

**TEXAS PRIVATE SECURITY BOARD**

**REGULARLY SCHEDULED BOARD MEETING HELD AT 9:00 A.M.,  
OCTOBER 30, 2012**

**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 Albert Black  
Honorable Charles Crenshaw  
Honorable Brian England

**BOARD MEMBERS NOT PRESENT:**

Honorable Doris Washington

**STAFF PRESENT:**

RenEarl Bowie, Assistant Director, Regulatory Services Division,  
Texas Department of Public Safety;  
Oscar Ybarra, Deputy Assistant Director, Regulatory Services Division;  
Steve Moninger, Senior Staff Attorney, Office of Regulatory Counsel, Legal Operations;  
JoJo Heselmeyer, Senior Manager, Licensing and Registration Service;  
Reggie Andrews, Assistant Manager, Licensing and Registration Service;  
Ryan Garcia, Supervisor, Licensing and Registration Service;  
Jay Alexander, Major, Regulatory Crimes Bureau;  
Jairo Saenz, Capt., Regulatory Crimes 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 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 9:10 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 stated division staff had a few announcements to make.

JoJo Heselmeyer addressed the Board and audience stating Reggie Andrews had been promoted within the department and was now the Assistant Manager of the Licensing and Registration Service.

Reggie Andrews addressed the Board and audience stating that Ryan Garcia had been promoted within the department and was now the Supervisor of the Private Security licensing. Mr. Garcia addressed the Board stating that he looked forward to learning a lot and working with the industry members. He also stated that he had Reggie's old number so if anyone needed assistance, please call.

Major Jay Alexander addressed the Board and audience stating that a new Captain had been promoted within the department in the Austin/San Antonio area. He stated that Captain Jairo Saenz had come to RSD from the Criminal Intelligence Division. Captain Saenz addressed the Board saying that he looked forward to the opportunity and the industry could contact him with any issues in the San Antonio/Austin area.

Assistant Director Bowie addressed the Board and audience stating that the Private Security Bureau had come a long way in the last 6 years. He stated that the bureau began with 27 troopers and has now grown to 70 commissioned agents, 3 captains, and a full compliance section. He went on to say that the Board may remember the former chief Valerie Brown and then Wayne Mueller took over for her, but earlier in the year moved on to be the Assistant Director of Administration at DPS. He stated he wished to announce the division's new Deputy Assistant Director, Oscar Ybarra. He stated Mr. Ybarra had 15 years of service with DPS and was, at one time, the Chief of Finance. He stated Mr. Ybarra would be a great fit and had broad knowledge of budgeting and leadership. D.A.D. Ybarra addressed the Board stating it was an honor to be there before the board and in the Regulatory Services Division.

Chairman Chism recognized Mr. Smith from the New Mexico Private Security Board who stated he was attending the meeting to observe how our state Board runs their meetings.

**Agenda Item I: Approval of Minutes for Board Meeting held July 20, 2012.**

Chairman Chism introduced this agenda item. On a motion made by Board member Crenshaw and seconded by Secretary Smith, the Board voted unanimously to approve the minutes for the board meeting of July 20, 2012 as written.

**Agenda Item II: Reports from Regulatory Services Division.**

Major Alexander presented the investigation statistics for Districts A, B and C to the Board. He stated there were 446 violations investigated for the fourth quarter, 6/1/12 to 8/31/12; 246 in District A, 111 in District B and 89 in District C. He further stated there were 14 cases of operating with an expired license, 9 cases of operating with a suspended license, 20 cases of operating without a license, and 9 cases of failure to register employees. Major Alexander went on to say there were 30 cases presented to prosecutors during this time period. He stated 390 cases were closed with no action, 0 cases received administrative citation, 0 were closed with an administrative warning, and 56 cases were closed with other actions.

