



Volume 9, Issue 4



Advancing Security Worldwide™

# The Sierra Searchlight Chapter #164

## Chairman's Corner—Dean Hill



For those of who were unable to attend our seminar, I have to say you missed a great event. While we cer-

tainly learned from this activity, and will do even better the next time, the seminar was viewed almost unanimously as a resounding success! There was only one dissenting voice, and it appeared that person had different expectations than what was advertised.

I would be remiss if I did not give the

lion's share of the credit to our Vice-Chairman Darrell Clifton! He was the driving force behind the scenes as he almost single-handedly pulled the whole thing together. He stayed on top of the instructors to make sure everyone's material was in, arranged for the room, technical support, lunch,

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### NEXT Meeting:

- May 6th @ 11:30 AM
- Atlantis Casino "Emerald A & B" on the 2nd floor
- Guest Speaker: Kaydie Paschall, WCSO Volunteer Coordinator
- Subject: Citizen Corps for Security Professionals

### 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

## Speak Out—Safety Achievement Makes Businesses Better

By Jesse J. Janzen  
Security & Surveillance Director  
Siena Hotel Spa Casino

Establishing an effective occupational safety program takes expertise and effort. Pedestrian knowledge of occupational safety is not adequate to protect a property

from the hazards and costs associated with occupational accidents and injuries. Thus, the Safety Manager must be educated and credentialed. Anything less is a gamble. But expertise alone is no guarantee. Establishing an effective safety program

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## CPP Review Questions-U.S. Legal Aspects

1) The unlawful taking of property by force or threat of force constitutes the crime of:

- a. Burglary
- b. Robbery
- c. Assault and battery
- d. Larceny

2) The act of inducing a person to commit a crime for the purpose of having him arrested is known as:



- a. Solicitation
- b. Entrapment
- c. Nolo contendere
- d. Misprison

3) Deadly force may be used to defend yourself if you:

- a. Reasonably believe deadly force is necessary to protect yourself or another from unlawful use of deadly force of a third party
- b. Your home is broken into
- c. You are protecting your property
- d. You are attacked by a drug addict

4) The prohibition against be-  
(Continued on page 9)

## Personnel Security– Supreme Court Upholds Mandatory Arbitration Provision in Collective Bargaining Agreement

By Gerard Morales 602.382.6362  
jmorales@swlaw.com

and

Kim S. Magyar 602.382.6266  
kmagyar@swlaw.com

On April 1, 2009, the United States Supreme Court held that a

provision in a Collective Bargaining Agreement that “clearly and unmistakably” requires employees to submit employment claims and disputes arising under federal and state anti-discrimination laws to binding arbitration is valid and enforceable under federal law. 14 Penn Plaza,

LLC v. Pyett, No. 07-581 (2009).

Factual Background

The Service Employees International Union (“Union”) and the Realty Advisory Board on Labor Relations, Inc. (“RAB”), a multi-

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## Chairman’s Corner—Dean Hill

and myriad other details that go into making an endeavor such as ours a reality.

I don’t want to steal his thunder by reporting too many details yet, as he will give us a report in our next meeting. I can say that I truly hope that this will be

merely the first of many seminars presented by the chapter.

I wish to express my heartfelt thanks to all the members who volunteered their time as instructors, or even just helping out behind the scenes!

I want to send a huge thank

you for the support we received from our Regional Vice President, Ron Sathre and Senior Regional VP Rebekah Wells. I can hardly believe they traveled so far to be there!

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## Chairman's Corner— Dean Hill

I look forward to seeing you at our next meeting. Kaydie Paschall will be giving us a presentation on the various programs and opportunities for community involvement available through the Washoe County Citizen Corps.

Dean



## Personnel Security— Supreme Court Upholds Mandatory Arbitration

(Continued from page 2)

employer bargaining association for the new York City real estate industry, of which 14 Penn Plaza, LLC ("PENN") is a member, entered into a Collective Bargaining Agreement ("CBA"), which prohibits workplace discrimination. Under the CBA, employees claiming discrimination under federal and state law are required to sub-

mit all claims to the CBA's grievance and arbitration procedure.

