

**TEXAS PRIVATE SECURITY BOARD**

**REGULARLY SCHEDULED BOARD MEETING HELD AT 9:00 A.M.,  
JANUARY 26, 2010**

**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 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:**

RenEarl Bowie, Interim Assistant Director, Regulatory Licensing Division,  
Texas Department of Public Safety;  
Wayne Mueller, Deputy Assistant Director, Regulatory Licensing Division,  
Texas Department of Public Safety;  
Steve Moninger, Senior Staff Attorney, Regulatory Licensing Division,  
Texas Department of Public Safety;  
Jean O'Shaw, Private Security Board Attorney, Regulatory Licensing Division,  
Texas Department of Public Safety;  
Reggie Andrews, Program Supervisor II – Licensing, Private Security Bureau;  
Adam Park, Lieutenant – Investigations, 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 9:04a.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. He also recognized the attendance of

ASSIST President Bob Burt, TALI President-Elect Kelley Riddle, TLA President John Arnold, and DPS Regulatory Licensing Division's Interim Assistant Director RenEarl Bowie.

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

Chairman Chism introduced this agenda item. On a motion made by Board member Washington and seconded by Secretary Smith, the Board voted unanimously to approve the Minutes for the Board meeting of October 8, 2009 as written.

**Agenda Item II: Report from Private Security Bureau.**

Lieutenant Park presented the Investigation statistics to the Board. He stated there were 1,538 violations investigated for the first quarter, 9/1/09-11/30/09. He further stated there were 22 cases of operating with an expired license, 414 cases of operating with a suspended license, 62 cases of operating without a license, and 101 cases of failure to register employees. He went on to say there were 21 cases presented to prosecutors during this time period. He also stated that for the same time period there were 1,078 cases closed with no action, 120 cases resulting in administrative citations, 74 cases closed with an administrative warning, and 266 cases closed with some other type of administrative or criminal action being taken.

Reggie Andrews presented the Licensing totals for the first quarter, 9/1/09-11/30/09. He stated, for this time period, the Bureau received 110 original company applications, 1,165 company renewals, 7,776 original individual applications, and 7,068 individual renewals not including online applications. He went on to say that for the same time period the Bureau processed the following licenses/registrations: 212 original company licenses (97 online, 115 manual), 1,507 company renewals (959 online, 548 manual), 9,857 individual registrations (1,944 online, 7,913 manual), 6,797 individual renewals (2,670 online, 4,127 manual), and 4,684 employee information updates (772 online, 3,912 manual). He also stated that this time period showed 5,298 active company licenses, 195 active school licenses, and 122,321 active individual registrants.

Assistant Director RenEarl Bowie addressed the Board as well. He stated that the upcoming 2011 Superbowl being held at the Dallas Cowboy Stadium in Dallas involved issues directly related to the Private Security Bureau. He stated that in the interest of homeland security DPS and the PSB had a keen interest in ensuring the security of this critical infrastructure. He stated the 2005 Superbowl held in Reliant Stadium taught the Bureau a lot in regards to registering guards for such an event. He went on to say from an a law enforcement standpoint the Department has met with other law enforcement agencies in the Dallas area in regards to securing Dallas Cowboy Stadium and the handling the influx of people that are expected. He further stated that from a Private Security standpoint Sergeant Whitworth has met with officials of the National Football League in order to establish a protocol that will allow the Bureau to properly register the influx of guards. He stated some members of the PSB were at the stadium during the last home game of the Cowboys vs. Eagles. He also stated that the Board members had already been briefed on an incident as a result of the enforcement efforts at this game. Vice-Chairman Johnsen asked who holds the primary responsibility for the security at the stadium.

Mr. Bowie stated that the person the Bureau has been in contact with is Ben Nix, and the Bureau's responsibility is registering the guards they choose to hire.

Assistant Director Bowie finished by telling the Board that the Bureau would be adding two troopers to the field and should take up their new positions in about a month. The places adding investigators are Laredo and Corpus Christi. He also stated that an additional Sergeant had been hired for the Regulatory Licensing Division in El Paso. He further stated the Regulatory Division has also added a new Lieutenant as well who would be doing work for both the Vehicle Inspection Bureau and the Private Security Bureau.

