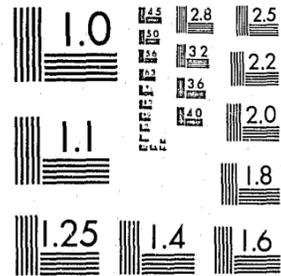


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STATE OF NEW YORK COMMISSION OF INVESTIGATION

NEW YORK STATE'S PRIVATE SECURITY GUARD INDUSTRY: THE NEED FOR REGULATORY REFORM

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OCTOBER 1983

270 BROADWAY
NEW YORK, N.Y. 10007

**NEW YORK STATE'S PRIVATE SECURITY GUARD INDUSTRY:
THE NEED FOR REGULATORY REFORM**

U.S. Department of Justice
National Institute of Justice

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**TEMPORARY COMMISSION OF INVESTIGATION
OF
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**NEW YORK STATE'S PRIVATE SECURITY GUARD INDUSTRY:
THE NEED FOR REGULATORY REFORM**

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ACQUISITIONS

INTRODUCTION

The private security guard industry, the third fastest-growing occupation in the United States, currently numbers more than 600,000 employees. That total amounts to a 50 percent increase in the past decade and exceeds the number of all public law enforcement employees combined. Figures for the industry in New York State reflect the national trend, with more than 40,000 people working for private investigation agencies and security guard firms.

So rapid an expansion necessarily has consequences on the ability of governmental agencies to monitor the industry. Moreover, the frequent proximity of security guards to objects of value, their ready access to otherwise restricted premises and their need for firearms all make the necessity of careful regulation evident; few occupations extend as promising an opportunity to the potential lawbreaker.

Recognition of these two concerns provided the impetus for an examination of the security guard industry by the Commission of Investigation ("the Commission"). Existing regulatory practices of the Department of State, the licensing authority for investigative and watchguard and patrol agencies, were reviewed in detail. In addition, the relative ease with which security guards are authorized to carry

handguns necessitated an inquiry into local gun licensing practice. Finally, selected security guard firms and employees were investigated by the Commission to determine the existing and potential problems the industry manifests.

It was the latter area which provided the most striking findings of the entire investigation. One company, System VII, served simply as a "front" organization for those who sought an expedited means of obtaining a pistol license. Another, 1900 Special Services ("1900"), more clearly resembled a crime ring than a security guard firm. Triggering the alarms of the businesses they were hired to protect and using the alarms as a justification for entry, 1900's employees repeatedly burglarized their own clients. Further, this firm was not averse to convincing clients who were about to dismiss them of the indispensibility of their services by vandalizing the clients' property. One such incident involved the firing of a gun at a gasoline tanker while it was on a public highway.

These sorts of incidents make it clear that current State regulation of private investigators and watch guard and patrol agencies must be improved. Though some substantial procedural defects have been redressed since the time of the Commission's hearings, the root problem remains: the Department of State has

fifty-two investigators to certify and monitor not only private investigators but real estate brokers, cosmetologists and hairdressers, over 500,000 licensees in all. A workload of this magnitude for so limited an investigative staff obviously precludes any significant qualification or supervision procedures from being implemented.

The Commission's investigation resulted in the finding of ample cause for concern about the security guard industry and the way it is regulated in New York State. This report serves to demonstrate both the reasons for that concern and the need for closer supervision of an occupation highly susceptible to abuse. To address the problems raised in its inquiry, the Commission proposes the following recommendations:

1. A restructuring of Department of State supervisory policy, involving an increased emphasis on the security guard industry and more complete criminal history examinations of security guard personnel;
2. The licensing of security guard employees, who are at present virtually uncontrolled by the State;
3. A requirement that a security guard firm prove it is actually operating and in busi-

ness, rather than serving as a mere vehicle for pistol license applicants; and

4. Reform of current pistol licensing procedure, including the amendment of existing statutes to require firearm training and periodic recertification for all pistol licensees.

Through these recommendations, the Commission suggests methods by which the industry may be better certified and monitored. Only through the development of stricter controls and better administration can the professionalism of the security guard industry be ensured and, more importantly, the safety of the public be guaranteed.

EXISTING LICENSING PRACTICE

Private Investigator and Watch Guard and Patrol Agencies

Under Article VII of the General Business Law, private security agencies are licensed and regulated by the Department of State. Separate licenses are issued for private investigators and for watch guard and patrol agencies, the latter being statutorily limited to the performance of guard services. The application processes and qualifications for the two licenses are, however, basically the same.

Both types of applicants, who must be at least 25 years of age, are required to provide identifying information, photographs and two sets of fingerprints, "recorded in such manner as may be specified by the secretary of state." An application must demonstrate prior experience as an investigator or watch guard or some "equivalent position and experience." Additional requirements include subscription of the application by "five reputable citizens" of the applicant's community, a written examination, application fees and the posting of a \$10,000 surety bond. It is the Department of State's responsibility to solicit assessments of the applicant's character from local law enforcement officials, to process the applicant's fingerprints through the Division of Criminal Justice

Services (DCJS) and "to investigate the honesty, good character and integrity of each applicant." The licenses expire after two years. As of June 1983, the Department of State listed 205 watch guard or patrol licenses and 1056 private investigator licenses as currently valid.

Each licensee is authorized to employ "as many persons as he may deem necessary" to assist him and is accountable for their conduct. These employees are not licensed by the Department of State, although they are required to be fingerprinted and to execute an "employee statement," consisting of background information. One set of fingerprints, which are routinely taken by the employer, is forwarded to the Department of State for a criminal record check. The other set, along with the employee statement, is to be retained by the employer, who is responsible for the verification of that statement. No requirement of legal or law enforcement training is imposed by the licensing statutes.