In August of 2003, Penn, with the consent of the Union, subcontracted the security services for the lobby and entrances of its building. As a result, several Union-represented employees, who had been employed as night lobby watchmen by Penn, were reassigned to alleg-

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## Speak Out—Safety Achievement Makes Businesses Better

(Continued from page 1)

also takes effort, but that effort yields rewards beyond workplace safety; that effort also increases potential for profit. In essence, safety achievement makes businesses better.

### OVERCOMING IGNORANCE & APATHY

As Security practitioners it is our mission and our instinct to protect those around us. Indeed, that is why we were drawn to the Security profession in the first place. Not surprisingly, many Security managers are also charged with administrating occupational safety programs for their companies. Security and Safety are a natural fit. After all, what could be more fundamental to

Security practitioners than protecting their fellow employees from harm, and what potential harm is greater than that posed by workplace hazards?

Still, occupational safety programs often garner less emphasis than they deserve due to other pressing security business. Also, there are often no immediate consequences for failing to comply with safety regulations. On the contrary, the absence of serious accidents combined with the absence of regulatory sanction seemingly rewards safety ineptitude. In time, the result is apathy; and when apathy meets no resistance it deepens and becomes entrenched.

Compounding matters, many companies require little or no

occupational safety credentials from those charged with managing their safety programs. The absence of adequate education prevents many Safety Managers from comprehending the magnitude of their risks much less protecting their properties from them. Unless an industrial accident jars them from complacency, individuals with only pedestrian knowledge of occupational safety can manage for years, and the absence of negative consequence becomes a tacit reward. Before long ignorance, like apathy, becomes entrenched.

Either apathy or ignorance is independently sufficient to disable a safety program, but when both work in tandem,

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## 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](http://www.asisonline.org), call 703-519-6200, or write to [education@asisonline.org](mailto:education@asisonline.org)



### 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

### June Events

2-5 Facility Security Design  
Redondo Beach  
California

11 CPTED Outside the Box:  
Creative Combinations of Environmental and Physical Security that Reduce the Cost of Fighting Crime  
Webinar

16-19

Assets Protections Course III:  
Functional Management

Tampa, Florida

## Guest Speaker-April 2009, Drew Vigen



The chapter welcomed guest speakers Drew Vigen and James Hutcherson from IRIS Remote Information Systems. Vigen and Hutcherson introduced video technology designed to provide "Site to Cell" video imagery within seconds.

Additionally, Vigen and Hutcherson reported that cameras could be arrayed to draw power from parking lamps, and that the video signals could be configured to work as part of a stand-alone IP system or within a surveillance matrix. Vigen and Hutcherson provided a live demonstration showing contemporaneous imagery from a local parking lot. Indeed, this futuristic technology is already being used for a variety of business applications from security and surveillance to monitoring employee productivity. Commendably,

Vigen was careful not to turn the presentation into a trade-show sales-pitch. However, I am certain he would not object if members kept contact information on file in the event that anyone contemplates incorporating this technology into their operation...

### **IRIS remote Information Systems**

**P.O. Box 10108 Reno NV 89510**

**Toll free: 866-697-0406**

**Office: 775-322-4477 ext 229**

**E-mail: [irisremote.com](mailto:irisremote.com)**

## Speak Out—Safety Achievement Makes Businesses Better

(Continued from page 4)

the safety program is certainly doomed. Even so, companies get away with ignoring safety programs for years, sometimes even deluding themselves in the belief that they are doing a noble job of managing occupational safety. Individual employees might recognize the dangers, but the effort required to resurrect a defunct safety program is too overwhelming for a few earnest employees to muster without company support.

Thus, paralyzed by apathy and ignorance, many companies and Security organizations are content to “play the odds,” hoping that serious accidents never occur. One might refer to this as the “Russian Roulette” style of occupational safety management. If you are an adherent of this style, you need not read any further because you are already doing what is expected of you. But the confabulation will only last so long. Ultimately, “Russian Roulette” safety management produces predictably disastrous results. Sooner or later, a serious accident or catastrophe strikes at which point the ineptitude of the safety program becomes readily apparent.

