

**TEXAS PRIVATE SECURITY BOARD**

**REGULARLY SCHEDULED BOARD MEETING HELD AT 9:00 A.M.,  
AUGUST 27, 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 Mark Smith, Secretary  
Honorable Charles Crenshaw  
Honorable Doris Washington  
Honorable Patrick Patterson

**BOARD MEMBERS NOT PRESENT:**

Honorable Howard Johnsen, Vice-Chairman  
Honorable Stella Caldera

**STAFF PRESENT:**

Wayne Mueller, Texas Department of Public Safety, Assistant Chief,  
Regulatory Licensing Service;  
RenEarl Bowie, Captain- Manager, Private Security Bureau;  
Steve Moninger, Senior Staff Attorney, Texas Department of Public Safety,  
Regulatory Licensing Service;  
Reggie Andrews, Program Supervisor II – Licensing, Private Security Bureau;  
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 9:03a.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 July 14, 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 July 14, 2009 as written.

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

Steve Moninger introduced this agenda item. He stated Rule §35.43 needed to be adjusted in light of House Bill 2730, specifically to correspond to the new guidelines for conviction reflected in new rule 35.46. He also stated that the language “would be” should be changed to “would have been” because it is referring to a conviction in the past which might not currently be disqualifying. He further stated that the rule was referring to the date of discharge not the date of conviction.

George Craig addressed the Board at this time, stating that the rules committee received a good bit of input from the public during the discussions. He also stated that the committee consulted the United States Marine Corps separation and retirement manual in order to get the rule as accurate as possible and comparable to civilian law. He stated the note added by the committee refers to there being additional Other than Honorable Discharges that are not disqualifying, specifically “don’t ask, don’t tell”.

Mr. Moninger stated the rules committee’s notes made no changes to the language set out by Bureau staff and also stated that bad conduct was added to the language as disqualifying as well.

On a motion made by Secretary Smith and seconded by Board member Washington, the Board voted unanimously to accept the amendments to this rule as recommended by the rules committee and Bureau staff.

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

Steve Moninger introduced this item to the Board. He stated the only changes between what the Bureau submitted and the committee submitted related to the period of disqualification. He went on to say 20 years for a felony conviction, and 10 years for a Class A misdemeanor was stated because that is what the previous rule was. He stated the rules committee changed it to 10 years for a felony and 5 years for a Class A from date of completion of sentence. He also stated that Chapter 53 states the Board can not disqualify a person for an offense that is not occupationally related for less than 5 years from date of commission. He stated the rules committee changed that to date of completion. Mr. Moninger stated the main issue before the Board was how many years of disqualification and from what date. He went on to say that date of completion is sometimes difficult for staff to determine, where as date of conviction is comparatively easier to see on a rap sheet. He also discussed 3g, or sexually violent offenses and that the new version of Chapter 53, as modified by the 81<sup>st</sup> Legislature, need not be occupation related. He stated those offenses can be the basis of disciplinary action or denial independently. He stated he provided the Board with examples and the bill was H.B. 963 Section 53.021 (2), (3), and (4). He stated

the list of offenses precludes a judge from giving someone probation. He further stated these were very violent crimes and would allow the Board to deny application whether or not they were related to the job. He went on to say the Board would need to decide how long those offenses would be disqualifying.

George Craig also addressed the Board stating the committee modified the verbiage to comply with the statute. He further stated that when an offense relates to the occupation, Chapter 53 states it is 10 years from completion date for a felony, 5 years from date of completion for a Class A misdemeanor, and 5 years from the date of conviction for a Class B misdemeanor. He also told the Board that offenses not related to the occupation are all 5 years from date of commission.