As a practical matter, the entire operation of security services licensing is a far from rigorous procedure. With the overwhelming numbers outlined in the introduction (over 30,000 employee applicants per year) and the constraints of a limited budget (4 to 6 month waiting periods are standard), detailed back-

ground investigations cannot be conducted. Applicants' names are not referred to local law enforcement personnel, on-site inspections of an agency's purported address are not made, and the legally mandated reviews of a company's financial records have not been undertaken for several years. Further, the Department of State is unable to determine if a given firm or employee actually performs any work. Commission investigators found security agency record files in Albany which contained neither applications, references nor fingerprint cards.

At the Commission's hearing, Charles Williams III, then general counsel of the Department of State, outlined the deficiencies he perceived in the existing statutes dealing with the licensing of security guards. Foremost among those deficiencies was the problem of security guard employees, whom he described as "totally unregulated." Asked which licensing authorization was more difficult to obtain, a cosmetologist's or security guard's, Williams testified that, "It is much harder to be a cosmetologist."

With employees subject to no investigation save that done by their employers, the only procedure by which applicants with criminal records may be definitively identified by the State is the fingerprint analysis. Yet this safeguard has proved to be far from

effective. Since no employees are personally fingerprinted by the Department of State or any law enforcement agency, the possibility is created that an applicant may submit prints other than his own. Even the prints that are submitted take six to twelve months to process, time during which the applicant is already permitted to work. Further, investigation of Department of State procedure has revealed that employee print cards have been retained for only one year before they are destroyed. This practice will end in late 1983, when a computer system which permits the retention of employee information indefinitely will be implemented.

Additionally, the Department of State has no means of regularly determining when a licensee or employee is convicted of a crime; the print cards sent to DCJS with the initial application are not kept by them because the Department of State does not request that service. The Department of State currently receives only a "partial search" of fingerprint files at a cost of \$6 per record. This procedure involves a more generalized search technique than a \$12 "fully classified" analysis. A "search and retain" service, which includes a full search and automatic notification of a subsequent arrest, has a \$14 per record cost. The \$6 charge of the present search is deducted from a

licensee's application fee or, in the case of security guard employees, is passed along to their employers as a processing fee.

Moreover, the DCJS records are limited to New York State arrests and convictions. Any determination of out-of-state or federal criminal record must be obtained through the FBI Identification Division. Searches through this central repository, which contains all arrests and convictions reported by local authorities, are not requested by the Department of State, again apparently because of the expense (\$12 per record). As a result, under existing practice, the Department of State does not determine if a licensee has a prior out-of-state or federal record, nor is it automatically apprised if a licensee is subsequently arrested or convicted, in state or out. Notification of these matters comes only through chance occurrence or by the licensee's own admission.

Mr. Williams testified that an amendment to the existing statute which would require licensing of security guard employees has been proposed by the Department of State since 1977. However, bills substantially embodying this proposal have been introduced for the last four years with none ever being reported out of committee and there are no current plans to re-introduce the amendment. Williams also stressed a need

for additional managerial personnel in the Department of State's licensing division, to enable its limited staff to respond more efficiently and with greater flexibility to the task of supervising all state licensees.

In addition, Mr. Williams responded to hearing testimony from a previous witness, Sgt. Patrick Picciarelli of the New York City Police Department Licensing Division, concerning the sharing of information between governmental agencies. In regard to State-city interaction on the investigation of license applicants, Williams confirmed from a different perspective Picciarelli's contention that information was not being shared. While Picciarelli testified that records and hearings on incidents involving State licensees were not available to local police units, Williams stated there is "generally a reluctance of criminal justice agencies to share information that they have obtained with a licensing agency such as ours." Although both agreed that there had been some improvement in the liaison, at least dating back to the time of the Commission's involvement, both expressed a need for more complete communication between city and State.

New York City Pistol Licenses

The licensing of handguns throughout New York State is governed by Article 400 and Article 265 of the Penal Law, with the latter section designating authorized licensing authorities: the Police Commissioner in New York City and Nassau County, the Commissioner of Police or sheriff in Suffolk County and a judge or justice of a court of record elsewhere. Applicants must be "of good moral character," have no prior felony conviction and must demonstrate no circumstances constituting good cause for denial of a license. Applications for the different types of licenses (dwelling, business or carry) require background information about the applicant which must be verified by "the duly constituted police authorities of the locality where such application is made." One requirement of the verification process involves the fingerprinting of the applicant by the investigating officer, who forwards one copy of the fingerprints to DCJS. This copy must be checked against existing prints and retained by DCJS.

While pistol licenses are otherwise valid throughout the State, a license holder must obtain a separate permit to carry or possess a pistol in New York City. The licenses issued in New York City, Nassau County or Suffolk County must expire "not more

than three years after the date of issuance," with licenses issued elsewhere remaining "in force and effect until revoked." In addition to actions taken by the licensing officer, conviction of a felony automatically operates as a revocation of the license.

Within these statutory guidelines, Sgt. Picciarelli of the New York City Police Department Licensing Division ("NYPD Licensing") outlined the operation of the pistol licensing procedure in New York City, with an emphasis on private security guards. All pistol license applicants must demonstrate a need for a weapon, which need is expressed in a standard document known as a letter of necessity. This letter must: 1) explain why the applicant needs a pistol; 2) affirm that the pistol will only be carried within the scope of the stated necessity, e.g., for a security guard, while on duty; 3) state that the applicant has been or will be trained in the use of the firearm; 4) describe how the pistol will be safeguarded when it is not in use; and 5) demonstrate an awareness by the applicant of the responsibilities imposed on licensees by the Penal Law. Additional requirements for security guards are statements from the applicant's employer that the employee is working at least twenty hours per week, that the employer will comply with state tax and police

department regulations, and that the employer assumes responsibility for the disposition of the pistol.