To avoid the perils of “Russian Roulette” safety, Security practitioners charged with managing occupational safety pro-

grams must view that domain as fundamental to their profession and apply all due energy and expertise to that task. The chief adversaries of the Safety Manager are apathy and ignorance. Accordingly, Safety Managers must first seek to replace apathy with attentiveness and ignorance with knowledge. Only then can a legitimate “safety culture” begin to emerge.



But before we can disseminate knowledge to others, we must acquire it.

Before we can inspire others, we must become inspired. As Security practitioners, if we honestly hope to imbue our safety programs with the kind of legitimacy we bring to the other domains of our Security business, we must start with our own organizations. We must first train our subordinate employees and ourselves.

### EMERGENCE OF A “SAFETY CULTURE”

Defeat of apathy and ignorance is the genesis of a “safety culture,” and the advantages of a “safety culture” are immediate and profound: hazards are identified, accidents decline, injuries decrease, workman’s compensa-

tion costs subside, risk of regulatory fine diminishes, etc.

But a “safety culture” benefits an organization beyond merely improving occupational safety. The prospect of broader benefits to the company is what allows the safety manager to “sell” safety training to property management. Property management is often skeptical if not contemptuous of safety initiatives. This skepticism and contempt must be overcome. Generally, it stems from the erroneous notion that safety training costs extra time and money, whereas the exact opposite is true. In reality, safety training saves both time and money. In fact, one could reasonably argue that safety training makes money by improving employee morale, productivity, and retention. In many ways, “safety training” and “productivity training” is the same thing.

Indeed, “safety culture” is a part of a broader “profit culture” because the same impediments working against safety—apathy and ignorance—also work against profitability. By coupling “safety” with “profit,” the safety manager has a greater chance of cultivating the support of property management.

Ultimately, the logic of inten-

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## Personnel Security– Supreme Court Upholds Mandatory Arbitration Provision in Collective Bargaining Agreement

edly less desirable positions of night porters and light duty cleaners, which they claimed paid them less and caused them emotional distress.

At the workers' request, the Union filed grievances alleging, among other things, that the employees were selected for reassignment based upon their age. After failing to obtain relief on its claims through the grievance process, the Union requested arbitration under the CBA. The Union later withdrew its age discrimination claims from arbitration because it did not believe it could prevail on its age-based claims.

The workers then filed a charge of age discrimination with the Equal Employment Opportunity Commission ("EEOC") and, after receiving their right-to-sue notices, filed suit in federal court, alleging that their job reassignments violated the Age Discrimination in Employment Act ("ADEA"). The lower courts denied Penn's motion to compel arbitration, concluding that a union-negotiated waiver of a right to litigate was unenforceable under a 1974 Supreme Court decision, *Alexander v. Gardner-Denver Co.*, 415 U.S. 36 (1974).

### Legal Analysis

In its analysis, the Supreme Court first noted that the National Labor Relations Act ("NLRA") gives the union and RAB statutory authority to collectively bargain for the arbitration of all employment discrimination claims. The Court also noted that the ADEA does not prohibit mandatory arbitration, as long as it is "explicitly stated" in the collective bargaining agreement."

In this case, the Supreme Court held that because the Union and RAB had collectively bargained in good faith, freely negotiating and agreeing, in clear and unmistakable language, that all ADEA claims would be resolved in arbitration, the mandatory arbitration provision must be honored.

In distinguishing the *Gardner-Denver* line of anti-arbitration cases, the Supreme Court noted that these cases did not involve a clear and unmistakable agreement to arbitrate statutory claims such as was found in the present case. As a result, the Court held that the *Gardner-Denver* line of cases did not apply. In conclusion, the Supreme Court noted that a CBA that clearly and unmis-

takably requires union members to arbitrate statutory claims, including those under the ADEA, is enforceable as a matter of federal law.

### Impact on Employers:

Although the Supreme Court's decision was divided (it was 5-4), it clearly reaffirms that clauses requiring mandatory arbitration in collective bargaining agreements are proper for claims of employment discrimination, where such provisions are clear and unmistakable.