Board member Crenshaw asked what ramifications Mr. Moninger's changes had to the rules committee's recommendations. Mr. Craig responded that the two were compatible, stating that Mr. Moninger added some additional wording regarding violent offenses. Mr. Moninger stated that while the rules would not list every offense he thought the Board should refer to those offenses, because Chapter 53 does state that the Board may suspend or deny based on those offenses. He went on to say that it was his intent to foreclose any argument from a SOAH judge regarding those offenses, saying that the Board had no discretion in those cases. Mr. Moninger further stated that the Board has discretion on Felony and Class A misdemeanor offenses that are related to the occupation. He also stated that Chapter 53 does not limit the Board in terms of how long or from what date. He stated the only constraints were on those offenses that are not related or that are less than 5 years. He further stated that regarding those offenses that are occupationally related or the 3g offenses, the Board does have wide discretion.

Chairman Chism summarized by stating that the committee's recommendation was 10 years on a Felony charge, 5 years on a Class A misdemeanor, and 5 years on a Class B misdemeanor as it relates to occupation. He also stated that the 3g offenses were added to the recommendation. He agreed that he liked the wording "of completion of sentence" better, because if the Board and Bureau go off of the conviction date there is the possibility of a person walking out of the penitentiary and being licensed the next day. He also stated that statistics show if a person can be out of the penitentiary for 17 years, there is a greater probability that they won't re-commit any crime. Mr. Craig stated the committee recommends that the wording "upon completion of sentence" be used on cases where the Board has discretion.

On a motion made by Secretary Smith, and seconded by Board member Patterson, the Board voted unanimously to accept the rule as proposed by the committee with the additions made by Mr. Moninger.

**Agenda Item IV: 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.**

Steve Moninger introduced this item to the Board, stating that the changes to these rules were prompted by the repeal of the statutory scheme and the requirement that the Board adopt these by rule. He also stated it appeared that the committee's recommendation was that the fees stay the

same as in statute with the exception of a few minor changes and that no additional fees are charged for endorsements beyond the current \$30 registration fee. Mr. Moninger referred the Board to a print-out of the current statute showing the current fee schedule. He went on to say that if it were the Board's wish they could incorporate the fees by reference. He stated the current rule §35.70 does refer to the statute containing fees, and perhaps the language could be clarified to state the Rule is referring to a prior version of the statute. He stated this may be accomplished by putting 80<sup>th</sup> Legislative Session in parenthesis or prior version. He also stated that the option would be to physically insert the fee list into the rule.

George Craig also addressed the Board regarding this item. He stated it was the committee's recommendation that there be no additional fees for endorsements, since the entire concept of endorsements was a new one, but rather roll over the existing fees into the new board rules. He did state that the committee also wished to make one exception to this regarding original applications. He stated that it was the recommendation of the committee that the fee for applications done by electronic media be decreased by \$5 and that conventional, or paper, application fees be increased by \$7. He stated this was recommended in an attempt to lighten the load on Bureau staff and to encourage the use of electronic applications. Board member Washington stated that while she understood the need for encouraging the use of electronic means of doing things, she also felt that the fees should be the same for everyone regardless of the way they choose to do the application. She stated that she didn't feel people should be penalized for using paper application methods just because they choose not to use electronic means for whatever reason. She stated that her opinion was one that fees should be set and the same for everyone regardless of how they choose to do the application. Mr. Craig responded by saying this was an experiment to encourage online applications, and in making this recommendation the committee looked at how things were done in other states. He went on to say that in some other states, online applications are required and they do not accept any paper applications, citing California as an example. He stated that the committee was not recommending that extreme but rather trying to give an incentive to using the electronic method.