Standard New York City procedure subsequent to the application, submission of the letter of necessity and fingerprinting by police consists of an investigation of the applicant and, after the fingerprint check is completed, a personal interview. Business people who require a weapon for the protection of an establishment or its receipts must document their need with supporting information such as deeds, cash receipt records, proof of previous incidents, e.g., robberies, and state tax forms. Security guard employees are questioned generally by a police officer, with the primary purpose of determining if the applicant is "a responsible individual."

If the applicant is then approved, in the case of an investigator or security guard, the gun custodian for the company employing him will be contacted by police. The gun custodian serves as the point of contact between security guard firms and the Police Department and is the individual who inventories, purchases and repossesses (from employees) all of a firm's weapons. He must have a license listing all the guns owned by the firm in addition to a personal license for his own weapon. Additionally, the gun custodian or

some other company official must notify NYPD Licensing when an employee resigns.

The license issued is valid for two years, although renewal is an automatic, administrative matter, absent an applicant's felony conviction or change of employment. No recertification of firearm capability is imposed on licensees. Sgt. Picciarelli testified that as of April, 1982, there were 49,499 pistol licenses issued in New York City, of which 29,314 were carry permits, as opposed to licenses authorizing possession only in business or residential premises or for target shooting.

Picciarelli addressed certain potential problem areas within the pistol licensing scheme in addition to the matter of liaison with the Department of State already described. However, procedures designed to foreclose two of the most glaring loopholes in the system have been implemented since the Commission hearings brought them to light.

One major flaw in the pistol licensing process permitted a "security firm" which actually performed no security guard work to represent itself as a bona fide business, thereby serving as a device to obtain pistol licenses for its employees. (A detailed investigation of one such firm, "System VII", was completed by the Commission and a description of its oper-

ation will be contained later in this report.) With the insubstantial background examination conducted by the Department of State permitting such a firm to obtain an investigator or watch guard license and with the Police Department relying on (and accepting) that license as sufficient justification for the issuance of a pistol license, a "security guard company" proved to be a convenient route to the acquisition of a gun permit. Additionally, legitimate security guard firms not located in New York City would set up a mail drop address within the city to obtain New York City pistol permits for employees who did no work there. Picciarelli testified that NYPD Licensing had had only one civilian employee handling the security guard industry and that he had become, in August of 1981, the Investigative Unit's first full-time supervisor and investigator. As a result, the capacity to detect these sorts of ruses was not present.

As a result of information disclosed at the hearings, the NYPD Licensing unit has significantly increased its staff and its activity. Inquiries into suspected "mail drop" companies have resulted in the revocation of permits for nine security guard firms in New York City. More importantly, the content and procedure of NYPD Licensing's investigation has changed substantially. If a new firm, not previously known to

the Police Department, sponsors employees for pistol licenses, the licensing unit physically inspects the listed address of the firm and requires it to have three service contracts in hand. New licensees are investigated six months after they receive their licenses to determine if they are actually working. Spot checks of firms are conducted to see if they are serving as fronts by, among other things, examining their tax forms and payroll records. Additionally, NYPD Licensing is about to implement a new semi-annual report form on which security companies are required to list all active employees and their work hours, along with all terminated employees. These sorts of activities, begun around August of 1982, would seem to foreclose a company maintaining only the facade of a security guard firm from escaping detection.

The other critical failing occurred in the supervision of pistol licenses: according to Picciarelli, the licensing unit was not regularly notified of a licensee's arrest or even of his conviction. Existing practice places responsibility on the licensee to report to the licensing unit any incident involving his pistol, in addition to any arrest or conviction. Short of this type of voluntary notification, information provided by a confidential source or the fortuitous discovery of a pistol license in an individual's

possession, the licensing unit would not discover, according to Picciarelli, that a licensee had been arrested.

In light of the retention by DCJS of pistol licensee fingerprint records, this state of affairs appeared extraordinary, to say the least. Since every individual arrested is fingerprinted and since, if the system is working, a check of those fingerprints would turn up the existing fingerprint records filed for a licensee, it seemed impossible that a licensee could be arrested without the fact of his license being made known. In the hope that some sort of failure in communication between DCJS and the police licensing unit was responsible for this predicament, the Commission contacted the Deputy Commissioner Adam F. D'Alessandro of the DCJS Office of Identification and Data Systems.

The first information received from D'Alessandro made the matter more perplexing: according to him, DCJS operates a "subsequent reporting system" which automatically notifies a licensing agency when a licensee whose prints had been retained by DCJS was arrested. After looking into the matter, he was able to state categorically that the notifications were definitely being issued and that they were being forwarded to the Pistol Licensing Division of the New York City Police Department. As Picciarelli still remained

unaware of the existence of these reports, three such notifications were sent down by DCJS in December of 1982 as a test of the system. None of them were received by NYPD Licensing.

A closer examination revealed that it was the form of the notification themselves which was causing them to fail in their function. That form was the standard "rap sheet", a computer-printed enumeration of personal information and prior criminal history. However, the same sort of rap sheet is regularly issued by DCJS to a number of NYPD units for different purposes, e.g., the investigation of a suspect. Evidently, due to the licensee arrest rap sheets' essential similarity to defendant or suspect rap sheets the DCJS notifications were routinely misdirected and only sporadically came to the attention of NYPD Licensing.

