



The Sierra Searchlight Chapter #164

Volume 9, Issue 3



Advancing Security Worldwide™

Chairman's Corner—Dean Hill



To begin this edition of the Chairman's Corner, I'd like to express my appreciation to Sparks

Police Chief Steve Asher, for taking the time to speak to our group. I found the "Comstat" model for policing to be very interesting, and it appears as if it allows for more specific targeting of problem areas. Chief Asher also thanked the Chapter for the support we provide to the department and the

Law Enforcement community as a whole.

April is fast approaching, and Darrell Clifton, CPP is working diligently with the various members participating in the training Seminar to put together a great curriculum. We've got a pretty impressive line-

(Continued on page 2)

Inside this issue:

Chairman's Corner	1
Speak Out	1
CPP Review	2
Personnel Security	2
Training/Development	5 & 8
Guest Speaker/Topic	5
Board Members	7
Financial Report	10
Meeting Minutes	11
Certifications	12
New Members-2009	12

NEXT Meeting:

- April 1st @ 11:30 AM
- Atlantis Casino "Grand Ballroom" on the 2nd floor
- Keynote Speaker: Jim Hutcherson, IRIS Remote Systems
- Subject: Remote Surveillance Systems

Speak Out—Furloughs Are a Potential Alternative to Layoffs

In today's economic climate, employers are looking for ways to reduce their labor costs without terminating their valued employees. One potential way to do that is to implement a furlough: a temporary, but mandatory, unpaid leave for employees.

Furloughs are grabbing headlines

in this economic environment. Perhaps one of the most prominent instances occurred recently in the public sector when Governor Arnold Schwarzenegger mandated unpaid furloughs for many of California's state employees.

(Continued on page 4)

Officer information:

- Chairman—Dean Hill
- Vice Chair—Darrell Clifton, CPP
- Secretary—Jesse Janzen
- Treasurer—Dennis Smith, CPP

Opinions vary, if you disagree with any information provided, please let us know at:

deanmhill@gmail.com

CPP Review Questions-U.S. Legal Aspects

1. The Supreme Court decision which holds that no suspect, in a custodial environment, may be asked any questions until he has first been warned that he need not make any statement and advised of other rights is the:
 - a. McNabb decision
 - b. Mallory decision
 - c. Ennis decision
 - d. Miranda decision



2. The Amendment to the U.S. Constitution which deals with searches and seizures is:
 - a. 1st Amendment
 - b. 4th Amendment
 - c. 5th Amendment
 - d. 6th Amendment

3. As a general rule, searches may be made of employee lockers and desks located on the premises of the company:
 - a. If consent is given by the employee
 - b. Under no circumstances
 - c. If done by the local police
 - d. If done by the security manager

(Continued on page 9)

Personal Security– Lilly Ledbetter Fair Pay Act of 2009

On January 29, 2009, President Obama signed into law the Lilly Ledbetter Fair Pay Act of 2009 (“Act”). The Act, aimed at addressing pay inequity, allows workers to file a claim for pay discrimination without regard to when the initial violation took place, effectively eviscerating the statute of limitations with regard

to pay discrimination claims. The new law therefore requires employers take additional steps to ensure that their pay practices are non-discriminatory and that they properly maintain pay records needed to prove the fairness of their pay decisions.

The Lilly Ledbetter Fair Pay Act—What does the Act do?

The Act allows individuals to file charges of alleged pay discrimination under Title VII of the Civil Rights Act, the Age Discrimination in Employment Act, the

(Continued on page 4)

Chairman’s Corner—Dean Hill

up of instructors for this training, which I hope will be the first of many! Reno Police Chief Michael Poehlman has graciously agreed to be our keynote speaker for the seminar. I’d like to challenge each of you to support the Chapter by sending at least two of your employees to the semi-

nar. What a turn-out that would make! Save the date; Wednesday, April 8th at the Circus Circus, in Reno!

Dennis Smith, CPP is still making headway with the new Chapter website. Please check it

out at <http://asisnn.org/>, and give Dennis some feedback on what you think, and what you’d like to see offered there.

(Continued on page 4)

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Space will be sold for a 6 month period at \$80 each.

