

TEXAS PRIVATE SECURITY BOARD

**REGULARLY SCHEDULED BOARD MEETING HELD AT 9:00 A.M.,
APRIL 8, 2009**

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

BOARD MEMBERS PRESENT:

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

BOARD MEMBERS NOT PRESENT:

Honorable Harold Warren
Honorable Stella Caldera

STAFF PRESENT:

RenEarl Bowie, Captain- Manager, Private Security Bureau;
Steve Moninger, Senior Staff Attorney, Texas Department of Public Safety,
Regulatory Licensing Service;
Jim Morgan, Lieutenant – Investigations, Private Security Bureau;
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 8:57a.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.

Agenda Item I: Approval of Minutes for Board Meeting from January 27, 2009.

Chairman Chism introduced this agenda item. On a motion made by Secretary Smith and seconded by Board member Crenshaw, the Board voted unanimously to approve the Minutes for the Board Meeting of January 27, 2009 as written.

Agenda Item II: Status report from advisory committees.

Secretary Smith stated that the Advisory Committee was not currently working on any projects and therefore had nothing to report at this time.

Agenda Item III: Discussion and possible action regarding Board Resolutions relating to Rule §35.42, Disqualifying Class B Misdemeanor Offenses.

Steve Moninger presented this item. Mr. Moninger stated that in a previous meeting the Board passed a resolution to this rule, moving the Terroristic Threat offense from the mandatory disqualifying list to the discretionary disqualifying list. He further stated that it was noted that the offense of Criminal Mischief (\$50-\$500) was not listed on either list. Mr. Moninger presented the following proposed amendment to this rule:

- (a) Pursuant to the requirement of Section 1702.113(b), the following Class B misdemeanor offenses (as reflected in the Texas Penal Code) are disqualifying for five years from the date of conviction:

- 22.01 Assault (by threat or offensive contact with sports participant)
- ~~22.07 Terroristic threat~~
- 25.04 Enticing a child from lawful custody
- 28.03 Criminal Mischief (\$50-\$500)
- 31.03 Theft (\$50 to \$500)
- 32.41 Issuance of bad check (for child support)
- 32.45 Misapplication of fiduciary property
- 32.46 Securing execution of a document by deception
- 37.08 False report to police officer
- 37.12 False identification as peace officer
- 39.02 Abuse of official capacity
- 39.05 Failure to report death of prisoner
- 42.01 Disorderly conduct (firearm in public place)
- 42.02 Riot
- 42.061 Silent or Abuse Calls to 911 Service

- (b) Pursuant to the requirement of Section 1702.113(b), the following Class B misdemeanors (as reflected in the Texas Penal Code) are disqualifying for five years from the date of conviction, subject to the discretionary authority of the Manager (as delegated by the Board) to consider mitigating circumstances:

- 21.08 Indecent exposure
- 22.07 Terroristic threat
- 30.05 Criminal Trespass (not habitation)
- 31.12 Theft of or tampering with multichannel video or information services (and conviction)
- 32.52 Fraudulent, Substandard or Fictitious Degree
- 33.02 Breach of computer security
- 33.A.02 Unauthorized use of telecommunications service (less than \$500)
- 33.A.04 Theft of telecommunications service (less than \$500)

- 38.02 Failure to identify (if a fugitive)
- 38.04 Evading arrest or detention
- 42.07 Harassment

(c) Class B misdemeanors not listed in subsections (a) or (b) are not disqualifying under Section 1702.113, except that:

- (1) Any unlisted offense that is substantially similar in elements to a listed offense is disqualifying in the same manner as the corresponding listed offense;
- (2) Any unlisted Class B misdemeanor offense that was an "attempted" Class A offense is disqualifying, subject to the discretionary review by the Bureau Manager;
- (3) Any unlisted offense that is classified as a Class B misdemeanor as a result of a reduction from a Class A misdemeanor is disqualifying, subject to the discretionary review by the Bureau Manager;
- (4) Subject to review by the Board at the next, regularly scheduled, public meeting, any unlisted offense in which either the elements of the offense or the circumstances surrounding the commission of the offense are such that the manager reasonably and in good faith believes that the Board would conclude that the offense should be disqualifying.

