements as an offense listed in title 13, Chapter 34 or 34.1.
8. Sexual misconduct.⁷⁵

Arkansas adds further criteria in its search for acceptable conduct and character—alcohol and drug abuse. The statute holds that before issuance of a license prospective security professionals should not be suffering from habitual drunkenness or from narcotic addiction or dependence.

No license shall be granted to any person who has within five (5) years been convicted of a willful violation of any law of the United States, or of any state, relating to opium, coca leaves, or other narcotic drugs, or to any person who is a narcotic drug addict.⁷⁶

Other states, such as New Jersey⁷⁷ and New York,⁷⁸ attempt to prove character by relying on the judgment of others. New York specifically requests:

(5) Such application shall be approved, as to each person or individual so signing the same, by not less than five reputable citizens of the community in which such applicant resides or transacts business.⁷⁹

Statutory constructions sometimes measure character acceptability by reliance on one's moral order or disorder. The historic term for a deficit in character is "moral turpitude." "Moral turpitude" is defined as an act of baseness, vileness, or depravity in the private and social duties a person owes to another person, or to society in general, contrary to the accepted and customary rule of right and duty between persons, and conduct which is contrary to justice, honesty, or good morals. The following is a nonexclusive list involving moral turpitude:

1. Any act involving dishonesty or fraud
2. Any criminal act involving deception
3. Any act involving sexual misconduct and
4. Any offense with an element of specific criminal intent

Iowa illustrates the difficulty of dealing with the definition of good character though it delineates the unacceptable.

1. Applications for a license or license renewal shall be submitted to the commissioner in the form the commissioner prescribes. A license or license renewal shall not be issued unless the applicant:
 - a. Is eighteen years of age or older.
 - b. Is not a peace officer.
 - c. Has never been convicted of a felony or aggravated misdemeanor.
 - d. Is not addicted to the use of alcohol or a controlled substance.
 - e. Does not have a history of repeated acts of violence.
 - f. Is of good moral character and has not been judged guilty of a crime involving moral turpitude.
 - g. Has not been convicted of a crime described in section 708.3, 708.4, 708.5, 708.6, 708.8, or 708.9.
 - h. Has not been convicted of illegally using, carrying or possessing a dangerous weapon.
 - i. Has not been convicted of fraud.
 - j. Provides fingerprints to the department.
 - k. Complies with other qualifications and requirements the commissioner adopts by rule.⁸⁰

Efforts to define and measure character are never easy due to the subjective nature of character and moral determinations. While there is much that can be agreed upon as to the nature of what constitutes good character, there are distinct outlooks that are either more tolerant or judgmental in design and scope. Finding a balance is the best approach for the regulator.

Visit the National Association of Security Companies (NASCO) and find a rich database of information on the regulatory process at: <http://www.nasco.org/member-area/state-agencies-associations/>

Also, so dedicated is NASCO to this standardization of qualification that it has supported the creation of an electronic database for all American jurisdictions.

2.1.2.5 Education and Training

Professionalism for the security industry remains an empty promise without a commitment to education, scholarly research and development, and academic rigor. Regulatory bodies throughout

the United States have been placing heightened emphasis on education and training as part of the minimum qualifications of an applicant.⁸¹ The Private Security Advisory Council,⁸² a federally funded consortium of public law enforcement specialists and private security experts, has made numerous recommendations concerning the upgrading of educational standards. The Council notes eloquently:

[W]hile private security is a vast crime prevention and reduction resource, it will for the most part remain only a potential resource until steps are taken to eliminate incompetence and unscrupulous conduct. Many private security personnel are only temporary or part-time employees who are often underpaid and untrained for their work. The protection of lives and property is an awesome societal responsibility, and the public interest demands that persons entrusted with such responsibilities be competent, well-trained, and of good moral character.⁸³

In the early 1990s the National Private Security Officer Survey portrayed an industry pool in need of higher educational achievement, reporting that most positions require a high-school diploma.⁸⁴ The requirements seem to be elevating on some levels. The 2002 Virginia Security Officer Study reported that over 55 percent of the survey respondents possessed at least some college level education⁸⁵ (see [Figure 2.2](#)).

