

post, and Trax had violated its policy of dispersing persons gathered in the parking lot, throughout the litigation Trax maintained that it was not responsible for Mr. Delgado's injuries. Trax contended that the attack on Mr. Delgado was not foreseeable because while Trax had experienced ordinary "bar fights" inside, there was no history of violent incidents in the parking lot.

The California Supreme Court framed the issue as whether an establishment assumes a duty to protect its patrons when it voluntarily provides security. In a 5-2 decision, the Court found a duty based on a "special relationship" between Trax and its patrons, and that this duty was breached when the security guard learned trouble was likely, and failed to take steps to prevent it. The Court's analysis noted that it "requires no mastery of metaphysical philosophy or economic risk analysis to appreciate the strong possibility of serious injury to persons against whom such imminent or ongoing criminal conduct is aimed."

Morris v. De La Torre

In a companion case, -- Morris v. De La Torre -- the justices unanimously ruled that a man beaten up in a parking lot of a restaurant may sue the establishment's owner because the employees failed to call 911.

In August 2000, Charles Morris, IV was assaulted at 1:00 a.m. outside a 24 hour restaurant near Imperial Beach, California. Morris was in the parking lot when he was challenged by Richard Cuevas and Saul De La Vega. After Cuevas punched Morris, the victim's friends jumped into the fight. Cuevas then ran into the restaurant, grabbed a 12-inch knife from the kitchen, ran back outside and stabbed Morris three times. Restaurant employees watched the attack through a large plate glass window, but did nothing.

Morris sued the restaurant owner contending that the employees should have at least called 911. The employees asserted they were afraid the gang members could have seen them place a 911 call. The California Supreme Court, however, agreed with Morris. With respect to the employees' claimed fear, the Court noted that the employee "failed to place such a call because they wished to avoid involvement with authorities due to their respective immigration status."

Castaneda v. Olsher

On November 9, 1996, Castaneda, a mobile home park resident, was injured by a stray bullet shot

during a gang fight in the mobile home park. Castaneda, a 17-year-old, had returned to his mobile home after a party at approximately 2:00 a.m. Shortly thereafter, he came back outside to meet a few friends. At the same time, two men emerged from another mobile home located on the lot across from Castaneda's home. The two men exchanged rival gang slurs with occupants of a car parked in front of Castaneda's mobile home. Castaneda was standing on the steps of his home when one of the two men fired shots. A stray bullet injured Castaneda.