Chairman Chism stated that later in the meeting there would be some discussion on endorsements and where they will fit into things. He stated that this discussion would be a precursor to some of the items discussed at the October 8<sup>th</sup> meeting of the Board. He went on to say that this would be the first step to implementing the endorsement phase of the law itself. He also stated the Board could accept the committee's recommendations and if there were to be any problems for the Bureau, the Board could rescind the decision at a later meeting. He went on to ask if the Bureau had any questions or concerns regarding the discussion of the reduction of the online fees. Assistant Chief Wayne Mueller addressed the Board stating that the Bureau supported the recommendation to encourage the use of electronic media. He also stated that the Department as a whole was actively moving toward more online and automated processes. He further stated that as the Bureau does this, there is a transition phase that will be taxing on Bureau staff to handle both systems of doing things. He also stated that as the Bureau and Department transition over the next couple of years, the more that can be done to incentivize the use of electronic standards the more useful that will be to Bureau staff.

Secretary Smith stated that he looks at this situation like using the toll roads. He stated those who use the toll roads may use a tag that gives them a discount on their tolls, where the use of

cash wouldn't. He went on to say that he feels if people are given a financial incentive to use the online application/registration feature, then more people would use it. He also stated that he hated to have the Bureau come in one day and say that they would only accept online paperwork, and that he hoped this would be a big enough incentive that people would use the online feature so that didn't become necessary. Board member Washington stated she understood his analogy and that things may eventually go paperless, but she still felt that having 2 separate fees was not the way to go.

Captain Bowie also addressed the Board on this issue, stating that the Bureau could look at the idea of keeping the fees at the same current rate but just reducing the fee for electronic applications, that way anyone choosing to use the paper method would not be penalized but those using the electronic method would get that extra incentive. Secretary Smith pointed out that by doing that it was only a \$5 incentive rather than a \$12 incentive and that he would like to see the incentive bigger. Board member Washington stated it was still her opinion that people should not be penalized for using "snail" mail. She further stated that, as Captain Bowie pointed out, keeping the fees the same as they are now would not penalize anyone but still have an incentive for those choosing to go online. Mr. Craig stated by making it a Board rule the Board could always ask the staff to analyze the outcome of the change in fees and then go back and change the rule if necessary.

Secretary Smith stated he had no problem doing it either way but would like to see a larger incentive for people to go online and use that method. He stated that by having a toll road tag people save roughly \$.45 per time and that can be a huge savings. He also stated that as a result the toll companies have been able to reduce their labor force and therefore cut costs. He further stated it would be beneficial for the Bureau to not have to hire a bunch of people to sort paper and keypunch information into a computer when people can key it in themselves and save Bureau staff the time. He then asked what the percentage was of people who use the online feature versus those who do the conventional method. Reggie Andrews responded that the online rate of renewals was about 55% and the rate of original applications online was around 30% versus the actual paper method. Board member Patterson stated that anything that can be done to reduce labor and paper flow makes sense. He also stated that giving people an incentive to use online applications also makes sense because it is immediately available to help those who process those applications.

On a motion made by Board member Washington, and seconded by Secretary Smith, the Board voted unanimously to accept the amendments recommended by the rules committee, including the \$5 increase for paper methods of application and the \$7 decrease for online methods.

**Agenda Item V: 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.**

Steve Moninger addressed the Board on this issue, stating in the proposal from the last Board meeting the two sub parts of §35.72 (a) had been struck. He went on to say the rules committee recommended that the wording "on fingerprint cards approved by the board or electronically through a contractor approved by DPS" be added and the Bureau was in agreement. He also stated the other change made was to strike §35.182 and the rules committee was also in

agreement with that. He stated that §35.182 (a) was redundant in that a person renewing within 12 months wouldn't have to submit fingerprints and a person renewing after that time would be submitting a new application anyway and would also submit fingerprints. He further stated in §35.72 (b), it specifically says is that they don't have to submit the prints with application but must make them available to the Bureau upon request. However, he pointed out, the rules committee's recommendation was to strike that language from the rule entirely.

George Craig also addressed the Board asking if they were familiar with indexing. He stated that there is an indexing requirement in statute and the reason the committee was requiring that the fingerprint cards be from the Bureau or an approved vendor is because those cards have a number on them. The reason for that, he stated, was that if a person is licensed and goes out and commits a crime at a later date TCIC can then inform the Bureau that someone licensed through them has broken the law. He also stated the statute also required indexing of law enforcement officers as well. He went on to say Reggie Andrews could explain the process better than he could and asked him to speak on the subject.

