

**TEXAS PRIVATE SECURITY BOARD**

**REGULARLY SCHEDULED BOARD MEETING HELD AT 9:00 A.M.,  
JULY 14, 2009**

**TEXAS DEPARTMENT OF PUBLIC SAFETY  
6100 GUADALUPE ST. BUILDING E  
CRIMINAL LAW ENFORCEMENT BUILDING  
AUSTIN, TX 78752**

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**BOARD MEMBERS PRESENT:**

Honorable John Chism, Chairman;  
Honorable Howard H. Johnsen, Vice-Chairman  
Honorable Mark Smith, Secretary  
Honorable Charles Crenshaw  
Honorable Doris Washington  
Honorable Patrick Patterson

**BOARD MEMBERS NOT PRESENT:**

Honorable Stella Caldera

**STAFF PRESENT:**

Wayne Mueller, Texas Department of Public Safety, Assistant Chief, Regulatory  
Licensing Service;  
RenEarl Bowie, Captain- Manager, Private Security Bureau;  
Jean O'Shaw, Staff Attorney, Texas Department of Public Safety,  
Regulatory Licensing Service;  
Reggie Andrews, Program Supervisor II – Licensing, Private Security Bureau;  
David Wise, Private Security Board Attorney, Texas Department of Public Safety,  
Regulatory Licensing Service;  
Other members of the staff;  
Members of the industry;  
Members of the general public.

**MINUTES**

These minutes are a summary record of the Board's work session meeting. This meeting was audio recorded and video taped. For a detailed record of discussions and statements made by persons speaking at this meeting, please consult the video DVD on file at the Board's office.

The Board meeting was called to order at 9:01a.m.

Chairman Chism welcomed everyone to the meeting and asked that all cell phones and pagers be turned off or set to vibrate for the duration of the meeting. Chairman Chism then made welcome

Assistant Chief Wayne Mueller and Board member Patrick Patterson. He went on to inform everyone that a Rules committee had been formed to research the upcoming rule changes. He stated that this committee consisted of: former Private Security Board Chairman George Craig, former Private Security Board Vice-Chairman Michael Samulin, current President of TLA John Arnold, and current President of TALI Randy Kildow. He further stated that the committee would work with the Board's executive committee on rule changes brought about by the passing of HB 2730.

**Agenda Item I: Approval of Minutes for Board Meeting from April 8, 2009.**

Chairman Chism introduced this agenda item. On a motion made by Secretary Smith and seconded by Vice-Chairman Johnsen, the Board voted unanimously to approve the Minutes for the Board Meeting of April 8, 2009 as written.

**Agenda Item II: Status report from advisory committees.**

Chairman Chism introduced this agenda item and stated that at this time he wanted to bring up Agenda Item XI: Rule §35.311 Exemptions. Secretary Smith stated the advisory committee had worked on this rule and gotten it into a condition that they were happy with. On a motion made by Secretary Smith and seconded by Vice-Chairman Johnsen, the Board voted unanimously to accept the changes to Rule §35.311 as written.

**Agenda Item III: Discussion and possible action regarding proposed amendments to Rule §35.1, relating to Definition of "Television Camera or Still Camera System".**

Chairman Chism introduced this agenda item. He stated this rule was brought about by HB 4137 during the last legislative session. Also, number seven of this rule change was added to clarify the Bureau's current interpretation regarding the issue of investigators who use surveillance cameras in their work. Chairman Chism further asked if there was any discussion on this matter. On a motion made by Secretary Smith and seconded by Vice-Chairman Johnsen, the Board voted unanimously to accept the amendments to Rule §35.1 as written.

**Agenda Item IV: Discussion and possible action regarding proposed amendments to Rule §35.42, relating to Disqualifying Class B Misdemeanors.**

Chairman Chism introduced this agenda item. He stated this rule was regarding moving Terroristic Threat from always being disqualifying to possibly being disqualifying. He went on to ask if there was any further discussion on this matter. Secretary Smith stated that his understanding of this rule was that minor incidents without malice would be brought to the Board for decision. On a motion made by Secretary Smith and seconded by Board member Washington, the Board voted unanimously to accept the amendments to Rule §35.42 as written.