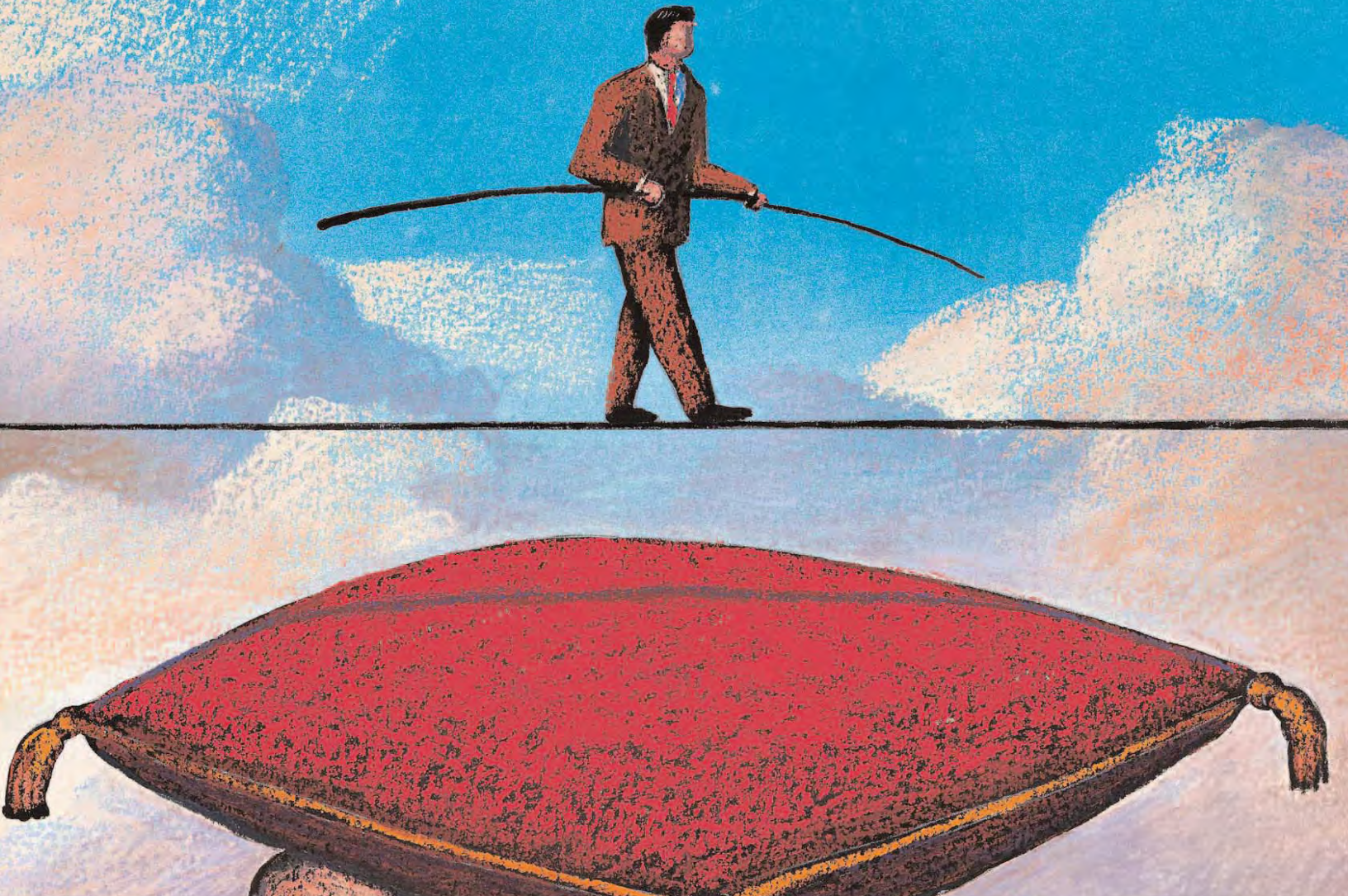
Castaneda sued the landlord of the mobile park for premises liability contending that the gang-related shooting was sufficiently foreseeable so as to impose a duty on the landlord to take appropriate measures to attempt to protect residents. Castaneda presented substantial evidence of prior gang-related crimes that occurred at or near the mobile home park. The Court held that the landlord had a duty to take appropriate measures, including hiring private security, to attempt to protect residents from gang-related violence on the premises. The Court reasoned that in light of the fact that the landlord was aware that the park had experienced substantial crime problems and that there was gang activity occurring at or near the premises, he should have taken steps to secure the park against a shooting incident such as the one that occurred in this case.

The Lesson:

Premises owners or security guard employers must ensure that post orders clearly specify responsibilities and are being followed. Property owners, managers and landlords must take reasonable actions to protect patrons and tenants from the reasonably foreseeable criminal conduct of third parties. When a property owner or manager is on notice of the presence of gang members and gang activity on the property, it is reasonable to expect the property owner, manager or landlord to make efforts to increase security measures on the premises. This may now include the duty to hire private security guards. Train your employees to immediately contact appropriate law enforcement personnel whenever they see or suspect imminent or ongoing criminal conduct.

The thoughts and discussions expressed herein are not intended, nor deemed to be specific legal advice, or up to date law to be relied upon by others or any client.