As a result, the form of the notifications has been changed by DCJS. Until this new form, which is distinctively different from the previous notification, has been implemented by DCJS sometime in late 1983, all "rap sheet" notifications will contain a prominent label clarifying their purpose as follows:

ATTENTION: Officer In Charge

NYCPD Licensing Division

THIS CRIMINAL HISTORY IS SUPPLIED AS NOTIFICATION OF THE ARREST OF A PISTOL LICENSEE.

With this relatively simple and inexpensive modification, another serious shortcoming in the pistol licensing area was eliminated.

SYSTEM VII

In 1981, as a result of confidential informant information received by the Commission, it initiated an investigation of a security guard company known as System VII, Inc. The informants indicated that System VII, located in Rego Park, New York, was in the practice of "selling" pistol licenses to individuals such as chauffeurs or business executives. For a price, reported to be up to \$2000, these individuals would become "employees" of System VII and thereby qualify for a pistol permit. The informants described Benjamin Tampu-Bolon, the president of System VII, as the director of the license-selling operation.

An examination of the Department of State's files on System VII provided a clear demonstration of the limited nature of the Department's monitoring of security guard companies. The complete file on System VII contained two documents: a 1977 memorandum indicating that Tampu-Bolon, characterized as the "qualifying officer" of another security guard firm, Effective Security Systems, Inc., was being issued a new license for System VII; and a computer printout with System VII's address, license number, license date and officers, listing only Tampu-Bolon in the latter category. Neither license application, background information nor

preliminary investigation results were on hand in the Department of State's records.

A search of the NYPD Licensing files revealed twenty-three applications for pistol permits submitted by System VII. The employees' occupations included restaurant owner, restaurant manager, model, chauffeur, commodities broker, pilot, and New York City Transit Authority motorman, as well as two who were actually security guards. One System VII "employee" was Daniel J. "Rusty" Staub, a professional baseball player with the New York Mets.

After this preliminary information was obtained, Commission subpoenas were issued for the production of System VII financial records, personnel data and correspondence. All System VII employees who could be located were interviewed or subpoenaed to testify before the Commission at private hearings. In addition, Tampu-Bolon and his brother, Anthony Francis, who served as the gun custodian at System VII, also made appearances at Commission proceedings.

Based on an analysis of the information and the evidence uncovered in the Commission's public hearing, it is clear that System VII's primary, if not sole, purpose was to serve as a convenient route to the acquisition of pistol permits. By Tampu-Bolon's own admission, 15 of his "employees" had never performed

any security guard duties whatsoever and the remaining thirteen had worked only "sporadically." When the latter were pressed to provide specifics of their employment, they could only provide vague accounts of "bodyguarding" services, on unknown dates for unidentified clients.

A number of other factors pointed to the artificial nature of System VII's existence as a security guard company. Its office address, an apartment in Lefrak Towers, turned out to be the residence of Tampu-Bolon's mother, Claudelle Francis. Tampu-Bolon was unable to provide any work records or W-2 forms for his employees because "none of the men actually did any significant amount of work." Similarly, he explained the absence of any contracts, financial books, or correspondence with clients by testifying at a private hearing that: "It wasn't that much work so I didn't have to keep records." There were no armored car records, "Because there is no armored car," a fact which did not prevent the designations of eighteen System VII employees as either an armored transport agent, supervisor or director, or "vice president in charge of armored transport agents." (System VII possessed far more supervisors, directors and vice-presidents than agents.)

This virtual inactivity does not appear to have precluded the System VII employees' profession of need for a firearm. Nineteen handguns were licensed to System VII personnel, including six .357 magnum revolvers and one .45 automatic. Yet the recordkeeping for these weapons was no better than for the firm's financial or employment information. Gun custodian Anthony Francis testified at the public hearing that he maintained no ledger indicating which gun had been assigned to a particular employee. More importantly, he was not certain how many of the weapons, which were kept in a safe in his mother's apartment, System VII had.

Mr. Staub was in some ways typical of most of the employees, admitting he had never performed any work for System VII. Nonetheless, his pistol license application, which he testified had been completed by Tampu-Bolon, represented that he had been involved in "day-to-day supervision" at the firm, putting in 37 1/2 hour weeks as an "armored transport agent supervisor." Any such employment, which was described as having begun in 1977, was repudiated by Staub, who stated he had merely discussed a future position with the company in a sport-related area. He was aware that Tampu-Bolon had designated him a "vice-president," but viewed that title as only nominal. Staub's license application was denied by NYPD Licensing.

Other System VII employees were more successful. Stephen Herlihy, a model, obtained a permit ostensibly for "bodyguarding" work, work he was unable to describe. Willie Milton, a parking garage attendant had worked for System VII once, but obtained a pistol permit some six months later and never did any security guard work again. Neither Michael Tamboni, a limousine driver, nor David Padvers, who had done security guard work in the past, were ever employed by System VII, although both claimed the firm as justification for a pistol license. All their applications contained false prior employment information, as did Staub's, which they maintained had been included by Tampu-Bolon. At the time of the hearing both Milton and Padvers still had their permits.

Evidence that Tampu-Bolon was receiving money in return for his "employees" obtaining permits came through Leo Clark and Joel Firestone. Clark was a building manager whose employer had paid Tampu-Bolon \$2800, ostensibly as licensing charges and "fees for training," so that Clark could obtain a permit. While testifying that he had intended to perform security guard work with System VII, Clark had admitted that the permit would be "helpful" when he was carrying or depositing apartment rents he had collected. When confronted with an admitted falsification of employment

history on his application, Clark offered that, "You say anything on here." The \$2800 had been returned to Clark's employer after the Commission's investigation had begun. The money was accompanied by an itemized breakdown, which indicated that most of the fee was to have gone to a protective services school and a firearm training academy. Though both had been contacted by Tampu-Bolon, the academy had trained only one System VII employee in the past while the security guard school had never had an enrollee from the firm.