**Agenda Item V: Discussion and possible action regarding proposed amendments to Rule §35.43, relating to Other than Honorable Discharges.**

Chairman Chism introduced the agenda item. Vice-Chairman Johnsen stated the way he understood the changes to this rule was that it would virtually put ex-military under the same rules as civilian and offer people who have been discharged from the military with problems, the

same opportunity as civilians. Vice-Chairman Johnsen made a motion to accept the amendments to the rule as written. Board member Crenshaw asked for clarification on this rule. He asked how long a person separated from the military, under an Other Than Honorable discharge, would have to wait before being licensed. He went on to say that his biggest concern was alienating one of the largest pools of potential employees. He further stated that a person with two tours of duty and a chest full of medals that was insubordinate to an officer shouldn't have those tours and medals overlooked. Vice-Chairman Johnsen stated that the problem is a real problem because as it stands now the Board has no flexibility in such cases. He went on to say with the proposed change to the rule, if someone with an other than honorable discharge for something like gambling, as an example, the Board could relate the offense to a civilian penalty such as a Class B misdemeanor.

Board Attorney David Wise addressed the Board regarding the amendments to this rule. He stated Attorney Steve Moninger drafted the changes to this rule. He went on to say that when he spoke with him regarding this Mr. Moninger stated to him that when he drafted the changes to the rule he did not make the disqualifications for military discharges in Rule §35.43 analogous to those for civilian offenses as in Rule 35.46. Vice-Chairman Johnsen asked if (b) of the rule should say 5 years instead of 10. Mr. Wise responded that that was something for the Board and rules committee to consider, but yes Vice-Chairman Johnsen was correct. Vice-Chairman Johnsen asked if the Board were to make the rule more uniform with civilian offenses then (b) should be changed to 5 years and (a) should have no waiting period. Chairman Chism stated that these questions were also questions he had and that he thought this should be referred to the Rules committee until the "punishment" phase could be set. Vice-Chairman Johnsen withdrew his motion at this time. On a motion made by Board member Crenshaw and seconded by Board member Washington, the Board voted unanimously to refer this amendment to the rules committee for their recommendation.

**Agenda Item VI: Discussion and possible action regarding proposed amendments to Rules relating to Fees: Rule §35.70, Fees; Rule §35.231, Subscription Fees for Renewals; Rule §35.232, Subscription Fees for Original Applications; and Rule §35.233, Subscription Fee for Employee Information Updates.**

Chairman Chism introduced this agenda item, stating that this item concerns more than one rule involving fees that the Board will have to accept under HB 2730, the sunset bill. He further stated that before the Board moves forward on this decision he felt the Board needed input from DPS, DPS's budget analyst, and Captain Bowie in developing and changes to the fees. He also stated that under this bill there will be new ways to register people such as endorsements. He went on to say that this actually did not need to be put into effect until January 1, 2010. On a motion made by Secretary Smith and seconded by Board member Crenshaw, the Board voted unanimously to refer these changes to the rules committee as well as to DPS, and Captain Bowie.

**Agenda Item VII: Discussion and possible action regarding proposed amendments to Rule §35.71, relating to Operation without Manager.**

Chairman Chism introduced this agenda item. He stated that the amendments to this rule would allow companies to operate for a short period of time until they could get a qualified manager.

On a motion made by Secretary Smith and seconded by Vice-Chairman Johnsen, the Board voted unanimously to accept the amendments to this rule as written.

