

Minutes
Seaport Security Standards Council Meeting
The Capitol, Tallahassee Florida
Reed Room
April 17, 2007
10:00-4:00

Note: Agenda Items in Bold

Attended

Chris Koffman representing Frederick Ferrin, Executive Director of Jacksonville Port Authority
Kenneth Hern, Director of Seaport Security, Palm Beach
Steve Vogt, representing Stan Payne, CEO, Canaveral Port Authority
Frank Holden, Director of Manatee County Port Authority
Mark Zadra, Special Agent in Charge, Florida Department of Law Enforcement
Vacant, Office of Motor Carrier Compliance of Department of Transportation
Thomas Wheeler, Attorney General Office, Appointee 2006
Suzanne Englebert, U.S. Coast Guard, 7 th District Prevention
Darrell Liford, Director of Office of Agriculture Law Enforcement, DACS
William Janes, Director of the Office of Drug Control

Absent

Pamella Dana, Director of Office of Trade Tourism and Economic Development
Dave Binder, Attended as a non voting member, Office of Motor Carrier Compliance, Department of Transportation
Bill Stewart - Attended as a non voting member, Attorney General's Office

I) Welcome and Introductions

The meeting was opened by Chairman Bill Janes of the Office of Drug Control at 10:00 AM and all council members and guests were introduced. Director Janes reviewed the agenda. The format of the meeting is to include the opportunity for public comment.

II) Review of Florida Statutes that established the Council

- a) Chairman Janes reminded the council about the Sunshine law s.286.011, F.S.
- b) No new appointments to the Council have been formalized due to the transition between the new administration and the council.
- c) Minutes from the last meeting were given to participants to review.
- d) Minutes were approved with no discussion or opposition.

Motion 1: To approve the minutes of record.

The motion was seconded and passed by unanimous consent

III) New Business

- a) Update on contract with Department of Homeland Security: Port Grant Selection and Allocations-Commissioner Mark Zadra: Commissioner Zadra discussed Port Security Grant funding. Florida has not been in the Tier 1 grouping by the Department of Homeland Security. Commissioner Zadra stated that he would inquire to the Department of Homeland Security about additional information regarding the status of the grant application.
- b) Discussion about the tier rating of Ports followed
 - i) Information about the tier rating of ports was mostly classified.
 - ii) Risk formula is used by the Department of Homeland Security, which deals with threat, vulnerability and consequences.
 - iii) Threat deals with the federal intelligence community and the components of 17 agencies along with intelligence generated by state and local and agencies.
 - iv) Vulnerability and consequence looks at 3 separate components of the economic consequences of an attack.
- c) Other Discussions included:
 - i) Population pertains to the port and the cargo, international and domestic; the number of inter-mobile connections that are examined; the expected number of casualties; metrics of passengers; hazardous materials and deliveries; port populations in reference to missions. Also, population density around the port which is looked at from a census standpoint from commuters, visitors or military population data
 - ii) Asset risks are looked at from chemical facilities to cruise ships, nuclear power plants, petroleum facilities, barges and ferry passengers. All of that goes the storing of 100 maximum points which is then used to determine whether port falls into one of the four specific tiers.
- d) The Task force expressed concern about the federal tier rating for Florida Ports
 - i) Seaport Clearance: The council asked about security clearance for Port. The answer given was that The Captain of the Port is the Federal Maritime Security Coordinator and under federal law and requirements he appoints an Area Maritime Security Committee. If you are on that committee you may be asked to have security clearance based on your relationship with the port. Usually the Captain of the Port ensures that the Port Security Officers for the ports of Florida have security clearance. Security clearance is obtained through the military
 - ii) DHS Tier Rating: In reference to the Homeland Security grading and tier system, something that has not been emphasized is that the Area Maritime Security Committee has review authority of all of the materials that are used to assign tier ratings. There may be a disconnect between what you believe would be an adequate or appropriate tier for your port and what the Department of Homeland Security has for your port. When things roll up into a national level, there may be some insensitivity to local factors. There is

room for dialog with the Coastguard Captain of the Port to make sure that he has communicated the concerns of your port appropriately to the Department of Homeland Security. The Department of Homeland Security has the Maritime Security ratings from the Captain of the Port. The Captain of the Port gets them after discussions with the Area Maritime Security Committee. If you are not involved with the Area Maritime Security Committee you may not know that it is happening. If you have not been to a meeting, you should call your local Captain of the Port and ask when they are having public meetings. There is some information that is shared at the local level that is classified and you will need a security clearance unless you have proof that you are in a position to be there. You can petition the Captain of the Port to get clearance

- (a) If the State of Florida believes it would like to have more input into the system, you can facilitate it by lobbying at the local level or by this council writing a letter. Mr. Owens is the person in charge of the Department of Homeland Security Risk Based Model that they use to report nationally and comments should be addressed to him. The council did have concerns

Summary Statement: Florida does not have any Tier 1 ports. We do have a Tier 2 port which is Jacksonville. The Tier 3 ports are in Miami, Palm Beach, Panama City, Pensacola, Port Canaveral, Port Everglades, Tampa and Port Manatee.

