



National Association of Security Companies

**TESTIMONY OF STEPHEN AMITAY, ESQ.
FEDERAL LEGISLATIVE COUNSEL**

**NATIONAL ASSOCIATION OF SECURITY COMPANIES
(NASCO)**

**Before the
HOUSE HOMELAND SECURITY COMMITTEE**

**Hearing on
“FEDERAL PROTECTIVE SERVICE: WILL CONTINUING
CHALLENGES WEAKEN TRANSITION AND IMPEDE
PROGRESS?”**

NOVEMBER 18, 2009

TESTIMONY OF STEPHEN AMITAY, ESQ
FEDERAL LEGISLATIVE COUNSEL
NATIONAL ASSOCIATION OF SECURITY COMPANIES (NASCO)
NOVEMBER 18, 2009
HEARING BEFORE THE HOUSE COMMITTEE ON HOMELAND SECURITY
“FEDERAL PROTECTIVE SERVICE: WILL CONTINUING CHALLENGES WEAKEN
TRANSITION AND IMPEDE PROGRESS?”

Background on NASCO and Private Security

NASCO is the nation's largest contract security trade association, representing private security companies that employ more than 400,000 security officers across the nation who are servicing commercial and governmental clients including the Federal Protective Service (FPS). Formed in 1972, NASCO has strived to increase awareness and understanding among policy-makers, consumers, the media and the general public of the important role of private security in safeguarding persons and property. NASCO also has been a leading advocate for raising standards at the federal, state and local level for the licensing of private security firms and the registration, screening and training of security officers.

Nearly 2 million people are employed in private security domestically compared to fewer than 700,000 public law enforcement personnel. Approximately 75 percent of private security personnel work for contract security companies, with the balance serving as proprietary or “in-house” security. The vast majority of contract security firms employ many former law enforcement and military personnel in senior management.

Private security officers are guarding federal facilities, businesses, public areas and critical infrastructure sites (of which 85 percent are owned by the private sector) and they are often the “first” responders on the scene of any security or terrorism related incident. Sadly, the death of private security officer Stephen Johns earlier this year at the Holocaust museum, killed in the line of duty protecting museum patrons, was a tragic reminder of the vital role that private security officers play every day in protecting the public.

As mentioned, raising standards for the industry and security officers is a core NASCO mission. In recent years, NASCO and its member companies have worked to pass licensing and training legislation in states such as Mississippi, Alabama, Colorado, and California. Earlier this year, Alabama enacted a law to set up a state board to regulate and oversee the licensing of private security companies and set training for security officers. In California, over the past several years, laws have been enacted to increase training requirements for security officers and to include weapons of mass destruction and terrorism awareness courses. In addition, with NASCO support, California has lead the way in bringing “in-house” security officers and employers into compliance with existing security licensing and training requirements.

On the federal level, NASCO is currently working with Congress and the Justice Department to provide for the effective implementation of the “Private Security Officers Employment Authorization Act of 2004” (PSOEAA) that provides federal authorization to employers of private security officers to request a limited FBI criminal history check.

The principal role of private security officers is to protect people and property from accidents and crime, control access to a facility or location, and observe and report suspicious activities. They serve as the “eyes and ears” of public law enforcement and play an important supporting role to law enforcement. They conduct incident interviews, prepare incident reports and provide legal testimony. Private security officers may be armed pursuant to state and federal laws, and in certain jurisdictions armed security officers are granted police powers. Generally though, private security officers do not have police powers and their powers correspond to those of private citizens. Overall, private security provides businesses, organizations and governmental entities with a readily available efficient proven layer of security and deterrence.

Contract Security and the Federal Protective Service

There are approximately 13,000 contract security officers -- working for 67 contractors --- at facilities under the jurisdiction of Federal Protective Service (FPS). FPS contract security officers are primarily responsible for controlling access to federal facilities by checking identifications and operating screening equipment, such as x-ray machines and magnetometers. In most instances, security officers do not have arrest authority but can detain individuals who are being disruptive or pose a danger to public safety until the arrival of law enforcement.

Before being assigned to a post or an area of responsibility at a federal facility, FPS requires that all security officers undergo background suitability checks and complete approximately 128 hours of training provided by the contractor and FPS, including 8 hours of FPS provided x-ray and magnetometer training. Security officers must also pass an FPS-administered written examination and possess the necessary certificates, licenses, and permits as required by the contract. Each security officer’s required qualifications, certifications and other requirements are tracked through the FPS Contract Guard Employment Requirements Tracking System (CERTS) and by the contract security company.

FPS Contract Guard Program Issues

NASCO firmly believes that federal facilities can be effectively protected – and in a cost-efficient manner – through the utilization of private security officers. However, there is no question that the recent findings of the GAO in its study of the FPS Contract Guard Program were troubling and the problems identified need to be addressed by both FPS and contractors. NASCO has maintained a good working relationship with FPS officials involved with the Contract Guard Program, and we appreciate that FPS leadership has encouraged a strong partnership between contractors and FPS. We believe that efforts underway at FPS to address problems identified by GAO with the Contract Guard Program can be successful, and that there are other means also that can lead to better performance and greater security all around.

On the operational level, the impending roll out of the Risk Assessment Management Program (RAMP) – a centralized interactive database management system --- should provide for a big improvement over the current unreliable de-centralized CERTS system for collecting and

monitoring training and certification data. RAMP should make the input of data more efficient and provide FPS with access to more up to date and reliable data in one location. More so, it should enable FPS to manage and control contractor data better, which has been a real problem for contractors. It is envisioned that one day RAMP will even be able to provide notices to contractors when a security officer's certification is about to expire. FPS is also upgrading its post-tracking system which should allow for quicker reconciliation of invoices and allow for more prompt contractor payment. NASCO also supports FPS' ongoing effort to standardize and professionalize the contract security officer force.