Mr. Moninger explained that the additions to Subsection (c) were with the intention of granting the Bureau Manager more discretion in cases where offenses should be listed but for one reason or another are not. He went on to say that the first three changes to this section were in the resolution and addressed offenses from other states, with elements potentially the same as listed in the Texas Penal Code, but because they don't match exactly it leaves room for argument that the offenses are not listed. He also stated that the final suggested change to this section was added to allow for situations where the circumstances of the offense or situation are such that the Manager is confident that the Board would have wanted it on the list had it considered the offense. He went on to say that these cases would be subject to the Board's review at the following meeting to confirm that the Manager was correct in his determination.

Secretary Smith asked if criminal mischief was the same as vandalism, to which Mr. Moninger stated that it was. Secretary Smith stated that he hated to not issue someone a license because they may have toilet papered someone's house and caused \$50 in damage, and therefore was not certain that this offense belonged on the mandatory disqualifying list. Mr. Moninger responded that he added it to that list because Theft of \$50-\$500 was listed on the mandatory list.

On a motion made by Secretary Smith, and seconded by Vice-Chairman Johnsen, the Board voted unanimously to add Criminal Mischief (\$50-\$500) to the discretionary list. On a second motion made by Secretary Smith, and seconded by Board member Washington, the Board voted unanimously to adopt the remainder of the amendment as written.

Agenda Item IV: Discussion and possible action regarding Board Resolution relating to Rule §35.43, Other than Honorable Discharges.

Steve Moninger presented this item. Mr. Moninger stated that during a previous meeting, the Board passed a resolution to this Rule allowing for more discretion on the part of the Bureau Manager when it comes to Military discharges for any reason other than Honorable. Mr. Moninger presented the following proposed amendment to this rule:

Pursuant to the requirement of Section 1702.113(a), individuals who are discharged from the United States Armed Services under other than honorable conditions are disqualified from receiving a license, commission, or registration for the following time periods:

- (a) for five years after the date of discharge if the discharge was based on a criminal offense equivalent to a Class B misdemeanor;
- (b) for ten years after the date of discharge if the discharge was based on a criminal offense equivalent to a Class A misdemeanor;
- (c) for twenty years after the date of discharge if the discharge was based on a criminal offense equivalent to a felony; and
- (d) for ten years after the date of discharge if the discharge was for any other reason, subject to the discretion of the Bureau Manager.

Board member Crenshaw asked if granting more discretion to the Bureau Manager would still allow applicants to appeal the decision to the Board if they are not granted licensure. Mr. Moninger stated that applicants would still have that option. Vice-Chairman Johnsen asked who decides if the offense is comparable to a Class A misdemeanor, Class B misdemeanor or Felony. Mr. Moninger stated that the DD-214 gives additional information in order to determine this classification. Vice-Chairman Johnsen stated that this rule may need to be readdressed in the future if the proposed bill passes in the Texas House and Senate because the time frame is changed in that bill. Mr. Moninger stated that he did not believe the provisions on Other Than Honorable discharge is effected by the Sunset Bill because it does not effect denials or suspensions based on non-criminal issues and therefore this rule would still be applicable. Vice-Chairman Johnsen stated that the Bill would make tougher standards than it would for felony and he didn't see why the Board should vote on this rule now and then have to amend it upon the outcome of the bill. Mr. Moninger addressed this concern by reminding him that this rule amendment would not take effect before the next meeting of the Board and that the outcome of the Bill would be known at that time.

On a motion made by Secretary Smith and seconded by Board member Crenshaw, the Board voted unanimously to adopt the proposed amendment to this Rule as written.

Agenda Item V: Discussion and possible action regarding Board Resolution relating to Rule §35.311, Exemptions.

Steve Moninger presented this item. Mr. Moninger stated that during a previous meeting the Board passed a resolution to this Rule, addressing the issue of pre-set lock installation. He stated that the proposed amendment to the rule differed from the resolution in terms of specific wording used, but also thought that it tracked the Board's intention. Mr. Moninger presented the following proposed amendment to this rule:

- (a) An owner or employee of a retail establishment open to the general public may perform work on a mechanical security device of the general public within the confines of the establishment, providing that the person does not use the term "locksmith" or any similar term that would lead a reasonable consumer to believe that the person is a registered locksmith. The work on the mechanical security device must be limited to servicing products sold by the establishment or duplicating keys.