Mr. Terry Brown, President and CEO of ICS (Industrial Cold Storage) and Global Stevedore from Jacksonville spoke at this time. He stated that there are two ports in Florida that are most susceptible and vulnerable; Tampa and Jacksonville. They do not compete with each other; they compete with Savannah, Georgia and Brunswick, Georgia (Georgia State Port Authority) and the port of Charleston, South Carolina. The speaker considered the TWIC/FUPAC controversy a disadvantage for Tampa and Jacksonville. He stated that carriers are looking for better, cheaper and faster, and if you present a complication they will migrate and take with them the valuable jobs that are the underpinning and the diversity of the economic situation in Jacksonville.

- e) Other Discussions continued: Request by Florida Representative of Law Enforcement, Commissioner Gerald Bailey about the waiver process:
 1. Commissioner Bailey indicated he had received concerns about the existing Waiver Process. Upon examination, he agreed with some of the concerns.
 2. Commissioner Bailey asked the council to consider reviewing the Waiver Process and providing recommendations to his office.
 3. Commissioner Bailey introduced Mr. Flaxman who discussed recommendation for changes and why changes were needed.
 4. Mr. Flaxman presented a document with recommendations for changes; explanations and attachments to the guidelines which would make them easier to facilitate and use. Copies were provided to the council regarding

the standards as a frame of reference. At the next meeting we will go through the document and allow comments.

Motion 2: To accept responsibility for providing input to the Department of Law Enforcement and the Parole Commissioner and partners as how to better utilize these guidelines and make them easier to use and facilitate the ease of the applicants in consideration of the of the state security of the ports.

The motion was proposed, seconded and adopted.

Motion 3: For the council to accept responsibility for providing input to the Department of Law Enforcement and the Parole Commissioner and partners to make these guidelines more user friendly.

The motion was proposed, seconded and adopted.

IV) Transportation Worker Identification Credential (TWIC) Update

- a) Chairman Janes submitted a letter Senator Dockery and Representative Adams on behalf of the workgroup TWIC/FUPAC workgroup. The workgroup consists of the Florida Department of Law Enforcement, the Office of Drug Control, the Department of Highway & Safety and Motor Vehicles, a representative from the staff of Homeland Security (in the Senate and the House) and Mr. Mike Rubin, Florida Ports Council.
- b) Chairman Janes discussed an analysis by the Attorney General's office regarding the disqualification of offenses in the federal rule and Florida Law.
- c) Chairman Janes also presented an FDLE Disqualifying Offenses Analysis and a document received from FDLE which talks about the FCIC (the Florida Criminal Investigative Check) compared to the NCIC (National Criminal Investigative Check). The federal credential is issued at the background check.

Summary: The letter to State Senator Dockery provided the council with information about the credentials, the current statute and efforts to align the federal rule and tailored law. It contains an analysis of major references. It encourages the support to resolve the issue with our federal partners.

- d) Chairman Janes informed the council that the Transportation Security Administration has not yet resolved this issue. Finally, the workgroup recommended that the national criminal investigation check is not sufficient to satisfy federal and state rules governing access to a Florida port.
- e) Recommendations contained in the letter to Senator Dockery and Representative Adams are listed below:
 - i) Insist on one port access credential that identifies personal and seaport access.

- ii) Provide an explanation of the difference between the federal and state statute that are significant to the workgroup.
- iii) Establish TWIC is an identifying credential.
- iv) Establish FUPAC is an access credential.
- v) Ask the Transportation Security Administration to authorize the Florida issue of TWIC after ensuring that federal and state requirements are met.
- vi) Florida accepts FUPAC as the one credential that provides access to the ports.
- vii) Clarify that the council is not the decision making workgroup or advisory workgroup. The council makes sure that court input and agencies are responsible for recommendations presented.
- viii) Recommend not to implement the Florida card prior to July 1, which would give time to resolve the TWIC/FUPAC issue. Assistance is required to inform the congressional delegation to work with the Transportation Security Administration and the department of homeland security to get one credential for our ports.

V) Port Credential Alignment Concept-Jim Kneeland was on the agenda but did not attend this meeting

VI) Port Recommendations by Bill Janes: I will continue to visit Florida ports and gain feedback on port priorities and concerns.