**Agenda Item VIII: Discussion and possible action regarding proposed amendments to Rules relating to Fingerprint Requirements and Peace Officers: Rule §35.72, Fingerprint Submission; and Rule §35.182, Fingerprints.**

Chairman Chism introduced this agenda item. Vice-Chairman Johnsen stated that peace officers have already been fingerprinted and had background checks done. He went on to say there was really no need to put them through all of that again and this rule would help the Bureau be more efficient. Chairman Chism stated Rule §35.182 was struck and would be removed. He also stated Rule §35.72 is the portion to be voted on during the present meeting. Secretary Smith made a motion to accept the rule as written. It was seconded by Board member Washington. Before a vote could be taken Board member Crenshaw asked about the language of subsection (a). He stated the portion that was struck in that rule was “fingerprint cards obtained from the board” and asked if this meant that it would all be done electronically. Secretary Smith stated that it was meant for peace officers only. Board member Crenshaw stated the way the rule reads it would apply to all applicants. He also said that it would be a good thing because obtaining fingerprint cards from the Bureau could be difficult at times. Vice-Chairman Johnsen stated the Board should look at the entire rule and the Board’s intent was for peace officers only. Secretary Smith asked Board Attorney David Wise if the way it was written meant it was just for peace officers or everyone. Mr. Wise stated he had no input on this rule. Chairman Chism stated that the board could have all of subsection (a) remain as written and just have subsection (b) added to the rule. Secretary Smith stated without having DPS attorney Steve Moninger there to clarify the changes in the rule he would withdraw his motion to accept the rule as written. On a motion made by Board member Crenshaw and seconded by Board member Patterson, the Board voted unanimously to refer this to the rules committee.

**Agenda Item IX: Discussion and possible action regarding proposed amendments to Rule §35.202, relating to Location of Records.**

Chairman Chism introduced this agenda item. He stated that the changes made to this rule were a result of HB 2730. At this time Chairman Chism asked for any public input on this item. Vice-Chairman Johnsen stated that as he understood it, this rule’s intent was for all records to be kept within the state of Texas in regards to applications and other documents. He went on to say that this does not mean one particular spot, just where investigators can be directed to investigate. Vice-Chairman Johnsen made a motion to accept the amendments to the rule as written and it was seconded by Secretary Smith. Chairman Chism, Vice-Chairman Johnsen, Secretary Smith and Board members Washington and Patterson voted for acceptance, while Board member Crenshaw voted against acceptance of the changes to this rule. Amendments to this rule were passed with majority vote.

**Agenda Item X: Discussion and possible action regarding proposed repeal of Rule §35.185, relating to Registration Deadline.**

Chairman Chism introduced this agenda item. Secretary Smith made a motion to refer this to the rules committee. Board member Washington asked for clarification on this rule, asking if she was correct in thinking that before an applicant begins work they must have registration.

Chairman Chism responded that one interpretation of the rule is that all paperwork, fingerprints and background checks must be complete before an applicant can begin work. He went on to say that this process can take up to 3 or 4 months depending on the length of time it takes the FBI to complete the fingerprint check. He further explained that the Bureau currently operates under the 14 day rule which says that everything must be completed and turned into the Bureau within 14 days of hiring the individual, but that person is allowed to go out and work while waiting for the fingerprint and background checks to come back. Ms. Washington stated she would not want to employ anyone with a criminal record or questionable character, even for 14 days. Vice-Chairman Johnsen stated every employer feels that way; however, an employee who doesn't have a problem with their background can't be kept from working for that long. Secretary Smith stated this was one reason why he felt it needed to be referred to the rules committee for further discussion. Board member Crenshaw seconded the motion to refer the rule to the rules committee, and the Board voted unanimously to refer it to the rules committee for further discussion.

**Agenda Item XI: Discussion and possible action regarding proposed amendments to Rule §35.311, relating to Exemptions (from locksmith licensing requirements).**

Discussed and voted on during Agenda Item II.

**Agenda Item XII: Discussion and possible action regarding proposed amendments to Rules relating to Training (Subsection Q)**

Chairman Chism introduced this agenda item. He stated this issue had come up several times over the course of three or four years. Secretary Smith made a motion to accept the changes to Subsection Q as written. Vice-Chairman Johnsen stated that there are several rules within Subsection Q, and also, if the Board could approve the changes all at once then that would be the best way to do it. Vice-Chairman Johnsen seconded the motion and the Board voted unanimously to accept the proposed changes relating to Training, Subchapter Q Rules §35.250 - §35.273 as written.