LET US DO WHAT IT TAKES



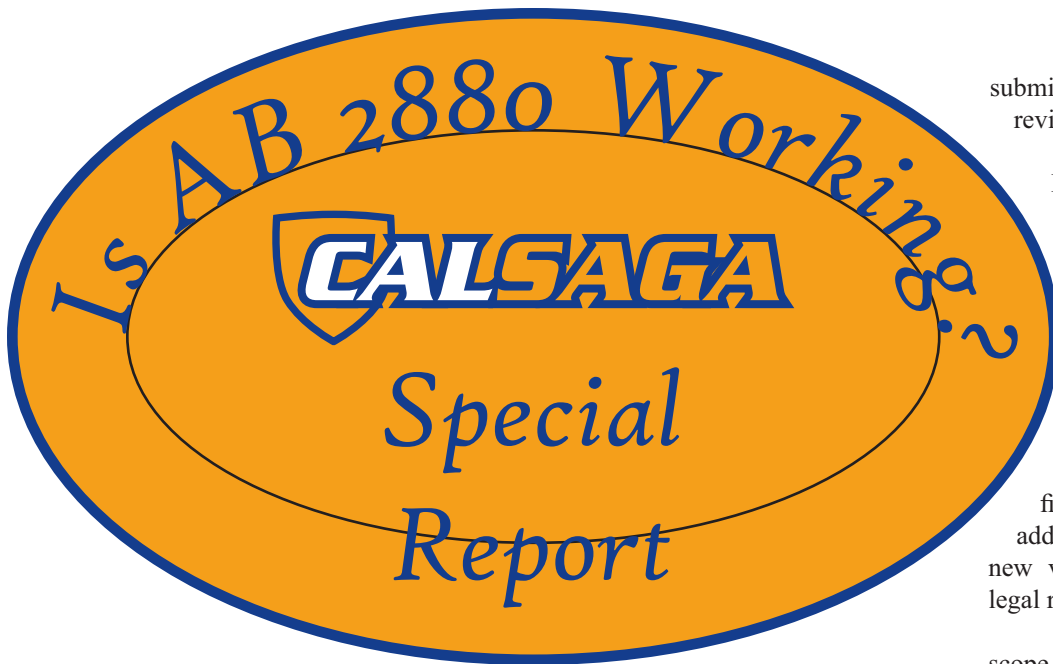
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CALSA GA Seeking Updates, Changes in Training Regulations

Over the year since the regulations which support AB 2880 have been in effect, CALSA GA has been working with BSIS to seek several changes and additions to the regulations. The proposed changes, which seek to clarify some issues with training media and modify or add to the course outlines and curriculum, have now been submitted by BSIS for legal review, and may soon be available for public comment.

From the early days of the legislative process for AB 2880, CALSA GA sought three goals for the legislation - meaningful training standards, topics relevant to what officers really do, and flexibility in compliance. CALSA GA worked to modify the legislation while it worked its way through both houses and to then Governor Davis, largely achieving these goals, while in other cases setting up a plan to adopt regulations which would in turn achieve these goals.

After the law passed, CALSA GA worked with BSIS in the development of regulations which implement the law. These regulations include matters such as the course curriculum with which most CALSA GA members are familiar,

such as the mandatory modules like Public Relations, and the elective course like Trespass, Officer Safety, and others. The regulations also spell out the format for the certificates that must be issued to each officer who receives training, and govern the media (classroom, self-study, video, etc) through which the training must be delivered. Currently, the training regulations state that all courses should include a mix of written materials, lecture and exercises.

Because emergency approval was needed for the original regulations to implement AB 2880, CALSA GA chose to support these first versions, even though many members felt that some courses which obviously should be part of the curriculum were left out. Other members felt that a commitment to greater flexibility in the training medium had been promised during the legislative process, and that the regulations' focus on lecture and classroom learning was too strict.

BSIS agreed to sit down with CALSA GA representatives to discuss our long term requests for changes to the regulations, and in keeping their word, sat down with CALSA GA on several occasions

over the course of this year, submitting the proposed changes for legal review.

On the issue of curriculum, BSIS, after consulting with CALSA GA, has agreed to allow credit for the Bureau's Certified courses in Firearms Training (Initial and Annual Requalification) and Baton Training. They have also agreed to allow up to eight hours credit for the Bureau's School Security Guard Training Program.

Additionally, four hours of fire safety and prevention have been added to the elective course list in the new version of the regulations pending legal review and public comment.

All of these additions expand the scope of the training law for duties that security officers are regularly called upon to perform.

