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An Evaluation of the Required Arrangements for Comprehensive Regulation of the Private SECURITY Industry

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Abstract

The purpose of this article is to evaluate the checks and balances that would provide the ideal setting for the best-practice arrangement and regulations governing the private security industry. This article assesses and highlights the desired industry governance principle through the best-practice model under the three Cs criteria; that is, complete national criminal history checks, compulsory training, and continuous monitoring. These criteria are discussed together with possible regulatory strategies that have progressed over the past decades in parallel to optimize the overall monitoring and enforcement system. Overall, this article is constructed around three discussion areas: 1)rationale for the study; 2)the recurring conduct problems associated with the private security industry; and 3)recommendations for the mandated minimum regulatory standards. The concluding chapter that follows reiterates these insights, emphasizing the need for comprehensive-minimum regulation.

The findings revealed that the regulation of private security has evolved through piecemeal changes in response to recurring and emerging scandals that challenged the inadequacies in regulatory coverage and lapses in regulatory arrangements. Further, formulated responses are often characterized by a reactive approach. The findings of this study have suggested that what works in one setting does not necessarily translate into effective regulation in another state, and information about regulatory impacts is incomplete. The comprehensive approach to regulation holds that a strong research-based practice should inform judgments about either under- or over-regulation. A research unit, industry advisory board, regular consultation with stakeholders, and accountability mechanisms are all important to best utilize and mobilize the growing power and influence of the industry. To achieve this, implementation of measurable performance indicators and promotion of consistent standards are crucial to this process in order to ensure adequate depth of regulation and to avoid cycles of scandal and reactive reform.

1. Introduction

Scholarship on crime prevention and safety had tended to focus on the role and effectiveness of law enforcement responses[1]. However, the increments in the presence of private providers in recent decades has stirred an interest in the commercial security provision amongst academics. With the concept of policing beginning to embrace the commercial provision model, issues have emerged concerning the unwarranted compromise standards.

In a recent book chapter, Prenzler and Sarre(2014) carried out research to evaluate the challenges remain in the security industry and characterize common forms of industry risk profile. In the book chapter, the authors underlined that 'the industry has a clearly identifiable risk profile that derive from opportunities intrinsic to security work'[2]. The consistent observation has been that 'while

the nature of risks may vary to an extent, certain fixed patterns of unprofessional conduct invariably tend to be the norm, rather than the exception, given the common nature of duties and tasks performed. Parallel with this, Prenzler and Sarre(2014) developed a set of criteria that tend to be the by-product of inadequate regulation, which in turn offset the contribution of the industry to crime prevention and community safety. Their model is based on twelve core industry-specific vulnerabilities <Table 1>.

2. Rationale for the Study

The various forms of misconduct and incompetence documented in <Table 1> present a comprehensive picture of regulatory lapses. On the other hand, it is presumed that these discoveries have merely scratched the surface of the problem.

While the spate of misconduct emerged internationally, renewed efforts by government, industry and academia have since expanded to a best-practice model. The model, a multi-layered intervention approach under the three Cs criteria, appears to be a developing international consensus. The core elements include, 1)complete national criminal history checks for disqualifying offences, 2)compulsory training that ensures beginning competencies, and 3)continuous monitoring of the conduct of security firms and operatives. This model has been considered by many, to-date, as the closest to optimal, in terms of the extent to which the depth criteria are consistently covered.

Specifically, the three Cs model encompasses the following considerations: 'regulation must be managed by one government administrative unit'; 'regulation should be nationally consistent in federal systems'; 'guidance on the development of legislation and administration systems should be consultative'; 'regulation should expand to encompass exclusion of inappropriate persons through a national system of criminal history checks'; 'all license applicants should be fingerprinted'; 'mandated training standards should be based on close analysis of security tasks for specific license categories and deliver a range of elective and supporting curriculum'; 'pre-entry qualifications should include a first-aid certificate'; 'regulators should actively explore programs for in-service training linked to career path development'; 'the ethical standards should clearly

Table 1. A set of risk profiles in security work[3].