**Agenda Item XIII: Discussion and possible action regarding proposed Rule §35.46, relating to Guidelines for Disqualifying Convictions.**

Chairman Chism introduced this agenda item. He stated the changes to this rule were related to Chapter 53, which the Board and Bureau will be placed under effective September 1, 2009. He went on to explain that this rule was developed as a guideline for disqualifying convictions. Secretary Smith stated there was a lot of information on this rule change and he felt it would be best to refer it to the rules committee, this being the first time the Board members have seen this change. On a motion made by Secretary Smith, and seconded by Board member Washington, the Board voted unanimously to refer this item to the rules committee for further study.

**Agenda Item XIV: Discussion and possible action regarding modification to Manager Exam in light of HB 2730.**

Chairman Chism stated this modification meant that the Board would give the Private Security Bureau authority to address any problems administratively and test over the court portion of the law and board rules until such time as a new 1702 could be printed and published and new tests written.

Captain Bowie addressed the Board regarding this issue. He stated the Bureau was in a transition due to the legislative session. He also stated these changes would also effect the managers' examination the Bureau is currently giving to manager applicants. He went on to say this matter was discussed and decided to have the Board review any possible alternatives. He stated that one such alternative would allow the Bureau to change the exam and to only ask questions that are core related until the public has access to all of the changes to the Administrative Code and the statute. Vice- Chairman Johnsen asked for clarification regarding the manager exam. He asked if his understanding was correct in that the Bureau would continue giving the manager exam but would withdraw items that were specific to certain areas, and would operate with this test until the Board made a further review after changes to the Occupation Code 1702 and Administrative Code come into affect. Captain Bowie confirmed this question. On a motion made by Vice-Chairman Johnsen and seconded by Secretary Smith, the Board voted unanimously to allow the Bureau to administratively change the manager exam until the new rules could be published and available to the industry.

Chairman Chism continued with this item by stating that the changes to the Administrative Code will become state law and go into effect September 1, 2009. He went on to say that the Board needed to give Captain Bowie and the Bureau the authority to function under the proposed rules that currently are under study by the rules committee, and have all of the changes ready by the next Board meeting in October. Board member Washington asked why all the rule changes weren't automatically referred to the rules committee before the Board received them, instead of the rules coming before the Board then going to the committee and finally coming back for final vote. Vice-Chairman Johnsen stated that the timing of some of the changes were one reason. He went on to say most of the changes weren't signed into law until June. Secretary Smith also stated that by the rules coming to the Board first it gives the Board the opportunity to review them first and only refer the rules that there is a question about to the committee. Mr. George Craig asked the Board if they would like to charge the rules committee to make comments on other rules not referred to them as well. Chairman Chism stated that would be a good idea and would also like the committee to take public input on these rules as well. Mr. Craig stated the committee might have trouble getting public testimony on these rules. Vice-Chairman Johnsen stated that if anyone has concern over a specific rule the Board has named the committee members, who represent different parts of the industry, and the public should get with those representatives to voice their opinion. He went on to say that when the Board gets back together at the next meeting those committee members can voice the concerns on behalf of the individuals within the industry.

**Agenda Item XV: Executive Session as authorized under §551.071.**

Executive Session not taken at this time.

**Agenda Item XVI: Report from Private Security Bureau**

Captain Bowie presented the Investigation statistics to the Board. He stated for the period of 4/1/09 - 6/30/09 there were 998 violations investigated by the Investigations Section of the Bureau. He went on to say that the primary focus of the Investigators continues to be unlicensed activity. He further stated there were 18 cases of operating with an expired license, 47 cases of operating with a suspended license, 73 cases of operating without a license, and 118 cases of

failure to register employees. He also stated that 24 cases were presented to prosecutors. Captain Bowie went on to say that during the last Board meeting Chairman Chism asked that the Bureau add the case dispositions to the Bureau's report as well. He reported that for the same time period of 4/1/09 – 6/30/09, 691 cases were closed with no action being taken, 125 cases were closed with an administrative citation being issued, 65 cases were closed with an administrative warning, and 117 cases were closed with some other type of administrative or criminal action such as an agreed order.

