

**TEXAS PRIVATE SECURITY BOARD**

**REGULARLY SCHEDULED BOARD MEETING HELD AT 9:00 A.M.,  
APRIL 14, 2014**

**TEXAS DEPARTMENT OF PUBLIC SAFETY  
6100 GUADALUPE ST, BLDG E  
CRIMINAL INVESTIGATIONS 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  
Honorable Wade Hayden

**STAFF PRESENT:**

RenEarl Bowie, Assistant Director, Regulatory Services Division;  
Steve Moninger, Senior Staff Attorney, Office of Regulatory Counsel, Legal Operations;  
Ryan Garcia, Supervisor, Licensing and Registration Service;  
Reggie Andrews, Assistant Manager, Licensing and Registration Service;  
Jay Alexander, Major, Regulatory Crimes Service

**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 9:01 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.

Chairman Chism called Mark Gillespie and the Board of Texas Association of Licensed Investigators (TALI) to the podium. Mr. Gillespie stated that as president of TALI he deals with the good, the bad, and the ugly; usually the ugly. He wanted to recognize the efforts of a group of people who have been instrumental in assisting TALI with many of the ugly issues. He called Assistant Director RenEarl Bowie, Assistant Manager Reggie Andrews, and Supervisor Ryan Garcia. He went on to say that he often gets calls of complaint regarding Private Security issues. One such occasion happened a few months ago. He stated he contacted A.D. Bowie, who rolled

up his sleeves and handled each issue personally. He presented them with a plaque as a token of their appreciation.

A.D. Bowie accepted the plaque on the staff's behalf and stated he wanted to mention the RSD licensing staff who do a great job doing all that is asked of them. He also stated the RSD Call Center staff who also do an outstanding job.

### **Agenda Item I: Approval of Minutes for Board Meetings held**

- **October 30, 2013- Agenda Item IV, section discussing Rule §35.72**

Chairman Chism introduced this agenda item. Upon review, Secretary Smith made a motion to accept the changes to these minutes as written. Board member Crenshaw seconded the motion and the board voted unanimously in favor.

- **January 28, 2014**

Chairman Chism introduced this agenda item. Upon review, Board member Hayden made a motion to accept these minutes as written. Secretary Smith seconded the motion and the board voted unanimously in favor.

- **February 25, 2014**

Chairman Chism introduced this agenda item. Upon review, Board member Crenshaw made a motion to accept these minutes as written. Board member Hayden seconded the motion and the board voted unanimously in favor.

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

Supervisor Ryan Garcia presented the licensing totals for the second quarter, 12/1/13 to 2/28/14. He stated, for this time period, the Division received 270 original company applications, 1,338 company renewals, 11,160 original individual applications, and 9,456 individual renewals not including online applications. He went on to say, for the same time period the Division processed the following licenses/registrations: 137 original company licenses (88 online, 49 manual), 1,289 company renewals (1,021 online, 268 manual), 8,920 individual registrations (4,983 online, 3,937 manual), 8,409 individual renewals (5,573 online, 2,836 manual), and 4,847 employee information updates (2,107 online, 2,740 manual). He also stated this time period showed 5,497 active company licenses, 289 active school licenses, and 151,864 active individual registrants.

Board member Crenshaw asked if there was any data yet regarding the fingerprint process upon renewal. A. D. Bowie stated that at this time RSD is not requesting fingerprints be obtained at renewal. He went on to say that it has been the topic of discussion and the Director has suggested the division look into the feasibility of this, but other than the Level III licensees, no one else is yet required to do fingerprints upon renewal.

Vice-chairman Johnsen asked what the timeline was for this coming about. A.D. Bowie answered that the timeline was based on the Department's project management office. He explained House Bill 2433 was the bill that initiated having fingerprints run at the time of

renewal. This is now a Tier II project, meaning it is legislatively mandated, but no funding is attached. The highest level is a Tier I and lowest is a Tier III.

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

The Advisory Committee had nothing to report at this time.