Type	Key features
Fraud	Falsification of security checks/inspection records
Incompetence & poor standards	Willful negligence or limited abilities/qualifications
Under-award payments	Offering cut-price bribes through bypassing taxation/hiring unlicensed staff
Corrupt practices	Soliciting bribes in exchange for preferential police treatment against competitors
Information corruption	Private information trading
Violence	Provoking assaults on patrons
False arrest & detention	Unlawful use of citizen's power of arrest
Trespass & invasions of privacy	Vigorous pat-down searches/misuse of CCTV footage other than for security purposes
Discrimination& harassment	Engaging in racist and discriminatory forms of conduct
Insider crime	Taking advantage of key insider knowledge/specialist skills/access control
Misuse of weapons	Injuries and deaths occurring to bystanders, offenders or nearby officers
Deceptive marketing practices	Misrepresentation or exaggerated claims about the effectiveness of security supplies

set forth a legally binding code of conduct'; 'regulators should take advantage of cost-effective advances in proactive drug and alcohol testing programs'; 'consideration should be given to granting certain license holders special powers to assist them to perform their duties'; 'complaints investigation should be followed by research on industry needs assessment'; and 'regulatory agencies should commit to a mission for professionalization'[4].

As Prenzler and Sarre note, the need for more determined regulatory response to security industry regulation arose due to the adverse events charted in <Table 1>, and the associated exposure of regulatory inadequacies in addressing the occurrences.

The United Nation's 2014 publication *'State Regulation Concerning Civilian Private Security Services and their Contribution to Crime Prevention and Community Safety'* offers an additional valuable source for assessing the core intervention programs which could be considered best-practice for managing risk and compliance.

In sum, the regulations resource handbook contains a compilation of licensing arrangements that could be pursued to optimize the overall system. These are 1)specialist training, managerial-level officer training programs, and auditing and certification of training organizations; 2)the desired policies for ensuring a high degree of independence between the regulatory authority and the industry; 3)the standardized procedure for the monitoring and oversight of security businesses and confidential maintenance of their records that may be of sensitive interest to State authorities; 4)the model legislative provisions that help to systematize the investigation, inspection and enforcement activities by relevant regulatory authorities; 5)the

suggested platform for enabling consumers and security employees to easily learn about their rights, lodge complaints and locate reputation of businesses; 6)the appropriate level of penalties and sanctions for the breach of licensing conditions; and 7)the contexts where the government should be urged to consider empowering security personnel to perform their job effectively, to mention the key inputs of the document[5]. These key inputs will serve as the vehicle to evaluate the effectiveness of the intervention arrangements under the three Cs criteria.

3. A Developing Best Practice Model

The major limitation of the traditional regulatory approach was the invariable pitfalls of short-term 'fixes' that would provide short-term reliefs, but nonetheless would not solve the problem for the long-term due to the presence of potential coverage loopholes the regulators neglected. That being said, regulation needs to be 'comprehensive, covering all relevant categories'; 'compulsory, in terms of ongoing competency assessment'; 'nationally consistent, in federal systems'; and 'continuous, in assuring compliance monitoring and crime/incident log checking'.

In line with this, regulators should be innovative in employing a range of proactive regulatory strategies in order to challenge 'questionable, potentially illicit techniques' of security operations that 'derive from opportunities intrinsic to security work'(as outlined in <Table 1>), as well as to address the evolving, and periodically converging, compliance by-pass tactics employed by undesirable elements. To date, the culmination of the core regulatory arrangement is reflected in the following range of strategies see <Table 2>.

Table 2. A range of available regulatory instruments governing the security industry[6].

Type	Key Features
National criminal history checks for disqualifying offences	· Overseas criminal history checks · Using criminal intelligence that does not have to be disclosed · Palm/fingerprinting
Compulsory training that ensures beginning competencies	· Pre-license on-the-job training · Supervision of registered training organization · Conditions on license renewal · Secondary employment policy

Continuous monitoring of the conduct of security firms and operatives	· Restrictions to license based upon close associates · Powers of search, seizure and questioning · Probe on high security storage of weapons, including ballistic testing of firearms · Maintenance of an incident log register · Register book arrangement · Prohibition of unauthorized third-party subcontracting · National criminal history checks and daily local criminal checks · Eligibility restrictions where a person has been absent from country for 12 months and cannot satisfy probity during that absence · On-site drug inspection · Three strikes disciplinary scheme · Mental competency(psychiatric evaluation) · Fitness for work policy(free from alcohol/other substances)

4. Recommendations for Comprehensive System of Regulation

The range of regulatory instruments outlined in <Table 2> are more readily employed among the high-level-check states where the financial resources allow. In relation to the practical endorsement of these guiding principle, Prenzler and Sarre(2014) emphasize the importance of thorough inclusivity; that is, 'establishing the basic level of intervention levels in the industry necessary to ensure minimum protections'. Where the approach is not 'economically viable', Prenzler and Sarre(2014) propose that 'the model should remain aspirational'[7].