Captain Bowie also stated that on behalf of the Bureau he would like to wish Lieutenant James Morgan well in his transfer to Criminal Intelligence in Waco. He went on to say that the next day would be the Lieutenant's last day with the Private Security Bureau and that his absence from the Board meeting was actually due to him dealing with the transfer process. He continued by saying that the Lieutenant's position would be placed in the promotional system run by the agency's HR department. He also stated the timeframe for having a replacement is unknown at this time and that he would be assuming the responsibilities of both his and the lieutenant's position until such time as someone is promoted to that position. Chairman Chism asked that Captain Bowie extend his regards to Lieutenant Morgan and wish him well, further stating that he will be missed. Secretary Smith agreed, further stating that Jim Morgan was properly focused and had his priorities right with the Bureau. He also stated that he hoped Captain Bowie would see to it that whoever takes the Lieutenant's place follows in his footsteps and focuses on the same priorities.

Captain Bowie introduced Assistant Chief Wayne Mueller to the Board. Assistant Chief Mueller spoke to the Board stating he has been with the agency since 2000 and came over to Regulatory Licensing from the Office of General Council. He went on to say that he would try his best to maintain an open dialog with the Board as well as the industry and view the Bureau in the same manner that former Assistant Chief Valerie Fulmer did. He stated that he intended to follow in her footsteps, with her small shoes being big ones to fill. He finished by stating that if the Board members needed anything from him they should feel free to contact him directly.

Secretary Smith inquired of Captain Bowie whether the Bureau received the new computer system they have been needing. Captain Bowie stated that no, the Bureau has not received a new system yet, however due to working with Chief Mueller the Bureau was to get approximately 2 million dollars for the project. He also stated that they had met with two vendors regarding this project and should have the new system up and running sometime next year. When asked by Vice-Chairman Johnsen if a deadline had been established, Captain Bowie stated that the capabilities still needed to be discussed but 8, 9, or 10 months had been stated.

Licensing supervisor Reggie Andrews presented the Licensing statistics to the Board. He stated that for the period of 4/7/09-7/10/09 the Bureau received 161 original company applications, 1,260 company renewals, 9,380 original individual applications, and 7,386 individual renewals not including on-line applications. Mr. Andrews went on to state for the same time period the Bureau processed the following licenses/registrations: 205 original company licenses (100 on line, 105 manual), 1,261 company renewals (794 online, 467 manual), 10,276 original individual registrations (1,615 online, 8,661 manual), 7,134 individual renewals (2,246 online, 4,888 manual) and 5,405 employee information updates (991 online, 4,414 manual). Mr. Andrews also

stated that currently the Bureau has 5,188 active company licenses, 191 active school licenses, and 119,727 individual registrants. Mr. Andrews also stated that the Bureau processed 309 terminations for the month of April, and 684 terminations for the month of May. He apologized for not having the numbers for June, but stated that he would continue to provide these numbers to the Board in the future. Vice-Chairman Johnsen stated that he knows the Board and Bureau are promoting the online process and is hoping to see more people and companies using that process in the future.

### **Agenda Item XVII: Public Comment**

Brett Rowley, with Off Duty Services addressed the Board. He stated that Off Duty Services was a Houston based company that specialized in the hiring of off duty police officers. He went on to say their company finds that some of the policies and procedures that relate to security officers don't relate quite as well to police officers. He stated he is in favor of a waiver that exempts police officers from having to go through the fingerprint process. He further stated another issue he wished to discuss with the Board is the requirement to maintain color photos in the personnel files. He stated that his company employs people from as far way as El Paso, Port Arthur, and Texarkana and obtaining a color photo can sometimes be very difficult. He went on say that it was his hope to get the Board to consider some sort of language that would allow them to collect, in lieu of a color photo, a copy of the departmental i.d. from the officer. Mr. Rowley handed out an example packet to the Board to illustrate his point. He stated that if they were to collect a clear black and white copy of the departmental i.d., not only would the company have a good representation of what the officer looked like, but they would also have the additional information that goes along with the i.d., such as height, weight, etc. In conclusion he stated that it was his belief that if the Board made the process reasonable for peace officers to register and remove as many roadblocks as possible, more peace officers would become involved in the process.