Joel Firestone, like Herlihy, described his employment with System VII as consisting of bodyguarding on a limited number of occasions. As with all the employees already described, his license application contained false information regarding his prior work for System VII. Firestone was distinctive, however, in that he disclosed to Commission investigators in an initial interview that he had indeed purchased a pistol license from Tampu-Bolon. After learning that the normal application process would take six months or more, Firestone said he had been told by Tampu-Bolon that "employment" as a security guard could ensure a permit approval in three months. Consequently, Firestone said, he paid Tampu-Bolon \$1,000 to be placed on the System VII payroll, with their mutual understanding that Firestone would not actually work for the

firm. (At the public hearing, Firestone renounced his earlier account, claiming that he had been on medication when he spoke to Commission investigators and that he did not remember the conversation.)

More serious than all these individuals were System VII employees Edward Johnson and Hardy Sams. Both applied for and received pistol permits through System VII and both refused to testify at the public hearing. However, information about Johnson and Sams was introduced through Detective William Miles of the New York City Police Department Intelligence Division. Miles described Johnson as the director of a large scale gambling operation in New York City, with Sams as one of his principal lieutenants. Miles' information had been obtained through confidential informants familiar with Johnson's activity.

Tampu-Bolon was revealed to have been himself denied a pistol permit in 1977 for failing to disclose the fact that he had been arrested in the past. Nonetheless, he revealed to Commission investigators that, on occasion, he did carry a pistol. Questioned about all these matters at the public hearing, Tampu-Bolon refused to testify.

1900 SPECIAL SERVICES

In the form of 1900 Special Services ("1900"), the Commission was presented with a different and more dangerous type of abuse of a security guard license: larceny and extortion from the very businesses a company was hired to protect. The extent of 1900's criminality is staggering. Testimony was presented at the public hearing that 1900's activities went beyond stealing and vandalizing its clients' property, the latter to demonstrate the necessity of its services, to include misuse of firearms, bribery and "throwing a beating" to competing security guards. More importantly, this conduct was organized at the direction of 1900's president, Louis Matteo, Sr., giving it more the character of a criminal gang than a provider of security services.

The principal witness against Matteo and 1900 was an employee, David Solomon, who had participated in many of the firm's illicit activities. Testifying under a grant of immunity, Solomon described how he had learned of the Brooklyn firm's illegal activity shortly after he had begun employment there in 1974. 1900 functioned both as a guard agency and an alarm response service, reporting directly or at an alarm company's direction to establishments where a burglary alarm had

been triggered. It was the latter function, which provided 1900 its greatest criminal opportunities.

After being awarded a contract to guard the Remo Drug Warehouse in 1979, Solomon stated, 1900 employees who entered in response to an alarm had stolen only small amounts of drug supplies for their personal use. The number of thefts escalated, however, with 1900 guards throwing rocks onto the roof of the warehouse to set off the alarm which would justify their presence, until regular visits were made two or three times a week. The volume of the thefts also increased, as quantities of prescription drugs were taken, not to be used, but to be sold. Matteo, who directed and coordinated these activities, received the proceeds of the drug sales, with his workers receiving "something off the top." Total value of the stolen drugs, according to Solomon's estimate (Solomon is a licensed pharmacist), was between one-half and three-quarters of a million dollars.

Solomon enumerated fourteen other establishments which had suffered losses due to their "protection" by 1900. From Jacques Jacquet, a Manhattan store dealing in crystal and glassware, 1900 security guards stole and photocopied a catalog of merchandise, so that Matteo could direct which items would be taken. From the Robbins Men's and Boys' Wear warehouse and retail

stores, clothing and batteries were taken. From a Westinghouse warehouse in College Point, 1900 guards took light bulbs. Automotive parts from Staten Island, electrical supplies in Brooklyn, office equipment, tires, "twenty van loads" of motorcycle equipment, plumbing supplies: all were stolen by the men hired to guard them. Solomon said that 1900's offices were furnished "to a great extent" with material they acquired from their clients.

With experience, the 1900 guards developed more sophisticated techniques of tripping alarms, learning how to set off their response signal electronically at any time they desired. This had the dual benefit of granting them access and increasing their fee, which was partly based on the number of visits they made to an establishment. Yet their operations did not always proceed smoothly; the removal of property from I & E Tire in Brooklyn by 1900 employees John Liberta and Artie Herman was witnessed by two police officers who apprehended them. Solomon testified that he went with Matteo to I & E Tire and that, while there, Matteo handed the police officers "a bundle of money" to permit Liberta and Herman to go free. Later, Matteo told Solomon the incident had "cost him five," indicating that the officers had been paid \$500.

During the public hearing, Commission Special Agent John McGlynn described Remo's confirmation of periodic losses and Westinghouse's acknowledgment of \$60,000 in missing merchandise. Henry Burke, a 1900 employee from 1976 to 1982 who served as manager of the firm, testified that Matteo had discussed receiving \$16,000 for goods stolen from Westinghouse. Burke had also heard Matteo complain about paying the police officers \$500 in the I & E Tire incident.

Additionally, Richmond County Assistant District Attorney John O'Shea testified at the public hearing in regard to the 1982 convictions of John Liberta and Sam Goldstein on larceny and possession of stolen property charges. The two had been observed by the director of an alarm company, Thompson Signal Corporation, in the act of removing merchandise from a Staten Island trucking company for which 1900 was providing alarm response services. Matteo testified at his employees' trial that they had contacted him about unsecured goods being discovered at the trucking company. He claimed to have advised them to put the material in their car for "safekeeping," an explanation Solomon had described as generally recommended by Matteo to his employees in the event of their apprehension by police.