- (b) The mere physical placement of a pre-set lockset in a door, when performed in conjunction with the installation, repair or replacement of the door, and which involves no re-keying or other internal manipulation of the locking mechanism, is not a regulated "installation" for purposes of Sections 1702.1056 and 1702.2227 of the Act, so long as the installer does not purport to be a locksmith, use in any manner the term "locksmith" or any similar term, or otherwise lead a reasonable consumer to believe that the person is a registered locksmith.

Vice-Chairman Johnsen stated that the way the Board had the resolution worded the first time was the preferred wording. He went on to say that renovation or new construction projects have always been able to place pre-set locks into pre-hung doors without having to use a locksmith. He further stated that re-keying of a lock was an entirely different event and in trying to simplify this rule he felt it opened it up to additional trouble. He stated that where the trouble begins is when you have one person re-keying the lock and then handing it off to another person for the installation. He went on to say that the best idea at this time was probably to vote down the present proposed amendment to the rule, refer it to the Advisory Committee for review, and vote on this issue again during the July meeting of the Board. Board member Washington asked if a person renovating their home would be able to employ a handyman to install pre-set locks that are pre-packaged from a place like Home Depot in a new door. Vice-Chairman Johnsen stated that a person would be able to do that but having a lock re-keyed at the home site or having it removed, re-keyed and brought back gives a way around the rule. He further stated that a locksmith's main job is re-keying and installing new locks. Chairman Chism stated that buying a new door and lockset to go into that door, a person would use a handyman and not call for a locksmith to put into the hole and tighten a couple of screws. Vice-Chairman Johnsen stated that no he agreed with that, but the installation of a door is different. Chairman Chism stated that during his renovation he took out all of the old locks and replaced them with new himself. Board member Washington asked that as a consumer, could she not have a handyman go to Home Depot and purchase a lock with keys already packaged and have him install that lock. Vice-Chairman Johnsen stated that that example was a third party event and did not involve any re-keying of the lock, so it was not an offense. However, he explained, if the handyman were to give that lockset to another person to re-key, then takes that lockset back to install it in the door and sells you a package deal of providing locks as well as installing them, it would be violating the rule by selling a person that lock whether he did the re-keying or had another do it. He also stated that a locksmith's income is derived by re-keying. He went on to say that a person setting

up shop or business to do lock installations, or re-keying is making an income out of a licensable event. Chairman Chism suggested that this issue be tabled for the moment, and sent to the Advisory Committee for further inspection. He stated that the Committee could consult with Mr. Moninger for a revision of the amendment and the Board would re-visit and vote on this issue at the next Board meeting.

Agenda Item VIII: Discussion regarding ASSIST school/training proposal (Paul Gaumond with North Central Investigation Service)

Chairman Chism took this item out of order on the Agenda. Mr. Gaumond was directed to the podium to address this issue. Mr. Gaumond stated that although he is with North Central Investigation Service, he was not representing them on this matter, but rather was there to discuss this issue with the Board on his own. He stated that he had twenty years experience in law enforcement, twelve years experience in the Private Security sector, served as Chief of Police in a few cities in Texas and currently serves as Chief Deputy Constable in Johnson County, as well as having done work for the Department of Homeland Security as a Transportation Security Specialist. He went on to say that he holds an advanced peace officer license, a TCLEOSE instructor license as well as a level III, level IV, and continuing education instructors' licenses with the Private Security Bureau. He further stated that at this time, according to the Texas Commission on Law Enforcement Officer Standards 40 hours of training every two years is mandated for all peace officers, jailers, and non private security officers according to Texas Occupations Code 1701.351. Continuing Education training goes over cultural diversity, special investigation topics, crisis intervention and civil process, but does not exceed the number of hours of initial training. He went on to say that the private security field requires continuing education for commissioned officers, personal protection officers, private investigators, licensed managers, etc. He further stated that looking at ASSIST's proposal of continuing education for Level III officers mirrors what is already required in the initial training. He went on to say that he couldn't find any other state licensing agency in the country that requires officers to go through more training than they already had initially. He also stated that requiring an officer to go through such training puts a hardship on the officer as well as the company, who would be required to pay the officer during the continuing education training as well as paying another to take that officer's place while in training. He stated that he checked with the U.S. Department of Labor who verified that the company would have to pay that officer if the training were required during their regular work hours. He went on to say that if training were to occur during non-regular work hours, it would also be a hardship in that the officer would have to take unpaid time off in order to complete the training. In conclusion he stated that while the ASSIST proposal was a wonderful thing, it seemed repetitive and an increase in continuing education hours, when it is the initial training that should be increased.