Kevin Galloway, president of the Gulf Coast region of ASSIST, addressed the Board. He stated that ASSIST also wanted to give their support to Mr. Rowley and the idea of fingerprint waivers for peace officers. He stated that the police officers have already been fingerprinted by their individual departments, so they already exist.

Bonnie Brown Morse, president of Locksmith Association of San Antonio, addressed the Board. She began by saying she knows it is a challenge for the Board to try to create rules and laws that apply to everyone in the industry from security officers to locksmiths. She continued by saying at times people forget that the rules do have to apply across that broad spectrum and that she really appreciates the work that the Board is doing. She went on to say that a large number of locksmiths in the San Antonio area are not happy with the exemption that the Board passed at this meeting, legally allowing handymen to do the work of a locksmith. She further stated that handymen can not legally do the work of an electrician or plumber but can legally do the work of locksmiths. She finished by saying that she wished to go on record as stating that the locksmiths are not happy with the exemptions that were passed.

Rodney Hooker, vice-president of TBFAA, addressed the Board. He began by welcoming Mr. Patterson to the Board and commending Chairman Chism on appointing a committee to look

over the proposed rules and give the industry's feedback on them. He went on to say that when he attends the board meetings he is always entertained to find out the things that are going on at the Bureau, but most people don't know about them. He further stated he felt it would be beneficial to post some of the information on the website, such as the Bureau updates on investigation activity and licensing. He stated he thought it would be helpful for the industry to see that enforcement was going forward. He went on to give the example of the State Fire Marshall's office, stating that every two or three months they post violations online, even going so far as to give the company's name along with the fines that were levied against them. He concluded by saying that he would like for the Board to consider putting these things on the Bureau website as it would be of great service to the industry by letting them know what is happening.

Mitchell Gelman, speaking on his own behalf, addressed the Board. He stated that he was an individual to which all of the rules discussed during the meeting apply. He further stated that he has been in the locksmith industry for 20 years working both in house as well as on out of state commercial work. He went on to say that there was a problem with the system and that he wished to make the Board aware. He stated the timeline of the administrative process placed undue hardship on individuals. He went on to say that in January he began with a company and submitted his online application for an alarm installer. He also stated that when the summary denial letter was received he was pulled in off the street but allowed to work in the warehouse and office at a reduced rate of salary. He further stated it took a month and a half to clear up an issue that was over nineteen years old, and in April requested, through Mandy Tennill, to have the issue brought before the Board. He stated that he was denied and told that he would first have to go before a SOAH judge. He also stated that after another month of waiting he has done that but then had to wait another 60 days for the judge's opinion and now must wait again until the Board meets again at the October meeting. He continued by saying that he has now had to wait over 9 months to clear up this issue and has spoken with others who have had the same problem with the administrative process. He then stated he is now \$2,700 in debt, has wiped out his savings, and is currently making way below his pay scale. He concluded by saying he wanted the Board to think about the individuals who suffer because of the delays and also that they consider how to streamline the process in the future.

Chairman Chism called for a 15 minute break at 10:10am.

Chairman Chism called the meeting back to order at 10:31am.

### **Agenda Item XVIII: Administrative Hearings on Licensing and Disciplinary Contested Cases.**

Jean O'Shaw presented all Hearing cases to the Board.

#### CHL Integrity Security Services- Docket No. 002572009

Mr. Cesar Enriquez Lopez, owner of CHL Integrity Security Services was present to address the Board on this case, but did not have counsel present on his behalf. Ms. O'Shaw stated that CHL's company license was revoked due to its 100% owner's convictions of 2 class A

