

TEXAS PRIVATE SECURITY BOARD

**REGULARLY SCHEDULED BOARD MEETING HELD AT 9:00 A.M.,
OCTOBER 19, 2011**

**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 Johnsen, Vice-Chairman
Honorable Mark Smith, Secretary
Honorable Charles Crenshaw
Honorable Brian England

BOARD MEMBERS NOT PRESENT:

Honorable Albert Black
Honorable Doris Washington

STAFF PRESENT:

RenEarl Bowie, Assistant Director, Regulatory Services Division,
Texas Department of Public Safety;
Steve Moninger, Senior Staff Attorney, Office of Regulatory Counsel, Legal Operations;
Reggie Andrews, Program Supervisor II – Licensing and Registration Service,
Regulatory Services Division;
Jay Alexander, Captain – Compliance and Enforcement Service, Regulatory Services
Division;
Sherry Johnson, Operation Manager – Operations Bureau, Regulatory Services Division;
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 public meeting. The 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 9:02 a.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 took a moment to recognize members of the University of North Texas' Private Investigator Program.

Agenda Item I: Approval of Minutes for Board Meeting held July 8, 2011.

Chairman Chism introduced this agenda item. On a motion made by Secretary Smith and seconded by Vice-chairman Johnsen, the Board voted unanimously to approve the minutes for the board meeting of July 8, 2011 as written.

Agenda Item II: Report from Regulatory Services Division.

Reggie Andrews presented the licensing totals for the fourth quarter, 6/1/11 to 8/31/11. He stated, for this time period, the Division received 326 original company applications, 1,429 company renewals, 11,603 original individual applications, and 8,819 individual renewals not including online applications. He went on to say, for the same time period the Division processed the following licenses/registrations: 242 original company licenses (126 online, 116 manual), 1,400 company renewals (857 online, 543 manual), 9,157 individual registrations (2,427 online, 6,730 manual), 8,221 individual renewals (3,652 online, 4,569 manual), and 4,972 employee information updates (1,212 online, 3,760 manual). He also stated this time period showed 5,601 active company licenses, 273 active school licenses, and 129,458 active individual registrants.

Captain Alexander presented the investigation statistics for Districts A, B and C to the Board. He stated there were 631 violations investigated for the fourth quarter, 6/1/11 to 8/31/11; 134 in District A, 214 in District B and 283 in District C. He further stated there were 28 cases of operating with an expired license, 20 cases of operating with a suspended license, 53 cases of operating without a license, and 22 cases of failure to register employees. He went on to say there were 52 cases presented to prosecutors during this time period. He stated 480 cases were closed with no action, 30 cases were closed with administrative citation, 22 were closed with administrative warnings, and 99 cases were closed with other actions.

Steve Moninger was the next person to address the Board. He stated the rules adopted by the Board in the July meeting were approved by the Public Safety Commission and would be effective 20 days after the date that they would be published in the Texas Register. As a reminder he stated that the following rules were affected: repeal of Rule §35.33, Certificate of Installation, amendments to Rule §35.41, Company Name Selection, amendments to Rule §35.43, Military Discharges, amendments to Rule §35.46, guidelines for Disqualifying Convictions, repeal of Rules §35.111-§35.117, relating to Uniformed Motorcycle Escort Service, amendments to Rule §35.141, Requirements for Issuance of a Security Officer Commission by the Board, repeal of Rule §35.241, amendments to Rule §35.251, Training Requirements, amendments to Rule §35.281, Training- Personal Protection Officers, amendments to Rule §35.291, Continuing Education Requirements, amendments to Rule §35.292, Continuing Education Schools, and proposed Rules §35.321 - §35.323, relating to Active Military and Spouses – Special Conditions.

Agenda Item III: Discussion and possible action regarding new office signage for companies.

Chairman Chism presented this item, stating that Texas Occupations Code 1702 requires companies to post the newest version of contact information signs. He went on to say that there

was a new version with a slightly different wording, available from the Regulatory Services Division. He also stated that after a discussion with Assistant Director Bowie, the different private security associations were welcome to post a copy of the new signage on their websites and make them available to their members.

Agenda Item V: Discussion only regarding evaluation of continuing education standards by University of North Texas Professional Development Institute.

Chairman Chism introduced this item to the board stating he was contacted approximately a month previously by the University of North Texas offering to evaluate the different continuing education programs being provided throughout the industry. He stated he would like to hear input from the different industry members and the Department.

