

# Texas Private Security Board

Regularly scheduled Board Meeting at 9:00 a.m.,  
Jan. 15, 2013

**Texas Department of Public Safety**  
6100 Guadalupe St., Bldg. E  
Criminal Law Enforcement Building  
Austin, Texas 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  
Honorable Doris Washington

## **Staff present:**

Oscar Ybarra, Deputy Assistant Director, Regulatory Services Division (RSD);  
Texas Department of Public Safety (DPS)  
JoJo Heselmeyer, Senior Manager, RSD Licensing and Registration Service (LRS)  
Steve Moninger, Senior Staff Attorney, Office of Regulatory Counsel (ORC)  
Reggie Andrews, Assistant Manager, RSD LRS  
Capt. Jairo Saenz, RSD Regulatory Crimes Service (RCS)  
Other members of the staff;  
Members of the industry;  
and 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 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.

### **Agenda Item I: Approval of Minutes for Board Meeting held Oct. 30, 2012**

Chairman Chism introduced this agenda item and with 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 Oct. 30, 2012, as written.

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

#### **a) Licensing Activity**

Reggie Andrews, Licensing Assistant Manager, presented the LRS totals to the Board for the first quarter of FY2013, from Sept. 1 to Nov. 30, 2012. He stated, for this time period, RSD received:

- 280 original company applications;

- 1,310 renewal company applications;
- 11,725 original individual applications; and
- 9,436 renewal individual applications.

Mr. Andrews went on to report, for the same time period, RSD processed the following licenses and registrations:

- 162 original company licenses (82 online and 80 manual);
- 1,309 renewal company licenses (946 online and 363 manual);
- 8,484 original individual registrations (2,704 online and 5,768 manual);
- 8,919 renewal individual registrations (4,406 online and 4,513 manual); and
- 5,283 employee information updates (1,322 online and 3,961 manual).

Mr. Andrews also stated this time period showed 5,593 active company licenses; 275 active school licenses and 130,337 active individual registrations.

b) Investigation Activity

Regulatory Crimes Services Captain Jairo Saenz presented the investigation statistics for Districts A, B and C to the Board. He stated there were 318 violations investigated for the first quarter of FY2013, from Sept. 1 to Nov. 30:

- 163 in District A;
- 96 in District B; and
- 59 in District C.

He further stated Unlicensed Activity cases during this time period were:

- 1 case of operating with an expired license,(District B)
- 0 cases of operating with a suspended license,
- 18 cases of operating without a license (District A-6, District B-5, District C-7)
- 3 cases of failure to register employees (1 case per District)
- 22 criminal cases presented to prosecutors (District A-7, District B-7, District C-8)

Captain Saenz stated Case Disposition during this quarter were:

- 243 cases were closed with no action, (District A-131, District B-73, District C-39)
- 0 cases received administrative citation,
- 0 cases were closed with an administrative warning
- 190 cases were closed with other actions.

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

a) Advisory Committee

Secretary Smith stated the National Department of Defense (DOD) recently published a report that stated by January 2014 electronic fingerprinting will be mandatory for all D.O.D contractors, as well as providing options on how they are submitted. The report went on to say that companies, could purchase scanners at an estimated cost of \$1,995. The report added some companies would not be able to absorb the cost of a scanner, so maybe two could buy and share a portal for FBI submissions. L1 is not one of the approved vendors on contract with the DOD. Secretary Smith stated he was aware that the cost of scanners dropped from \$20,000 to \$2,000 over the last couple of years. He further stated that the committee took all of the available data from this report and created an unofficial summary that they would make available.

Vice-chairman Johnsen stated certain occurrences have nothing to do with availability of electronic fingerprinting locations and the Regulatory Services Division is doing this now. He went on to say Assistant Director RenEarl Bowie and L1 set up one location as a test site and the board should continue to let test sites get initiated.

Chairman Chism stated it may be the best idea to table further discussion to allow L-1

and RSD more time to evaluate the outcome of the test sites and find a solution. He went on to thank the committee for doing a good job in gathering the information for RSD and L-1 to use. He stated that it was now time to let them figure out the next steps.

Vice-chairman Johnsen stated the way fingerprinting operates today is not feasible for guard companies to utilize only electronic fingerprinting. This puts the company at a disadvantage and needs to be changed. He said he would like them to continue to look at ways to change.

Board member Washington stated electronic fingerprinting is going to be the way of the future. She said she understood the hardship to businesses, but that's the cost of doing business. She went on to say it would be inefficient to delay DPS and make it more difficult for them to get the job done.

On a motion made by Secretary Smith and seconded by Board member Crenshaw, the board voted unanimously to table further discussion to a later date.

- b) Board member Crenshaw reported that the Rules committee did not have any items for discussion at this time.

Board Attorney, Steve Moninger, reported Division staff is in the process of revising the Administrative Rules to make them more user friendly. He said he would be able to present those changes once they are complete. Chairman Chism requested Mr. Moninger submit the final document to the Rules Committee for their review.