Beyond stealing from his clients, Matteo was not averse to vandalizing their property to generate a need for his protection. Shattering plate glass shop-fronts with slingshots ("shooters") and metal balls, Matteo and his employees broke windows at a number of establishments so that 1900 guards would be employed to protect the premises or, on one occasion, to "pay an auto dealer back for the hard time" he had given Matteo. The dealership owner later told a Commission investigator that, during an argument with Matteo, Matteo advised him as to "how large his windows were and how easily they could be broken." Burke, the 1900 manager, heard Matteo discuss this incident, along with the retaliatory breaking of automobile windows near the 63rd Precinct in Brooklyn, after a 63rd Precinct officer had given a 1900 employee a ticket.

Perhaps the most bizarre incident involving 1900 concerned their provision of security services to the Sunmark Corporation. For a period of seven months in 1979 and 1980, 1900 security guards patrolled a Sunmark gasoline depot and provided escort vehicles for the company's gasoline tank trucks. Solomon testified that Matteo feared the loss of this contract and suggested that a "fake hit" be staged upon a truck. Burke added that Matteo felt an "incident" might increase the number of 1900 employees hired by Sunmark. Enlisting

the assistance of Richard Lucca, a 1900 employee who also worked as a driver for Sunmark, Matteo proposed an apparent hijacking attempt as a means of enhancing the Sunmark contract.

Pursuing this course of action, Matteo exhibited an attitude nothing short of reckless. His initial suggestions for the "hit" included shooting out the tires of the truck while it was on the road and firing shots at the driver while the truck was unloading gas. Ultimately, he decided to "play it by ear," enlisting an associate, Frank Nataro, and two others to follow the tanker in one car on the scheduled day of the "hit," May 20, 1980, with Matteo and Solomon traveling in another vehicle.

After the presence of the service station owner prevented any action while the truck was unloading, Matteo spoke to Nataro and decided to shoot at the truck on its return from the station. According to Solomon, while all three vehicles were proceeding along a Brooklyn highway, Nataro's car pulled alongside the truck and one of the occupants opened fire, striking the truck frame. Lucca then pulled the truck off the road and abandoned it, while Matteo directed Solomon to shoot out the driver's side window. Matteo remained at the scene to give police a false account of the events leading up to the "hit." Special Agent McGlynn was

able to confirm the occurrence of the "hit" through interviews with Sunmark personnel. He also testified at the public hearing that, had the shots hit the fuel tank, rather than the frame of the truck, the resulting explosion would have seriously injured any nearby motorists.

Matteo's desire to keep and hold clients did not limit him to acts of vandalism alone. When a number of 1900 security guards left his employ and took over a cooperative apartment complex security contract that had previously been handled by 1900, Matteo's response was to "throw [the guards] a good beating." He consequently arranged for another 1900 guard, Lamont Crenshaw, and two of Crenshaw's friends to go to the cooperative to assault his new competitors. Solomon, who drove Crenshaw's accomplices to the apartment complex while Crenshaw traveled with Matteo, testified that Matteo's efforts were not completely successful since circumstances deprived the assailants of a clear opportunity to attack the guards. This matter was another of the activities Matteo discussed with Burke.

The same type of dangerous conduct which Matteo demonstrated in the incidents already described also characterized his handling of firearms. Both Solomon and Burke observed unregistered handguns in Matteo's possession and Solomon said that 1900 guards

commonly carried unregistered weapons, in addition to their licensed pistols. Burke also served as the gun custodian for another Matteo security guard firm, Able Security, which had no employees and did not work but had nonetheless supported pistol license applications for Burke, Matteo and Matteo's two sons.

Further, 1900 appears to have engaged in the same sort of license-selling operation System VII demonstrated. Burke listed five 1900 "employees" who received weapon permits though they performed no work. Familiar with the operation because he had collected fees up to \$2,500 from the "employees" for Matteo, Burke was told that the fees covered the costs of "carrying someone on the books." One of these "employees," John Trezak, testified that Matteo had helped him to use 1900 to obtain a license for his own protection. Trezak denied paying Matteo, but had received a tax withholding statement from 1900 indicating his receipt of \$775 in wages, despite the fact that he had done no work and received no compensation.

Additional evidence of Matteo's improper handling of firearms was provided by Special Agent McGlynn, who introduced a federal complaint from the Eastern District of New York charging Matteo, Sam Goldstein and Francis Fiore, an associate of Matteo, with dealing in weapons without a license. The charges

related to Matteo's sale, without a license and in violation of federal law, of a number of handguns. The fact of the federal charges, like the Staten Island convictions of Liberta and Goldstein, were never reported by Matteo to state or city licensing agencies as he was required to do by law.

One possible reason for Matteo's success in obtaining pistol permits (approximately 70 handguns licensed through 1900) may have been the good relations he cultivated with a civilian employee of the NYPD Licensing, Sharon Davis. Davis handled renewal applications, approvals of weapons purchases and license recordkeeping, and she was frequently consulted by 1900 personnel to check the progress of license applications. Solomon testified that, on Matteo's orders, he had taken a color television to Davis' apartment, a gift with which Burke was also familiar. Burke, who handled Matteo's financial records, described a \$400 loan or gift from Matteo to Davis. Matteo denied giving or receiving anything substantial from Davis and was unable to explain a notation from 1900 records in his acknowledged handwriting which read: "Sharon D - 400." Davis has since resigned from the Police Department.