Reggie Andrews addressed the Board and stated the current way that the Bureau processes these is to receive a PSB-00, which is a Peace Officer Training and Fingerprint Waiver, or form PSB-49 which is used for non-commissioned officers. Once these are received, he stated, he then forwards those documents over to Crime Records where they check their database to identify that person as a peace officer. He went on to say if the person is a peace officer they locate their State Identification number, or SID as it is known, then the Bureau will process that application at that time. He further stated that if he receives confirmation that the person is not registered in the database as a peace officer the Bureau then forwards the person an incomplete letter and requests fingerprint cards. He went on to say that there are checks in place, but if the Board takes this process out there won't be checks in place and would cause a greater delay in processing. He also stated the current process is expeditious and he usually receives a response from Crime Records within two days. Chairman Chism asked if all peace officers were required to turn in fingerprint cards to DPS. Mr. Andrews responded that not all are required to submit fingerprints and can submit a waiver instead. Chairman Chism then asked if the prints were submitted to TCLEOSE. Mr. Andrews responded that they were not. Chairman Chism stated that the only requirement, if section (b) is adopted, is that the peace officer's department would maintain a record of the fingerprints in case Crime Record doesn't have them. Board member Washington stated that the system in place now seemed to work best for staff and requiring all peace officers to submit fingerprints would cause delays. Board member Patterson asked if an applicant is a peace officer and submits an application with his SID number on there, and if they don't have a SID number then have their fingerprints requested. Mr. Andrews stated that the only problem he could see with that is whether or not the person got the ID from Crime Records, and being able to match them up. Also, he stated, if that person were to leave law enforcement for a time, Crime Records would need to obtain an updated rap sheet in case they had gone out and committed a crime otherwise it would not be known.

Secretary Smith asked for clarification regarding §35.182. He stated that currently if a person's registration expires they have 12 months in which to pay the fee and renew, but do not have to submit fingerprints again. Mr. Moninger confirmed that this was correct. Secretary Smith asked

if there was anything added or deleted in the proposed amendment of the rule that would change that process, to which he was told no.

On a motion made by Secretary Smith, and seconded by Board member Patterson, the Board voted unanimously to accept the amendments to rules §35.72 and §35.182 as recommended by the committee.

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

Steve Moninger introduced this item to the Board. He stated this Rule was related to the “14 day rule” and that he sought to repeal it at the last meeting, in light of changes to the statute. George Craig also addressed the Board on this issue. He stated the rules committee took into consideration the length of time that this rule had been in place, citing 1968 perhaps. He then stated that with all of the technological changes over that period of time as well as the apparent mood of the Legislature during the last session, it was the committee’s recommendation that the time period be reduced to 5 working days. He went on to say that this was a very popular topic with several discussions taking place. He also stated that a compromise was finally reached with the Bureau staff as well as the four industry representatives. Secretary Smith asked if the committee meant 5 working days from postmark, or fax mark, or computer mark. Mr. Craig stated that was correct and further added that staff may wish to change language to reflect those different marks.