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For information or if you are interested in a proposal for professional security services please contact our Reno office at:

775-828-1590

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Chairman's Corner— Dean Hill

In closing, I'm looking forward to seeing you at our next meeting, scheduled for Wednesday, April 1st at 11:30 AM, in the Grand Ballroom, on the second floor, at the Atlantis, in Reno!

Dean



Personal Security— Lilly Ledbetter Fair Pay Act of 2009

(Continued from page 2)

Americans with Disabilities Act, and the Rehabilitation Act, without regard to the traditional 180 / 300-day statutory charge filing period. The law declares that an unlawful employment practice occurs when: (a) a discriminatory compensation decision or other practice is adopted; (b) an individual becomes subject

to the decision or practice; or (c) an individual is affected by application of the decision or practice, including each time there is a payment of compensation.

The Act allows an employee to file a pay discrimination charge within 180 / 300 days of the issuance of each paycheck affected by past discrimination. Accordingly, each new pay-

(Continued on page 7)

Speak Out—Furloughs Are a Potential Alternative to Layoffs

(Continued from page 1)

The private job sector appears to be following suit. While furloughs can be an attractive option for employers looking to reduce payroll expenses, they can also present a host of legal complications for employers. Careful consideration is advised for employers looking to implement this latest cost cutting measure in the workplace.

Some of the issues an employer should consider before implementing a furlough include:

1. Ensure that furloughed employees are not working

Employers should ensure that the time off is truly a furlough—employees should not work during any furloughed time off. When announcing a furlough, the company should make clear in its communication that

employees may not perform any work activities, including the use of company phones, checking or sending email communications, or retrieving voicemail and/or returning work-related calls. This can be a monumental challenge, particularly for employers whose employees regularly use a Blackberry or have remote access to their email and/or voicemail. Employers should inform furloughed employees that they may be disciplined if they perform any work during their furlough.

If non-exempt employees do work during a furlough, they must be paid for the time worked. Thus, it is important to enforce the no-work rule. A furloughed non-exempt employee is entitled to payment for work performed based on the amount of time worked (e.g.

hourly calculation). Legal counsel should be consulted if you have any uncertainty with regard to compliance as they relate to these points, or if an exempt employee is involved.

2. Length of time employees are allowed to utilize their furlough days

Employers should carefully detail their expectations with regard to employees and how they choose furloughed time off. Employers must consider their overriding need to protect their business needs and interests, while still taking advantage of the economic benefits of a furlough. This means that employers should require pre-approval of all furlough days.

Another business consideration is whether non-exempt employees will be allowed to util-

(Continued on page 6)

Training and Development Opportunities!!!

ASIS Training opportunities are available in a variety of forums and locations. For more information, and a complete list, visit www.asisonline.org, call 703-519-6200, or write to education@asisonline.org

April Events

3-4 Physical Security Professional (PSP) Review
Addison, Texas

3-4 Professional Certified inves-

tigator (PCI) Review
Addison, TX
3-4 Certified Protection Professional (CPP) Review
Addison, Texas

6-8 Managing Your Physical Security Program
Charleston, South Carolina

**8 Security Reno 2009-
Security Seminar
Reno, NV**

26-29 ASIS International 8th European Security Council
Montreaux, Switzerland

May Events

4-5 Securing the Pharmaceutical Supply Chain—
Manufacturer to Consumer
Annapolis, Maryland

4-7 Assets Protection Course II: Practical Applications
San Francisco, California

Guest Speaker-March 2009, Steve Asher



The chapter welcomed guest speaker Sparks Police Chief Steve Ashton.

Ashton began his presenta-

tion with the Sparks Police Department mission statement, emphasizing that the SPD belonged to the citizenry. Indeed, the mission statement refers to SPD as “your” police department.

Ashton reported the Sparks police department served a community of 90,000 and encompassed a jurisdiction of 34 square miles. Ashton reported that the SPD consisted of 110 sworn officers and 48 non-sworn, who patrolled in two districts and seven “beats.”

Ashton reported that the force consisted of four divisions: Administration Detective, Patrol, and Records.