Reggie Andrews presented the licensing totals for the fourth quarter, 6/1/12 to 8/31/12. He stated, for this time period, the Division received 291 original company applications, 1,470 company renewals, 12,058 original individual applications, and 9,586 individual renewals not including online applications. He went on to say, for the same time period the Division processed the following licenses/registrations: 183 original company licenses (93 online, 90 manual), 1,438 company renewals (1,010 online, 428 manual), 9,827 individual registrations (2,942 online, 6,885 manual), 9,085 individual renewals (4,315 online, 4,770 manual), and 6,662 employee information updates (1,171 online, 5,491 manual). He also stated this time period showed 5,717 active company licenses, 277 active school licenses, and 131,441 active individual registrants. Mr. Andrews also stated he wanted to mention that companies doing their due diligence, as directed in §35.204, can utilize the DPS website to research criminal activity. He also stated there are several commercial websites that provide this service as well as the county clerks offices.

Vice-Chairman Johnsen stated that he always looks at the original application numbers to see how many are still being done manually rather than electronically. He stated he was disappointed that the numbers this month are not higher. He stated that the original applications being done electronically were up to 50%, but renewals are only being done 30% of the time by electronic means. Mr. Andrews stated that it was the division's hope that with the enhanced system that is coming in the future, that those numbers will rise. He stated currently utilizing L-1 is not customizable as needed, but when the division is able to use the DPS Direct system it will be easier and customizable. The division's goal is to get away from using universal templates. Chairman Chism asked Mr. Moninger to explain the Board rules and statute regarding applications and the 5-day rule in regards to fingerprints. Mr. Moninger stated the Board rules require that a complete application be submitted within 5 days; therefore fingerprints need to be submitted within that time as well. He explained that this is required by board rule. Chairman Chism asked if the fingerprints were part of the application by statute, to which Mr. Moninger answered that that requirement was stated as a board rule and in statute.

### **Agenda Item III: Reports from Board Committees.**

Alan Trevino gave the Advisory Committee report to the Board, stating there have been issues with the sole source provider for fingerprinting keeping up with demand. He stated L-1 offered 20 machines to be placed throughout the state. After the July board meeting he stated he received a call that the number of machines were being reduced from 20 to 3, to be placed in Houston, San Antonio, and Austin. He further stated that the contract with L-1 was not the concern of the committee, but that the timeliness of having the prints done is a concern. He went on to say that electronic fingerprinting with DPS is not something that the committee supports at this time. When asked by Vice-chairman Johnsen what action the committee would like to take, he responded that the committee recommends that the Board not require digital fingerprinting at this time.

Vice-chairman Johnsen stated that this organization depends on electronic means for licensing. He stated the industry needed to break the cycle of ink prints and paper applications. He stated they needed to find a way to meet demand of licensees. He also pointed out that in his business,

everything is done electronically. Mr. Trevino stated that the issues with the electronic fingerprinting revolved around the timeliness of getting the prints done. He stated that the timeframe is still such that they recommend not getting electronic prints.

Assistant Director Bowie stated that his recommendation was to continue to work together: staff, committee members, current vendor, to find a solution.

Chairman Chism stated that the advisory committee would continue to work with staff and the vendor to find a conclusion to this issue.

**Agenda Item IV: Discussion and possible action regarding the examination and pre-approval of multiple prospective qualified managers of companies.**

Mr. Andrews addressed the board regarding this issue, stating that each company is allowed to have only one qualified manager, but may also have a supervisor. He stated the supervisor can take the manager's exam and have it ready to back up the qualified manager should they be unable to continue in that capacity. Board member Crenshaw asked that something to that effect could be written up for him to use to provide licensees with the information.

**Agenda Item VI: Discussion and possible action regarding PSB 2011/2012 budget.**

A.D. Bowie addressed the board on this item stating that the Board asked to be briefed on the budget for the Private Security Bureau. He asked that they bear in mind that the old bureau had changed and is now engulfed in the Regulatory Services Division. However, he felt he and his staff were able to carve out what the Private Security Bureau looked like previously and what it looks like now within the division. He stated that for FY 2011, within the three strategies that encompass private security: Investigations, Enforcement, and Licensing, the appropriations were around 3.6 million dollars. For that same fiscal year the revenues collected were around 6.6 million dollars. In FY 2011, 63,729 licenses and registrations were issued while in FY 2012, 78,735 were issued. He concluded by stating that for FY 2012 appropriations were at 3.7 million dollars, while revenues collected were totaled at 5.1 million.