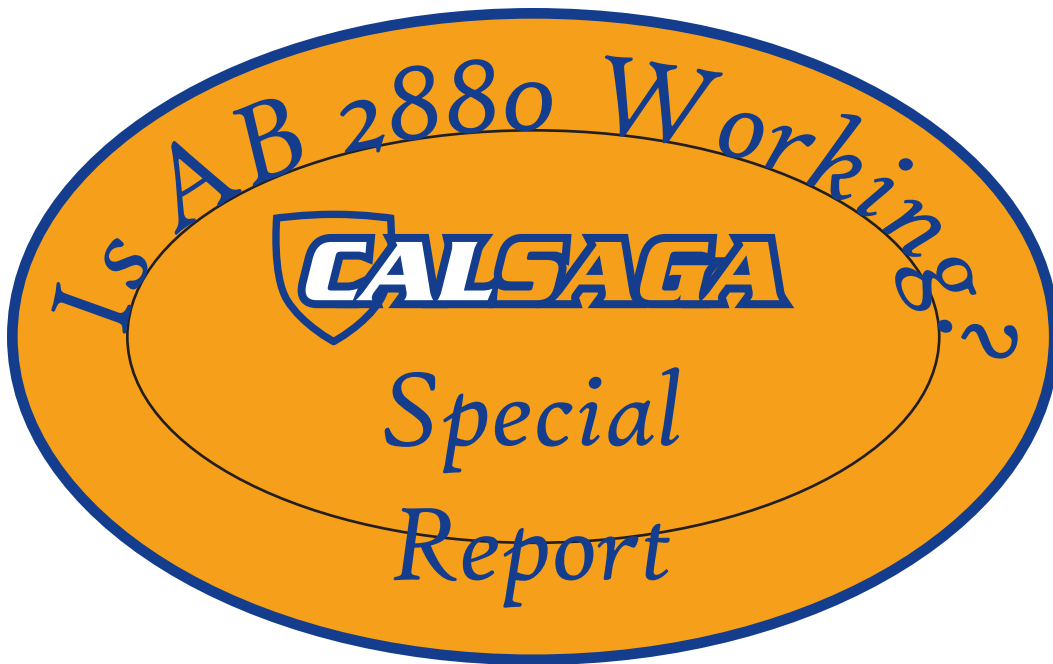
Meanwhile, CALSA GA is also asking BSIS to consider modifications to the presumption that all training must include classroom lecture to be effective.

As several of the leading trainers involved in CALSA GA, such as Gary Hormel of Securitas Security Services, have pointed out, all people learn in different ways, and different types of content are better suited by varied learning environments. The "Power to Arrest" course, for example, in which arrest techniques must be shown, classroom instruction and hands on exercise are perfectly appropriate. But a course on legal aspects of security law, which involve more memorization of rules and precedents, self study followed by testing might be a more effective training medium.

In the short term, CALSA GA has asked BSIS to slightly modify the regulations for both mandatory and elective courses to make the provision of training more permissive.

In the long term, however, CALSA GA has offered to have training experts sit down with BSIS and, on a module by module basis, make a finding as to which should mandate lecture, which should allow self-study, and which should allow a combination of each, or more.

The proposed changes to the training regulations should soon be available for public review, and thereafter, in effect. CALSA GA will keep members up to date on the status of this update as it progresses.



the CALSA GA online training database

Established by CALSA GA to help security firms and training facilities comply with the documentation side of the training law, the Database is a great tool to comply with all aspects of the law, such as:

- **Documentation:** The new security officer training law requires not only that you provide training to your officers, but keep detailed records of that training. You must issue each officer a training certificate for each module taken with a unique, serialized number identifying the training given to each officer.
- **Officer Company-Hopping:** We all know that officers move from company to company. But with the new training law, who keeps track of whether the officer sitting across from you really got training at the PPO he worked at before? BSIS doesn't. But the CALSA GA Database does. If his records are in the Database, then you can put this officer to work right away, and not have to take the time and expense of repeating his training.

At this year's conference, find out how the Database really works, what the benefits are, and how it can help you comply with the training law and save you time and money.