Ashton reported that SPD takes an aggressive approach to reducing crime and public fear, and routinely solves and prevents crime by using statistical analysis (“COMSTAT”).

Ashton concluded his remarks by reviewing crime statistics for 2008, which he argued were a reflection of the economic downturn.

Speak Out—Furloughs Are a Potential Alternative to Layoffs

(Continued from page 4)

ize furlough time in blocks or solely in one-day increments. It is perfectly lawful under federal law to limit non-exempt employees to taking furlough days one day at a time.

3. Treatment of vacation hours during furlough

Companies have options with respect to vacation during a furlough. Some companies may require employees to use vacation, PTO or other time during the furlough. Other companies may prohibit employees from using those benefits to allow themselves to reduce labor costs during the furlough. Still other companies may allow employees the option of whether or not they wish to utilize benefits during their time off.

State and local laws may impact whether or not an employer is allowed to utilize one or more or the above options, and employers should consider consulting with legal counsel.

4. Exempt employees and furloughs

While furloughing exempt employees is possible, it can present some complex legal issues, and can possibly even affect the employee's exempt status under the federal Fair Labor Standards Act. If you are considering implementing a furlough of exempt employees, employers should consider consulting an employment attorney before implementing this

decision.

5. Impact of furloughs on employee health care

Employers should familiarize themselves with any reduction in hours provision(s) in their health care plans. Generally, health care coverage under most plans is linked to a minimum number of worked hours per week. If a furlough brings the affected employees below the required number of hours for coverage, the reductions in hours provision may be triggered, requiring COBRA notification. In advance of any planned furlough announcement, employers should confirm the requirements of their plan coverage.

6. Availability of job-sharing programs through state unemployment insurance agencies

Some states, including Arizona and California, have programs that allow employees to collect unemployment benefits for the days that they are furloughed. The benefits are generally a proportionate amount of the weekly amount they would have received, i.e., if furloughed for 2 days a week, they would receive 40% of their weekly benefit amount for that week. These programs lessen the impact of furloughs on the employees and can be an attractive option for employers. Employers must apply for eligibility under these programs.

7. Qualification for Family and Medical Leave

There are some considerations involved in furloughs that may

not be obvious to a given company. One example is whether furloughed hours should be counted toward determining whether an employee is eligible for coverage under the Family and Medical Leave Act ("FMLA"), and specifically whether they have worked the 1,250 hours required for FMLA eligibility.

For all employees, only actual hours worked count towards FMLA eligibility. Thus, furlough hours do not count toward the FMLA-eligibility threshold.

8. Treatment of H-1B Non-immigrants

For those companies that employ H-1B non-immigrants, it may come as a surprise to know that these employees may not be furloughed. When a company files a petition to employ a foreign national as an H-1B worker, the company makes certain attestations to the federal government, including a promise to pay the individual a certain amount per month/per year. Subjecting these foreign nationals to a furlough would necessarily violate this prior promise and jeopardize the employee's H-1B status.

Conclusion

In the end, while a furlough may be a very attractive option for employers forced to cut costs in the current economic climate, when undertaking implementation of a furlough, it is important to insure compliance with all applicable laws.

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Personal Security— Lilly Ledbetter Fair Pay Act of 2009

(Continued from page 4)

check or post-retirement benefits check is a potentially unlawful employment practice for which an employee may file a charge, even though the employer may have made the discriminatory wage determination years, or even decades ago.

The Act expressly overrules a 2007 U.S. Supreme Court decision that limited the scope of wage discrimination claims. In *Ledbetter v. Goodyear Tire and Rubber Company*, 500 U.S. 618 (2007), Lilly Ledbetter had sued her employer for sex-based pay discrimination. The Supreme Court ruled that she was not entitled to back pay in her Title VII discrimination case because the alleged initial violation took place decades prior to the 180-day statute of limitations, and therefore her claim fell outside the window of the statute of limitations. Ledbetter would have had to file a charge with the EEOC within 180 days of each allegedly discriminatory pay decision made and committed to her. However, she did not do so. Further, the paychecks that were issued to her during the 180 days prior to the filing of her

EEOC charge did not provide a basis for overcoming that prior failure.