From the lowest echelon employee in a security organization to the highest supervisory personnel, education and training is inexorably tied to occupational development.⁸⁶ A 1973 study, *Private Police in the United States: Findings and Recommendations*, heralds education as a remedy to deficiencies in the security industry. Insisting on minimums, the study relays the following:

- All types of private security personnel should receive a minimum initial training program of at least 120 hours.

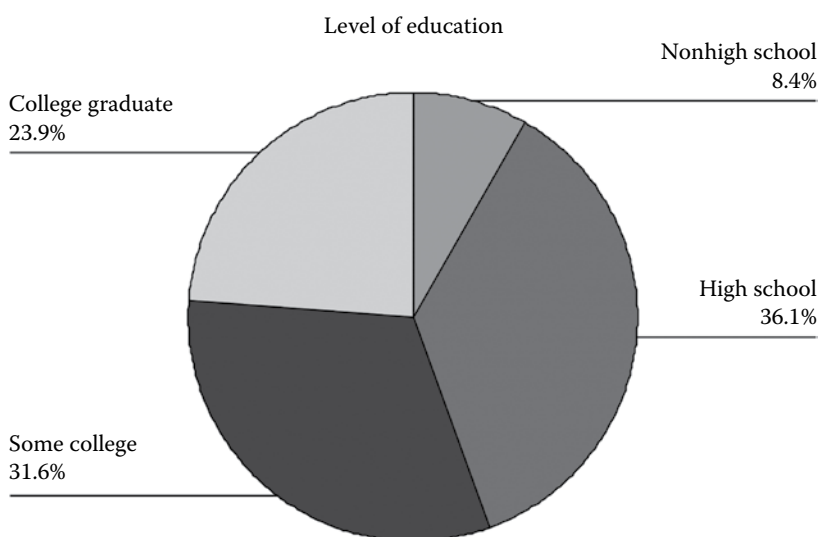


Figure 2.2 Security Officer education levels.

- Federal funds should be made available to develop appropriate training programs, including curricula, materials, and methodology.
- State regulatory agencies should require minimum training programs—in terms of quality, curriculum, and hours of instruction for all types of private security personnel.
- Appropriate higher education, such as a bachelor's degree in police science and administration, should also be a substitute for part of the minimum experience requirements.⁸⁷

The Private Advisory Council, as well as a RAND Study on private security,⁸⁸ critique the paucity of the education and training provided to security personnel. The RAND Study concludes:

65% of private security personnel had no training at all prior to commencing job assignments. Approximately one-half of private security personnel carried firearms, but less than 20% had ever received any firearms training in their present job.⁸⁹

The National Association of Private Security Industries, Inc. of Dallas, Texas, confirms the urgent need for training and education for the contract guard firm. A recent report by the National Association of Private Security Industries stated that contract guard firms want their officers to be trained in liability avoidance, documentation and reports, patrol techniques, mid-level security supervision, laws of arrest, and first aid.⁹⁰

The call for increased education and training has been broad-based.⁹¹ “In security, as in other functions of an organization, the higher an executive climbs the broader is his need for education.”⁹² Education of public and private law enforcement can “dismiss prior notions or opinions, that is, to motivate them to think on a factual basis. The appalling lack of knowledge of the law can be corrected by immersing the officer in a study of the legal problems. Topics such as powers and restrictions on private police, law of arrest, search and seizure procedures, electronic eavesdropping, civil liabilities, and licensing statutes can be studied. Perhaps through an educational experience, an officer may not allow enthusiasm to overcome judgment in his daily rounds.”⁹³

The National Association of Security Companies corroborates the urgent need for educational preparation for the industry and concludes the causal connection between professionalism and education.

The National Association of Security Companies (NASCO) is the nation's largest contract security trade association, representing private security companies that employ more than 250,000 of the nation's most highly trained security officers servicing every business sector. NASCO is leading efforts to set meaningful standards for the private security industry and security officers by monitoring state and federal legislation and regulations affecting the quality and effectiveness of private security services.⁹⁴

At the collegiate and university level, the development and legitimization of the academic discipline of security studies has been both steady and impressive. Currently there are 1476 institutions in the United States that offer some coverage of security and protective studies, though most do not offer full-fledged degrees.⁹⁵ Some of the institutions offering degrees and courses in the field are