Secretary Smith stated that this had been worked on for the past two years and had many people involved in the process. Vice-Chairman Johnsen stated that this issue had been discussed by the Board for a long time and people developing this didn't realize there was any opposition to it. Chairman Chism stated that this topic had been in the works since 2004 when the topic of continuing education and training first came up. He also stated that committees were formed from all of the different regulated entities and that it was a culmination of five years work and stated that he felt the Board should move on.

Agenda Item VI: Discussion and possible action regarding Board Resolution relating to ASSIST Training Requirement Proposal.

Item discussed previously during Agenda Item VIII. On a motion made by Secretary Smith and seconded by Board member Washington, the Board voted unanimously to develop ASSIST's proposal and place it into effect.

Agenda Item VII: Discussion and possible action regarding Employee Termination procedure.

Captain Bowie presented this item to the Board. He stated that nothing had been developed in detail since the last Board meeting when Secretary Smith stated it was a successful trial regarding his company. He also stated that the Bureau has begun taking the termination notices. He further explained that submission of these notices is voluntary at this time. He also stated that the form can be downloaded from the Bureau's website. Vice-Chairman Johnsen asked how many companies were currently submitting the employee termination forms. Captain Bowie replied that since this project was so new, that information was not available at this time.

Secretary Smith stated that he personally enjoyed the new employee termination form, so that an individual who has been terminated could not keep his company's uniforms and go out performing services. He further stated that should that happen a simple check on the Bureau's website would show that individual had already been terminated from the company. He further stated that while it is voluntary at this time, he would like to see it become mandatory. Captain Bowie stated that he would like to leave these terminations in the hands of the companies and would even like to see them done online without having to involve the Bureau.

Vice-Chairman Johnsen stated that he could not see why a company would choose not to send in an employee termination form on terminated individuals. He went on to say that he would like to encourage other companies to use this form. He also stated that by using this form, companies do not run the risk of violating employee rights. He further asked Captain Bowie if he would report the number of companies using this form at the next Board meeting.

Board member Washington asked if doing an employee termination online or sending it in to the Bureau on paper were faster. Captain Bowie stated that online terminations did not exist yet, that was one hope for the future. He further stated that the Bureau's current system updates itself every 24 hours. She went on to ask what the time frame on terminations was currently. Captain Bowie responded that he did not have that information at this time, but would begin tracking that information and present it at the next Board meeting.

Agenda Item IX: Discussion and possible action regarding official Seal for Security Consultants (Angelo Sanchez with ComTech Group)

Chairman Chism stated that the Board would not be discussing this item, due to the absence of Mr. Sanchez who was to introduce this idea to the Board.

**Agenda Item X: Executive Session as authorized under §551.071, if necessary.
Pending and Contemplated Litigation**

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

Agenda Item XI: Report from Private Security Bureau

Lieutenant Morgan presented the Investigation statistics to the Board. He stated that for the period of 2/1/09-4/1/09 there were 784 violations investigated by the Investigations Section of the Bureau. He further stated there were 30 cases of operating with an expired license, 617 cases of operating with a suspended license, and 37 cases of operating without a license. He went on to say that 28 cases were presented to prosecutors as criminal cases. He concluded by saying that the people involved in the investigations continue to make a heartfelt effort to maximize their efforts in securing voluntary compliance. He went on to say that the people were working at 100-110% capacity, from the Trooper Investigators to the non-commissioned people in the Bureau's office. He stated that they are doing meticulous work. Chairman Chism asked out of the 784 cases presented to prosecutors, how many resulted in criminal cases being filed and how many resulted in administrative fines. Lieutenant Morgan stated that he did not have that information at the present time. Chairman Chism asked that the Bureau please begin including that information as well, beginning at the next Board meeting.