The new Act will be retroactive on the date of the Supreme Court's controversial decision, May 28, 2007. The Act may also have an impact on the outcome of pending pay discrimination claims that might otherwise be dismissed on a motion.

One consequence of the Act is that employees may now sit on their claims of pay discrimination for years in an effort to hike up potential damages. While the Act caps compensation damages at two years back pay, an employee can maximize potential punitive damages by "sleeping on the rights" without having to worry that the statute of limitations will run.

It is expected that the Act will result in an increase in pay discrimination claims. At the same time, the Act presents some major obstacles for employers, as they will now be forced to defend claims of pay discrimination based on decades-old wage decisions and policies, and long after documents have been destroyed, relevant witnesses have moved on, and

memories have faded.

Response to the Act—Best Practices for You

Employers should prepare themselves for the expected increase in litigation by taking the following steps:

Employers should modify their record retention policies and indefinitely keep documents on file relating to pay decisions.

Employers should comb through years of past pay records and conduct a thorough audit of wages and job descriptions to ensure that any pay differentials can be justified. Employers should also be prepared to take appropriate action to correct any discovered problems. Before doing so, however, employers should consult with their attorneys to determine if they can protect the results of an audit with a privilege.

Managers and supervisors should be mindful of the new law when conducting performance evaluations and considering pay-raise requests.

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Chapter Sponsored Training!!



ASIS Northern Nevada

Local Chapter 164 presents

Security Reno 2009

Finally, a Security Seminar you can afford!

Wednesday, April 8, 2009

Mandalay Convention Center

8 A.M. – 5 P.M.

This full day seminar will provide attendees access to learn from local industry experts, law enforcement officials, and to network with security professionals from Northern Nevada and California.

Who should attend?

Security Officers – Hospital, Casino, Warehouse, Commercial, Contract Loss Prevention Officers Investigators
New Supervisors and Managers Consultants

Classes for the new or experienced officer:

Patrol Techniques Conflict Resolution Laws of Arrest Report Writing Investigations
ID Recognition Terror Threats

Supervisors and Managers track:

Occupational Safety Program Management Workplace Violence Prevention
Policies and Procedures Job Descriptions

Attendees will receive CPP Recertification Points.

*Registration cost includes all seminar classes, refreshments and lunch. Cost is \$50 per person prior to March 15, 2009; \$65 per person after March 15, 2009, payable to ASIS Chapter 164. Mail payments to Darrell Clifton, Circus Circus Reno, 500 North Sierra Street, Reno, NV 89503. For further information e-mail dclifton@circusreno.com

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- Legislative Representative-Hyong Cho: hcho@rfi.com
- Chapter Webmaster-Dennis Smith, CPP: ds6470@charter.net
- ASIS Foundation Representative-Doug Laird, CPP: Douglas.R.Laird@LairdAssoc.com
- Certification Representative-Dennis Smith, CPP: ds6470@charter.net
- Chapter Photographer-Ken Braunstein: kb@unr.edu

CPP Review Questions-U.S. Legal Aspects

4. When a law enforcement agent induces the commission of an offense not otherwise contemplated, the accused may use an affirmative defense known as:

- a. Hearsay
- b. Illegally induced crime
- c. Ex-post facto law
- d. Entrapment

5. The imputation of another's negligence to the employer is described as:

- a. Gross liability
- b. Vicarious liability
- c. Agency liability
- d. Net liability

6. A willful or negligent

wrong done by one person to another is a:

- a. Crime
- b. Misdemeanor
- c. Felony
- d. Tort

Answers:

- 1) d 2) b 3) a
4) d 5) b 6) d

Legal Disclaimer

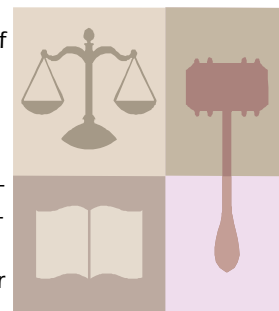
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Disclaimer of Endorsement

The chapter does not endorse or recommend any commercial products, process, or services.