The Rules Committee had nothing to report at this time.

**Agenda Item IV: Discussion regarding online renewal of pocket card with multiple endorsements**

Assistant Director Bowie addressed this issue with the board. He stated that at the last meeting the agenda called for an update on licensing of pocket cards and endorsements on those cards. The question was whether anything could be done for issuance of multiple registrations. Historically the RSD has an outdated data base, CLIPS, that does not allow for multiple endorsements to be placed on one card. He went on to say that he has tasked the RSD staff to look into what might be done near or at post production to enhance the card to show multiple endorsements. He also stated that, as the board was aware, there are challenges in coordinating a multiple endorsement card with varying expiration dates. Chairman Chism stated that it may come to making all of the endorsements begin and end on the same dates. A.D. Bowie stated that that would be an option to look into, with the assistance of the partners and card holders.

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

Chairman Chism asked Mr. Moninger to address the board regarding the status of the amendments to the Administrative Rules adopted at the October 30, 2013 meeting. Mr. Moninger stated the rules had been published in the Texas Register, without any comments. The rules then went before the Public Safety Commission who voted to pass the amendments. The rules were to be published again in the Texas Register. He stated that the expected date of effect would be early May and that he would update the website once the process is completed.

Mr. Moninger also took a moment to introduce 3 new staff members with Office of Regulatory Counsel: Attorney Aaron Heath, Attorney Rebecca Burkhalter, and Legal Secretary Daniel Pierre.

**Agenda Item V: Discussion regarding the carrying of carbine (AR) type weapons by Private Protection Officers and any required training.**

Chairman Chism asked Brad Smith, with Paul McCaghren and Associates, Inc to address the board on this issue. Mr. Smith stated he was before the board to request an administrative rule change to allow for a weapon choice to include AR (assault rifle) style. He said that the reason for this change is that they are currently limited to two types of weapons: handgun and shotgun. However, with the changes of weapon choice over the years by the criminal element, it is needed to have the same choice for security as well, especially with Texas being such a vast state.

Walt Roberts, with ASSIST, was next to address the board on this issue. He stated he specializes in emergency response situations of security. He stated that a lot of his officers carry this style of weapon. He also felt this was a needed change and suggested it be added to the cards and have Level III training for it.

Chairman Chism turned this subject over to the Rules committee for investigation. He suggested they work with DPS to assure the legality of this change.

#### **Agenda Item VI : Public Comment**

Don Hizer- with Texas Locksmiths Association (TLA), addressed the board. He stated that he wanted to introduce himself as the new president for 2014. He thanked the board for all that they do for the industry and said that if they ever need anything from him, to please let him know.

Greta Holzberlein- with Garbo's Locksmith Service, addressed the board. She stated she owns a locksmith company and has been trying to get a test date in order to be the manager and remain in compliance. She stated that she would never be an alarm installer, guard dog trainer, non-commissioned security officer, personal protection officer, etc. She did not understand why it was necessary to study all of the stuff in the study materials in order to gain her manager's license for a locksmith company when she has no interest in any of the other licenses. She also mentioned that the study materials are all written in "attorney language" and it is very difficult to understand. She asked that the materials be made easier in order for people to make a living. She stated she has been trying to get tested since January, and in the meantime her soon to be ex-husband is taking their company's manager license and will now be her competition.

Chairman Chism asked Ryan Garcia to get with her after the meeting to see how he may assist her in getting in to take the test. Vice-chairman Johnsen asked if there were not certain days and times set up for testing. Mr. Bowie stated that on average the tests are held bi-weekly and once all paperwork is submitted and cleared the applicant is given an appointment to take the test.

**The board elected to take a short break at 9:34am.**

**The board reconvened at 9:52am.**

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

Chairman Chism called roll to determine which individuals, with cases before them, were present. Aguilar, Livingston, Burns, Gunter, Jaboori, and Gullett were not present, while Galvan, Taylor, Fields, Duncan, Navarrette, and Gomez were present.