Chairman Chism stated that anyone in attendance with something to say on this item could address the Board at that time. Walt Roberts, executive Vice-President of ASSIST chose to address the Board. He stated ASSIST did have a couple of concerns regarding the changes to this rule. He gave Hurricane Ike as an example, stating that some people in the guard industry sent people to Houston and Galveston to help when the Governor declared it a disaster area. He also stated they had very limited electricity in the Houston area for 3-5 days and in Galveston it was more like 10-12 days. He also stated that perhaps in those situations they could send a letter to the Manager letting him know that they are hiring locally to help keep the local economy up, but don’t have a way to get the registrations back to the Agency within the 5 working days. He went on to say that as companies they would like to be able to send the Manager a waiver to handle the paperwork until utilities and such would be up and running again. He also stated that another concern was if someone is a small company, perhaps working under a DBA with only a few officers, and wanting to take a couple weeks vacation, having a supervisor to look over things during their absence, they would want to be able to inform the Manager and receive a waiver during that period. He stated that these were small issues, but he was wishing to address them now instead of waiting for them to be a problem later. Chairman Chism stated the rules stated the manager of a company or their designee, so sending a letter specifying the designee should not be a problem. Mr. Roberts replied there might not be managers who they would wish to allow to make those types of decisions on hiring. He went on to say that in cases of medical emergencies when a manager couldn’t do these things a waiver would be beneficial. Chairman Chism stated in these cases it would behoove the company to hire someone to be the designee. Mr. Roberts stated that while these things would not be issues for him, there are other small companies that it would be a problem for. Board member Crenshaw stated that he was a small company with limited number of employees and that the concerns Mr. Roberts voiced had been

addressed in the rule change. He went on to say that he is the manager of his company and has a designee. He further stated that as a small business owner he didn't see these being issues of great concern.

On a motion made by Secretary Smith, and seconded by Board member Crenshaw, the Board voted unanimously to accept the amendments suggested by the rules committee.

**Agenda Item VII: Discussion and possible action regarding previously adopted rules – July 14, 2009 (§35.1, §35.42, §35.71, §35.202, §35.311)**

Chairman Chism introduced this item. He stated the Board had voted on and adopted 5 rules at the last meeting of the Board on July 14, 2009. He further stated the rules committee also reviewed these rule changes and had recommendations to make as well. He went on to inform the Board that they could hear the committee's recommendation or decide to adopt as previously voted. No member of the Board objected to hearing the recommendations.

Steve Moninger addressed the Board, stating the rules committee recommended some additional language be added: "transmitted through an Intranet or Internet protocol based device", and Bureau staff agrees since such a device presumably could be recording it would fit the definition. He also stated that the committee's additional language or "or an individual" was not recommended by Bureau staff. He went on to say that by adding "or an individual" would expand the scope of the regulation beyond that of the statute. He added that he had run this reasoning by DPS General Council and they agreed.

George Craig addressed the Board as well, stating this was a situation where the committee thought one thing and Bureau staff thought another. He also stated that since the two could not agree they decided to leave it up to the Board to decide. He further stated the Board had heard Bureau staff's version of this issue and thought the Board might like to hear directly from those who deal with this situation daily. Board member Crenshaw stated if an individual gets a closed circuit television for business or residence and wants to view it himself as an individual; he needs to buy it from a licensed company. He further stated he saw a problem with changing "individual" from "security personnel" because there are thousands of closed circuit television systems being sold that need to be licensed and currently are not. He stated there are people coming in installing these things without a license and changing this would open it up for more of that activity.

Michael Samulin, representing TBFAA, addressed the Board on this issue. He stated it was never the committee's intent to go after the homeowner or person looking in on their children at the daycare center. He stated the intent was to close the gap of people who install these systems, unlicensed, and watching them. He went on to say that when someone hires a company to install internet protocol cameras the people writing the programs typically leave a back door so they can access the system remotely and do repairs to the system. He stated this now gives them access to watch everything the company does. He also stated what the committee is trying to do with this rule is make sure that if someone is going to be working on cameras or looking at cameras, they need to be licensed. He further stated the rule recommendation states "an individual for the purposes of security or surveillance". He also stated that rules are used to define the law. He



stated laws are meant to be broad and rules are meant to refine and define the laws and perfect the language so the Agency can handle these things accordingly.

On a motion made by Board member Crenshaw, and seconded by Secretary Smith, the Board voted unanimously to accept the amendments to rule §35.1 as recommended by the committee.

