

THE REGULATED OCCUPATIONS EVALUATION COMMITTEE'S REPORT OF DECEMBER 16, 2011

WHAT THEY FAILED TO UNDERSTAND WHEN THEY RECOMMENDED ELIMINATION OF LICENSING FOR PRIVATE INVESTIGATORS AND SECURITY GUARDS (PISG)

(See Pages 13 and 14 of the ROEC Report and the rationale for elimination of PISG licensing)

1. Risk Analysis

"Evidence does not exist to prove that consumers face a significant risk of harm from purchasing services from a private investigator or security guard."

The absence of evidence does not prove the absence of risk. The sole measure used by the ROEC to determine risk of harm was the consumer complaint process of the Attorney General's office. There was no effort to determine the degree to which consumers failed to utilize the complaint process. It was reported to the ROEC that many stakeholders and others across the boards and commissions view the complaint process as difficult to use.

"Consumer complaints with the Office of the Attorney General (OAG) are low and usually related to unlicensed practice and not actual consumer harm."

The low volume of consumer complaints is because the PI and SG sectors are licensed and regulated. Harm to consumers and businesses would increase substantially in the absence of licensing. Licensing in Indiana and other states came into existence because of the practices of unlicensed and unscrupulous operators.

Unlicensed practices are a violation of law. All consumers and the economy at large are harmed when businesses operate outside the law. The ROEC failed to correlate unlicensed practices with violations of laws, including failures to report income and employee earnings, both violations of state and federal tax laws. They also failed to recognize that unlicensed operators are uninsured and unbonded, providing limited recourse for clients who are wronged to seek recovery of financial losses.

2. Informed Consumer Choice/Trial and Error

"Individual consumers rarely, if ever, have a need to hire a private investigator or security guard."

The ROEC had no scientific measure to determine how many individual consumers ever have a need to hire an investigator or guard service. This assumption appears to be based on reporting by one witness during a ROEC hearing that the majority of his clients were businesses. In actuality the client breakdown of PI firms and SG agencies is varied, from individuals to families and from small businesses to large corporations. Many individuals have occasion to hire a PI firm or SG agency for assistance in, for example, locating missing family members, enforcing small claims judgments, investigating identify fraud, providing personal protection services during vacations and other events, and numerous other services.

The public at large was insufficiently notified of the ROEC hearings. Consumers and licensed businesses were not properly offered a chance to testify.

“National credentials provide a sufficient regulatory program.”

There are no national regulatory programs or bodies for the PISG sectors. The ROEC is correct in noting that there are national certifications available in both sectors, yet none of these are mandatory nor do any of the accrediting bodies or associations have authority to regulate an individual practice or business. Furthermore, most of these accreditations require state licensing and/or significant experience for qualification.

3. Self-regulation by the profession

“... the ability to self-regulate is limited. However, there are several national associations and various types of individual and board certifications available.”

The ROEC is correct in noting that the ability for the professions to self-regulate is limited. Once again the ROEC has equated membership in a national association or holding a certification with regulation. National association memberships and board certifications of any standing require licensing and experience.

4. Legal Alternatives to Regulation

“ROEC does not dispute that there is limited information available to a consumer in order to make an informed decision before engaging services. However ... the harm element is lacking.”

The ROEC is correct in noting in the absence of regulation there would be limited information for a consumer to make an informed decision when engaging PI or SG services. Yet, the committee goes on to imply there is no harm possible in engaging an unqualified practitioner, and to imply as irrelevant the current violations of law by unlicensed firms and agencies. They also fail to acknowledge that the current case loads in the civil courts actually discourage seeking redress for financial losses.

5. Benefit-Cost Determination

“The consumer benefits ... do not justify the cost of the current system ... professional(s) could better utilize these fees toward continuing education and national board certifications.”

Once again, the ROEC has not provided a scientifically measured determination. All licensing fees go into the state’s general fund, not to the Indiana Professional Licensing Agency and its PISG Board. Under present law the per-year fee for either license is \$75. It is fair to note that most PI and SG operators do not believe this amount to be a detriment in budgeting funds for professional training.

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