A motion was made by Secretary Smith and seconded by Board member England stating that in the following cases, the board would uphold SOAH's decision and deny licensing: Forrest

Gunter (405-14-0912), Ali Mohammed Al Jaboori (405-14-1468) and David Gullett (405-13-0529). The board voted 4-2 against the motion, with Hayden, England, Crenshaw, and Black voting against, while Smith and Johnsen voted in favor.

A motion was made by Board member Hayden and seconded by Board member England stating that in the following cases, the board would approve and affirm the proposal of SOAH's ALJ and deny licensing: Forrest Gunter (405-14-0912), and Ali Mohammed Al Jaboori (405-14-1468). The board voted unanimously in favor of the motion.

George Aguilar- Docket No. 405-13-5580

Mr. Aguilar was not present to address the Board on this case, nor did he have counsel present on his behalf. Mr. Moninger addressed the Board stating that Mr. Aguilar had asked for a second continuance.

Continuance was granted and this case is to be heard at a later date.

Emmanuel Livingston- Docket No. 405-14-0900

Mr. Livingston was not present to address the Board on this case, nor did he have counsel present on his behalf. Ms. Walters addressed the Board stating Mr. Livingston's application for registration as a non-commissioned security officer was denied based on his 2009 conviction for Assault in Arizona. She further stated Arizona's Assault includes elements which are substantially similar in its elements to the Texas misdemeanor offense of Assault, an offense directly related to the duties and responsibilities for registration with the Department and therefore disqualifying for five years from the date of completion of his sentence.

Secretary Smith stated that what bothered him about this case is that this man was convicted of assault in 2009, and a security officer convicted of assault does not look good, especially to the public. He stated that he, personally, would not hire him in his company let alone grant him a license. Ms. Walters reminded him the charge was reduced to a misdemeanor charge.

Board member Crenshaw asked if the board had discretion to disagree with the SOAH judge's decision. Mr. Moninger suggested that all of the boards' questions might be better answered in executive session.

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

The Board elected to take an executive session for a few minutes to confer with the department's attorney at 10:12am.

The Board returned from executive session at 10:46am.

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

Emmanuel Livingston- Docket No. 405-14-0900(cont.)

Board member England made a motion to uphold SOAH's decision and issue Mr. Livingston's license as a non-commissioned security officer. Board member Black seconded the motion. The

motion passed with Chism, Johnsen, Black, Crenshaw, England, and Hayden voting for the motion while Smith voted against.

Attorney for the Department, Aaron Heath, presented the following case to the Board:

Maria Galvan- Docket No. 405-14-0967

Ms. Galvan was present to address the board, but did not have counsel present on her behalf. Mr. Heath stated Ms. Galvan's application for a security officer commission was denied based on her felony conviction for Theft. Additionally, he stated that the Department asserted that Ms. Galvan provided a material misstatement in her application which stated that she had never been convicted in any jurisdiction of a felony level offense.

Ms. Galvan stated that at the time she filled out the application she did not have a conviction and her manager advised her not to put it on her application.

Vice-Chairman Johnsen made a motion to uphold SOAH's decision and deny Ms. Galvan's application for registration as a commissioned security officer. Board member England 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:

Bradley Burns- Docket No. 405-14-1151

Mr. Burns was not present to address the board, nor did he have counsel present on his behalf. Ms. Walters stated Mr. Burns' application for registration as an alarm installer was denied based on his Class A misdemeanor conviction for Unlawful Carrying Weapon. Board member Crenshaw asked when he would again be eligible to re-apply, to which Ms. Walters answered May of 2015.

Board member Hayden made a motion to uphold SOAH's decision and grant a provisional license under Occupations Code §1702, but not under Chapter 53, for the term of 1 year. Board member Crenshaw seconded the motion. The motion passed with Chism, Johnsen, Black, Crenshaw, England, and Hayden voting for the motion while Smith voted against.