While this case focuses on the ADEA, employers should be aware that the Court's opinion also clearly applies to mandatory arbitration of other federal statutory claims such as Title VII and the Air Labor Standards Act—unless the federal statute specifically precludes a waiver of civil action.

Employers should review their mandatory arbitration provisions in employment handbooks and in collective bargaining agreements to ensure that they clearly and unmistakably cover both statutory and contractual employment discrimination claims.

## Speak Out—Safety Achievement Makes Businesses Better

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sive occupational safety management is inescapable. Organizations intent upon seeking profit can ill afford to neglect occupational safety. It is just too costly. The risks are too great.

As Security professionals, we aim to provide superior protection for our properties. Can we then be satisfied with mediocrity in the domain of occupational safety? No, we must instead insist upon safety programs worthy of our profession and commensurate with our mission.

### PROPERLY DOCUMENTED TRAINING

An indispensable aspect of occupational safety management involves training...and not just training but also documented training...and not just documented training but also properly documented training.

What do we mean by, "properly documented training?" A correct training document lists the components of the training and also has provision for the trainer and the trainee to print, sign, and date the document. Anything less is insufficient.

Moreover, once a training regimen is established, follow-up

training documents must be filed showing that the initial training has been periodically and routinely reinforced. Additionally, the training documents themselves must show evidence of revision that reflect changes in policy, products, work environments, equipment, etc. Finally, training—properly documented training—must be accompanied by a documented disciplinary action as warranted. After all, it avails nothing to establish



rules if they are not subsequently enforced.

### THOROUGH PROPERTY INSPECTIONS

Another indispensable aspect of occupational safety management is thorough property inspections. The variety and scope of such inspections can vary from daily to weekly, monthly, quarterly, annually, etc. Moreover, periodic inspections by outside agencies must accompany internal inspec-

tions. All inspections must be documented and archived. "Inspections" can include more than just checklists, but also a variety of other documents that chronicle efforts to detect and correct workplace hazards. For example, a "safety quiz" is a type of inspection document that assesses the occupational safety knowledge of the employee population. In sum, a scrupulous safety manager utilizes an array of inspection products, and that array evolves and changes as warranted after analyzing accident and injury data and continually assessing workplace hazards.

### AFFIRMATIVE DEFENSE

Once a "safety culture" is in place, another aspect of property protection becomes viable: the affirmative defense. Even the most stringent safety manager recognizes that accidents can still occur, but the employee also bears responsibility to abide by the training the company provides. If the company provides expert safety management, properly documented training, disciplinary action, thorough property inspections, cogent hazard assessment, etc...in short, if the company has an effective safety program, the company can mitigate regulatory sanctions. In essence, the company



## BOARD MEMBERS' CONTACT INFORMATION ALL VOLUNTEERS!!!

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- Secretary-Jesse Janzen: jjanzen@sienareno.net
- Treasurer-Dennis Smith, CPP: ds6470@charter.net
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- Scholarship Chairperson-Doug Laird, CPP: Douglas.R.Laird@LairdAssoc.com
- Chapter Newsletter Editor-Dean Hill: deanhill@gmail.com
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- Chapter Photographer-Ken Braunstein: kb@unr.edu

## CPP Review Questions-U.S. Legal Aspects

- |  |   |                                      |
|--|---|--------------------------------------|
| ing tried for the same crime is found in the:        | used to find the accused guilty is:     | a. Illegal action                    |
| a. First Amendment                                   | a. Beyond a reasonable doubt            | b. Whether a harm is likely to occur |
| b. Third Amendment                                   | b. Probable cause                       | c. Administrative law                |
| c. Fifth Amendment                                   | c. Suspicion                            | d. Strict liability                  |
| d. Fourteenth Amendment                              | d. Preponderance of evidence            |                                      |
| 5) In a criminal prosecution the measure of evidence | 6) The term "foreseeability" refers to: | <u>Answers:</u>                      |
|  |   | 1) b 2) b 3) a                       |
|  |   | 4) c 5) a 6) b                       |

## Legal Disclaimer

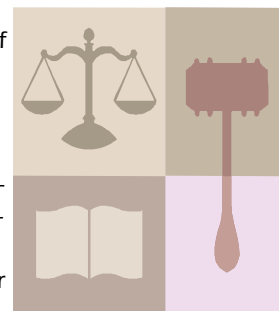
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The chapter does not endorse or recommend any commercial products, process, or services.