Matteo's testimony at the public hearing consisted primarily of denials of any wrongdoing by him-

self or his company. He claimed to know nothing of thefts, "shooters" and window breaking, bribery, assault or the selling of pistol licenses. His knowledge of 1900 operations was claimed to be extremely limited and he maintained he was not in charge of the company's day-to-day activities, being "merely the president and custodian." His function was to "see that the operation functions normally when I'm around." He said he received no salary from 1900 but was only compensated for his expenses.

Evidence contained in the Commission's investigation of System VII and 1900 was forwarded to the New York, Richmond and Kings County District Attorney's Office, NYPD Licensing and the Department of State. As a result, the pistol licenses held by 1900 personnel were suspended on June 25, 1982 and the private investigator license of Louis Matteo was revoked on November 10, 1982. Matteo was convicted on the federal gun sale charges in December of 1982. Ten of System VII's weapons were voluntarily surrendered for sale in July of 1982, although no action has been taken with regard to Tampu-Bolon's private investigator license. In December of 1982, Tampu-Bolon was indicted in New York

County on seven counts of offering a false instrument for filing in the first degree, a Class E felony.

CONCLUSIONS AND RECOMMENDATIONS

At one point in the public hearings, former 1900 Special Services employee, Henry Burke, was asked if Louis Matteo, Sr., would have been able to carry on the degree of illegal activity he did had he not possessed a private investigatory license from the State of New York. Burke answered without hesitation that he would not. In that question and answer lies the core of the problem uncovered by the Commission in its investigation of the security guard industry. The fear that the State is providing assistance to a burglar or extortionist, or as in the case of System VII, to people who may not otherwise qualify for a pistol license, compels reform of the existing regulatory scheme.

Without adequate training, even the most capable and responsible individuals would be hard-pressed to contend with the close judgments, temptations and dangers inherent in the security guard profession. Unfortunately, it is not the capable and responsible individual who is attracted to this industry. In Matteo's words: "The guard business has a very low caliber person working for it." A statement from Matteo's attorney introduced at the public hearing characterizes the industry's employees as "men and

women who are not and cannot be paid much more than the minimum wage." Another indication of the quality of security guards can be found in Department of State statistics, which revealed that 20,000 applicants for security guard positions in 1980 were found to have criminal records. All were employed as security guards at the time their criminal histories were discovered. Such considerations make yet stronger the case for improvement of State monitoring of the profession.

In suggesting reforms of current practice, the Commission cannot look to the examples and experiences of other states with the security guard industry. A review of licensing laws outside New York reveals no significant differences or modifications in the laws of other states (save for the licensing of security guard employees, discussed below). The Commission recommendations therefore address the specific problems uncovered in this investigation and attempt to point the way toward the statutory and administrative improvements which are needed.

Restructuring of Department of State Supervisory Policy

It is encouraging to note that, subsequent to the Commission's hearing, the Department of State has determined that on-site visits to all security guard

firms will be made, a policy which will begin in late 1983. Yet as pointed out in the Introduction, the fundamental problem in the licensing of security guards is that there are simply too many licensees and employees for the Department of State to monitor. The Commission believes that an increase in the number of Department of State personnel assigned to the security guard industry is essential. Such an increase might be achieved by either adding staff or by decreasing the number of responsibilities the current staff must undertake. On the latter note, the oversight of cosmetologists and real estate brokers must be seen as decidedly subordinate in urgency to the supervision of security guards; unscrupulous cosmetologists or brokers may provide unacceptable services or deal unfairly, but the inadequately monitored security guard can cause serious injury to property and safety.

This is not to suggest, however, that improvements in the quality of supervision cannot be made with existing personnel. License revocation proceedings, now apparently a procedure of last resort, should be pursued more vigorously. The Department of State's postponement of license revocations until the completion of any pending criminal proceedings (the reason for the continued validity of System VII's license) causes unnecessary and inappropriate delay.

The occasional practice of allowing the license of a non-complying investigator or watch guard to expire rather than be revoked permits a later re-application untainted by a prior revocation. As with the evidence of scanty and incomplete record-keeping found by the Commission, it is difficult to determine how much these matters owe to a lack of diligence and how much to limited personnel capabilities. It is to be hoped that any augmentation of Department of State staff with regard to security guard supervision will be matched by an equivalent increase in vigor and aggressiveness.

With additional personnel, in addition to a renewed adherence to existing (but unobserved) supervisory requirements, the Department of State could develop a division designed as a complaint bureau. Such a bureau could coordinate all complaints from the clients of security guard firms and could serve as the point of liaison with law enforcement agencies. An accelerated targeting of a security guard concern disposed to criminality may be the only defense against a 1900 Special Services, a company whose abuses could not be prevented through any pre-license qualification.

Along with greater personnel capabilities, the Department of State must obtain both more complete criminal histories and automatic notification of subsequent arrests for licensees and employees. The addi-

tional \$8.00 fee required for the latter service by the Division of Criminal Justice Services is a small price to pay for a notification of arrest which the Department of State now receives only by chance. Likewise, requiring the examination of applicants' fingerprints in FBI files is simple prudence, serving as the sole means by which out-of-state or federal offenders can be identified.

In addressing the cost of this and other measures, the Commission suggests that the licensing fee for investigators and watch guards merits an increase, at least equal to the cost of the FBI and enhanced DCJS searches. While fees were raised in 1981, they had remained at the same level since 1967 and increases amounted only to between \$50 and \$150. With the current maximum license fee set at \$350 for a two-year license, it appears unreasonable to oppose some increase when it is so essential to the protection of the public from unscrupulous security firms. An investigator's license is a valuable commodity, granting a number of privileges not enjoyed by the general population and, if the industry merits greater scrutiny, those who reap the benefits of those privileges must bear their share of the burden.