**Agenda Item III: Discussion and possible action relating to definition of camera systems, Rule §35.1, Definitions.**

Steve Moninger presented this item to the Board. He began by informing the Board that the Rules approved by the Board in August would be presented to the Public Safety Commission on Friday January 29<sup>th</sup>, with the exception of Rule §35.1, Definitions, relating to the definition of camera systems. He stated that the previous Rule passed by the Private Security Board was rejected by the Office of General Counsel because the rule was not authorized by the statute. He went on to say that he was again proposing the version of the rule presented to the board at the August 27, 2009 meeting. He explained that this version was consistent with the statute, and that the additional language defining video surveillance system to include a system hooked up to Internet protocol based devices would satisfy the statute, as well as the concerns of the industry.

Chairman Chism stated that in writing this rule the earlier version had the term "an individual" and General Counsel felt it was not legal to the statute.

Michael Samulin, with TBFAA, addressed the Board as well. He stated his organization was content with the language at this time. He also stated they would work on cleaning it up before the Legislature during the next session.

On a motion made by Secretary Smith and seconded by Board member Crenshaw, the Board voted unanimously to approve the changes to Rule §35.1 as written.

**Agenda Item IV: Discussion and possible action relating to Rule §35.70, Fees.**

Steve Moninger presented this item to the Board. He stated the Board passed this Rule change during their August meeting, including the alternate and reduced fees for on line applications and renewals. He further stated that he met with the DPS budget analyst, who informed him that the change might cause the Bureau to be under budget, resulting in the Legislature cutting the Bureau's budget for coming years. He stated it was with this in mind that the Bureau drafted an alternate version for consideration. He went on to say if the Board approved the new version he would withdraw the version to be considered by the Public Safety Commission at its meeting on Friday.

Secretary Smith asked if there were fees added on the old fee schedule. Reggie Andrews stated there were changes made to A, B and T licenses. He also stated D license is no longer applicable. He explained a fee was also added for preliminary background checks as well. He went on to say the addition or deletion of pocket card endorsements was \$20 and CE schools and Training Schools were also added.

Vice-Chairman Johnsen asked how the endorsements would work exactly. He asked if a person could have unlimited endorsements. Mr. Andrews explained, as an example, that if a registered non-commissioned officer working for a guard company wished to work for an alarm company they could have that endorsement added by paying \$20. He also explained the same thing would hold true for a locksmith wishing to do electronic access control work.

On a motion made by Board member Washington and seconded by Secretary Smith, the Board voted unanimously to withdraw the previous Rule §35.70 adopted August 27, 2009.

On a second motion made by Secretary Smith and seconded by Board member Patterson, the Board voted unanimously to adopt the version of Rule §35.70 presented to the board, as written.

#### **Agenda Item V: Discussion and possible action relating to Registrations and Endorsements.**

Reggie Andrews presented this item to the Board. He stated the Pocket Card proposal had remained the same from the last meeting with the exception of changing the fee from \$10 to \$20. He gave the example of a commissioned officer wanting a Personal Protection Officer endorsement. The person would submit \$20 to add the endorsement. As it stands today, without the endorsements, the person would pay \$55 for the Commission and \$55 for the PPO. With the endorsements the person would save \$35.

Chairman Chism asked Mr. Andrews to explain the differences in the registration endorsements. Mr. Andrews read the following information into record:

#### **Unarmed Registration**

- Non-Commissioned Security Officer
- Private Investigator
- Locksmith
- Employee of License Holder
- Alarm Salesperson
- Alarm Systems Installer
- Alarm Systems Monitor
- Branch Officer Manager
- Electronic Access Control Device Installer
- Guard Dog Trainer
- Security Salesperson
- Security Consultant
- Manager Only
- Supervisor Only

## **Instructor Registration**

- Instructor - (6) Class Types:
  - Class G - Level 3 Firearm Instructor
  - Class H - Level 3 Classroom Instructor
  - Class J - Level 3 Classroom/Firearm Instructor
  - Class K- Alarm Instructor
  - Class W – Personal Protection Instructor
  - Class Y – CE Instructor

## **Commission Cards**

- Commissioned Security Officer
- Personal Protection Officer
- GLOA Commissioned Security Officer
- GLOA Personal Protection Officer

Secretary Smith stated this item was sent to the Advisory Committee for review. He stated the committee met twice regarding this issue. He stated the short answer is this is something the Board should do in order to be in compliance with the statute. He went on to say once the proposal was understood by everyone it was seen as an improvement causing no undue burden in recruitment into different areas of the industry. He further stated that everyone should be aware of the fact that this will not take effect until the Bureau gets enough money to get the programmers hired and the program in place. He stated this could be as far as 4 or 5 years off.