Chairman Chism introduced the next rule, §35.42. George Craig stated the rules committee had no change to this rule. Michael Samulin stated the committee did want to make changes to this rule but were unable to do to statute.

Chairman Chism introduced the next rule, §35.71. George Craig stated the committee had no change to this rule.

Chairman Chism introduced the next rule, §35.202. Michael Samulin stated the real reason the committee made additional requirements was for the Agency. He stated that the alarm industry has had an influx of unlicensed activity in the state of Texas. He also stated that the companies were coming from out of state, mainly Utah, and doing work without being licensed here in the state. He further stated that the Bureau was not able to get their hands on them or their records because the Agency doesn't have the resources or legal authority to go to Utah and request records. Therefore, he stated, the committee's proposal was that these companies must maintain records at a physical place of business in the state, even by appointing a records keeper if necessary. He also stated that records must be kept in Texas where staff can get to it, check the records, and make sure these people are complying with the law.

Board member Crenshaw stated Mr. Samulin was correct; there are a lot of companies coming in from out of state, spending the summer here then disappearing into thin air. He stated the only way to regulate these people is to have the PSB investigators actually go out and catch them. He went on to say there are no records with these people either, and the Bureau certainly can't travel to Utah to investigate their records. He further stated he thought it was a reasonable rule to have them maintain records here in the state that can be reviewed when needed. Mr. Samulin stated it is all about consumer protection. He also stated these companies are tortuously interfering with contracts and installing non-functioning alarms. He also stated that if a person were to go to the Better Business Bureau and look these companies up they would see hundreds and hundreds of complaints against them, and since they are not licensed the Agency has no recourse to go after them. He went on to say this new version of the rule was just adding emphasis to what the Board passed in July. He also stated this was good for all of the Private Security industry, not just the alarm companies.

On a motion made by Board member Patterson, and seconded by Board member Crenshaw, the Board voted unanimously to rescind the previous version of Rule §35.202 passed in July and accept the committee's version of the rule.

Chairman Chism introduced the next rule, §35.311. George Craig stated the committee had no change to this rule.

**Agenda Item VIII: Discussion of future possible Board Rules to meet Sunset Bill requirements.**

Chairman Chism introduced this item, stating the first rule to be discussed was §35.203. He also stated that this rule would be put on the Agenda for the October 8, 2209 Board meeting a well. He went on to say this rule basically allowed a company to maintain its records in electronic form as long as they are made immediately available to staff upon request.

Chairman Chism went on to discuss possible Board rules to keep the Board Sunset compliant. He stated items to be considered for rules as set out in Chapter 1702.0612 are:

1. Negotiated rule making under Chapter 2008 Government code.
2. Alternative dispute resolution under procedures set out in Chapter 2009 Government code and guidelines issued by the State Office of Administrative Hearings.
3. Designate a person to implement and serve as trainer on the policy establishing 1 & 2.

Chairman Chism asked Bureau staff if there was anything they wished to say on these items. Assistant Chief Mueller stated, in regards to negotiated rulemaking, the Department did not have a standardized process in place. He also stated it is not specifically defined, but the Board's existence, for Private Security reasons, is essentially negotiated rule making. He went on to say many regulatory licensing programs do not have an oversight board and so having a negotiated rule making process where the industry can come in and have their say, would be necessary. However, he stated, having this Board already in existence he was unsure that putting a standardized rule in place in addition, as an extra layer beyond what the Board already does, was necessary.

Chairman Chism asked if Chief Mueller and the Bureau staff to provide clarification regarding alternative dispute resolution. Chief Mueller responded that this was a practice that had been utilized by some at SOAH for quite some time, but has not been a practice utilized by any of the regulatory licensing programs at DPS. He also stated staff had no recommendation at this time as to whether this would be an avenue for bringing things to resolution short of a full SOAH hearing. Chairman Chism responded by saying he would like for Bureau staff to look at this rule and see if in some situation it might be necessary to develop a rule of this kind.