#### **Agenda Item IV: Discussion and possible action regarding a reduction in Federal Bureau of Investigation (FBI) fees**

Licensing Assistant Manager Reggie Andrews introduced this item to the board and reported the fee-based schedule for the FBI fee breakdown, originally \$25, is now reduced \$19.25. As of March 2012, the fee went to \$16.50, with \$14.50 for the FBI and \$2 for centralized billing service or DPS Crime Records. With the \$25 fee, \$8.50 would go to private security.

Secretary Smith asked if the reduction will be passed along to the private security companies through the amount of registration fees required. Chairman Chism said the fee would remain the same at this time. He went on to explain that the fees need to be sufficient to administer the private security program. A study to assess this amount needs to be completed and this would probably not be done until September 2013. He also said the board would review the information and make any necessary changes to the rules at that time.

Vice-chairman Johnsen asked if the FBI increased the fee, would the industry be waiting for a study or would the department automatically raise the fee. He added that it is disappointing the department has had this in place for some time, yet everyone is finding out about it afterward.

Secretary Smith stated these changes in fees happen constantly. He added that perhaps consistency is a factor in keeping the fees the same.

Deputy Assistant Director Ybarra reported that in a 2006 revised appropriations, a rider was appropriated \$7.5 million for the biennium. The current study estimates show \$4 million/year is being spent or \$8 million for the biennium. This leaves a shortage of \$0.5 million. He added that is the reason for more study of this; to ensure enough income is being generated to support the expenditures.

No action taken.

**Agenda Item V: Discussion and explanation regarding Texas Occupations Code §35.221 and §35.60 regarding training requirements for managers of Private Investigation companies and Guard companies**

Chairman Chism introduced this item to the board, reporting there are companies trying to register graduates from the University of North Texas's private investigator school as managers of guard companies. The rules for registering as a guard company manager are explained in Board rules. He added while the graduates are able to become licensed private investigators, they do not meet the requirements to become managers. He explained by Rule, managers must have at least three years of cumulative employment experience in the industry and one year of managerial experience to be licensed as such. The industry must monitor to ensure eligibility.

No action was taken.

**Agenda Item VI: Public Comment**

- a) Damon Jackson, Tarrant County College (TCC), informed the board that TCC is starting a program to raise the level of professionalism in the industry. TCC asked what they can do to raise training for Level 4 and add a physical fitness requirement. He requested to make a presentation to the board at its next meeting.
  
- b) Bonnie Brown Morse, Locksmith Association of San Antonio (LASA), introduced Steven Sharp as the new president of Texas Locksmith Association and Don Myers as the new president of LASA.

Chairman Chism called for a short break at 9:47am.

The meeting of the Private Security Board resumed at 10:10am.

**Agenda Item VII: Executive Session as authorized under Texas Government Code, §551.071**

The board elected not to take an Executive Session at this time.

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

Chairman Chism stated that he would call roll and asked that if any of the following were present to present their cases they should speak up:

- Toby Cruz – Docket No. 405-13-0033
- Kenneth McLin – Docket No. 405-12-8056
- Frederick Robert Haskin – Docket No. 405-12-7763
- Crue Medina-Longbine – Docket No. 405-13-0126
- Casmir Irielle – Docket No. 405-13-0268
- Vincent Marquez – Docket No. 405-12-5051

Without the defendants in attendance, nor with counsel present on their behalf, Chairman Chism suggested the Board make a group motion to uphold each decision made by the State

Office of Administrative Hearings (SOAH). Board member England stated ORC attorney, Steve Shuffer, recommended the Board hear the case of Vincent Marquez separately, and he agreed. Chairman Chism agreed and asked Mr. Shuffer to present the case.

Vincent Marquez - Docket No. 405-12-5051

Mr. Marquez was not present to address the Board on this case, nor did he have counsel present on his behalf. Mr. Shuffer stated the revocation of Mr. Marquez's license as a security salesperson was based on his Class A misdemeanor conviction for Driving While Intoxicated 2<sup>nd</sup> Offense. He stated a hearing was held before SOAH on September 13, 2012. After a hearing on the merits, the ALJ issued a proposal for decision upholding a *suspension* of Mr. Marquez's license.

On October 19, 2012, DPS filed exceptions to this proposal for decision asking the judge to uphold DPS' *revocation* of Mr. Marquez's license.

On November 29, 2012, an amended proposal for decision was issued in this case holding that Mr. Marquez's license should *not* be revoked on the grounds that a preponderance of the evidence does not establish a relationship between Mr. Marquez's conviction for Driving While Intoxicated 2<sup>nd</sup> Offense and his ability, capacity, or fitness to perform the duties and discharge the responsibilities of a security salesperson.

Board member Crenshaw made a motion to deny SOAH's decision and revoke Mr. Marquez's license as a security salesperson. Board member Washington seconded the motion, and the Board voted unanimously in favor of the motion.

Board member England made a motion that in the cases of Toby Cruz, Kenneth McLin, Frederick Robert Haskin, Crue Medina-Longbine, and Casmir Irielle the Board uphold the rulings set by SOAH. Secretary Smith seconded the motion, and the Board voted unanimously in favor of the motion.

**Agenda Item IX: Adjournment**

With their being no further business for the Texas Private Security Board for the Jan. 15, 2013, Board Meeting, Chairman Chism asked for a motion to adjourn at 10:20 a.m. Secretary Smith made a motion to adjourn and it was seconded by Board member Black. All were in favor.