- Alabama State University
- American University

- Auburn University—Montgomery
- Baylor University
- California State University—various locations
- California University of Pennsylvania
- Eastern Kentucky University
- Fairmont State College
- Farleigh Dickinson
- George Washington University
- Jackson State University
- Jersey City State University
- John Jay College of Criminal Justice
- Marquette University
- Sam Houston State University
- Seton Hall University
- Texas A & M University
- Xavier University

For a complete listing of universities and colleges offering security-related education, see the ASIS International listing of participating institutions at: <https://www.asisonline.org/Membership/Library/Academic-Student-Center/Documents/Academic-Programs-in-Security.pdf>

How security studies grows and evolves is likely a parallel story to how the academic discipline of criminal justice came to be. Criminal justice education illustrates the long and sometimes vicious battle for legitimacy within traditional academic circles. Now an academic discipline firmly entrenched in more than 1100 colleges and universities, criminal justice's search for legitimacy in stodgy academic environs may soon be over.⁹⁶ Security training has been an integral course within criminal justice studies but is in its seminal stage at the undergraduate and graduate levels. "Growth in security academic programs has been significant. Nationwide, there were 33 certificate and degree programs 15 years ago. By 1990, the total had increased to 164. According to the Criminal Justice Degree school database, there are currently approximately 1400 schools in the US which offer criminal justice degrees."⁹⁷

In a degree-granting framework there has been steady growth particularly at the graduate level.⁹⁸ ASIS International, through its foundation, established a master's degree in security management at Webster University. "The Webster curriculum features a Master of Arts (MA) and a Master of Business Administration (MBA) option and reflects current security theory and practice. The program, guided by the Foundation, will be frequently revised to better meet the needs of students and will reflect input from university studies, corporate surveys and other assessments."⁹⁹ Its core curriculum contains seven required business courses, including statistical analysis, business accounting systems, business information systems, financial planning, operations and production management, economics for the firm, and business policy. The program also requires eight security courses, which are the same courses required for the M.A. degree covering legal and ethical issues in security management, management and administration courses, asset protection, information systems security, emergency planning, and an integrated studies course.¹⁰⁰ At John Jay College of Criminal Justice, graduate degrees in the interdisciplinary field of protection management are offered as well as a national, online Master's in Security Management. Both curricula are cutting edge in that the programs integrate traditional security conceptions with emergency

and fire content. In addition, both programs value managerial skills to train future supervisors and directors. The programs are housed under the department of Security, Fire and Emergency Management.¹⁰¹

Jim Calder of the University of Texas argues that as long as protective security studies is so heavily tethered and entangled with criminal justice, its growth will be slower than expected:

Security Studies must move from separate-but-equal status to total interaction with other aspects of criminal justice education. My premise is that the criminal justice system cannot reduce property crime profoundly (because of social structural limitations) and thus must rely more heavily on security forces.¹⁰²

There has been discussion about whether security studies need to exist independently or as an aligned subject matter with criminal justice. Christopher Hertig, CPP, remarks:

Security curricula exist on many campuses today, and an increasing number of criminal justice programs include courses in security, loss prevention, or safety. While many people dispute the wisdom of having security courses attached to criminal justice programs, the reality is that the majority of courses are within criminal justice curricula. This is not likely to change anytime soon. I believe that working with an existing program is generally more productive than idly wishing for something that may never be.¹⁰³

Since 9/11, certificates and degrees are continually evolving in the young academic discipline of “homeland security.”¹⁰⁴ If anything, security education is a major complement to traditional criminal justice and police science programs. “Security studies can offer criminal justice education an end to the past overbearing concern for the quantity of crime as the primary indication of social and political controls. Security is less concerned with quantity than it is about location, specifically, whether crimes of all types are committed within a social location under its control.”¹⁰⁵

The argument for security education and training is compelling, particularly when coupled with the drive toward professionalism. One certainly cannot exist without the other as Richard Post lucidly poses:

Is security a profession? No, probably not to the extent that law enforcement or many of the other areas of criminal justice are professions ... But, we have made a start. Things are beginning to move forward, and it is entirely possible that security may be considered the profession of the future.¹⁰⁶

Considering these arguments, have the states enhanced educational requirements for licensure? Does the legislative process recognize the role education and training play in the future of security as an industry and the privatization movement? Legislative analysis manifests some sound redirection in favor of education and training. While some states like Colorado¹⁰⁷ are constitutionally unable, at least at this juncture, to mandate licensure requirements, and others simply do not require it, more and more states require some level of training for personnel.