(At this time a break was taken from the Agenda to allow for a presentation to Chairman Chism by the Regulatory Services Division)

**Agenda Item VII: Discussion and possible action regarding Company Audits and Inspections when the company office is in a private home.**

A.D. Bowie addressed the board on this issue. He stated this came about by questions raised regarding doing audits in a person's home. He explained that some concern was raised by the division employees in regards to their safety in entering people's homes to conduct these audits. A new policy was enacted that if an employee felt uncomfortable they would be able to have another auditor go with them or request that the licensee arrange a time to bring their records to the DPS office for the audit. Chairman Chism stated that he had experienced this new policy and

was asked to come to the DPS office for his company audit. He stated it was short and no problems arose.

**Agenda Item V: Discussion and possible action regarding a reduction in FBI fees.**

A.D. Bowie addressed the Board on this item. He stated that the information he received on this issue was that the FBI reviews the process of fingerprint based checks to determine the proper fee amount to be collected. These reviews have resulted, over time, in the fees going from \$24 down to \$19.25, and as of March 2012, down to \$16.50. He stated the methodology for this can be found in Part 28CFR 20.31E. He also stated he recently found out that when the division receives hard copies of fingerprints, they send them over to the Agency's Crime Records department who converts the cards to an electronic version at no charge. He stated he was going to dig into this process a little further and have more information for the board at the next meeting. Vice-chairman Johnsen asked that while he was looking into this electronic conversion, to also please find out the amount of time it takes to do this.

Chairman Chism stated this issue would be tabled until the next meeting of the board and be discussed further at that time.

A.D. Bowie then called for Mr. Andrews to address the board on a separate matter. Mr. Andrews stated that the new "hard card" pocket cards had begun production and being mailed to licensees. He stated some had already begun to receive them. He went on to thank a few people who were in attendance and who were instrumental in achieving this goal: George Icosipentarios and Brian Isaac from the Operations and Shared Services part of the division, along with Ryan Garcia from licensing. Board member Crenshaw stated he had already received his. Mr. Andrews stated they have already begun to receive positive feedback. A.D. Bowie stated he was excited about this project finally being completed. He stated his thanks for both the IT and RSD members for accomplishing the task, thanked the board and industry for their patience and support on this long road.

**Agenda Item VIII: Public Comment**

Bonnie Brown Morse-, Locksmith Association of San Antonio, addressed the Board. She asked as a point of clarification on agenda item IV, if supervisors could take the managers exam after the current manager was no longer with the company, or could they take it before that. Mr. Andrews stated that they could take the exam while the current manager was still with the company. Also she asked when the new pocket cards were being issued. It was explained that at this time the new cards are being rolled out upon renewal of licenses.

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

The Board called for executive session at 9:57am.

The Board reconvened at 10:20am.

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

Attorney for the Department Steve Shuffer presented the following cases to the Board:

### Armando Contreras- Docket No. 005632012

Mr. Contreras was not present to address the Board on this case, nor did he have counsel present on his behalf. Mr. Shuffer stated Mr. Contreras application denial was based on his Class D Felony for Bribing a Public Official.

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

### Eric Dick- Docket No. 005182012

Mr. Dick was not present to address the Board on this case, nor did he have counsel present on his behalf. Mr. Shuffer stated denial of Mr. Dick's application for registration as a non-commissioned security officer was based on his misdemeanor conviction for Driving While Impaired Second Offense.

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

### Nicholas Edwards- Docket No. 005462012

Mr. Edwards was present to address the Board on this case; however he did not have counsel present on his behalf. Mr. Shuffer stated Mr. Edward's application for registration as a locksmith was denied based on his Class 6 Felony conviction for Possession of Drug Paraphernalia.