Kelly Riddle, President of TALI, was the first person to address the Board. He stated both he and TALI were proponents of the PDI program. He stated the continuing education curriculum was already on the website and there was a wide variety of classes that qualify. He stated that he was not averse to having UNT look at the curriculum.

Bonnie Brown Morse, with Locksmiths of San Antonio, stated her concern was in who would be qualified enough to do the evaluations. She stated that the continuing education curriculum for locksmiths is more hands on rather than in written or lecture form. She stated her organization would be open to discussion as long as the evaluator had a broad knowledge base of their industry needs.

Michael Samulin, representing TBFAA, stated their industry has a lot of manufacturers who provided continuing education at no charge. He stated they provide introduction and explanation of new products and technology in an effort to keep everyone abreast of the changes. He went on to explain that revisions to the requirements of continuing education had just been made to include allowing technical advisers to provide continuing education. He stated he felt it was a better idea to leave this issue alone for a little while and see how these new revisions went. He stated the idea of the revisions was to make things easier in obtaining continuing education and staying current, and bringing in a third party may make things more difficult.

Billy Garret, representing TLA, stated he agreed with the previous two speakers and felt that it would be best to leave continuing education as it is for now. He stated he didn't think there was enough information provided by UNT on what they were offering to do with the evaluations to warrant the inquiry.

Alan Trevino, representing ASSIST, stated he also agreed that this topic should be tabled until the new continuing education rules take effect.

Agenda Item VI: Advisory Committee report with discussion and possible action regarding new pocket card system.

Secretary Mark Smith presented this item to the Board. He stated that on July 13, 2011 the Advisory Committee met with members of Regulatory Services to discuss pocket cards. He

stated one agreement made at the meeting was that the pocket cards would not be sent to the registrants' home addresses. He stated this was for two reasons. The first reason was because at least 50% of the registrants do not have their correct address listed with RSD licensing service. He stated the second reason is because some companies prefer their employees to wear their pocket cards as badges and the committee felt home addresses should not be visible when being viewed by the public. He went on to say that a fee of \$5 would be charged for pocket cards to cover the cost of producing a plastic card similar to a Texas Driver's License. Registrants would not have to cut and paste a picture of themselves to the cards, but their drivers license picture that is currently on file with DPS, would be used. Mr. Smith went on to explain that at the January 26, 2010 meeting of the Board, a rule was passed stating the registrants would pay the initial fee for registration and then only \$20 for additional endorsements to the card. He stated it was explained that the Department could not do that and had to maintain the fee structure as it presently is, meaning that registrants could have endorsements added to their pocket cards, but they would have to pay the full registration fee for each. He also stated that the Board would need to repeal Rule §35.63 which states that pictures affixed to pocket cards could not be older than six months. The problem with this, he stated, is that driver license photos are older than six months and if this was the data base being used for photos that rule would need to be repealed. He finished by stating that the time frame for producing the new pocket cards is basically up to the Information Technology department of DPS. He stated that while the team said they would be submitting the information to IT on September 19th, IT would need the month of October to "scope the solution, identify downstream system change needs, and create the project schedule." IT would then be able to provide an updated implementation date in November. When all is said and done, if there are no issues along the way, the new pocket cards would begin being implemented early in 2012.

Vice-Chairman Johnsen asked if the Board should vote to repeal the discussed rules at this meeting or wait for a later date. Secretary Smith stated that in previous experiences with IT departments it would be prudent to wait until things were implemented before repealing the rules discussed. Vice-Chairman Johnsen stated that the Board could modify the rule by saying "using a Texas Driver License photo or a photo that is less than 6 months old".

Agenda Item IX: Discussion and possible action regarding proposed amendments to Rule §35.63, "Photographs".

Steven Moninger presented this item to the Board, stating that the amendments made to this rule struck the language that requires the use of a picture taken within the last six months. Operations Manager, Sherry Johnson, addressed the Board stating that her request for changes to the language of this rule should include language that would allow the Department to use Texas Drivers License pictures for the pocket cards. She further stated that for out of state licensees the Department would need a picture from the registrant in order to scan. She went on to explain that the Department would like to mimic the requirements and language used in the Concealed Handgun Licensing program.