Licensing supervisor Reggie Andrews presented the Licensing statistics to the Board. He stated that for the period 1/24/09-4/6/09 the Bureau received 101 original company applications, 1,041 company renewals, 6,813 original individual applications, and 6,542 individual renewals not including on-line applications. He further stated that for the same time period the Bureau issued 161 original company licenses, 1,026 company renewals, 6,986 original individual registrations, 6,339 individual registration renewals, and 3,928 employee information updates including on-line. He went on to say that currently the Bureau has 5,125 active company licenses, 180 active school licenses, and 117,439 individual registrants. Vice-Chairman Johnsen asked of the applications that are received and processed how many are done electronically. Mr. Andrews stated that he did not know the answer to that and that the numbers that he was submitting to the Board reflected the on-line applications as well.

Vice-Chairman Johnsen stated that he was curious to know how fast the turn around is on mailed applications versus the online applications. Mr. Andrews stated that for individual registrations the process is usually 6-8 weeks and company licenses usually take 8-12 weeks. He went on to explain that with individual licenses, 2-4 weeks is usually due to a hold up in background checks. Vice-Chairman Johnsen stated that the thought behind doing the applications on-line was to speed up the process. He went on to say that he thought the goal was to get applications processed in 10 days or less. Mr. Andrews explained that original applications take longer than the renewals due to the background check that is involved. He stated that renewal applications can usually be processed in 1 week. Secretary Smith asked if the background check backlog was due to the statewide or FBI checks. Mr. Andrews stated that it is both, and it usually takes 1-2 weeks for that part of the process alone. He stated that the longest time is spent on the FBI background checks and has even had some take as long as 4 months. Vice-Chairman Johnsen asked if he was correct in saying that as a person wanting to start his own business, after going thorough the process, may have to wait 4-5 months before being able to open for business and

generating income. Secretary Smith stated that was correct and that it was totally out of the Bureau's hands. He stated that with the State background checks they are not complete. He stated there were only about 60 counties who participate in providing the necessary information. He went on to say the FBI checks go to every county in the country. Vice-Chairman Johnsen asked if Secretary Smith keeps people on the payroll for 6-8 weeks not knowing if he can keep them as an employee, to which he responded yes and added that in his experience, it was rare for a background check to come back with something that would disqualify that employee.

Board member Washington stated that one thing those licensed as Real Estate agents must do is have their fingerprints taken before applying for or renewing a real estate license. She asked if this was something that would help speed up the process, having the prints done as the first step. Mr. Andrews stated companies can elect to do their own manual prints or have IBT process the prints for them, for an additional \$10 charge. He went on to explain that the manual process is chosen by companies because they have prior police officers there who are already trained and have knowledge of how to take the prints. He further stated the failure rate also needs to be taken into account and there were a lot of possibilities as to why a person may have their prints rejected. He explained that a rejected set of prints then means that a letter has to be sent back to the company; new prints must be taken, along with additional fees, etc. He also explained that with the online process through IBT there is a three time failure ratio, meaning if the first two sets of prints fail then they can have the third set done for free. He went on to say the Bureau usually receives those prints from Crime Records within 72 hours, so there is a much faster return on those.

Agenda Item XII: Public Comment

John Arnold, president of Texas Locksmith Association, addressed the Board. He stated the ongoing problem of out of state companies coming into Texas and performing scams continues to get worse. He stated that in the Dallas phone book there are currently 18 pages of bogus locksmith listings. He also stated that the Fort Worth phone book has a similarly high number of these listings as well and the internet phone listings are even worse. He went on to say these companies employ people who are not trained and have caused damage to cars, and even scared people. He continued by saying these companies are hurting legitimate locksmith businesses by stealing away their business and putting some of the smaller operations completely out of business. He further stated that during the previous week the Attorney General of Missouri sued one of these companies who were largely responsible for these activities. He also stated he felt the associations and the Board should work to have Texas's Attorney General bring these companies up on charges as well. He went on to say he understands that the Texas Legislature is currently working to make it a consumer affairs violation. Lastly, he stated he hoped the Bureau, DPS, locksmith associations, and the Board could work together and go to the Attorney General for help with this ongoing problem.