Mr. Edwards addressed the Board. He stated he had been working for a company for about a year and a half. He stated he got into some trouble while living in Arizona back in 2008. He stated he was not running from his mistake but was trying to fix it. He explained he is the sole provider for his household, and the work that he does is at a vehicle controlled facility which is not open to the public. He stated he has a fine to pay and he knows there is a warrant out for him, but if he doesn't have a job it will be even more difficult to pay this fine and clear all of this up.

Vice-chairman Johnsen stated that if he was not doing any outside lock work then he would not need to be licensed. Mr. Edwards stated the company he works for say he must be licensed. He stated that the company's concern is that if he is caught doing the work they would be fined. Secretary Smith stated he was convicted in October of 2008, but asked why he had a current warrant out. Mr. Edwards answered that he never fulfilled his probation requirements, explaining that he wasn't running from it he was just going to work since he hadn't worked in 2 years. Secretary Smith asked what circumstances were behind this arrest. Mr. Edwards stated he did make mistakes. He was pulled over and was asked if there was anything in his truck to

which he stated no. However, when his truck was searched they did find a baggie with what he thinks was “speed”, but is not sure because he was not aware it was there. Board member asked when he would be able to re-apply for licensure, to which Mr. Shuffer stated he could re-apply as soon as October 13, 2013.

Board member England made a motion to uphold SOAH’s decision and deny Mr. Edwards’s application for registration as a locksmith. Vice-chairman Johnsen seconded the motion, and the Board voted unanimously in favor of the motion.

Attorney for the Department Ginger Hunter presented the following cases to the Board:

Kassandra Brown - Docket No. 005572012

Ms. Brown was not present to address the Board on this case, nor did she have counsel present on her behalf. Ms. Hunter stated Ms. Brown’s commission as a Security officer was suspended based on her pending Class A Misdemeanor charge for Driving While Intoxicated, Blood Alcohol Content  $\geq 0.15$ .

Secretary Smith made a motion to uphold SOAH’s decision and suspend Ms. Brown’s commission as a security officer. Board member Crenshaw seconded the motion, and the Board voted unanimously in favor of the motion.

Earl Rogers - Docket No. 005152012

Mr. Rogers was present to address the Board on this case; however he did not have counsel present on his behalf. Ms. Hunter stated Mr. Roger’s application for registration as an alarm systems installer was denied was based on his Felony conviction of Driving While Intoxicated 3<sup>rd</sup> or more.

Mr. Rogers addressed the Board, stating he did make a mistake but wanted to go to work. He stated there were 8 years between his second and third offenses. He stated he is currently on probation, is current on all of his fines and had not had a drink in a year. He stated he is trying to provide for his daughter. He stated he has a company that is willing to hire his is America’s Ultimate Security. They have a van program in which someone will take him out to the neighborhoods and there will be no driving on his part. He also stated that he would not be eligible to apply for a license again until 2016, but would like to get licensed sooner so he could work.

Board member Crenshaw made a motion to uphold SOAH’s decision and deny Mr. Rogers’ application for registration as an alarm systems installer. Board member England seconded the motion, and the Board voted unanimously in favor of the motion.

Attorney for the Department Jean O'Shaw presented the following cases to the Board:

David Amaya - Docket No. 005562012

Mr. Amaya was not present to address the Board on this case, nor did he have counsel present on his behalf. Ms. O'Shaw stated Mr. Amaya's applications for registration as a commissioned security officer, personal protection officer and non-commissioned security officer was denied based on his two felony convictions, a material misstatement on his applications, and his disqualification under federal law from possessing or purchasing a firearm. Mr. Amaya was convicted of two fourth degree felony offenses: Embezzlement > \$250 and False Imprisonment. Mr. Amaya denied any felony conviction on his commission application background history questionnaire.