VII) Review of Minimum Seaport Security Standard

- a) Mr. Rubin asked that comments not relative to security standard issues or concerns be held and considered at a later date. The council wanted to make sure the ports that have not participated have the opportunity to provide input.
- b) Minimum seaport standards for Florida seaports were listed in a matrix hand-out. All of the agenda items submitted by the council members were addressed. The areas of concern were:
 - i) Access and Control physical and personnel security
 - ii) ID Badges
 - iii) Docks/ Berths
 - iv) Rules and Exceptions
 - v) Difference between Florida Rule and Federal Rule
 - vi) Legislative Language
 - vii) Use of the term “should” versus “shall”
 - (1) FDLE has enforced the term “should” as a “shall” and legal has upheld this implementation.
 - (a) The Council asked for and FDLE agreed to provide amplification at the next meeting

There was no Motion on this issue

VIII) Continue review of FS 311.12 and Seaport Security Standards document

- a) The Seaport Security Standard document directs the Port regarding security issues.
 - i) The committee suggested that a recommendation is written to the legislature in order to clarify intent about law enforcement considering the minimum standards, and the emergency responders and access to the ports. The areas of concern were:
 - (1) foreign crew members
 - (2) examination of the FDLE interpretation of the Florida Statute from a security standpoint
- b) Regional Domestic Security Task Force regulation is an important source for port requests. The Regional Domestic Security Task Force provides the local interpretation of how the security is determined and has impact regarding the oversight committee. The Office of Drug Control participates in dialog regarding this issue and it is helping.
- c) Background Check
 - i) Draft a letter and present it to the legislators and for the Comptroller General (LTC Binder).
 - (a) Chairman Janes suggested the first draft of that letter should come to him and then will be circulated to the council for comments. The letter should be addressed to Senator Dockery and Representative Adams.
- d) Unified Color Coding
 - i) Are there going to be different access colors for different ports? If so, is it necessary to have multiple cards again?
 - ii) At this time ports do this differently based on there own perceptions of the access to terminals.
 - iii) The electronic card will provide greater accuracy of access.
- e) Seaport Security Plan
 - i) Discussion on clause in 311.12(c) "...In such cases, a Uniform Port Access Credential Card, authorizing restricted-area access, shall be required for **any** individual working within or authorized to regularly enter a restricted access area"..
 - (1) Does this apply to foreign crew, etc to be required to have a FUPAC? Background checks on foreign crew are not in accordance with international agreements.
 - (2) FDLE lawyers are working on presentation to Council on this issue.
 - (3) Issue tabled until next meeting. Top priority of Council to resolve matter expeditiously.

IX) Law Enforcement ID fingerprinting

The committee suggested that law enforcement should provide recommendations to be added to the standards.

X) Recommendations

- a) Request an actual fingerprint check for law enforcement. This will give law enforcement confidence that they can use the 5/90 standard if they ask a port to issue them a badge.
- b) Consider granting more discretion whether or not visitors should be issued a badge or, whether they should utilize the normal credentials.
- c) Recommend all individuals who enter a port be placed on a log.
- d) Examine the current practice of a port by port decision to identify the people on the port.
- e) Have FDLE provide written documentation to the council regarding the standards about inspection and law enforcement upon entering the port.
 - i) What are we doing today?
 - ii) If there is an inspection, what exceptions would be granted?
- f) Have the minimum standards re-written to reflect of the discussion of the committee. Note that in the statute FS 311.12 3c says 7 years, not 5 years; and that part of the statute also talks about waivers etc. The language in ID appears to be in conflict with the law.

Motion 5: To rewrite Section ID of the Minimum Standards

The motion was seconded and approved

XI) Discussion

- Chris Carlton/Jacksonville Port: Suggested that ID be deleted because everything associated regarding identification is written from the statute. The statute defines everything that relates to background check, etc. Where the other standards amplify the statute, this one restates it. By eliminating it you will be going back to 311.12, which articulates in much greater detail, is up do date and will ultimately be changed to reflect what we are trying to do.
- Chairman Janes encouraged the council to look at the law as a historic one. People ought to comply with ports regulations and the laws. The point is well made that there is duplication, but in the Office of Drug Control I am able to provide copies of the minimum standards, I do not provide copies of the law, therefore caution should be taken in reference to deletion.
- I take the opposite standpoint. At the last meeting, it was moved and approved that anytime the statute was changed, those changes would be incorporated into the minimum standards and we asked that legislature tell us who has custody and control over that and how that process is to be done. We accomplished that, but Instead of letting the law speak, we are going to let the law be updated annually into the standard.
- 311.12 1a adopts by reference the standards provided by the President of the Senate on December 11, 2000. If we change the standards then we need to adopt a new version. Maybe we should just have the statute changed to adopt the most recent version?
- Response: (Chairman Janes) We provide comments to the Legislature on the standards as they are written and they make the change. We will not change the

standards; we will comment on ID and say that we recommend what is to be re-written.