To achieve this, implementation of measurable performance indicators is crucial. The extent of problems in security work can be difficult to measure and may be elusive. Thus, regulatory arrangement should be evidence-based and regulators should be innovative in applying a range of strategies available to them and maximize the full benefits of existing strategies, given that what works in one setting does not necessarily translate into effective regulation in another state. A strong research-based practice should inform judgments about either under- or over-regulation[8]. A research unit, industry advisory board, regular consultation with stakeholders, political reconciliation, and accountability mechanisms are all crucial to this process to effectively settle regulatory challenges. Findings might entail lifting cumbersome burdens on industry or fine-tuning controversial elements. To move forward with security's private and public roles, responding to the evolving threat environment in the coming decades requires networking and feedback sharing[9].

5. Best Practice for Managing Risk and Compliance

Prenzler and Sarre(2012) suggest that the comprehensive-minimum level of regulation can best be achieved by combining broad compliance promotion efforts informed by research and stakeholder engagement. Their criteria for best practice are based on the following eight sets of principles:

1. 'Regulatory enforcement and inspections should be evidence-based and deterrence-focused, and seek to utilise a mix of compliance promotional strategies'.

2. 'Strategic add-on options to facilitate compliance and enforcement should be evaluated regularly and explored actively wherever possible. The existing set of regulatory strategies cannot uniformly address jurisdictional specific problems and issues'.

3. 'Regulators should be innovative in applying a range of strategies available to them. Feedback from industry insiders and experts, and case-study analyses can be simulated to draw the optimal level of intervention'.

4. 'Enforcement should be responsive to the degree of compliance breaches. An in-

tervention based on a strong penal, accusatory style of enforcement should be discouraged. Enforcement action should avoid generating socially-costly consequences such as creating loss of supply of services and unemployment through major sanctions(punishment by removal, shut down)'.

5. 'Regulatory authority should take a graduated approach to sanctioning with clear guidelines and a long-term road map. Lower level breaches, such as unfair employment practices, are best countered by lower level responses, unless they become repeat breaches'.

6. 'Enforcement systems should induce compliance and support good relationship. Execution of regulatory enforcement should be independent from political or third party influence. Voluntary compliance promotion efforts by businesses should be rewarded and publicized'.

7. 'Regulatory authority should ensure clarity of rules and a process for inspections and enforcement. A coherent statutory instrument to organize inspections and audit check-ups needs to be adopted that clearly articulates legal rights'.

8. 'The review of enforcement activities should draw from measured outcomes on positive contributions made. Inspectorates' actions and their effectiveness and efficiency should be regularly evaluated against a set of well-defined indicators, such as the merits of different enforcement tools for each given risk, as well as the level of resources dedicated to enforcement activities'[10].

6. Conclusion

This article has highlighted the adverse events that brought the need for more determined responses. The article then identified the cumulative knowledge regarding common risk factors, and presented recent efforts to model sound regulatory principles and practices. The developing international consensus on the best practice

model has been presented and its backbone criteria. At the same time, the importance of the three 'Cs' precautionary principles was put forward; that is, complete national criminal history checks, compulsory training, and continuous monitoring.

This article overviewed a variety of regulatory instruments progressed to date to attain these objectives. Overall, it has been observed that a window of opportunity for such a shift might be limited without overcoming the invariable pitfalls of short-term fixes or scandal-driven interventions, through communication, consultation and research. To move forward with security's private and public roles, the market-driven regulatory mechanism may not be sufficient and there is a need to look systematically at the structural problems, preferably through a standing research unit that conduct policy-oriented analysis of growing challenges.

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