misdeemeanors. She further stated that the company can not run without an owner/manager and since he was the only owner of the company, and unable to be licensed, this also meant that continuing to operate the company would be in violation of Texas Occupations Code 1702.119 and 1702.221. She asked the Board to deny SOAH's decision and revoke CHL Integrity Security Services' company license. Mr. Lopez addressed the Board with the help of interpreter David Wise. Mr. Lopez also supplied the Board with a copy of his written statement. Mr. Lopez began by telling the Board that he came to this country in 2001 with the objective to work as best he could and he thinks he has accomplished that. He went on to read the following statement: "By this means I want to sincerely apologize for any wrongdoing in the past, it was never my intention to cause any harm, violate any federal, state or local law or anything of that style. I would also like to solicit a revision of the outcome of the charges imposed on case #1524555 which is a violation on Mr. Elio Montes, in which he was carrying a Baton. I believe that the charge was too high since it is the first time I have been charge under this violation. Also, I was charged for hiring an individual whom lied in his application of employment. On case number 1524556, which is a violation on Mr. Jaippee Jackson, Mr. Jackson lied on his application not letting us know that he had had a conviction in the past, it is worth mentioning that it happened more than twenty years ago, and he applied to work as security and it was up to the Texas Private Security Bureau to approve his application. With all do respect, I would like to have the charges changed to lower class. Also, I would like to know ho it is possible for me to continue working in the security industry even if is as a security officer, since it is the profession I decided to work in. I sincerely thank you for your help and understanding in this matter. I am confident that we can work this out and put it in the past, since my family and I is what we want." Mr. Lopez went on to say that in January 2007 investigators found Mr. Elio Montes working with a baton. He further stated that a few days later the investigators arrived at his office and asked if he gave the baton to Mr. Montes, to which he replied that he had. He further explained that Mr. Montes had a commissioned card and he thought that they could carry a baton; he did not know they weren't allowed to carry a baton. He also stated that he wished for the Board to review the case as he did not even have a chance to correct the problem.

Board member Crenshaw asked what license the company had to operate. Ms. O'Shaw responded that the company operated under a Class B license. Board member Crenshaw stated that according to SOAH's analysis and recommendation on page 16 of the Administrative Cases book provided by the Bureau, he may not have ever been licensed. He read, "Staff has the burden of proof in this matter. No direct evidence, such as the license itself, was offered to demonstrate that CHL, in fact, holds a license issued by the Board. If it does not hold a license, there is nothing to revoke." Ms. O'Shaw stated that Mr. Lopez may not have provided a copy of his license, but she was unsure as she was not present at this hearing. Secretary Smith stated to the Board that he did not have a clear understanding of this case. Vice-Chairman Johnsen stated that it appeared that the company had a Class B license and continued to operate as the manager while he was suspended. He also stated that Mr. Lopez furthermore employed people without the proper licenses while his license was suspended and these were violations of Occupations Code 1702. However, he continued, the biggest problem with this case was that the person with the most knowledge was here but had limited ability to communicate the facts and the person who was present at the hearing was not at the current Board meeting. Board member Washington asked for clarification on her understanding of this case. She stated that as sole owner and manager of the company CHL, Mr. Lopez's license was revoked due to his three

misdeemeanor convictions and as such he has no one else to transfer the company's operation to and therefore it is as if the company doesn't exist and the company license should be revoked. Ms. O'Shaw stated that was a correct understanding of the case.

Vice-Chairman Johnsen made a motion to table further discussion of this case until the next meeting of the Board when Mr. Moninger would be in attendance and perhaps could shed more light on this case. Board member Crenshaw seconded the motion. The motion passed on a 5-1 vote with Chairman Chism voting against the motion. This case is to be revisited during the next meeting of the Private Security Board.

#### Adrienne Hill- Docket No. 002792009

Ms. Hill was not present to address the Board on this case, nor did she have counsel present on her behalf. Ms. O'Shaw stated Ms. Hill's registration as a non-commissioned security officer was revoked based on her Class B misdemeanor conviction of theft (\$50-\$500). She asked the Board to uphold SOAH's decision and revoke Ms. Hill's registration.

Secretary Smith made a motion to uphold SOAH's decision and revoke registration as non-commissioned security officer. Board member Crenshaw seconded the motion, and the Board voted unanimously in favor of the motion. Ms. Hill's registration as a non-commissioned security guard was revoked.