ASIS CHAPTER #164 MONTHLY TREASURER REPORT APRIL 2009

Treasurer: Dennis Smith, CPP

Members Attending 18                      Total Attendance 23  
 Guests    5  
 No Pay (Comp)                              2



Beginning Balance \$6623.98

General Fund Collections

Collected Chapter Dues \$ 80.00  
 Collected Newsletter Ads            \$ 160.00  
 Collected Luncheons                    \$ 420.00  
 Miscellaneous Collected                \$ 725.00 (Seminar\$700+Scholarship\$25)

Total Collected General Fund            \$ 1385.00

**Debits**

General Fund Sub Total            \$ 8008.98

<u>Check #</u>	<u>Purpose</u>	<u>Amount</u>
1752	<u>Atlantis</u>	<u>\$ 425.05 (Luncheon bill)</u>
1751	<u>Circus Circus</u>	<u>\$ 600.00 (Charge for Seminar room and food)</u>
<u>Transfr</u>	<u>Scholarship Fund</u>	<u>\$ 25.00 (Checking to Savings)</u>
<u>Bank Chg</u>	<u>Stopped check</u>	<u>\$ 107.00 (Check for seminar returned + bank charge)</u>

Total Debits                                      \$ 1157.05

Ending Balance                                      \$ 6851.93

Luncheon net or loss                              \$ -5.05

Scholarship Fund Previous Balance                                      \$ 4291.14

Deposits this Month                              \$ 25.00

Interest Payments                              \$ .11 for March

Sub Total Scholarship Fund                      \$ 4316.25

Debits (reason, amount)

**National Scholarship Fund**                      \$ \_

Total Debits                                      \$

Ending Scholarship Balance                      \$ 4316.25

## ASIS International Chapter #164: Meeting Minutes 04/01/09



Chapter Chairman Dean Hill called the meeting to order at about 12: 20 PM and led the Pledge of Allegiance. Participants introduced themselves.

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

Hill invited committee reports...

- Membership (No changes)
- Law Enforcement Liaison (No changes)
- Legislative Liaison (No changes)
- Treasury (see Treasury Report)
- Scholarship (Searching for suitable candidates)
- Newsletters (Bios & articles needed)
- Website: Dennis Smith reported that the **chapter #164 website** asisnn.org has been updated. Indeed it looks great, so please give it a look. There is information about the chapter, calendar of events, Chapter Officers, Newsletters, ASIS International.

Chapter Vice Chairman Darrel Clifton reported status of the **Security Training Seminar** scheduled for Wednesday April 8<sup>th</sup> 2009 at Circus Circus. Clifton reported that about 65 persons had now 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 welcomed any last minute attendees. Clifton asked that checks be made out to ASIS chapter #164. Clifton reported that curriculum and instructors and a keynote speaker had been finalized. Only final details remain. (By the time most members read this, the seminar will have transpired will undoubtedly have been a rousing success.)

The chapter welcomed the guest speakers: **Drew Vigen and James Hutcherson from IRIS Remote Information Systems**. The recap appears separately.

Hill reported product recalls on ConAir Irons and reported that further information on this and other pertinent recalls would be sent out by e-mail in due course.

Hill presided over the monthly door prize drawing. Hill invited participants to contribute door prizes for future meetings. Committee members should note that purchasing five extra tickets each month fortifies the chapter coffers and further endows the scholarship fund. Hill adjourned the meeting at about 12:45 PM.

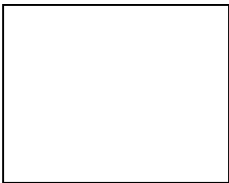
Jesse Janzen, Secretary, ASIS Chapter #164

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



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Dues are past due for 2009



## 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 |