- Is it within the purview of this council to recommend that they make any statutory changes to change the adoption date to the most recent version? Yes, and that is something that would be updated each time. There was no motion given. The adoption date is outdated and that is one of the follow-up items: Who volunteers to give us the first draft of the re-write?
- Response: Commissioner of FDLE will write the first draft the letter to rewrite ID with the understanding of adding and recommending the waiver process. We will welcome input.
- Statement: It is important that we make a note to get it current with date of adoption, with what the record and the language would be.

Motion 5: To re-write paragraph ID of the minimum standards

Motion was made, seconded and passed.

XII) Public Comment:

- i) Regarding the renewal of ID cards, we feel strongly that we should not be denied access during the renewal time period, while the renewal is pending.
- ii) The issue associated with lost and misplaced badges, we feel strongly that we should not be denied access and also should be provision whether escorted or not.
- iii) The users group that when the badges has been suspended, while there may be circumstances where there should be no provision for Port entry, there could also be a circumstance where a person is escorted to private property. We hope that the council will consider how you would perhaps deal with that those kinds of things.

XIII) Next Meeting

The next meeting was originally scheduled for May 15, 2007 from 10-4, but will be rescheduled due to an obstacle. The Chairman stated the necessity to stay within the 30 day window to keep this discussion moving.

Adjournment

Chairman Janes adjourned the meeting at 4:00.

Questions/Comments:

Question: The letter that you wrote to TSA you have asked them for the rollup schedule for Florida's perspective to July 1st. The rollup schedule nationally has been pushed back, however it is not gone published to date. Without that publication, have you had any communication with the TSA for regarding the Florida rollup?

Answer: That has been a difficult issue because the TSA vendors are suggesting that this is going to be your date. As I deal with Mr. Sandler there has been no schedule signed, but we will be getting a copy of that schedule.

Question: One of our regional commanders was told that two of our officers regularly conduct joint operations in seaports and that law enforcement officers may be subject to having to obtain a FUPAC. Is there a law enforcement exemption that you are aware of?

Answer: Most ports allow law enforcement officers routine access to the port on a credential basis. The issue goes back to sworn law enforcement officers. The issue goes back to Statute 311.12 itself, which does not say any person but a sworn law enforcement officer. The difficulty for Ports is when a law enforcement officer shows up in uniform and show credentials at the security guard, they may or may now recognize the officer or the credentials.

Question: What are the security authorizations that ports have today?

Question: Is there any motion from the council concerning the discussion regarding TIERS or secure zoning for follow-up or factionary permission?

Question: What level of security briefing the port should receive on a periodic basis?

To do List: List:

1. Review authorities of all materials that are used to assign DHS Tier rating system for Florida Ports.
2. Lobby Mr. Owens about having more input in the DHS Tier rating system.
3. Write letters to Mr. Owens about having more input in the DHS Tier rating system.
4. Determine whether or not it is within the purview of this council to recommend any statutory changes to change the adoption date to the most recent version.
5. Write the letter regarding the rewriting of Objective ID of the Minimum Security Standards for Florida Seaports. Commission Zadra will prepare.
6. Read (members) Mr. Flaxman's letter before the next meeting and prepare comments.
7. FDLE is to provide amplification on ruling of using the term "should" as a "shall" in Seaport Security Standards language.
8. 311.12(c) - FDLE lawyers to provide Council presentation on the matter of requiring FUPAC for **any** individual working within or authorized to regularly enter a restricted access area.

Enclosure

Name	Agency
Aayaian, Neil	
Austin, Tony	Martin Gas Terminal
Belerra, Geraldo	International Longshoreman Association-Miami
Brown, Terry	ICS logistics
Canty, Ellis	I International Longshoreman Association, local 1416 Miami
Coakley, Jake	SSA Cooper
Coppin, Robert	Riviera Beach P.D.
Gardner, Nathaniel	I International Longshoreman Association Jacksonville
Havilana, Dave	Amyoris
Holmes, Merribeth	Florida Department of Law Enforcement
Janes, Bill	Office of Drug Control
Maes, James	Security Port of Miami
McBride, Dan	Palm Beach CoS.O
McCoy, Sherri	Cape Canaveral Shrimp Co.
Merrifield, Jeanna	Cape Canaveral Shrimp Co.
Meurice, Luis	I International Longshoreman Association-Miami
Mica, David	FPC Talstar
Miller, Peter	TPA
O'Neal, Allen	Riviera Beach P.D.
Rubin, Make	Florida Ports Council
Schemnor, Jan	APM Terminal
Townsend, Clay	Dixie Crossroads Seafood Mkt.
Valde's, Carlos	Trade & Transport Council
Wardoll, Norman	I International Longshoreman Association local 1412 Tampa
White, Charles	Port of Jacksonville
White, Glenda	Port of Pensacola
Wiltshire, Glenn	Port Everglades