Chairman Chism stated that the portion referring to designating a person to serve as trainer on these policies, it was his recommendation that it be handled by the Captain or his designee.

Chairman Chism went on to state Chapter 1702 makes reference to both Registrations and Endorsements in several places. He stated the Board needed to develop a rule setting out the criteria for them and explaining the difference in the two, if there is any. Captain Bowie stated the Bureau would take it under advisement and sit down with counsel to develop a potential rule regarding registrations and endorsements. Chairman Chism stated the Board would need additional clarification as well, such as where they fit in. As an example he stated a person currently registered as a private investigator under a company license then decides to become a commissioned security guard and work for Smith Protective Services, what are the procedures for him to get that second endorsement and can he get a second endorsement on one card.

At this time George Craig asked Chairman Chism and the members of the Board if he might take a moment to publicly thank the rules committee. He stated that he wished to thank all of them

for the hard work and the time they took out of their schedules to go over the rules and come up with recommendations for the Board. Chairman Chism and the other members of the Board also thanked the committee for all of their work and dedication.

**Agenda Item IX: Public Comment**

John Arnold, with TLA addressed the Board. He stated he wanted to bring a concern to the Board's attention regarding out of state companies. He stated while most companies are doing work without being licensed, some of them are actually obtaining licenses by using the law to get around the rules. He gave the example of one company out of California who tell their employees that if they are picked up for not having a license to tell the investigators they just started with the company and can not get to the records because they are in California. He also expressed a concern regarding requirements to obtain manager licenses in the locksmith industry. He went on to explain that it is his understanding that the Bureau is accepting any type of educational certificate as minimal requirement in lieu of two years experience. He also stated that while everyone is working toward cleaning up the problems within the industry it seems that they are being flooded with people who are not qualified to be managers. He stated his final concern is continuing education requirements. He stated to the Board that he felt the requirements should be revisited, because in his opinion a seven hour course every two years was not going to do anyone any good.

Chairman Chism responded by saying that he would like to see Mr. Arnold have the issue of continuing education placed on the agenda for discussion at one of the Board's future meetings.

Kevin Galloway, with ASSIST addressed the Board. He stated his concern with rule 35.46, Disqualifying Convictions, was that while it lists many disqualifying convictions it does not list drug charges. He stated that as far as he could tell from the list if a person has an A or B misdemeanor of possession or possession with intent to sell that person could still hold a license. He gave an example of a person employed with his company beginning July 1<sup>st</sup>. He was arrested in May on two possession charges and one prostitution charge; he was then convicted of these charges after employment. He went on to say that he was able to terminate the person's employment because he lied on his application saying that he had never been arrested. He also pointed out the person's license is still intact. He finished by saying he would like to see drug related offenses added to disqualifying convictions list.

Bonnie Brown Morris, with LASA addressed the Board. She stated she was there to address the Board regarding continuing education. She stated that even though the hours are very minimal they are not being checked. She further stated that she had repeatedly turned in locksmiths whose licenses were renewed without doing any continuing education. She went on to say she understood the Bureau has no software to do this at this time, but it is something that does need to happen. She also stated it was her understanding that there are a number of people in Austin and along the Austin/San Antonio corridor who are working for themselves unlicensed, but carrying a pocket card as a 1099 employee of a licensed company. She finished by saying this was a growing concern.

Rodney Hooker, with TBFAA addressed the Board. He began by thanking the Board for having the meeting on all of the rule changes. He also commended the rules committee and Bureau staff

for all of their hard work. He went on to say TBFAA would be having its annual convention in San Antonio during October 8, 9, and 10 2009. He pointed out that the next meeting of the Private Security Board was scheduled to take place October 8, 2009 and asked that the Board not take action on anything of great significance to their organization during the meeting as they would not have any representation present.

Chairman Chism called for Executive Session at 10:31 am to discuss the settlement of a contested case pending before SOAH.