Chairman Chism asked Mr. Moninger if the Board had the authority to do an administrative change to this rule at this time and do a rule modification in the future, since there is a question as to when these cards will go into effective? Mr. Moninger stated that since there are fees

involved with this process it would be better to do the changes to the rule at this time. Vice-Chairman Johnsen asked if the Board could just amend the rule so the Department can change the onetime fee of \$5 for the endorsements. Ms. Johnson answered that it would be a \$5 fee for each card, no matter how many endorsements were added. She went on to explain that the greatest number of cards to be held by anyone is five and on the back is the support of the various license types with the date of expiration.

Secretary Smith stated that at a recent convention he was asked if people have different endorsements that expire at different times, how the Department will arrange them to all have the same expiration date. Ms. Johnson stated that that would be next phase of the project. She stated that the program was not capable of that at this time but would move toward that goal in the future. She went on to explain that if a person held a license as a locksmith and a security officer and one license expired in January and one in July, the registrant would receive a new license in January with the expiration of the other license listed on the back. Then in July they would receive another card with the other registration's expiration listed, etc.

Mike Samulin next addressed the Board, stating his suggestion was to call for a short break to allow Ms. Johnson, Mr. Andrews, and Mr. Moninger to construct the proper language to allow for the rule change. He stated that it was his concern that if the changes were put off until the next meeting in January, it would be mid-summer before this project was ready to go and he would not want to see IT held up from production of the pocket cards because of pending rule changes. He also stated that the Board's Advisory Committee would put out a better description of the process for these cards that would explain to the industry.

Chairman Chism called for a 15 minute break to discuss the rule language at 9:43am.

Chairman Chism called the meeting back into session at 10:04am.

Mr. Moninger addressed the Board again on this item, stating the Board would only need to add conditional language to the effect of "fees won't go into effect until hard cards are ready for issuing". He also stated that in viewing the current fee schedule, the only changes to the fees would be in adding \$5 to everything that would receive a pocket card, or beginning with alarm system monitor all the way down to security officer commission fee. He also stated that a subsection (f) could be added to Rule §35.70 to help with this fee schedule. He went on to say that as Rule §35.63, mimicking the CHL rule language would suffice.

Board member England asked how the issue of out of state applicants would be addressed. Mr. Moninger stated that Assistant Director Bowie suggested that the Department could have the company manager sign an affidavit attesting to confirmation of the out of stated applicant's identity.

Ms. Johnson next addressed the Board stating that during the break she drafted some language that may work for the purposes of the photo requirements. She stated "Photographs shall match the photo requirements published for the concealed handgun program. Upon development completion of the private security hard card, when available, the Department shall use the individuals' Texas Driver License or Texas ID photo on file at time of application." Mr.

Moninger added that this language would only be a place holder in order for the Board to vote. He stated that when he drafts the actual rule change, instead of saying "CHL rule" he will put the actual language of the rule.

On a motion made by Secretary Smith and seconded by Vice-Chairman Johnsen, the Board voted unanimously to adopt changes to the rule as stricken and additions to reflect the language of the CHL program rule regarding photos.

Agenda Item X: Discussion and possible action regarding proposed amendments to Rule §35.70, "Fees".

Mr. Moninger reiterated the amendments to this rule as was discussed during the last rule's discussion. He stated the amendments to this rule would be to add a subsection (f) stating that there would be an additional \$5 fee added to all hard cards, on everything that requires a pocket card to include personal protection officer authorization and then from alarm systems monitor to security officer commission, as listed on the current fee schedule. Also language would be added making this rule conditional upon the hard card program being in effect.

On a motion made by Secretary Smith and seconded by Board member Crenshaw, the Board voted unanimously to add subsection (f) as described by Mr. Moninger.

Agenda Item VII: Discussion and possible action regarding Board's interpretation of Tx. Occ. Code §1702.131, "Advertising" and Rule §35.37, "information Shown in Advertisements" relating to radio and television advertisements.

Steve Moninger presented this item to the Board stating this came about as a result of an industry question from an individual. The individual wanted to do a 15 second radio ad and wanted to know if he was required to include his license number, company name and address in the spots. Mr. Moninger stated that the rule was adopted based on printed material and digital material; specifically business cards.

Board member England asked if the current rule matched the Texas Occupation Code, to which Mr. Moninger answered that it did not. He explained that while the Code was much broader in its definition the Rule was narrower. However, he went on, the Board has the authority to interpret the rule as narrowly or as broadly as it wished. He stated he was asking the Board for some input on how they wished to interpret the rule for enforcement purposes.