Education and training can take many forms, such as that mandated in Arizona. [Figure 2.3](#)¹⁰⁸ outlines the training topics that security companies are required by law to provide to their personnel.

Other states require applicants to pass an examination covering a broad range of topics. State administrative agencies even provide bibliographic lists to help applicants prepare.¹⁰⁹ Recent



Arizona Department of Public Safety

Unarmed Security Guard 8 Hour Training Syllabus February 2, 2007

This syllabus was developed by the DPS Security Guard Licensing Unit and meets the **mandatory 8-hour pre-assignment training requirement** that must be completed prior to submitting a security guard license application. All training must be conducted by an authorized instructor – Training may not be performed using videos alone, however, they may be used to supplement the instructor's training.

- **Trainers:** Training shall be **at least 8-hours** in duration and **does not** include a lunch break. Ten minute breaks each hour are permissible and will not count against the 8-hours. Establish and maintain (5 years) a sign-in roster for each class.
- The agency shall ensure the application and training verification has been signed by the instructor or designee.
- Guards **may not** work a security post until they are in possession of a valid security guard card and are wearing the DPS **approved** uniform (as applicable).

1. Orientation - Introduction to Security

2. Criminal Law / Laws of Arrest (Legal Authority) *The law and legal portion of this course is a vital block of instruction for security guard applicants. Instructors must cover all topics listed below. References include ARS Title 13 and the AZ DPS website: Arizona Department of Public Safety-Licensing Unit. Much of the text "Legal Issues Relating to the Use of Deadly Force" by Michael Anthony (found on the AZ DPS CCW website) is also applicable, however, this text was primarily designed for the CCW course, not security guards. Edit out specific references to CCW issues. References to specific section numbers (**bold - within parenthesis**) are for use with the "Legal Issues Relating to the Use of Deadly Force" text, which security guard instructors may find useful.*

A. Authority and Responsibility of a Security Guard

1) Definitions

2) ARS Title 32, Chapter 26, Security Guard Regulation. *Sections 2632.D, 2633, 2634, 2635, 2636, 2637, 2638, 2639.D, and 2642. Additionally, specifically state that security guards may not work a post unless they are physically in possession of a valid guard card and in the proper uniform – guards working under a "pending" application are in violation of State law.*

3) ARS Title 13, Chapter 4, Justification: *All relevant subsections to include 401, 402.B.2, 403.3, 403.4, 403.6, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 416, 417, 418 & 419 (**Section V**). Subsections that do*

not pertain to security guards carrying weapons may be omitted. This chapter is the most crucial section of the law and legal training requirement and all instructors must be thoroughly knowledgeable of this section.

B. Laws of Arrest

- 1) Interface with Law Enforcement/Assisting Law Enforcement (Be a good witness but do not physically assist law enforcement unless asked).
- 2) A.R.S. 13-3801, Preventing offenses; aiding officers (Briefly Discuss)
- 3) A.R.S. 13-3802, Right to command aid for execution of process; punishment for resisting process (Briefly Discuss)
- 4) A.R.S. 13-3881, Arrest
- 5) A.R.S. 13-3882, Time of Making Arrest
- 6) A.R.S. 13-3884, Arrest by Private Person
- 7) A.R.S. 13-3889, Method of Arrest by Private Person
- 8) A.R.S. 13-3892, Right of Private Person to Break into Building
- 9) A.R.S. 13-3893, Right to Break a Door or Window to Effect Release
- 10) A.R.S. 13-3894, Right to Break into Building in Order to Effect Release of Person Making Arrest Detained Therein
- 11) A.R.S. 13-3895, Weapons to be Taken from Person Arrested
- 12) A.R.S. 13-3896, Arrest After Escape or Rescue; Method of Recapture
- 13) A.R.S. 13-3900, Duty of Private Person After Making Arrest (Call the Police)

C. Search and Seizure

- 1) 4th Amendment Rights (Briefly Discuss)
- 2) Unlawful Search and Seizure, A.R.S. 13-3925 (Briefly Discuss)

D. Criminal Law and Recognizing Crimes (*Security guards should be able to identify these crimes*):

1. Briefly discuss ARS Title 13, Chapter 11, Homicide (**Section III.A**) 13-1102, 1103 (*Use of force aspects relating to security guards*)