Dave Taylor- Docket No. 405-14-0938

Mr. Taylor was present to address the board. He was also represented by Mr. Frank Reilly, with Potts and Reilly, L.L.P. Ms. Walters stated Mr. Taylor's renewal application for registration as an alarm installer and continuing education instructor was denied based on his Class A misdemeanor conviction for Driving While Intoxicated. Board member Crenshaw asked if the DWI was disqualifying by Administrative Rule, to which Mr. Moninger stated it was not specific to the DWI but rather the Class A misdemeanor. Vice-chairman Johnsen asked if the A class was because it was a 2<sup>nd</sup> offense. Ms. Walters answered that it was due to the alcohol level at the time of arrest. Vice-chairman Johnsen stated he had more difficulty in granting him his instructor's license than his installer license. Board member England stated he understood his hesitation but asked what point of law is the issue between the two licenses?

Mr. Reilly addressed the board stating this was Mr. Taylor's first and only offense. He went on to say that Mr. Taylor had completed all requirements that the court has put before him. He has completed educational classes, probationary time, community service, and paid all fines. He stated that if he were aware that his occupational license would be in jeopardy by pleading guilty, he probably would have challenged it. However, as a result of this plea he was denied a license. He stated he is still under court order not to even drink.

Board member Crenshaw asked how long Mr. Taylor has been in the alarm business, to which Mr. Taylor answered he has been in the business as a service manager for 20 years. Board member Crenshaw asked, that having given 20 years of his life to the alarm industry, if he wished to continue. Mr. Taylor stated that he absolutely did wish to continue in this career.

Board member Crenshaw made a motion to uphold SOAH's decision and grant Mr. Taylor his renewal application for registration as an alarm installer and continuing education instructor. Board member Smith seconded the motion, and the board voted unanimously in favor of the motion.

Attorney for the Department, Aaron Heath, presented the following cases to the Board:

Arthur Fields- Docket No. 405-14-1204

Mr. Fields was present to address the board, but did not have counsel present on his behalf. Mr. Heath stated Mr. Fields' application for registration as a commissioned security officer was denied based upon his felony conviction for Criminal Solicitation in Georgia.

Mr. Fields addressed the board stating after his first denial thought he would try to get his license by taking the Level II and Level III in preparation of the opportunity to become a commissioned officer. He stated he voluntarily rode along with officers who are licensed to carry in order to learn from them to better himself for the job of commissioned security officer. He stated this trouble occurred back in 1995 in the state of Georgia and believed that if the same thing occurred in Texas he would not have received the same sentence. He went on to say that he was young and making crazy decisions without ever thinking it would impact him later. He stated he didn't know this would be a felony conviction and took the plea bargain. Board member Black asked where he currently resides, to which he stated he lives in Dallas. Vice-Chairman Johnsen asked if he was seeking to become a commissioned security officer, to which Mr. Fields stated that he was. Vice-Chairman Johnsen explained to him that he was not federally eligible to own a gun and that the board had no jurisdiction to allow him to carry a weapon or to overturn the federal law.

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

David Duncan- Docket No. 405-14-0993

Mr. Duncan was present to address the board, but did not have counsel present on his behalf. Mr. Heath stated Mr. Duncan's application for registration as an alarm installer was denied based on his Class A misdemeanor conviction for Failure to ID Fugitive from Justice.

Secretary Smith asked if Mr. Duncan's eligibility date would be May of 2017, to which Mr. Heath answered it would be June of 2016. Secretary Smith stated SOAH stated the board should issue a six month license, and asked what about the other six months. Mr. Heath stated that the license would become permanent after the six months, unless it had reason to be revoked.

Mr. Duncan addressed the board stating that he was sorry for the crime he committed and he has a great respect for law enforcement. He went on to say that he has a wife and two children to support. Vice-chairman Johnsen asked him to explain the conviction of failure to identify a fugitive. Mr. Duncan replied stating an arrest warrant was issued for him due to speeding tickets, and when he was pulled over he gave the officer false information regarding his identity. He added that he didn't know doing that was a crime.