Vice-Chairman Johnson stated that he didn't feel the rule would need to be changed to include radio advertisement. He stated it was not a hindrance to put the license number in the ad. Secretary Smith asked Board member England if attorneys were required to include their bar number in their advertisements. Mr. England stated that he was unsure, but he did not think it was a requirement in advertisement.

On a motion made by Vice-Chairman Johnsen and seconded by Board member England, the Board voted unanimously to make a resolution regarding this rule stating that the Board did broadly interpret this rule to include all forms of advertising.

Agenda Item VIII: Advisory Committee report with discussion and possible action regarding Rule §35.41, “Company name Selection” and Rule §35.36, “Consumer Information”, and related discussion of vehicle signage issues.

Secretary Smith presented this item to the Board. He stated that if a vehicle was unmarked, used for surveillance then they should not be required to have their company license number listed on the vehicle. However, he continued, if the vehicle in any way suggests that it is used for security purposes, then the company license number does need to be included in that signage. He stated that different clients will request different things for their permanent on-site vehicles, usually wanting their own name on the vehicles. But, if it were a security company vehicle being used by the security company’s employees, there would need to be signage with the company license number. Board member Crenshaw stated that the Rules Committee was of the same opinion that this rule did not need to be changed at this time.

Mr. Moninger stated that amendments to Rule §35.36 came about when a Bill was before the Texas Legislature that, if it had passed, would have required security companies to have the words: Private Security in big letters on the vehicles. He went on to explain that it was his understanding that the Board wished to address this issue by rule, and that rule §35.36 seemed the best place to address this issue. Secretary Smith stated that security companies cannot display the words: police, law enforcement, or state of Texas on their vehicles and that perhaps they should add to that list. Mr. Moninger stated that language could be added to subsection (e) that would reflect the language of Rule §35.41(a). He explained that subsection (e) could be amended to read: Any motor vehicle operated by a guard company for the purposes of performing a regulated service may not display any language that contains the phrase “Law Enforcement”, or substantially similar terms; or any other terms, name or combination of names, or a name for which the acronym is intended to or could reasonably give the impression that the entity is in any way associated with a governmental body or agency, or a branch or political subdivision of any government.

On a motion made by Board member England and seconded by Board member Crenshaw, the Board voted unanimously to accept amendments to the Rule as suggested by Mr. Moninger.

Agenda Item XI: Rules Committee report with discussion and possible action regarding proposed amendments to Rule §35.93, “Penalty Range”.

Board member Crenshaw introduced this item to the Board. He stated that the Rules Committee did some research regarding door to door sales solicitation in other industries. He stated that the committee also set out to impose a penalty for the violation of the rules adopted at the previous meeting of the Board regarding door to door solicitation. He asked for a representative of TBFAA to come up to discuss this further.

Rodney Hooker, representing TBFAA, addressed the Board stating that the committee polled their legislative committee and had some discussion regarding a \$500 penalty per offense. However, he continued, this is such a problem for cities around the State that the committee felt imposing a \$1000 fine for each occurrence of violating Rule §35.47 would be more in order. He went on to say imposing such a high penalty would go a long way to show the community that the industry is capable of policing its own industry. Board member England stated that he would

be curious to hear what other members of the industry thought of the suggested \$1000 penalty, but he felt it was justified and it would show the local governments that the industry is serious about correcting the problem.

On a motion made by Board member Crenshaw and seconded by Board member England, the Board voted unanimously to adopt a \$1000 penalty for each violation of Rule §35.47.

Agenda Item XII: Discussion and possible action regarding proposed amendments to Rule §35.221, “Qualifications for Investigations Company License”.

Chairman Chism introduced this item to the Board for discussion. He stated that when this was originally adopted as a rule, the language included a few things that need to be changed. He went on to explain that the use of the phrase “face to face classroom hours” needed to change to “instructional hours”. By changing this language, he stated, it would allow for on-line classes and benefit those in outlying areas to receive the offered education without requiring them to drive to the larger cities.

The second change to the language of this rule, he explained, was to change the phrase “Bureau manager” to “Board or its designated representative”. This change would reflect the changes in the Department, as there is no longer a bureau.

On a motion made by Chairman Chism and seconded by Secretary Smith, the Board voted unanimously to adopt the amendments to this rule as written.