2. Briefly discuss ARS Title 13, Chapter 12, Assault and Related Offenses **(Section III.B)** 13-1201, 1202, 1203, 1204.
3. Briefly discuss ARS Title 13, Chapter 15, Criminal Trespass and Burglary **(Section III.C)** Cover aspects that pertain to security guards.
4. Briefly discuss ARS Title 13, Chapter 16, Criminal Damage to Property Cover aspects that pertain to security guards.
5. Briefly discuss ARS Title 13, Chapter 17, Arson Cover aspects that pertain to security guards.
6. Briefly discuss ARS Title 13, Chapter 18, Theft 1802, 1803, 1804, 1805, 1816, and 1817- Cover aspects that pertain to security guards.
7. Briefly discuss ARS Title 13, Chapter 19, Robbery Cover aspects that pertain to security guards.
8. Briefly discuss ARS Title 13, Chapter 24, Obstructing Government Operations Chapters 2402, 2403, 2404, 2406, 2409, and 2411 Cover aspects that pertain to security guards.
9. Briefly discuss ARS Title 13, Chapter 29, Offenses Against Public Order – Disorderly Conduct **(Section III.D)** 2904, 2905, 2907, 2907.01, 2908, & 2911).
10. Briefly discuss ARS Title 13, Chapter 31 Weapons and Explosives **(Section III.E)** 13-3101, 3102, 3107. Cover aspects that pertain to security guards.
11. Briefly discuss ARS Title 4, 4-244.29 Patrons may not bring firearms into commercial establishments that serve alcohol for consumption on the premises (except peace officers).
12. Request students visit the AZ DPS Licensing website at:
<http://www.azdps.gov/license/default.asp>.

3. Uniform and Grooming

- A. Arizona Law Pertaining to Uniforms
 - 1) Authorized Uniform by Law and Agency
 - 2) Responsibility to Wear the Authorized Uniform
- B. Basic Hygiene Policy

4. Communications

A. Written

- 1) Report Writing
- 2) Note Taking
- 3) Steps in Writing a Report
- 4) Grammar and Spelling
- 5) Report Forms

B. Human Relations / Communications

- 1) Verbal Control
- 2) Physiological Responses to Stress
- 3) How to Bring Down Stress
- 4) Bridging Barriers of Communication

C. Use of Force / Levels of Force

- 1) Define Use of Force and When Can it be Used
- 2) Elements of Resistance
- 3) Escalation and De-Escalation of Force
- 4) Handcuffs/Restraints
- 5) Physical Force
- 6) Non-Lethal Weapon Use and Company Policies (Tasers, Mace, Capstun, Batons, etc.)
- 7) Deadly Physical Force (Choke Holds, Lethal Strikes, Unauthorized Weapons)

5. Crime Scene Preservation/First Response

- A. Responsibilities
- B. Reasons for denial of entry to a crime scene
- C. Procedures for protecting a crime scene
- D. Emergency Response Procedures
- E. Practical Exercise

6. Ethics

Include a basic ethics policy in regard to good moral character.

- 1) Guards on Duty
- 2) Guards off Duty (Incidents Leading to Loss of Guard Card)
- 3) Driving Courtesy (On Duty in Security Vehicles)

7. Sexual Harassment

- 1) Verbal
- 2) Non-Verbal
- 3) Innuendos

8. General Security Guard Procedures (Post or Job Procedures) Specific post responsibilities should be explained at the work location

9. Close of Training – Sign Training Forms and Submit Applications – **Guards may not work a security post until they are physically in possession of a valid guard card and wearing the DPS approved uniform (as applicable).**

statutory amendments in Illinois highlight the trend toward education and training. For the applicant in Illinois, a security training program of at least twenty hours must be documented. Topics include

1. The law regarding arrest and search and seizure as it applies to private security.
2. Civil and criminal liability for acts related to private security.
3. The use of force, including but not limited to the use of nonlethal force (i.e., disabling spray, baton, stun gun or similar weapon).
4. Arrest and control techniques.
5. The offenses under the Criminal Code of 1961 [720 ILCS 5/1-1 et seq.] that are directly related to the protection of persons and property.
6. The law on private security forces and on reporting to law enforcement agencies.
7. Fire prevention, fire equipment, and fire safety.
8. The procedures for service of process and for report writing.
9. Civil rights and public relations.
10. The identification of terrorists, acts of terrorism, and terrorist organizations, as defined by federal and state statutes.¹¹⁰