**ASIS CHAPTER #164
MONTHLY TREASURER REPORT
MARCH 2009**



Treasurer: Dennis Smith, CPP

Members Attending	19	Total Attendance	26
Guests	7		
No Pay (Comp)	1		

Beginning Balance \$6140.55

General Fund Collections

Collected Chapter Dues	<u>\$ 160.00</u>		
Collected Newsletter Ads	<u>\$ 00.00</u>		
Collected Luncheons	<u>\$ 500.00</u>		
Miscellaneous Collected	<u>\$ 375.00</u>	(Seminar\$350+Scholarship\$25)	

Total Collected General Fund \$ 1035.00

Debits

General Fund Sub Total \$ 7175.55

Check #	Purpose	Amount	
1709	<u>Atlantis</u>	<u>\$ 451.38</u>	(Luncheon bill)
1710	<u>Supplies</u>	<u>\$ 16.19</u>	(reimburse Dennis Smith)
1711	<u>PO Box rental</u>	<u>\$ 59.00</u>	(Charge for PO box 1 yr.)
<u>Transfr</u>	<u>Scholarship Fund</u>	<u>\$ 25.00</u>	(Checking to Savings)
		Total Debits	<u>\$ 551.57</u>
		Ending Balance	<u>\$ 6623.98</u>
		Luncheon net or loss	<u>\$ +48.62</u>

Scholarship Fund Previous Balance		<u>\$ 4266.02</u>
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Deposits this Month	<u>\$ 25.00</u>	\$500 ck in Dec voided, \$10 from luncheon
Interest Payments	<u>\$.12</u>	for February
		Sub Total Scholarship Fund <u>\$ 4291.14</u>

Debits (reason, amount)

National Scholarship Fund \$ _

Total Debits \$

Ending Scholarship Balance \$ 4291.14

ASIS International Chapter #164

Meeting Minutes 03/04/09



Chapter Chairman Dean Hill called the meeting to order at about 12: 25 PM and led the Pledge of Allegiance. Participants introduced themselves.

Budget report and minutes from the February 2009 meeting were adopted without opposition.

Hill invited committee reports...

- Membership (no changes)
- Newsletters (bios & articles needed)
- Law Enforcement Liaison (no new information)
- Legislative Liaison (Assembly bill #125 to outlaw RFID capturing devices)
- Website (asisnn.org)
- Treasury (see Treasury Report)

Scholarship (Searching for suitable candidates)

Participants also discussed

- IRS reporting requirements
- Allen J. Cross Award

The committee also discussed whether the chapter should advocate legislative initiatives or issues. Participants concurred that individuals were entitled to express their own views, but not on behalf of ASIS.

Chapter Vice-Chair Darrel Clifton reported status of the Security Training Seminar scheduled for Wednesday April 8th 2009 at Circus Circus. Clifton reported that about 25 persons had already signed up. The price is \$50.00 per person. Clifton challenged the members to send at least two persons from their organizations to the seminar. Clifton asked that checks be made out to ASIS chapter #164. Clifton reported that curriculum and instructors had been mostly finalized, though a keynote speaker is still pending.

The chapter welcomed the guest speaker: Sparks Chief of Police Steve Ashton. Ashton's presentation is outlined separately.

Hill presided over the monthly door prize drawing. Hill invited participants to contribute door prizes for future meetings. Committee members should note that purchasing six extra tickets each month for \$5.00 further endows the scholarship fund. Hill adjourned the meeting at about 1:30 PM.

Jesse Janzen

Secretary

ASIS Chapter #164

**Northern Nevada ASIS,
International, Chapter #164**



Dues are past due for 2009

ASIS Chapter #164
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For news:
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New Members

Sarah Prinster-Late 2008
Paul Ochs—Late 2008
Ross Briggs-Late 2008
Sheila Thompson
Michael Donahe
Jerry Higginson, CPP, PCI
David Pennington

ASIS, International Certifications

Philip Bennett—CPP	Darrell Clifton-CPP
Chris Brockway—CPP	Douglas Laird—CPP
Russell Brooks—CPP	Dennis Smith—CPP
Cheri Bryant-CPP	Jerry Higginson-CPP, PCI