Agenda Item XIII: Rules Committee report with discussion and possible action regarding proposed amendments to Rule §35.256, “Application for a Training Instructor Approval”.

Board member Crenshaw presented this item to the Board stating that the Rules Committee did discuss this matter. He stated that the industry was very much involved in the amending of this rule and asked ASSIST member Susan Griswold to come up to discuss further.

Ms. Griswold addressed the Board stating that they suggested a few minor changes in language because of a concern in the industry that 80 hours of instruction was needed before someone could apply for an instructor license. This was changed, she explained, to show a combined total of a minimum of 40 hours being required. Another change that they suggested be made is to take out the language of subsection (c) because instructors are not required to complete the Level III instructor’s course at this time. The final change was to include a Concealed Handgun Instructor Certificate as a qualification for licensure.

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

Agenda Item XVI: Executive Session as authorized under §551.071, if necessary.

Chairman Chism called for executive session at 10:54am.

Chairman Chism called the meeting back to order at 11:22am. He stated that during executive session, the Board discussed the following Agenda items:

Agenda Item XIV: Discussion and possible action regarding the provision of unarmed personal protection services: proposed amendment to Rule §35.39, Uniform Requirements, relating to the uniform requirements for non-commissioned security officers while providing personal protection services; proposed amendment to Rule §35.186, Registration Applications, relating to the training requirements for non-commissioned security officers; and proposed amendment to Rule §35.163, Violations of the Act by Personal Protection Officers, relating to those Personal Protection Officers acting with a firearm.

During executive session the board decided to table discussion of these rules at this time. No action taken.

Agenda Item IV: Discussion and possible action regarding concealed carry licenses and private investigators.

Chairman Chism stated that those who have questions regarding their ability to have a person with a concealed carry license along with private investigators should check with their insurance companies to see what their regulations are and if there are any specific exclusions to their policies.

Agenda Item XV: Public Comment

Rodney Hooker-, with, TBFAA, addressed the Board. He stated he wished to discuss with the Board the problem of having only one qualified manager. He stated this was an issue that has been raised with the Board before and he had a proposed solution to changing this rule. He passed the Board members copies of his proposal. He asked that they look over his proposal and schedule this item for discussion at the next meeting of the Board in January.

Board member Crenshaw also stated to the rest of the Board that his Committee would look at the proposed rule change and report back during the next meeting.

David Lipscomb-, representing himself, addressed the Board. He stated companies are required to provide the department with certificates of insurance using the department's approved form. However, he stated, he is having trouble finding insurance companies that will use this form. He stated he is on his third insurance company. The trouble, he stated, was that the insurance companies are not able to do these electronically and many times have to handwrite them. He stated that if the Department could find a way for the insurance companies to log onto a secured site and do these forms electronically it would be helpful and solve the problem. He asked that the Board consider the feasibility of doing this.

Agenda Item XVII: Administrative Hearings on Licensing and Disciplinary Contested Cases

Jean O'Shaw presented the following cases to the Board:

Danilo Guda- Docket No. 000752011

Mr. Guda was not present to address the Board on this case, nor did he have counsel present on his behalf. Ms. O'Shaw stated Mr. Guda's application for registration as a commissioned security officer was denied based in part on his conviction for Misdemeanor Battery. The victim of the offense was his wife, per Mr. Guda's admission. She further stated that under Federal law he is disqualified from owning or possessing firearms and is therefore ineligible for a commissioned security officer license.

Secretary Smith made a motion to uphold SOAH's decision to deny Mr. Guda's application for registration as a commissioned security officer. Board Member Crenshaw seconded the motion, and the Board voted unanimously in favor of the motion.

Jeffrey Brown- Docket No. 000902011

Mr. Brown was present to address the Board on this case. He did not have counsel present on his behalf. Ms. O'Shaw stated Mr. Brown's application for registration as an alarm salesperson was denied based on his two felony convictions for Blue Sky Law Securities Fraud and for Securities Registration. She further stated that these convictions are statutorily disqualifying for ten years from the date of completion of the sentence.

Mr. Brown addressed the Board on his own behalf stating he had been in the insurance business all of his life. He stated Mobile Billboards of America approached him about placing a mobile billboard on his truck. The company registered in 44 states, his company sold equipment to other companies and they leased it back. He went on to say it was two years later that the Securities Exchange Commission got involved and declared this a violation. He stated two of the Securities Exchange officers spoke to two of his former clients and convinced them to file charges. He stated his attorney advised him to take a plea agreement. He wanted the Board to know he was not a criminal, only a salesman who made an ill-advised plea agreement.