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

Hugo Ibarquen Jr - Docket No. 004482012

Mr. Ibarquen Jr. was not present to address the Board on this case, nor did he have counsel present on his behalf. Ms. O'Shaw stated Mr. Ibarquen's registration as a non-commissioned security officer was revoked based on his Class B Misdemeanor conviction for Theft of Property.

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

Attorney for the Department Valerina Walters presented the following cases to the board:

Nicholas Bates - Docket No. 005202012

Mr. Bates was not present to address the Board on this case, nor did he have counsel present on his behalf. Ms. Walters stated Mr. Bates application for registration as a non-commissioned security officer was denied based on his conviction for Criminal Trespass-In Habitation Shelter.

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

Walter Busby - Docket No. 000132012

Mr. Busby was not present to address the Board on this case, nor did he have counsel present on his behalf. Ms. Walters stated Mr. Busby's individual registrations/licenses as a Personal Protection Officer, Commissioned Security Officer, and Private Investigator were summarily suspended based on his Felony indictment for Driving While Intoxicated- 3<sup>rd</sup> or more.

Secretary Smith made a motion to uphold SOAH's decision and summarily suspend Mr. Busby's registrations and licenses as a Personal Protection Officer, Commissioned Security Officer, and Private Investigator. Board member Black seconded the motion, and the Board voted unanimously in favor of the motion.

Bradley Zaire - Docket No. 004612012

Mr. Zaire was not present to address the Board on this case, nor did he have counsel present on his behalf. Ms. Walters stated Mr. Zaire's registration as a non-commissioned security officer was summarily suspended based on his conviction for DWI-2nd.

Board member Crenshaw made a motion to uphold SOAH's decision and summarily suspend Mr. Zaire's registration as a non-commissioned security officer. Secretary Smith seconded the motion, and the Board voted unanimously in favor of the motion.

Attorney for the Department Scott Merchant presented the following case to the board:

Terry Wieters - Docket No. 000182012

Mr. Wieters was present to address the Board on this case as well as having counsel present on his behalf. Mr. Merchant stated Mr. Wieters' commission as a security officer was revoked based on his duty to register as a sex offender. On October 19, 2011, a hearing was held before the Private Security Board regarding the revocation of his commission. At that time, Mr. Wieters' commission was reinstated for one year while he attempted to be removed from the Sex Offender Registry. Based on information available to the Department, Mr. Wieters has been unsuccessful in his attempts at removal from the Sex Offender Registry and is still required to register as a sex offender. On October 19, 2012, the attorney for Mr. Wieters submitted a motion for continuance, requesting that "...the Board hold in abeyance their decision for 180 days or period longer, in order to allow the Movant to pursue his deregistration."

Mr. Ayan, Mr. Wieters' attorney, addressed the Board stating that Mr. Wieters retained a second attorney to help with the process, but that he was still working on his case also. He explained to the board that the incident occurred 22 years ago and Mr. Wieters received deferred adjudication. He reminded the Board that it was only a year ago that he was asked to register as a sex offender and he and Mr. Wieters both thought that he would be able to de-register. He stated they are having a little more difficulty than anticipated and asked the Board for an extension of 6 months to try to get off the registry. Board member England asked when the second attorney was retained, to which Mr. Ayan stated he was retained a couple months prior. When Board member England asked why it took so long for him to retain another attorney, Mr. Ayan stated it was due to financial reasons. Board member England asked if the application had yet been filed, and was informed that it had not.

Board member England made a motion to deny a continuance to Mr. Wieters. Board member Black seconded the motion and the Board voted unanimously in favor of the motion.

Board member England made a second motion to revoke his commission as a security officer based on his duty to register as a sex offender. Secretary Smith seconded the motion and the Board voted unanimously in favor of the motion.

**Agenda Item XIII: Adjournment**

Chairman Chism introduced this agenda item. Secretary Smith made a motion for adjournment. Board member Black seconded the motion, and the Board voted unanimously in favor of the motion. At 11:00 am, the October 30, 2012 meeting of the Private Security Board was adjourned.