Mr. Andrews stated that in order to move forward with the project, the Bureau needed the Board's approval on the proposal for structure. He stated that in order for IT to continue with this the Board would need to vote on and pass the structure because the Bureau could not arbitrarily make the changes. Mr. Moninger pointed out that the proposal was not an actual Rule so should not be voted on as such, but that the Board could pass it as a resolution.

Michael Samulin addressed the Board regarding the proposal. He stated that as things are right now locksmiths pay \$30 for their license and if they want to do CCTV work they would pay nothing additional. He stated if this proposal were adopted the locksmiths would pay \$30 for the license, then \$20 for two endorsements making it \$70 total. He also asked if this could be passed without funds attached and have the funds attached later once funded by legislature. Chairman Chism responded that the program could go ahead and then become funded by the process itself. Mr. Samulin stated he didn't want these endorsements to negatively affect the industry. Vice-chairman Johnsen stated that nothing was going to happen immediately regarding this proposal. He stated things would continue as is for now with the understanding that endorsements will come with funds from the next legislature. Secretary Smith added that these endorsements would put the Bureau in compliance with the statute. He also stated that anyone with two or more licenses would eventually have less out of pocket expenses. Mr. Samulin stated that was not the case for every industry, such as locksmiths. John Arnold, president of Texas Locksmiths Association was next to address the Board, stating locksmiths are already paying for at least two licenses: alarm and access control at a minimum. He stated these endorsements would decrease the cost to locksmiths.

Board member Washington asked if the Board was voting on the present information as a Rule or voting on the past rule. Chairman Chism stated the Board was voting on guidelines for the Rule. Board member Washington asked if the Board was giving the green light to the Bureau to proceed and asked if the Bureau will come back later to make adjustments. Board member Crenshaw asked Mr. Andrews if he was giving the Board assurance that things are not changing at this time. Mr. Andrews stated it was business as usual at this time; the Bureau would keep the fees and processes the same until the new program is ready. Board member Crenshaw also asked if the Board had the option to amend the proposal at a later date, to which Mr. Andrews stated that the Board would have that option.

Chairman Chism made a resolution to adopt the present proposal on registrations and endorsements. The Board voted unanimously for the resolution. Chairman Chism also thanked the Rules committee and Mr. Andrews for all of their time on this matter.

**Agenda Item VI: Discussion and possible action relating to Rule §35.76, Electronic Access Control Device Company License.**

Steve Moninger presented this item to the Board. He stated the Sunset Bill struck Electronic Access Control Device as a classification, D license. He went on to say that unfortunately the Bill did not correspondingly amend the definition of Security Services Contractor to include Electronic Access Control Device. Nevertheless, he stated, the Bill did say the Board could create classifications by rule and he therefore proposed to put this into a Class B license category.

On a motion made by Board member Washington and seconded by Vice-chairman Johnsen, the Board voted unanimously to adopt Rule §35.76 as written.

**Agenda Item VII: Discussion and possible action relating to Rule §35.93, Penalty Range.**

Steve Moninger presented this item to the Board. He stated the Sunset Bill also requires the board to adopt by rule the fine schedule used in issuing tickets. He went on to say that the present fine schedule was in the books before them for their review. He further stated the Board could adopt the fine schedule as a rule, or make changes to the schedule. Board member Patterson asked if the list of fines before them was what was being levied now, to which Mr. Moninger answered yes. He also stated the legislature now has required that fines be put into a rule, whereas it has previously been by policy.

George Craig addressed the Board, pointing out that the drug testing record violation doesn't comply with the current rule. He also stated that instead of showing a set amount on the fines, it should read "up to" that amount. Mr. Moninger stated that the Board should also change the fine for failure to register under the 14-day rule to refer to 5 days.