The GAO report was particularly critical of lapses and weaknesses in the FPS's x-ray and magnetometer training. Given the contract security officer's primary role as one of access control, adequate training in this area is crucial. The GAO noted that in some cases the required training was simply not provided to the contract security officers by FPS and in other cases it was inadequate. NASCO member companies with FPS contracts have encountered such difficulties with x-ray and magnetometer training. FPS has reported that it has moved to update the x-ray and magnetometer training, as well as provide it more frequently, and we applaud this action.

The GAO also noted that improvements in building-specific and scenario-specific training are needed and we strongly believe improvements in these areas could be very beneficial. One long-standing area of confusion for contract security officers is the line between detaining an individual (lawful) and arresting an individual (usually unlawful and subject to a lawsuit). If a security officer has reason to believe an individual is committing or about to commit an unlawful act and he stops and handcuffs that individual and calls the police, is that an arrest or detention? Better training and better contractual guidance is needed to address this important issue.

Another area where some contractors believe better training and additional contractual requirements are needed is in the area of firearms training. FPS mandates that all contract security officers pass a rigorous firearms course which is very commendable, but only requires one firearms qualification a year (FPS officers, who fire the same firearms course, train and qualify four times a year). Without a corresponding contract requirement for sufficient training and qualifications for contract security officers to stay proficient, there could be dangerous ramifications in a scenario like the one that unfolded at the Holocaust museum.

NASCO also supports the GAO's call for better management and oversight of Contract Guard Program contracts and the need for more and better trained Contracting Officer Technical Representatives (COTRs) and efforts are underway to assign more COTRs. Nonetheless, underlying the issue of better management and oversight is need for better communication between FPS offices, and between FPS and contractors. The results of such communication problems were pervasive in the GAO's findings. At certain levels the communication between FPS and contractors is excellent, and FPS is working hard to ascertain the problems and concerns of contractors. But regular instances of information and documents not flowing from one area of FPS to another – resulting in multiple requests for the same information -- have caused delays and added expenses in the hiring and processing of officers. There have also been problems that have resulted from inconsistent or inadequate notification and administrative procedures involved in the officer application process, as well as in the process for submitting officer

certifications. The conduct of certain training has also been affected by a lack of communication between FPS headquarters and the field.

In the final analysis though, while improvements in contract oversight and management, data automation, communication and training will improve the Contract Guard Program, the flaws and weaknesses in contractor performance found by the GAO expose a more fundamental issue, “quality versus cost.” It is NASCO’s position, and we think the public agrees, that quality should always play a primary role when selecting a private security company, particularly when the protection of federal employees, visitors and facilities is involved. There are tangible reasons why higher quality security costs more. Higher salaries attract higher caliber officers; training and screening will be better; and management oversight will be stronger. The FPS contract award process must be altered to ensure that quality service and performance, in relation to cost, is properly considered. FPS efforts to improve training and oversight can lead to improved contractor and officer performance, but until procurers of contract security services effectively put quality ahead of cost, problems with contractors such as those that the GAO report highlighted will persist.

Currently, FPS Contract Guard Program contract awards are not bound by lowest bid requirements, and all eligible bidders must meet an acceptable qualifying standard. However, NASCO is not alone in believing that awards allegedly based on “best value” are more realistically based on lowest cost, and technical capability and past performance are not being valued as they should. NASCO supports the inclusion of higher performance related standards in contracts, as well as taking steps to ensure that the quality of a company’s training, personnel, management and operational procedures – which result in a higher bid ---are adequately considered during the procurement process.

Some have speculated that bringing FPS security “in-house” through the creation of a federalized FPS security force could be a solution to the current challenges in the Contract Guard Program. NASCO contends that the cost of an in-house force (let alone the issues and costs involved in creating such a force), versus the current cost of contract security officers will reveal that there is a great deal of room to increase compensation, selection, and training standards for FPS contract security officers to provide better security at federal facilities, while at the same time remaining at a much lower cost per officer than “in-house” security officers.

The Transfer of FPS from ICE to NPPD

We believe the impending transfer of FPS from under ICE to NPPD is a very positive move. It has already been pointed out by many observers that the federal infrastructure protection mission of FPS aligns with NPPD’s mission to protect all critical infrastructure (of which federal buildings is an important element). This alignment should lead to greater effectiveness for both NPPD and FPS. NPPD also chairs the operations of the Interagency Security Committee, which not only is the lead in the federal government for setting government-wide security policies for federal facilities, but the Committee has also been working with FPS in its effort to bring better standardization to federal contract security officers.

Concluding Remarks

When FPS was taken out from GSA and put under ICE in 2003, FPS faced significant challenges and difficulties, some old and some new. Combined with subsequent significant reductions in the FPS inspector and law enforcement officer force, those difficulties contributed to serious flaws and deficiencies in the Contract Guard Program. However, NASCO believes that under the leadership of Director Schenkel, FPS is making considerable strides to rectify the problems with the program. While there is still much work to be done, with FPS (now better situated under NPPD), security contractors, and Congress all working together, the shared goal to provide for better safety and protection of federal employees, federal contractors and visitors in at federal facilities protected by FPS can be attained. As it has for the past several years, NASCO stands ready to work with the Committee and its staff on any and all efforts to improve the standards and quality of contract security within and outside the federal government.