Kathy Wallace, former employee of Off Duty Services, addressed the Board. She stated Off Duty Services has registered over 300 licensed commissioned peace officers as commissioned security officers without their consent or their knowledge. She further stated that the applications have been filled out by an employee of the company at the direction of the owner and that the only portion filled out by the peace officer is the fingerprint waiver. She also stated

the officers have been told that the form is merely for DPS to verify that they are not a reserved officer. She continued by saying Matt Paulson, Vice-President of the company emailed her and directed her to re-assure the officers that all information would only be disseminated to the Department of Public Safety. She stated the officers were also asked to write their place of birth at the bottom of the form, the company then gathered the information from the officer's file to complete the PSB-38A application. She went on to say that vital statistics are being guessed at as well. She also stated page 2 of the application is being photocopied with all answer boxes marked 'no' and an 'n/a' for the signature. She further stated she was informed by a C. Carter employee that this practice is known as "fast-tracking" and is common. She went on to say she spoke with Michael Siegle with the Bureau about this issue and was informed that the Bureau knew nothing about "fast-tracking" and that while the employee is not required to sign page 2 of the application, they are required to answer all of the questions. She further stated this practice can neither be found in the Administrative Rules nor in the Texas Occupations Code. Ms. Wallace went on to say that she feels this "fast-tracking" procedure violates the officers' right to privacy, as the U. S. Supreme Court defines right to privacy as the right of an individual to control the dissemination of information about oneself. She continued by saying that many law enforcement agencies have a policy against peace officers registering as commissioned security officers as they consider it a conflict of interest. She went of to say the application clearly states that this is a government record and any false entry can be considered a criminal violation as also addressed in Administrative Rule 35.11. She stated that while she was employed with this company, she was also registered with the Private Security Bureau and had an obligation to report this information as covered under Rule 35.12. She further stated she was employed as operation manager of Off Duty Services from November 17, 2008 though March 6, 2009. She went on to say that on March 5th she arrived for training on this registration procedure and discovered what exactly was being done. She also said that when she questioned the activity she was informed by the owner the following day that she was not to use the words Private Security Bureau registered security officers. She stated the owner also told her that over 300 security officers had been registered in this way and the company did not need her coming in and messing it up. Ms. Wallace stated it was then that she was let go from her job. She concluded by stating her concerns:

1. How do DPS and the Bureau maintain the integrity of the applications if this practice is allowed?
2. How will Homeland Security respond to neglect and disregard for the integrity of licensing?
3. Asking an officer to fill out a form under false pretences is unethical and fraudulent.
4. The officer's right to privacy and informed consent is being compromised.
5. How will officers respond when they discover what has been done and they have to answer to their respective departments?
6. If the Private Security Bureau does allow "fast-tracking" then why would Off Duty Services be receiving preferential treatment while other security companies have no knowledge of it and are losing potential business because they have not been notified of this alone?
7. If the Private Security Bureau has allowed this deviation from the Administrative Rules and Occupations Code without notifying licensees, such as herself, then aren't they also partly responsible for the loss of her job?

Bonnie Brown Morse, president of Locksmiths of San Antonio area, also addressed the Board. She stated she was glad to hear the discussion of the termination procedures. She also stated that she knew of a case where a licensed company hired an individual, who received a pocket card and worked for a short while, then 2 years later opened their own company using that time as the required experience even though he did not work for the company the entire time claimed. She stated it is good to know that being able to tell the Bureau the specific dates of employment will go a long way toward avoiding these situations. She went on to say the second issue she wished to address was the issue of Exemptions. She further stated that 1702.2225 defines a locksmith as someone who sells, installs, or maintains mechanical service devices. She went on to say that she has ongoing concern on widening the hole that Rule 35.311 is making. She also stated that with this change, her company will no longer have to be a locksmith company and can begin services in sales and do exactly what they are doing now. She further stated the growing concern regarding these exemptions is the protection of the consumer.