Licensing of Security Guard Employees

A matter previously discussed, the statutory requirement that security guard employees obtain some form of State certification is a provision found in other states' licensing statutes and constitutes the second recommendation the Commission would endorse. The current state of affairs in which security guard employees, some with criminal records, are described as "unregulated" is intolerable. With no license and, hence, no renewal, a one-time unverified (by law enforcement agencies) fingerprint analysis serves as the only current State supervision in this area.

While employee licenses need not call for all the prerequisites of an investigator's license, some demonstration of background employment and absence of criminal record is essential. A \$25 licensing fee, while scarcely burdensome, would cover the costs of fingerprint searches and provide the means to genuinely monitor employee conduct. Further, employee licensing may possess an advantage of speed over the current system; in an industry where employees are highly transient, moving through two or three different firms in a year, a two-year license could result in some reduction in the amount of administrative processing. This procedure, in conjunction with an expanded licensing staff and more complete DCJS processing, might also help to

address the existing six-month lag time for employee approval.

It has already been noted that proposed legislation embodying this recommendation has been repeatedly denied passage. A spokesman for the Department of State has stated that his agency has endorsed employee registration "for twenty years." Its consistent defeat can only be ascribed to the vigorous lobbying efforts of the security guard industry, which remains steadfastly opposed to employee licensing. The justification for such opposition is elusive. A \$25 fee is hardly onerous and would doubtless be deducted from an employee's paycheck. Registration cards would make guard hiring an easier matter for security firms. It would seem that only illegitimate motives, such as a fear that closer scrutiny will weed out unqualified employees, lessen the available worker supply and possibly raise worker salaries, can be marshalled against employee licensing. The State cannot seriously regard a desire to continue hiring as security guards those who would not withstand the relatively permissive licensing system outlined here. For these reasons, a renewed effort to achieve passage of an employee licensing bill is endorsed by the Commission.

Until employee licensing is implemented, the Department of State has within its current authority

the ability to require fingerprinting of employees by a law enforcement agency, contrary to an opinion expressed by former Department of State counsel, Charles Williams, at the public hearing. With the General Business Law requiring fingerprinting of employees, "recorded in such manner as the department of state may by rule prescribe," the use of State or local police agencies to record the fingerprints would at least ensure that an applicant is who he claims to be.

Requirement of Proof of Actual Operation

To eliminate both the problem of the security guard service which does not actually work, e.g., System VII, and the employee of a genuine firm who himself does no work, the Department of State should require the production of business records which would prove legitimate employment. The ability to do so is with the current statutory authority of the Department of State, which can call for "such further facts as may be required . . . to show the good character, competency and integrity" of each applicant. Such a procedure would foreclose the "security guard company" route to a pistol license.

A model for this requirement is the New York City business person pistol license process described

previously. Such documents as contractual records, tax statements, or employee and customer lists would prove the good faith existence of a security guard company. Similarly, individual employees could be required to do a minimum level of work as verified by tax records, which could be included with a license application or renewal. In this manner, State verification of genuine existence could be relied upon by local pistol licensing agencies.

Pistol Licensing Recommendations

In its review of the security guard industry, the Commission also examined local pistol licensing regulations, with an emphasis on New York City. In that context and based on the Commission's investigation, certain additional safeguards suggest themselves.

The inadequate gun inventory maintained by System VII demonstrates the need for a Police Department requirement of accurate and complete recordkeeping by a security firm's gun custodian. A mandatory periodic review of the gun custodian's records would provide some checks on the regularity of a company's firearms control.

A more serious matter concerns firearm training for security guards, as well as other license applicants. While Sgt. Picciarelli included in his

description of the letter of necessity a provision dealing with handgun training, NYPD Licensing has no formal requirement that a licensee receive any instruction in gun use or safety. Obviously, with no initial training requirement, security guards are compelled to submit to no weapon recertification. This practice is striking in view of the yearly police firearms recertification requirement. Certainly if trained law enforcement officers need annual proficiency examinations in firearms use, the requirement is equally, if not more, justified for private security guards. Procedurally, training or recertification certificates could simply be appended to license application or renewal forms.

However, due to the preemption of the field of pistol licensing by the State, any firearms training and recertification requirement cannot be imposed by local authorities and must be included in an amendment to Article 400 of the Penal Law. Indeed, a 1974 opinion of the Attorney General stated that Suffolk County could not enact a law requiring pistol license applicants to complete a firearms safety course, nor could the licensing officer promulgate a rule requiring such training. The opinion cites subsection 6 of section 400.00: "Any license issued pursuant to this sec-

tion shall be valid notwithstanding the provisions of any local law or ordinance."

It would appear that amending Article 400 to mandate weapon training and recertification has much to recommend it. Anyone with a need for a weapon should be required to demonstrate proper technical knowledge of it, as well as a familiarity with safety procedures. At the very least, an amendment to the statute should permit local licensing authorities to impose a training requirement. On either hand, there is a profound need for legislative action.

These recommendations are intended to serve as the starting point for a dialogue among the Department of State, local law enforcement agencies and the security guard industry. The Commission encourages these institutions to develop additional measures to deal with the problems raised in this Report. It should be noted, however, that the recommendations in this Report must be implemented as the minimum procedural reforms necessary to guarantee the security of the people of the State of New York. The answer to the question "Who is to guard the guards themselves?" can-

not be permitted to remain, as it is currently, "No one."

END