Education is the centerpiece of the Illinois legislation. When combined with undergraduate training and experience, the proviso rewards those seeking licensure with such backgrounds. Applicants can substitute certain experience requirements with postsecondary education. Specifically, for private security contractors, the educational provision states that in lieu of experience, the applicants may demonstrate that they have a degree:

An applicant who has a baccalaureate degree or higher in police science or a related field or a business degree from an accredited college or university shall be given credit for two of the three years of the required experience. An applicant who has an associate degree in police science or in a related field or in business from an accredited college or university shall be given credit for one of the three years of the required experience.¹¹¹

Additionally, Georgia insists on certification for all security personnel utilizing weaponry.

The board shall have the authority to establish limits on type and caliber of such weapons by rule.

The board shall have the authority to require periodic recertification of proficiency in the use of firearms and to refuse to renew a permit upon failure to comply with such requirement.¹¹²

Louisiana education and training for an armed security guard includes

1. Legal limitations on use of weapons.
2. Handling of a weapon.
3. Safety and maintenance.
4. Dim light firing.
5. A shoot, don't shoot program.
6. Stress factors.¹¹³

Just because the complexity increases in the license sought, one cannot be sure the content will reflect the added roles and responsibilities. To be sure, there is great variety in the private security industry. Tennessee, for example, requires training for the armed guard consisting of the following topics:

Training Requirements

Training includes an examination covering subjects in which the individual must have training. All candidates must complete a four hour basic course including one (1) hour each of:

- Orientation.
- Legal powers and limitations of a security guard/officer.
- Emergency procedures.
- General duties.
- Any additional training for weapons or other devices that are less than lethal he or she will use.
- An armed guard must complete eight additional hours in the classroom covering:
- Legal limitations on the use of a firearm:
 - Handling of a firearm
 - Safety and maintenance of firearms

In addition, an armed guard applicant must complete an additional four hours of marksmanship training and achieve a minimum of 70% on any silhouette target course approved by the commissioner.¹¹⁴

This curriculum seems hours short to a fault and leaves a poor impression of preparation and industry seriousness about the quality of the officers. In Washington state, an unarmed guard has far more preparation than the armed personnel in Tennessee. Washington's curricular content covers a broad range of topics and relevant knowledge essential to the security professionals.

1. *Basic principles*
 - a. Basic role of the security guard.
 - b. Washington State licensing laws.
 - c. Observation.
 - d. Proper actions, reactions, ethics and diversity.
 - e. Homeland Security—Terrorism and Surveillance.
2. *Legal powers and limitations*
 - a. Citizen arrest.
 - b. Authority to detain, question, or search a private citizen.
 - c. Authority to search or seize private property.
 - d. Use of force.
 - e. Building relationships with law enforcement.
 - f. Avoiding liability.
3. *Emergency Response*
 - a. How to define what is or is not an emergency situation.
 - b. Response to fires.
 - c. Response to medical emergencies.
 - d. Response to criminal acts.
 - e. Bomb threats.

4. *Safety and accident prevention*
 - a. Hazardous materials including MSDS.
 - b. Accident reporting.
5. *Report writing. It's a legal document*
 - a. Elements and characteristics of a report.¹¹⁵

New York, by way of comparison, adopts a legislative design that combines classroom and actual training by mandating entry-level educational programs of eight hours and then within 90 days, a 16-hour on-the-job training course. If armed, a 47-hour firearms program must be successfully completed.

§ 89-n. Training requirements. 1. Security guards shall be required to satisfactorily complete training programs given and administered by security guard training schools, schools which provide security guard training programs or security guard companies prescribed, certified and approved by the commissioner pursuant to section eight hundred forty-one-c of the executive law to include

1. An eight-hour preassignment training course;
2. An on-the-job training course to be completed within ninety working days following employment, consisting of a minimum of sixteen hours and a maximum of forty hours, as determined by the council, generally relating to the security guard's specific duties, the nature of the work place and the requirements of the security guard company;
3. A forty-seven hour firearms training course for issuance of a special armed guard registration card;
4. An eight-hour annual in-service training course; and
5. An additional eight-hour annual in-service training course for holders of special armed guard registration cards.¹¹⁶

California authors a similar model to New York but with the additional sixteen-hour training requirement during the first year of service.