Board member Hayden made a motion to uphold SOAH's decision and grant a provisional license under Occupations Code §1702, but not under Chapter 53, for the term of 6 months. Board member England seconded the motion. The motion passed with Chism, Johnsen, Black, Crenshaw, England, and Hayden voting for the motion while Smith voted against.

Attorney for the Department, Valerina Walters, presented the following cases to the Board:

Pablo Navarrette- Docket No. 405-14-1635

Mr. Navarrette was present to address the board, but did not have counsel present on his behalf. Ms. Walters stated Mr. Navarrette's application for registration as an alarm salesperson was denied based on his felony conviction for Aggravated Assault.

Mr. Navarrette stated that in 1986 he was working as a printer and in 2008 he began selling alarm systems and at that time his 1996 conviction came up. He stated that this happened because he got in a fight. He explained that the other person in the fight even wrote a letter that the fight was also his own fault. He stated he didn't fight the charges, but also didn't know that they would follow him for so long. He has raised 5 daughters and is currently trying to put 3 through college. Vice-chairman Johnsen asked if he worked for himself or a company, to which Mr. Navarrette responded that he works at two printing companies part time.

Board member Crenshaw made a motion to uphold SOAH's decision and grant Mr. Navarrette a license as an alarm salesperson. Board member Black seconded the motion. The motion passed with Chism, Johnsen, Black, Crenshaw, England, and Hayden voting for the motion while Smith voted against.



Ricardo Gomez- Docket No. 405-14-1155

Mr. Gomez was present to address the board, but did not have counsel present on his behalf. Ms. Walters stated Mr. Gomez's application for registration as a non-commissioned security officer was summarily denied based on his misdemeanor conviction of Driving While Intoxicated.

Mr. Gomez addressed the board stating that his first offense happened 20 years ago and this last offense was a mistake he made. He stated he did all that the court required including paying all fines and fees. Board member Crenshaw asked when Mr. Gomez would again be eligible, to which Ms. Walters answered February 2015.

Vice-chairman Johnsen made a motion to uphold SOAH's decision and grant Mr. Gomez's license. Secretary Smith seconded the motion and the board voted unanimously in favor of the motion.

David Gullett- Docket No. 405-14-0529

Although Mr. Gullett was not present when the Board Chairman called the roll of cases, he joined the meeting in time for his case to be heard. He did not have counsel present on his behalf. Ms. Walters stated Mr. Gullett's application for registration as an Alarm Installer was summarily denied based on his Class A misdemeanor for Driving While Intoxicated (second offense). She added that in Mr. Gullett's case a provisional license is not applicable because it's a safety service and Chapter 53 does not apply.

Mr. Gullett addressed the board stating his offenses were about 10 years apart and does not interfere with his ability to do the job that he is applying for. He stated he is still on probation. Vice-chairman Johnsen asked if he had a job as an alarm installer, to which Mr. Gullett stated no, he was a monitor. Board member Crenshaw asked if he was working in a 24-hour dispatch center, to which he replied that he was. When asked if he or his company did any installations, Mr. Gullett replied no to both questions. Board member England asked when his probationary period would be complete. He stated he has less than a year left. Vice-chairman Johnsen asked if he ever wanted to go into installation. Mr. Gullett stated that he did not want to do any installation work and had actually been promoted in the area he is working and wishes to advance his career where he is currently. Vice-chairman Johnsen asked why he was applying for an installer license. Mr. Gullett said he was told that he was required to obtain an alarm installer license. Mr. Moninger stated that statute lists the licenses separately, and if the board is inclined to license him they should make it clear he is to be licensed as an alarm monitor, not an installer.

Board member Hayden made a motion to uphold SOAH's decision and grant Mr. Gullett a provisional license as an Alarm Monitor for a period of 6 months, under Occupations Code 1702 and not under Chapter 53. Board member Smith seconded the motion and the board voted unanimously in favor of the motion.

**Agenda Item IX: 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 11:41am, the April 14, 2014 meeting of the Private Security Board was adjourned.