Chairman Chism called for a 15 minute break at 10:19am.

Chairman Chism called the meeting back to order at 10:43am.

Agenda Item XIII: Administrative Hearings on Licensing and Disciplinary Contested Cases.

Steve Moninger presented all Hearing cases to the Board.

Adrian Branch- Docket No. 000902009

Mr. Branch was not present to address the Board on this case, nor did he have counsel present on his behalf. Mr. Moninger stated Mr. Branch was denied application for registration as a non-commissioned security officer based on his pending Class A misdemeanor charge for Assault Causing Bodily Injury to a Family Member. He asked the Board to uphold SOAH's decision and deny Mr. Branch's application.

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

Lars Matthews- Docket No. 002592009

Mr. Matthews was present to address the Board on this case, but did not have counsel present on his behalf. Mr. Moninger stated Mr. Matthews was denied application for registration as an alarm installer based on his felony conviction of Driving While Intoxicated-3rd Offense. He asked the Board to uphold SOAH's decision and deny Mr. Matthews' application. Mr. Matthews addressed the Board stating that he was currently employed with Diebold as a conventional tech since 2007 but was hoping the Board would allow his registration as an alarm installer. He stated that he hoped the Board would look at the totality of the situation and look favorably on the fact that he has never had an issue of theft, his work history as well as his ethics. He stated that he felt the benefits outweigh the conviction. He further stated he is the single

father of two minor children who count on him for his support. He went on to say that on bad legal advice he was coerced into entering the plea that he did and if he had known he would not have done this. He stated this conviction was 17 years ago and that he was not at risk of committing any crimes during his daily duties of changing combinations, etc. Secretary Smith stated he thought the Board's hands were tied on this due to statute. He further stated that Mr. Matthews would be eligible in 3 years anyway, but may be eligible in September after the Legislative session which may require the Board to operate under Chapter 53. He went on to say the Board has heard similar cases and in the interest of consistency the Board should deny the application. Vice-Chairman Johnsen asked Mr. Moninger if the Board had any discretion in these matters, to which he replied that the Board may wish to confer with their attorney Mr. Wise, but as the prosecutor of the case he said there was no discretion and the statute is clear. Chairman Chism asked Mr. Wise if the fact that the offense occurred prior to the law denying Mr. Matthews licensure passed have any bearing on the decision, to which Mr. Wise responded that it did not. Board member Washington stated that the Board had heard similar cases in the past and that while their hearts say yes, approve the application, until the law is changed she didn't see where the Board could do that. She stated the Board should stay consistent in these matters.

Board member Crenshaw made a motion to uphold SOAH's decision and deny application for registration as an alarm installer. Board member Washington seconded the motion, and the Board voted unanimously in favor of the motion. Mr. Matthews' application for registration as an alarm installer was denied.

The Board heard the following Default Cases as a whole and voted on them as such:

Joseph Henry – Docket No. 000892009

Arthur Murray – Docket No. 001542009

Ryan McCarther – Docket No. 001652009

Lance King – Docket No. 001672009

Mr. Moninger presented all Default Cases to the Board. None of the default respondents were present at the Board meeting, nor were any of them represented by counsel. He asked the Board to uphold all of SOAH's default judgments, as they did not show up to the original hearings.

Secretary Smith made a motion to uphold SOAH's decisions and revoke registration as non-commissioned and commissioned security officers in the cases of Mr. Henry and Mr. King, as well as denying the applications for registration in the cases of Mr. Murray and Mr. McCarther. Board member Washington seconded the motion, and the Board voted unanimously in favor of the motion. All of the aforementioned applications and registrations were denied and/or revoked.

Agenda Item XIV: 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 XI: Adjournment

Chairman Chism introduced this agenda item. Secretary Smith made a motion for adjournment. Board member Crenshaw seconded the motion, and the Board voted unanimously in favor of the motion. At 11:02am, the April 8, 2009 meeting of the Private Security Board was adjourned.