Chairman Chism called the meeting back to order at 10:51.

**Agenda Item X: Administrative Hearings on Licensing and Disciplinary Contested Cases**  
Steve Moninger presented the Hearing case 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 in this case, but did not have counsel present on his behalf. Mr. Moninger stated the Bureau was seeking to revoke the company license of CHL Integrity Security Services. He also stated the Board heard this case at the last meeting, but there was some confusion as to what the Bureau was trying to do. Mr. Moninger directed the Board to 1702.361, which he stated is the provision of the statute that allows them to take action against a company or individual for non-criminal action, but rather for violations of the rules or statute. He directed them to subsection (b) and read the following:

- (b) The department shall take disciplinary action described by Subsection (a) on proof:
  - (1) that the applicant, license holder, registrant, or commissioned security officer has:
    - (A) violated this chapter or a rule adopted under this chapter;
    - (B) become ineligible for licensure or registration under Section 1702.113, or a commission under Section 1702.163, if applicable, other than an action for which the department has taken summary action under Section 1702.364;
    - (C) engaged in fraud, deceit, or misrepresentation;
    - (D) made a material misstatement in an application for or renewal of a license, registration, or commission or;
    - (E) failed to pay in full an administrative penalty assessed under Subchapter Q, for which the board has issued a final order

Mr. Moninger stated the SOAH judge was reading and interpreting this statute very literally saying that CHL Integrity has not done any of those things. He further stated staff's action was based on the fact that it is implied in the authority given in this statute, that if a company can not operate legally, in any way, then the Bureau should revoke the license. He went on to say Mr. Lopez is the sole owner of the company and his licenses have been summarily revoked. He stated he has no manager or partner to take his place, therefore the company can not be operating. He stated that another option to revoking the company license now would be to allow him to continue operating and write him a \$500 ticket every two weeks for operating a company

without having a qualified manager in place, then revoke the license on the basis of failure to pay. He went on to say Mr. Lopez could sell the company to someone else, but that person would have to start over in getting a company license as licenses are not transferrable. Board member Patterson asked for clarification regarding Mr. Lopez. He stated that he believed the facts were Mr. Lopez pled guilty to and was convicted of two misdemeanor charges arising from one of his employees being convicted of a misdemeanor and that was the basis of the revocation of Mr. Lopez's license. Mr. Moninger stated that the employee's conviction was unlawfully carrying a weapon which is a Class A offense. He stated Mr. Lopez facilitated the carrying of that weapon and pled guilty to the offense. He also stated that whether he was in possession of the weapon or facilitated the carrying of the weapon was irrelevant. He stated that Mr. Lopez did plead guilty and his license was summarily revoked. He further stated Mr. Lopez was not appealing the revocation of his individual registrations but rather the revocation of his company license. Board member Patterson stated the Board had very little leeway in this matter if there was not anyone to run his company.

Mr. Lopez was next to address the Board. Mr. Lopez stated that he attended the July 14, 2009 meeting and at that time brought a statement regarding his case. He stated that his conviction was his fault and he took the punishment he received. He also stated that he did not feel that he broke the law because the law states it is unlawful to carry a firearm not a baton. He stated that when he went before the judge he did plead guilty of providing Mr. with a baton. He stated he did this not knowing it was against the law. He stated he feels he did a good job and helped put many people in jail. He stated he always reported things to the Bureau such as when he was building new offices. He finished by saying he would like the Board to help him work as a security guard. Secretary Smith stated that according to statute he can't work as a guard. Chairman Chism stated the only decision before them at this time was to either uphold SOAH's decision or overturn it.

Secretary Smith made a motion to overturn SOAH's decision and revoke CHL Integrity Security Services' company license. Board member Crenshaw seconded the motion, and the Board voted unanimously in favor of the motion. CHL Integrity Security Services' license was revoked.

#### **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 11:17 am, the August 27, 2009 meeting of the Private Security Board was adjourned.