Secretary Smith suggested the fine schedule should be scrutinized more closely for other changes. Chairman Chism referred the item to the Advisory Committee for further discussion. He also stated that any revisions should be presented at the next Board meeting.

**Agenda Item VIII: Discussion and possible action relating to Rule §35.203, Records to be Available for Inspection.**

Steve Moninger presented this item to the Board. He stated this Rule change was to address the now common situation in which a company keeps its employee records in electronic form. He further stated that as a matter of policy this has always been sufficient compliance so long as the records can be pulled up and printed for review upon request. He finished by saying this rule is just articulating current policy.

On a motion made by Secretary Smith and seconded by Board member Patterson, the Board voted unanimously to approve the changes to Rule §35.203 as written.

**Agenda Item IX: Discussion and possible action relating to Rule §35.221, Qualifications for Investigations Company License.**

Chairman Chism presented this item to the Board. He stated currently qualifications to become licensed as a Private Investigator states the person must work under a licensed company for three years, but it doesn't specify in what capacity. He stated that proposed changes to this rule would expand the definition on what actually qualifies. He went on to say that under Clema Sanders it was quietly accepted that if a person had a degree they could obtain a license in lieu of the three years of experience. He further stated this would bring qualifications into the Rule to include a Bachelor Degree with an additional 6 months of investigation-related experience, an Associates Degree in criminal justice or related course of study, with an additional twelve months of investigation-related experience, or a specialized course of study directly designed for and related to the private investigations profession with a minimum of 200 classroom hours. He finished by saying this change would raise the standard of education coming into the field.

Secretary Smith asked Chairman Chism, if in his opinion as a licensed private investigator he felt this rule change was a good Board Rule. Chairman Chism stated that he did think it was a good rule for the Board to adopt. He went on to say that three years time span is set in statute but that the Board was able to add additional qualifications. Mr. Moninger stated that the statute did state a qualification of three consecutive years experience was necessary, but another of the listed qualifications could substitute for that experience.

Board member Washington pointed out that part (3) of the rule states "A bachelor's degree, with an additional six months of investigation-related experience". She asked if she had a bachelor's degree in accounting, and obtained six months of experience, could she be licensed as a private investigator. Mr. Chism stated this was correct.

Karen Hewitt, with the University of North Texas Professional Development Institute addressed the Board. She stated she was present at the previous board meeting and presented a program at that time. She stated it has been a need in the industry for a long time, and this would make it possible for people to know how to run investigations and run a business as well.

On a motion made by Secretary Smith and seconded by Vice-chairman Johnsen, the Board voted unanimously to adopt Rule §35.221, as written.

**Agenda Item X: Discussion and possible action relating to Rule §35.291, Continuing Education Courses.**

Chairman Chism presented this item to the Board. He stated he was approached by representatives of the Locksmith industry regarding an increase in continuing education hours. The addition in this rule would increase the number of required continuing education hours from 8 every two years to 16 hours every two years.

John Arnold addressed the board on this item. He stated TLA endorsed the increase in hours and felt this would build professionalism in the locksmith trade.

Board member Patterson asked what continuing education encompassed. John Arnold responded stating the manager of the Private Security Bureau determines what are acceptable courses by licensed instructors. He went on to say seminars are generally acceptable as is the attendance of Private Security Board meetings.

On a motion made by Board member Crenshaw and seconded by Vice-Chairman Johnsen, the Board voted unanimously to accept changes to Rule 35.291 as written.

Chairman Chism called for a 15 minute break at 10:08am.

Chairman Chism called the meeting back to order at 10:28am.

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

Executive Session was taken at 10:30am.

The Private Security Board re-convened at 10:43am.

**Agenda Item XII: Public Comment**

Bonnie Brown Morse-, president of Locksmith Association of San Antonio, addressed the Board. She stated she currently had employees who possess two pocket cards; one for their locksmith registration and one for their access control registration. She went on to say that these cards each have a different expiration date. She stated it was her hope that by possessing a single pocket card with endorsements added would be a solution to this problem.

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

Steve Moninger presented the Hearing cases to the Board.