#### Gabriel Coronado- Docket No. 002862009

Mr. Coronado was not present to address the Board on this case, nor did he have counsel present on his behalf. Ms. O'Shaw stated Mr. Coronado's application as an alarm installer was denied based on his felony conviction for Possession of Controlled Substance. She asked the Board to uphold SOAH's decision and deny Mr. Coronado's application.

Secretary Smith made a motion to uphold SOAH's decision and deny application as an alarm installer. Board member Patterson seconded the motion, and the Board voted unanimously in favor of the motion. Mr. Coronado's application as a an alarm installer was denied.

#### Kevin Johnson- Docket No. 004632009

Mr. Johnson was not present to address the Board on this case, nor did he have counsel present on his behalf. Ms. O'Shaw stated Mr. Johnson's application as a non-commissioned security officer was denied based on his two felony convictions of "Burglary of a Building" and "Scheme to Defraud". She also stated that he misrepresented the nature of his criminal background on his application when he indicated that he had no felony convictions. Ms. O'Shaw asked the Board to uphold SOAH's decision and deny Mr. Johnson's application.

Secretary Smith made a motion to uphold SOAH's decision and deny application as a non-commissioned security officer. Board member Crenshaw seconded the motion, and the Board voted unanimously in favor of the motion. Mr. Johnson's application as a non-commissioned security officer was denied.

#### Robyn Sanders- Docket No. 004652009

Ms. Sanders was present to address the Board on this case, but did not have counsel present on her behalf. Ms. O'Shaw stated Ms. Sanders' application for a security officer commission was denied based on her on her felony conviction for Securing Execution of Document by Deception. In addition, Ms. O'Shaw stated that this conviction leaves Ms. Sanders statutorily disqualified as she is federally disqualified to possess a firearm. She asked the Board to uphold SOAH's decision and deny Ms. Sanders' application. Ms. Sanders stated when she went before the SOAH judge she was advised to apply for a full pardon. She stated that she applied for the pardon and sent it off 5 weeks ago, but it could take up to 6 months for the outcome. Secretary Smith asked if she had any objection to working as a non-commissioned security officer until her pardon is granted, to which she replied she did not have an objection.

Board member Washington made a motion to uphold SOAH's decision and deny application as a commissioned security officer. Board member Patterson seconded the motion, and the Board voted unanimously in favor of the motion. Ms. Sanders' application for a security officer commission was denied.

Vice-Chairman Johnsen suggested to Ms. Sanders that she apply for a non-commissioned security guard registration in the meantime of awaiting her full pardon. He also added to Mr. Andrews that he wished to see her application processed as quickly as possible should she decide to apply for a non-commissioned security guard registration.

#### Tommy Garrett- Docket No. 004872009

Mr. Garrett was present to address the Board on this case, but did not have counsel present on his behalf. Ms. O'Shaw stated Mr. Garrett was erroneously issued an electronic access license in 2004 and he was erroneously issued a registration as an alarm installer in 2009. She then stated that his registration as an alarm installer was revoked based on his felony conviction of Unauthorized Use of a Vehicle. She asked the Board to uphold SOAH's decision and revoke Mr. Garrett's registration as an alarm installer. Secretary Smith asked if under the new statute going into effect in six weeks, he would be eligible for licensure at that time. Ms. O'Shaw stated that in six weeks he would be eligible because the conviction would be over 10 years old at that time.

Secretary Smith stated that he thought it was silly to make Mr. Garrett re-apply in six weeks and therefore made a motion to deny SOAH's decision and re-instate Mr. Garrett's registration as an Alarm Installer. Vice-Chairman Johnsen seconded the motion, and the Board voted unanimously in favor of the motion.

#### **Agenda Item XIX: Executive session (consultation with attorney) as authorized under §551.071, if necessary.**

The Board elected not to take executive session at this time.

#### **Agenda Item XX: Adjournment**

Chairman Chism introduced this agenda item. Secretary Smith made a motion for adjournment. Board member Washington seconded the motion, and the Board voted unanimously in favor of the motion. At 11:34am, the July 14, 2009 meeting of the Private Security Board was adjourned.