40 Hour Security Guard Training Requirement¹¹⁷

Prior to Being Assigned on Post	8 Hours
Training Required within the First 30 Days	16 Hours
Training Required within the First Six Months	16 Hours
TOTAL HOURS	40 HOURS

Naturally, as the complexity of security work increases, so too the educational and training requirements. Florida sets up a variable system of educational requirements, depending on job classifications. For example:

Class "G" shall include, but is not limited to 24 statewide hours of range and classroom training, no more gun permit than 8 hours of such training shall consist of range training.¹¹⁸

Virginia lays out two distinct training curricula for these categories.

Unarmed Security Officer Training Requirements

18 Hours, Consisting of:

- 01E—Security Officer Core Subjects Entry-Level (18 hours)¹¹⁹

Armed Security Officer Training Requirements

50–53 Hours, Consisting of:

- 01E—Security Officer Core Subjects Entry-Level (18 hours)
- 05E—Armed Security Officer Arrest Authority (8 hours)
- 75E—Security Officer Handgun (24 hours)
- 08E—Shotgun Training Entry-Level (3 hours) - If Applicable¹²⁰

The requirements are not staggering by any stretch of the imagination, but a start; a posture emphasizing the role education plays in attaining professionalism.

Delaware has mandatory firearms training for all private detectives and investigators. Delaware's Board of Examiners is the watchdog agency for the security industry and decided effective July 30, 1979, that

No person duly licensed by the Board shall be permitted to carry a pistol, revolver, or any firearm, prior to the completion of a course of instruction as designed by the Division of State Police. Instruction shall include, but not be limited to, safety, use of deadly force and marksmanship training. Each person shall thereafter be recertified annually.¹²¹

Legislative coverage, at least in the education and training area, is becoming more specialized. With strong advocacy for specialized training and instruction in computer-based fields,¹²² airport and aircraft,¹²³ and animal handling, both the industry itself and governmental authorities are focusing on training requirements.

2.1.2.6 *Professional and Continuing Education*

Certification programs play a critical role in the development of a professional class within the security industry. Certifications take many forms although nearly all of them highlight a specific subject matter that requires unique preparation of a body of specialized knowledge. In addition, certifications are usually the invention of the professional bodies and associations that are inexorably tied that body of knowledge needed for skilled implementation. ASIS International has been on the forefront of certifications for many generations. Its Certified Protection Professional (CPP) programs make a real contribution to substantive professionalism. The CPP program's chief objectives are

1. To raise the professional standing of the field and to improve the practice of security management by giving special recognition to those security practitioners who, by passing examinations and fulfilling prescribed standards of performance, conduct, and education, have demonstrated a high level of competence and ethical fitness.

2. To identify sources of professional knowledge of the principles and practices of security and loss prevention, related disciplines, and laws governing and affecting the practice of security.
3. To encourage security professionals to carry out a continuing program of professional development.¹²⁴

The industry's professional associations and groups have played a distinct role in the delivery of education services. The Certified Protection Professional (CPP) program tests rigorously those wishing the designation. Topics covered are

- Emergency planning
- Legal aspects
- Personnel security
- Protection of sensitive information
- Security management
- Substance abuse
- Loss prevention
- Liaison
- Banking
- Computer security
- Credit card security
- Department of Defense
- Educational institutions
- Manufacturing
- Utilities
- Restaurants and lodging
- Retail security
- Transportation and cargo security
- Telecommunications¹²⁵

Jon C. Paul, director of security services for a major hospital, applauds the CPP designation. "The CPP designation is the hallmark of excellence in our profession—a fact that is recognized in our industry and is becoming more widely recognized by the organizations we serve."¹²⁶ To be eligible for the exam, the individual must meet the following requirements.

- Nine years of security work experience, with at least three of those years in responsible charge of a security function
- or-
- A bachelor's degree or higher and seven years of security work experience, with at least three of those years in responsible charge of a security function¹²⁷

ASIS International awards other certifications as well. "The Physical Security Professional (PSP)[®] credential provides demonstrable knowledge and experience in threat assessment and risk analysis; integrated physical security systems; and the appropriate identification, implementation,