Jacob Hernandez, Sr.- Docket No. 00489209

Mr. Hernandez was not present to address the Board on this case, nor did he have counsel present on his behalf. Mr. Moninger stated Mr. Hernandez's license as a commissioned security



officer had been revoked based on his chemical dependency, which is established by his two Class B misdemeanor convictions for Driving While Intoxicated within ten years. As he would no longer be disqualified as of August, 2010, Mr. Moninger suggested that a probated suspension would be more appropriate.

Board member Washington made a motion to suspend Mr. Hernandez's license and issue a probate of license for 6 months, conditional upon no further DWIs. Secretary Smith seconded the motion, and the Board voted unanimously in favor of the motion.

#### Raymond Abshire- Docket No. 000282010

Mr. Abshire was not present to address the Board on this case, nor did he have counsel present on his behalf. Mr. Moninger stated Mr. Abshire's application for registration as a locksmith was denied based on his Class A misdemeanor conviction for Unlawful Carrying of a Weapon.

Board member Washington made a motion to uphold SOAH's decision and deny Mr. Abshire's application for a locksmith registration. Secretary Smith seconded the motion, and the Board voted unanimously in favor of the motion. Mr. Abshire's application was denied.

#### Jose Valladares- Docket No. 002302010

Mr. Valladares was present to address the Board on this case, but did not have counsel present on his behalf. Mr. Moninger stated this was a direct appeal to the Board under 1702.3615, or the sex offender registration provision. He stated Mr. Valladares applied for a non-commissioned security officer registration but was denied based on his status as a registered sex offender. Mr. Valladares addressed the Board on his behalf, stating he applied for a non-commissioned security officer registration but was denied. He stated this incident occurred fourteen years ago, and since that time he has taken 5 years of classes and therapy. He stated he was in the Army with a clean record and made a terrible mistake. He went on to say he has had no contact with the victim since then. He further stated that he wanted to be a security officer with a company that was ready to hire him for a warehouse position.

Chairman asked Mr. Valladares what his relationship was with Officer Dozier, who submitted a letter on his behalf. Mr. Valladares stated that Officer Dozier was his monitoring officer. Secretary Smith asked when the offense occurred, to which Mr. Valladares replied 1997. Secretary Smith stated the victim was 16 years old and asked what age he was at the time. Mr. Valladares stated he was 43. Board member Patterson asked if the conviction was a felony. Mr. Moninger stated he received Deferred Adjudication for a second degree felony. Secretary Smith asked if he were currently employed. Mr. Valladares stated that he was employed three days a week for six hours each day. He went on to say that the company is prepared to hire him full time as a guard as soon as he is approved. Board member Washington asked what type of company he worked for. He replied it was a chemical plant and would be working in their warehouse.

Mr. Moninger asked that the exhibits be allowed into the record as well as the Board's findings in terms of his rehabilitation. Under Rule §35.45 the following factors were employed in the Board's determination:

- The age of the applicant at the time of the offense was approximately 40 years of age.

- The classification of the offense was a felony.
- The Board did find sufficient evidence of rehabilitation.
- The amount of time that passed since the commission of the offense was 13 years.
- There was no relationship between the offense and the occupation for which Mr. Valladares seeks licensure, including whether said licensure will facilitate the commission of a similar offense.

Board member Washington made a motion to approve his application, placing Mr. Valladares on probation for 12 months with the following conditions: Every potential employer, for the next 12 months, must submit an affidavit attesting to knowledge of his Sex Offender Registration when the application is submitted to the Bureau. Mr. Valladares can not commit any criminal offense at the Class B level or above. He must appear before the Board again in 12 months, either in person or by affidavit, along with a representative of his employer attesting to his work ethic over the year. Secretary Smith seconded the motion, and the Board passed the motion with members Chism, Johnsen, Smith, Crenshaw, and Washington voting for the motion, while member Patterson voted against.

**Agenda Item XIV: Executive Session (consultation with attorney) as authorized under §551.071, if necessary.**

The Board did not take Executive Session at this time.

**Agenda Item XV: Adjournment**

Chairman Chism introduced this agenda item. Vice-Chairman Johnsen made a motion for adjournment. Secretary Smith seconded the motion, and the Board voted unanimously in favor of the motion. At 11:26 am, the January 26, 2010 meeting of the Private Security Board was adjourned.