Chairman Chism asked him what the actual sentence was, to which Mr. Brown replied three years in prison which he served. Mr. Brown was then asked if he was placed on probation, to which he replied no. Chairman Chism then asked if he had any fines attached or was made to pay restitution. Mr. Brown stated he was not charged any fines, but was made to pay restitution which he has done and continues to do. Secretary Smith asked if this was the same occurrence or two separate, as he had two felony convictions. Mr. Brown stated it was the same occurrence but two separate people filed charges. Secretary Smith stated if he was convicted of one felony he would not be eligible until 2017, but being convicted of two made him ineligible. Ms. O'Shaw stated that Mr. Brown would actually not be eligible until 2020, which would be 10 years from the completion of his sentence.

Board member Crenshaw made a motion to uphold SOAH's decision to deny Mr. Brown's application for registration as an alarm salesperson. Vice-chairman Johnsen seconded the motion, and the Board voted unanimously in favor of the motion.

Alfred Lester- Docket No. 000992011

Mr. Lester was not present to address the Board on this case, nor did he have counsel present on his behalf. Ms. O'Shaw stated Mr. Lester's application for registration as a commissioned security officer was denied based on his two felony conviction for Conspiracy to Commit Theft by Deception. She further stated that under Federal law he is disqualified from owning or possession firearms and is therefore ineligible for a commissioned security officer license.

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

Scott Merchant presented the following case to the Board:

Gaylon Smith- Docket No. 001492011

Mr. Smith was not present to address the Board on this case, nor did he have counsel present on his behalf. Mr. Merchant stated Mr. Smith was denied application for licensure as a non-commissioned security officer based on his conviction for the Class A misdemeanor offense of Driving While Intoxicated- Second.

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

Scott Merchant presented the following Direct Appeal to the Board:

Terry Wieters- Docket No. 000182012

Mr. Wieters was present to address the Board on this case. He was also represented by Attorney David Ayon. He stated this case was being presented to the Board based on Mr. Wieters' requirement to register as a sex offender. This is based on his 1991 conviction of Sexual Assault of a Child.

Attorney David Ayon addressed the Board stating the claim against Mr. Weeters occurred in 1990 and he was given 10 years deferred adjudication in 1991. Mr. Weeters completed his sentence in 1993 and has had no convictions since that time. He went on to explain that in 1991 there was no requirement to register as a sex offender. He also explained that in 1994 this law was changed causing those convicted of some sexual offenses to register, however Mr. Weeters was not informed of this requirement in his case until this year. Mr. Ayon went on to say that he believed Mr. Ayon was entitled to an exception based on 1702.3615(b)(1), which states: "the sole basis of the denial is a conviction for a Class A misdemeanor or equivalent or a greater offense;" and (2): "the 20th anniversary of the conviction has occurred;". This occurred over 20 years ago and they were requesting that Mr. Wieters be allowed to continue as a security officer,

as he has since 1993. Board member England asked if Mr. Ayon had a copy of the Occupation Code to which he was referring. Mr. Ayon provided a copy of the statute for the Board's review. Mr. Moninger pointed out to the Board and Mr. Ayon that 1§702.3615 was amended during the 80th legislature and effective September 1, 2007 that was no longer the way the statute read. He stated the effective statute is the provision that gives the authority to skip SOAH and appeal directly to the Board, which is applicable only when there isn't any other ineligibility. The only disqualifier is the Sex Offender registration. He further stated the Board has rule §35.45 which provides the guidelines the Board is to consider in this type of case.

Vice-Chairman Johnsen made a motion to grant Mr. Wieter's a provisional license stating he must appear before the Board again in one year and he must go forward with his application to be removed from the Sex Offender Registry. Secretary Smith seconded the motion, and the Board voted 4-1 in favor of the motion, with Board member England opposed to the motion.

Agenda Item XIII: Adjournment

Chairman Chism introduced this agenda item. Vice-chairman Johnsen made a motion for adjournment. Board member Crenshaw seconded the motion, and the Board voted unanimously in favor of the motion. At 12:23 pm, the October 19, 2011 meeting of the Private Security Board was adjourned.